

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

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DATE: December 27, 2017

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

FROM: Allen Garfinkle, Executive Director   
Board of Pilot Commissioners

SUBJECT: 2017 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 the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun's systems of internal control and ongoing monitoring of internal controls for the biennial period ended December 31, 2017.

Enclosure

December 28, 2017

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

Dear Mr. Brian 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 internal control and monitoring systems for the biennial period ending December 31, 2017.

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

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## BACKGROUND

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (BOPC), a special-funded, single-purpose state entity, was established and has continuously served since 1850 to license, train and regulate qualified mariners to navigate ships that are 750 tons or greater that call on the San Francisco Bays and its tributaries, including the Ports of Stockton and Sacramento, as well as Monterey Bay. The BOPC's mission is to provide competent, efficient, and regulated pilotage to ensure the protection and safety of persons, vessels, property and ecosystems in the Board's jurisdiction.

The BOPC is required to:

- Establish the number of pilots needed based on current economic trends and other factors.
- Adopt training standards and administer training 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.
- Establish and charge surcharges to cover costs such as Board operations, pilot continuing education, trainee training, the pilot pension plan, and purchases for navigation technology and pilot boats.

The BOPC consists of eight commissioners appointed by the Governor and confirmed by the Senate, and includes: two members who are Board-licensed pilots; two members who represent the shipping industry—one each from the dry cargo and the liquid cargo industries; three members of the public; and, the Agency Secretary, who is an ex officio, non-voting member. As of December 31, 2017, one public member commissioner position is vacant. The BOPC has four full-time, permanent staff.

BOPC-licensees have exclusive authority to navigate vessels in the BOPC's jurisdiction, and have organized themselves as the San Francisco Bar Pilots (SFBP). The SFBP charges Legislatively-established "pilotage rates" upon the delivery of services. The SFBP also charge and collect BOPC-designated pilotage surcharges that support the BOPC and its programs.

The BOPC principally administers two programs—the Pilot Trainee Training Program and the Pilot Continuing Education Program. For administrative and operational purposes, the BOPC contracts with or retains staff

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from a variety of state and other governmental entities for administrative and program services including the following:

- California Highway Patrol (CHP) for administrative support services (e.g., accounting, budgets, contracts, purchasing and personnel).
- Department of Justice for legal support, including Board Counsel and legal assistance with maritime investigations.
- Regents of the University of California, on behalf of the San Francisco Campus, for pilot and trainee medical examinations and fitness determinations from physicians in the university's Division of Occupational and Environmental Medicine.
- California State University Maritime Academy for administration of the Pilot Trainee Training Program selection examination, and for Pilot Continuing Education Program courses.
- California Department of Human Resources, Selection Services Program, for administration of the Pilot Trainee Training Program selection examination.
- State Controller's Office for audits of the pilotage rates and various BOPC-designated pilotage surcharges.
- California Department of Technology for information technology services.
- California Department of Transportation for computer desktop and information technology planning/reporting support.

The BOPC also contracts with Commission Investigators who provide expert assistance with maritime incident investigations, and contracts for administration of the San Francisco Bar Pilot Pension Plan.

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

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## **ONGOING MONITORING**

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 and monitoring systems.

### **EXECUTIVE MONITORING SPONSOR(S)**

The executive monitoring sponsor responsibilities include facilitating and verifying that the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun internal control monitoring practices are implemented and functioning as intended. The responsibilities as the executive monitoring sponsor(s) have been given to: Allen Garfinkle, Executive Director, and Roma Cristia-Plant, Assistant Director.

### **MONITORING ACTIVITIES**

Since the BOPC is such a small organization, either the Executive Director or the Assistant Director is involved in implementing internal control systems, or overseeing that the internal control systems are being properly implemented by staff. As such, monitoring of internal control systems is done in real time on a daily basis.

### **ADDRESSING VULNERABILITIES**

Due to the small size of the organization, vulnerabilities are addressed as they arise, and new processes/procedures are created, memorialized and implemented soon after the recognition of a

vulnerability and the development of an implementable solution.

#### **COMMUNICATION**

Monitoring roles rest with the two executive staff. However, all employees are encouraged to identify vulnerabilities and lapses in internal controls, and to convey this information to the executive staff. Executive staff work with BOPC staff to devise appropriate internal control solutions, informally communicate solutions to staff, and more formally disseminate through written policies, when and where appropriate.

#### **ONGOING MONITORING COMPLIANCE**

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun has implemented and documented the ongoing monitoring processes as outlined in the monitoring requirements of California Government Code sections 13400-13407. These processes include reviews, evaluations, and improvements to the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun systems of controls and monitoring.

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#### **RISK ASSESSMENT PROCESS**

The following personnel were involved in the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun risk assessment process: Executive Management.

##### **RISK IDENTIFICATION**

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. Due to the small size of the organization, risks are also identified in real time as they arise.

##### **RISK RANKING**

The Executive staff also discuss risks at twice yearly reviews of internal controls.

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#### **RISKS AND CONTROLS**

##### **RISK: OPERATIONS -INTERNAL-FI\$CAL IMPLEMENTATION, MAINTENANCE, OR FUNCTIONALITY**

The inaccurate or delayed implementation of FI\$Cal as a result of system or user error, and/or critical accounting functions may not be performed timely.

The BOPC contracts with the California Highway Patrol (CHP) for administrative support, including FI\$Cal implementation. BOPC staff do not have any FI\$Cal expertise, and are entirely reliant on CHP's staff to fully, accurately, and effectively implement conversion of accounting, budget, and contract information from Calstars to FI\$Cal within proscribed time requirements.

