

December 30, 2019

Julie Su, Secretary
California Labor and Workforce Development Agency
800 Capitol Mall, Suite 5000
Sacramento, CA 95814

Dear Ms. Julie Su,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the California Unemployment Insurance Appeals Board submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2019.

Should you have any questions please contact Lori Kurosaka, Assistant Director, at (916) 263-6818, Lori.Kurosaka@cuiab.ca.gov.

GOVERNANCE

Mission and Strategic Plan

The California Unemployment Insurance Appeals Board's (CUIAB) mission is dedicated to protecting the rights of California's workers and employers. As an independent administrative judicial agency, the CUIAB provides due process to all California workers and employers who want to challenge their benefit and payroll tax determinations made by the Employment Development Department (EDD). The CUIAB is committed to providing fair, fast, and friendly appeal services and improving access to those services for all.

The CUIAB's strategic goals, objectives and initiatives include:

1. Appeal Decisions – Fast, Fair & Friendly

Provide the best service possible – fast, fair, and friendly hearings and timely decisions. Those who appeal to the CUIAB are often under extreme financial hardship and need a decision as soon as possible.

- Modernize the CUIAB systems, processes, and services to better respond to the needs of California's workers and employers.

2. Accessibility to Justice for All

Provide the CUIAB's customers with quick and easy access to appeal services over the Internet.

- Modernize the CUIAB Information Technology (IT) systems to provide access to appeals information for parties through a web portal.
- Provide staff with tools to respond to parties quickly, conduct hearings, and manage appeal files more efficiently.
- Conduct public outreach regarding the CUIAB appeal programs and services.

3. Fiscal Stewardship

Manage resources responsibly, effectively, and efficiently.

- Use Lean Six Sigma to make the CUIAB processes more efficient.
- Invest in innovative technology that will allow the CUIAB to utilize resources more effectively and efficiently and respond to appeal workload fluctuations throughout each year and during periods of economic change.

4. Commitment to a Skilled Workforce

Develop a well-trained workforce that delivers fast, high-quality services to the public and adapts well to change.

- Provide leadership training for managers and supervisors.
- Provide Lean Six Sigma training to improve staff's ability to identify potential process improvements.
- Offer training to reinforce existing skills and teach new skills. As the CUIAB modernizes, staff and judges can transition successfully to new technology.

The CUIAB is responsible for the oversight of all its offices located in the Sacramento Headquarters and Field Offices throughout the state. The Sacramento Headquarters consists of the Executive Office, Legal Office, Administrative Liaison Office, Information Technology, Appellate Operations and the Tax Office. The CUIAB's Field Offices are located in Sacramento, Fresno, Inglewood, Los Angeles, Oakland, Orange County, Oxnard, Pasadena, Rancho Cucamonga, San Diego, and San Jose.

Control Environment

The CUIAB management creates and demonstrates integrity and ethical values by adhering to the California Conflict of Interest Code with timely filings of the Form 700. The CUIAB audits employees' Form 700s on a biennial basis. Reporting of ethical concerns may also be done through the employees' chain of command or via the complaint process through the California Whistleblower's Act managed by the California State Auditor.

In addition, the CUIAB requires Administrative Law Judges' (ALJ) to be in compliance with the California Canons of Judicial Ethics. Any complaints from the public or CUIAB employees may be directed to the Office of the Chief Administrative Law Judge where staff are assigned to investigate complaints. Additionally, concerns with an ALJ's or staff code of conduct or ethics may be directed through the chain of command or via the complaint process through the California Whistleblower's Act managed by the California State Auditor.

Ultimately, the CUIAB Board Members have oversight over the entire organization and monitors performance during monthly board meetings. The CUIAB's Executive Director/Chief Administrative Law Judge holds regular Senior Management meetings and regular Presiding Judge meetings. During both meetings; risks are identified, strategies are developed to address risks, and oversight occurs on how the strategies are controlling and managing the risk. The Executive Director also monitors key performance indicators for any deviation in the operations.

