

**Board of Pilot Commissioners for the Bays of
San Francisco, San Pablo, and Suisun**

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DATE: December 30, 2015

TO: Brian P. Kelly, Secretary
California State Transportation Agency

FROM: Allen Garfinkle, Executive Director **AG**
Board of Pilot Commissioners

SUBJECT: 2015 SLAA Report

In accordance with the State Leadership Accountability Act, Government Code sections 13400 through 13407, I am submitting the enclosed report describing the review of our systems of internal control and ongoing monitoring of internal controls for the biennial period ended December 31, 2015.

Enclosure

Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

2015 SLAA REPORT

December 30, 2015

Brian Kelly, Secretary
California Transportation Agency
915 Capitol Mall, Suite 350-B
Sacramento, CA 95814

Dear Mr. Kelly,

In accordance with the State Leadership Accountability Act (SLAA), the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun submits this report on the review of our systems of internal control and monitoring processes for the biennial period ended December 31, 2015.

Should you have any questions please contact Roma Cristia-Plant, Assistant Director, at (415) 397-2253, roma.cristia@bopc.ca.gov.

BACKGROUND

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) is a single-purpose state entity located in San Francisco charged with licensing and regulating maritime pilots navigating large vessels in the San Francisco and Monterey Bays, and tributaries to Stockton and Sacramento. Pilotage in the Bays of San Francisco, San Pablo, and Suisun, including to the Ports of Sacramento and Stockton, has been regulated by a single-purpose State board continuously since 1850. In 2001, the Legislature added Monterey Bay to the regulated pilotage area. In 2009, the Board was placed under the policy direction and oversight authority of the Business, Transportation and Housing Agency, now known as California State Transportation Agency (Agency).

The Board's mission is to license and regulate the maritime pilots (Pilots) who navigate certain vessels, including every foreign vessel and every vessel transiting between a foreign port and any port within the Board's jurisdiction. Additionally, the Board is required to:

- Establish the number of pilots needed based on current economic trends and other factors.
- Adopt training standards and programs for pilots and pilot trainees.
- Investigate incidents involving pilots.
- Administer the San Francisco Bar Pilot Pension Plan, as defined in State law.
- Make recommendations to the Legislature regarding rates pilots charge for their services, and establish and charge surcharges to cover costs such as Board operations, pilot continuing education, trainee training and pilot boat purchases.

The Board consists of eight commissioners appointed by the Governor and confirmed by the Senate: two are Board licensed pilots; two represent the shipping industry, one each from the dry cargo industry and the liquid cargo industry; three members of the public; and, the Agency Secretary, an ex officio, non-voting member. As of December 31, 2015, all commissioner positions were filled except for the representative from the dry cargo industry.

As of October 31, 2013, the Board became fully staffed with four full-time staff members, including an Executive Director appointed by the Board and exempt from civil service laws, an Assistant Director appointed by the Transportation Agency Secretary as a Career Executive Assignment who reports to the Executive Director, a Staff Services Analyst, and an Office Technician.

For administrative and operational purposes, the Board contracts with the California Highway Patrol (CHP) for administrative support services (e.g., accounting, budgets, contracts, purchasing and personnel), with the California Department of Technology (CDT) for information technology services, and with the California Department of Transportation for computer desktop and information technology planning support.

Statutory provisions applicable to the Board are found in the Harbor and Navigations Code sections 1100 et seq. Board promulgated regulations can be found in Title 7 of the California Code of Regulations, sections 201-237.

RISK ASSESSMENT PROCESS

The Board's Executive Director and Assistant Director met and discussed significant Board risks. The assessment process identified risks and ranked risks based on the severity and likelihood of occurrence. Controls were then identified and discussed. Some controls are in place and other controls are in the process of being implemented.

EVALUATION OF RISKS AND CONTROLS

Operations- Internal- Resource Management

Limitations of Board budgetary resources, difficult to control or forecast legal liabilities, and high staff leave balances pose significant threats to achieving mission critical objectives and statutory requirements.

Prioritize budgetary resources to ensure mission critical endeavors.

Accept risks of unknown legal liabilities.

Work with staff to schedule vacation to reduce leave balances while ensuring workloads are met.

Compliance- External- Funding—Sources, Levels

Insufficient funding to fully fund the statutorily-required pilot fatigue study.

Develop plan to fully fund pilot fatigue study.

Operations- Internal- Staff—Key Person Dependence, Succession Planning

The Board relies on a small staff with significant knowledge and expertise in key areas making the Board vulnerable should those individuals leave, retire or are absent for extended periods. With a total of four staff, any one staff departure represents a loss of 25% of the workforce.

There is also a lack of upward mobility for the Staff Services Analyst and Office Technician position given the limited positions available, which may result in loss of staff seeking promotional opportunities elsewhere in State service.

Establish written action plan that contains procedures for mission critical tasks and major Executive Director and Assistant Director functions (e.g., Board meetings, investigations, licensing, SFBP Pension Plan, contracts, fiscal/budgets, etc.).

Establish desk manuals for the staff service analyst and office technician positions to ensure that essential processes and procedures can be carried out by other staff, if necessary.

In conjunction with California Highway Patrol Personnel staff, determine if there are promotional opportunities for the SSA and OT.