The result could be inaccurate or untimely FI\$Cal implementation leading to organizational inefficiencies, non-compliance with state reporting procedures or threats to mission critical objectives due to CHP staff not being fluent in BOPC's accounting, budgeting and contracting requirements, or lack of CHP resources to timely and accurately complete the FI\$Cal implementation and maintenance tasks.

**CONTROL A**

BOPC Executive staff periodically confer with CHP managerial staff responsible for FISCal implementation to review progress and solve problems as they arise.

**RISK: OPERATIONS -INTERNAL-RESOURCE MANAGEMENT—ALLOCATION, LEAVE BALANCE**

Risk of insufficient budgetary resources.

Excess staff leave balances.

The result could be that there is a lack of resources to pay costs of tasks and activities that achieve organizational objectives.

**CONTROL A**

Require employees with excessive leave balances to develop a plan to lower leave balances to acceptable levels while ensuring that workloads are met.

**RISK: OPERATIONS -EXTERNAL-FUNDING—SOURCES, LEVELS**

Inability to achieve mission critical objectives.

The Pilot Trainee Training Program selection examinations are administered on an as-needed basis, and are necessary to ensure a sufficient supply of trainees available to participate in the Pilot Trainee Training Program. The examinations are costly and labor-intensive to administer.

The result could be that there is insufficient budgetary resources to both pay for the administration of a trainee selection examination and a full roster of trainees in the same fiscal year, which would result in the delay of the trainee selection examination, and ultimately could lead to a lack of sufficient number of trained pilots.

**CONTROL A**

Obtain provisional budget language that will allow for additional budgetary authority in a sufficient amount to pay costs of both a trainee selection examination and a full roster of trainees in fiscal years in which a trainee selection examination is determined necessary.

**RISK: OPERATIONS -INTERNAL-STAFF—KEY PERSON DEPENDENCE, WORKFORCE PLANNING**

Critical tasks not being performed when there is an absence or vacancy in a key person position.

Limited key positions in the organization create challenges cross-training backups because there essentially are no backups, although the executive staff can perform as backup for each other in limited circumstances. Executive staff are the key staff experts for their own positions, and are relied upon exclusively without any backups. Additionally, a large percentage of the key staff workforce is nearing retirement age without suitable replacements.

The result could be that organizational objectives and mission are not achieved. Safety in the BOPC's jurisdiction could be impaired.

**CONTROL A**

Develop sufficiently detailed written procedures covering mission-critical processes that are performed by key staff that can be followed other BOPC staff or by key staff replacements.

**RISK: OPERATIONS -EXTERNAL-BUSINESS INTERRUPTION, SAFETY CONCERNS**

BOPC staff not able to perform work on documents, send/receive emails, or maintain the BOPC's website.

BOPC is entirely reliant on the provision of Microsoft Office programs and Outlook for email correspondence from the CA Department of Technology (OTech) through Citrix. Citrix is often not functioning or not functioning properly. BOPC is also reliant on OTech to host the BOPC's website and for website support.

BOPC staff lose productivity when unable to work electronically on documents or send/receive emails. The public may not be sufficiently informed when the BOPC's website is not available or not timely updated.

**CONTROL A**

There are no controls for this risk. BOPC is entirely reliant on OTech for the provision of software programs, email access, and website support.

**RISK: OPERATIONS -EXTERNAL-BUSINESS INTERRUPTION, SAFETY CONCERNS**

Risk of not having a viable and safe facility from which to conduct the BOPC's business.

The cause could be a natural or man-made disaster such as an earthquake, flood, fire, civil unrest, etc.

The results of a disaster that incapacitates all or a portion of BOPC's facility could be the disruption of business operations that lead to the inability to achieve organizational objectives potentially resulting in threats to public safety and/or public resources.

**CONTROL A**

Development of a written business continuity of operations plan and a facility emergency/safety plan.

**RISK: OPERATIONS -EXTERNAL-LITIGATION**

The BOPC could be sued by stakeholders or other interested parties.

One or more outside parties could institute legal action against the BOPC in response to a dissatisfaction with the way the BOPC administers its programs and/or achieves its organizational objectives.

Responding to lawsuits would take staff time and budgetary resources away from mission-critical activities, and could result in the payment of legal costs or court-ordered fines and penalties that could devastate the BOPC's small budget, or could negatively impact the State's General Fund.

**CONTROL A**

The best control for this risk is for the BOPC to continue to achieve its mission through appropriate administration and oversight of its programs and resources.

**RISK: COMPLIANCE-EXTERNAL-COMPLEXITY OR DYNAMIC NATURE OF LAWS OR REGULATIONS**

The BOPC is responsible for the oversight of the San Francisco Bar Pilot Pension Plan, and selected the Executive Director as the primary fiduciary of the plan. As such, the BOPC has elected to self-administer the

plan. There could be a lack of effective administration and oversight of the plan.

The pension statutes are not always clear and there are no regulations to guide the administration of the plan.

Inappropriate or ineffective administration of the San Francisco Bar Pilot Pension Plan could result in legal or financial liability to the BOPC.

**CONTROL A**

Develop regulations for the San Francisco Bar Pilot Pension Plan.

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**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 and accepts the responsibility to continuously improve by addressing newly recognized risks and revising controls to prevent those risks from happening. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

**Allen Garfinkle, Executive Director**

CC: California Legislature [Senate (2), Assembly (1)]  
California State Auditor  
California State Library  
California State Controller  
Director of California Department of Finance  
Secretary of California Government Operations Agency