The CUIAB has policies, operational procedures, and process maps documented and published on

CUIAB's SharePoint intranet site for staff to readily access. The CUIAB policies, operational procedures, and process maps address roles and responsibilities for all staff, internal communication and approval channels, case management and related forms, database entry manuals, hearing protocols and documentation, and performance standards for all levels of operation. Changes in operational procedures or announcements are subject to the CUIAB approval process. Depending on the scope of each project, the approval process may include various tiers of management approval ranging from Legal Support Supervisors to the Executive Director. Dissemination of all communication are documented and enforced via email.

Over the last three years, the CUIAB has invested heavily in leadership development and ALJ continuing education in the areas of labor laws and appeal hearing quality. Leadership development is centered on two programs. First, development of potential candidates for the Chief Administrative Law Judge position in the future, the CUIAB is investing in the California State University, Sacramento's Leadership for the Government Manager/Executive programs. It is a contemporary, intensive 10-day program over five months that focuses on program transformation and building cross-functional relationships. Other concepts include, how to set program metrics and deliver program results, understanding the state legislative and budget processes, and strategies in leading change in an organization.

The CUIAB is also investing in the California Government Operations Agency's Lean Six Sigma Academy. All managers and supervisors will complete both the Lean White Belt and Yellow Belt trainings by June 2020. This curriculum offers the CUIAB tools to modernize its appeal processes and prepares CUIAB leadership for major program transformations through technology.

Continuing education for ALJs is delivered annually through regional training events. Prior topics reviewed includes the US Department of Labor (DOL) Unemployment Insurance (UI) quality appeal standards and payroll tax laws and appeals, etc. In light of the "Me, Too Movement" and an increase in UI benefit appeals relating to sexual harassment in the workplace, last year, the CUIAB provided ALJ training on appropriate steps employers should take to prevent sexual harassment in the workplace and line of questioning to ask employers and claimants during hearings regarding work place policies, practices, and investigations.

Historically, the attrition for Presiding Judges and ALJs has been very low, more specifically, two to three percent in 2018. As the CUIAB's judicial staffing ages, there will likely be an increase in retirements. Cognizant of its judicial staffing demographics and potential impacts on its appeals process, the CUIAB is actively reemploying and recruiting new judges. The CUIAB judicial recruitment effort requires consideration of judicial layoffs that took place post the Great Recession as staffing and funding were greatly impacted by the recovery of California's economy. As workload projections are updated every six months with the State Budget revision process, the CUIAB evaluates staffing levels to address the workload projection. As workload is increasing at this time, the CUIAB is using new recruitment strategies. Not only is the CUIAB recruiting for open positions on CalHR's job listings, CUIAB is borrowing hiring lists from other state agencies for judicial positions to expand recruitment. The CUIAB also shares job opportunities with the many local bar associations.

Program accountability is enforced by the CUIAB Executive Director and by the CUIAB Board Members at monthly board meetings. The Executive Director has ultimate accountability of delivering efficiencies and program results. Presiding Judges are responsible for delivering program results for each

assigned jurisdiction and ensuring all ALJs are in compliance with the Canons of Judicial Ethics and the US DOL UI quality appeal standards. Performance evaluations are completed annually and the Presiding Judges monitor ALJ performance weekly.

Information and Communication

Communication of monitoring roles and activities for Presiding Judges, ALJs, and staff is completed in duty statements and with specific work assignments. Levels of responsibility are documented in duty statements, work assignments, and organizational charts.

Channels for communicating vulnerabilities and control inefficiencies include the chain of command. If the vulnerability or control has an enterprise-wide impact, the channel for communication is from a Presiding Judge or Branch manager to Senior Staff, and then from the Executive Director to the Board Chair and/or to the full Board at a Board meeting.

Methods for communicating monitoring activities and results may include oral presentation at meetings, Board meetings, report circulations, email messages, or memos. Communication methods vary and are dependent on the type of issue/control, recipient, and whether the issue/control is of enterprise-wide importance.