Operations- Internal- Organizational Structure

The Board is tiny with only four staff. Given that 50% of staff are in the clerical or lower level analytical personnel classifications, all higher level analytical and policy work for the organization must be performed by the Executive Director, Assistant Director, part-time DOJ General Counsel, Board or Committee Members, or to the extent feasible, contracted out to other state entities and service providers.

Accept internal and Board/Committee staffing limitations.

Maintain sufficient interagency agreements and service contracts to ensure that higher level mission critical workload is completed timely and accurately.

Develop a Board strategic plan to ensure that key mission-critical tasks are identified, and that staffing resources are utilized to the fullest extent on desired goals and objectives.

Operations- Internal- Staff—Safety

Current safety procedures necessitate that the Board lock the main entrance into the facility during non-public meeting business hours. The door is manually unlocked as necessary to let the public in during business hours. The door locking mechanism poses both a physical and security risk to staff.

Work with DGS during the lease renewal process to provide alterations to the locking mechanism on the front door, or construct an alternative facility entrance that ensures the safety of the staff while meeting the public access requirements of a state facility.

Operations- Internal- Technology—Inadequate Support, Tools, Design, or Maintenance

Limitations of Board staff knowledgeable in information technology to ensure the availability of appropriate and functional technology resources, and adherence to all state IT requirements, including reporting requirements.

Investigate either the possibility of: 1) of entering into an interagency agreement with another state entity to provide a full information technology services, and be responsible for ensuring all of the BOPC's technology needs are adequately met and in compliance with state information technology requirements; or, 2) accepting the risk of having partial information technology support provided by the Department of Transportation.

Operations- Internal- Staff—Training, Knowledge, Competence

Operational inefficiencies due to inadequate/insufficient training or other limitations of staff knowledge, staff resistance to change, and lack of resources to train staff.

Ensure sufficient budgetary resources are reserved to provide staff training.

Provide staff training in change management.

Develop tracking mechanism to ensure required training (e.g., sexual harassment prevention, ethics, IT security, building safety, etc.) is completed.

Operations- Internal- Oversight, Monitoring, Internal Control Systems

Lack of a process to oversee, monitor or evaluate internal control systems.

Establish a written policy for the Executive Director and Assistant Director to periodically monitor and evaluate internal control systems.

Establish a comprehensive set of Board administrative policies as required by various statutes and governmental administrative best practices.

Operations- External- Business Interruption, Safety Concerns

Potential disruption to operational objectives or endangerment to staff due to natural disasters (e.g., earthquake, terrorist or criminal acts/threats, or civil unrest).

Develop Technology Recovery Plan to ensure continuity of mission critical objectives during emergencies.

Develop a Business Continuity Plan/Workplace Emergency Plan to ensure the safety and security of staff and physical resources.

Operations- Internal- Program/Activity—Changes, Complexity

The complexity and knowledge of the various state administrative requirements make it impossible for the two Board executives to ensure full compliance one hundred percent of the time.

The San Francisco Bar Pilots Pension Plan poses unknown administration risks.

Accept risks that limited Board staffing may not always result in timely adherence to state administrative requirements.

Investigate either the possibility of: 1) inquiring into the viability of contracting out the administration of the San Francisco Bar Pilots Pension plan to expert professional retirement plan administrators; or, 2) continue with the Executive Director as the Board-designated primary plan administrator.

Operations- Internal- Physical Resources—Maintenance, Upgrades, Replacements, Security

Inadequate administration of physical resources to ensure proper functionality and security.

Develop a Property Accounting and Equipment Inventory Policy/Procedure to ensure proper functionality and security, and to enable planning for property and equipment replacement.

Develop a Business Continuity Plan/Workplace Safety Plan to ensure the safety and security of staff and physical resources.

Develop a Telework policy that includes accountability for physical resources .

Operations- External- Litigation

Possible legal action by an outside party in response to the Board's actions or other events which deplete budgetary resources and potentially impact ability to comply with statutes and mission.

Due to the uncertain nature of litigation and its associated costs, the Board accepts this risk..

ONGOING MONITORING

Through our ongoing monitoring processes, the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun reviews, evaluates, and improves our systems of internal controls and monitoring processes. The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun has not begun the process of formalizing and documenting our ongoing monitoring and as such, we have determined we do not comply with California Government Code sections 13400-13407.

Roles and Responsibilities

As the head of Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, Allen Garfinkle, Executive Director, is responsible for the overall establishment and maintenance of the internal control system. We have identified Roma Cristia-Plant, Assistant Director, as our designated agency monitor(s).

Frequency of Monitoring Activities

The Board is currently developing a formal written procedure to monitor and review internal controls on a semi-annual basis.

Reporting and Documenting Monitoring Activities

The Executive Director and the Assistant Director evaluate internal controls and risks, develop methods to mitigate risks, and evaluate progress on risk mitigation endeavors. Results will be documented in electronic reports saved to the group drive.

Procedure for Addressing Identified Internal Control Deficiencies

Internal control deficiencies will be prioritized by the Executive Director and Assistant Director, periodically evaluated, and result monitored.

CONCLUSION

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun strives to reduce the risks inherent in our work through ongoing monitoring. The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies. I certify our systems of internal control and monitoring processes are adequate to identify and address material inadequacies or material weaknesses facing the organization.

Allen Garfinkle, Executive Director
Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

cc: Department of Finance
Legislature
State Auditor

State Library
State Controller
Secretary of Government Operations