The CUIAB senior management communicates policy and procedures from the Office of the Executive Director/Chief Administrative Law Judge via in-person meetings, conference calls, and email messages. Decisions and findings resulting from the senior management meetings impacting the CUIAB appeals program and performances are further disseminated to Presiding Judges, ALJs, and support staff via email messages to ensure timely delivery to the appropriate audience. It is also an effective method to chronologically track and monitor all levels of communications.

The CUIAB employees are provided with several methods to elevate and communicate inefficiencies and inappropriate actions to management or other decisionmakers. Employees are encouraged to proactively elevate issues directly to managers via email, as it is an effective recordkeeping method. Employees are also provided tools with the CUIAB intranet site for technological and procedural supports. Additionally, employees are provided both in-person and web-based trainings to access current information pertaining to employee rights and policies.

As previously mentioned, the CUIAB is investing in Lean Six Sigma training for all managers and supervisors. Staff will complete Lean White Belt training. This methodology empowers the CUIAB Presiding Judges and staff to identify issues, risks and develop proposed resolutions.

Further, the CUIAB develops and publishes reliable and relevant data-driven reports as methods to communicate pertinent information relating to: performance measures, CUIAB appeals program and operations, funding, and staffing. Currently, the CUIAB utilizes comprehensive data generated from seven disparate appeals systems that record, monitor, and validate operational and programmatic information. Senior management leans on daily and weekly data-driven performance reports to analyze and make informed decisions that impact the overall CUIAB appeals program. During the CUIAB monthly Board meetings, Board Members and the Executive Director rely on data driven reports to report on the overall Board performance and progress. Additionally, the CUIAB publishes appeal related data reports on the CUIAB public website. The entire appeals program and funding framework depends heavily on the accuracy and detailed information gathered and reported on.

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the California Unemployment Insurance Appeals Board monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Lori Kurosaka, Assistant Director; and Elena Gonzales, Executive Director / CALJ.

The CUIAB has leadership groups that meet regularly to discuss operational matters, activities, events, issues, and risks that could impact the organization. They monitor existing controls set in-place to ensure effectiveness and make adjustments as needed. These groups include Senior Staff (the Executive Management Team), Field Office Managers (Presiding Administrative Law Judges), and the Information Technology Governance Committee. When an issue or potential risk arises, the appropriate group discuss steps to address the matter, obtain approval as needed, and establish and/or receive regular updates on actions implemented to manage the issue and potential risk; they monitor how well these actions and controls are working, and whether more needs to be done.

The CUIAB uses meetings, production reports, and key performance indicators (KPI) to monitor performance and the effectiveness of internal controls. The production reports and KPIs are used by operations managers for oversight and compare outcomes to expectations, analyze for trends, and determine whether changes are needed. These reports are also reviewed by the Executive Office's policy and research staff, who monitor for potential problems, compare expectations to actual outcomes, analyze for trends, present issues to the Executive Director, and make recommendations, as appropriate. The appeal production and KPI reports are monitored by the Board members at monthly Board meetings.

As for appeal hearing quality, the US DOL and the CUIAB randomly review 100 appeal hearings quarterly against US DOL's quality standards. Every three years, a state peer review is completed on 100 appeal hearings from each state. For the last 11 years, the CUIAB remains in compliance with all federal UI quality appeal standards.

RISK ASSESSMENT PROCESS

The following personnel were involved in the California Unemployment Insurance Appeals Board risk assessment process: executive management, middle management, front line management, and staff.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, audit/review results, other/prior risk assessments, consideration of potential fraud, and performance metrics.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, potential impact of remediation efforts, and tolerance level for the type of risk.

RISKS AND CONTROLS

Risk: Managers With Knowledge At Executive Level

As a state agency, the CUIAB is at risk of not having enough experienced managers with the knowledge and/or experience at the executive level so that they may either succeed current leadership or support future leadership.

Experienced senior managers have retired in recent years, and more are planning to retire in the coming years.

A majority of the remaining managers lack enterprise-wide experience in organization oversight, policy, management and planning.

Control: A. Leadership Development

Identify and send managers to participate in leadership training offered by California State University, Sacramento's Leadership for the Government Manager/Executive Program.

Control: B. Leadership Cross-Training

Provide cross-training for managers in critical areas including the Governor's Budget process, enterprise level continuous improvement of processes, technology modernization planning, and the policy development process.

Risk: Judges Familiar With Internal Procedures

The CUIAB is at risk of not having enough judges familiar with internal procedures necessary to promptly respond to potential unforeseen increase in workload when the next economic downturn occurs.

As the state's economy has improved since the Great Recession, the demand for UI benefit appeals has declined significantly and so has federal funding for administration of the UI program. The federal UI grant funds about 90% of the CUIAB's total budget. The CUIAB has had to downsize its staffing through attrition and layoffs as workload levels and funding decreased.

Due to the layoffs, the CUIAB lost experienced judges who would otherwise likely stay at CUIAB for many years. The nature of a layoff means the least senior staff are impacted. This leaves the CUIAB vulnerable regarding judicial staffing who have experience with CUIAB's processes.

Control: A. ALJ On-the-Job Training

The CUIAB provides on-the-job training to judges in specialized areas of law, such as the more complex benefit appeals and employer payroll tax audit and liabilities. This helps mitigate loss of institutional knowledge in these areas as experienced judges retire.

Control: B. Temporary Workforce

As workload increases, the CUIAB is using retired annuitant judges to address temporary increases in workload. Some experienced judges who have retired in recent years are willing to return to work as retired annuitants for the CUIAB.

Control: C. ALJ Reemployment Lists

When future workload increases are projected to last long enough to warrant an increase in permanent staffing or significant judge attrition occurs, whether full-time or intermittent, the CUIAB will increase staffing by first hiring experienced judges from reemployment lists.

Control: D. New ALJ Hiring Lists

When future workload increases are projected to last long enough to warrant an increase in permanent staffing or significant judge attrition occurs, whether full-time or intermittent, the CUIAB will establish hiring lists for the ALJ I and II classifications and/or borrow other State Agency lists to increase ALJ staffing.

Risk: Federal UI Administrative Grant

The CUIAB is at risk of not receiving enough federal UI administrative grant funding to support the staffing levels necessary to process a higher volume of UI appeals in the event of an economic downturn.

Federal funding does not cover all costs to administer the UI program and is at risk of being further reduced at the national level during Congressional Budget negotiations, given the current political climate in Washington, DC. Such reductions would be passed to the states, and specifically to the EDD and CUIAB. The CUIAB does not receive State funds for processing UI appeals.

Not having adequate funding would reduce services and increase employers' and workers' wait times for appeal decisions, and possibly cause California to be out of compliance with US DOL performance standards. Being out of compliance could put California under corrective action with the US DOL.

Control: A. Balance Workload, Staffing & Funding

The CUIAB must continue to balance workload, staffing, and funding, and sustain cost savings efforts to ensure it is processing the maximum number of appeals with available funding.

Control: B. Pursue Alternative Funding Sources

The CUIAB will work with EDD to identify other possible sources of funding to support the UI program, should federal funding for the UI program be cut during Congressional Budget negotiations.

Risk: Appeals Modernization

The CUIAB is embarking on major change to its programs, services and systems. Presently, the CUIAB uses seven aged and disparate appeals systems for all levels of its appeal processing. The

enterprise is working towards one comprehensive case management system to more efficiently process appeals and address future increases in workload. Currently, CUIAB anticipates implementation in 2021. As with any technology project, there is inherent risk in implementing a new technology system.

Control: A. Technology Project Governance

CUIAB established a Governance Committee to oversee project risks and develop policy recommendations for problem-solving and planning and preparation for implementation.

Control: B. Development of Business Requirements

Project business requirements are under development by the CUIAB subject matter experts, individuals with in-depth knowledge of the program and will be using the new system rather than solely CUIAB's Information Technology Branch.

The CUIAB subject matter experts are crucial risk mitigating contributors in the evaluation and construction process of the CUIAB modernized appeal system, from case intake to appeal decision and case closure. With extensive knowledge and experience, the CUIAB subject matter experts recognize risks in various junctures of the current appeals process and are able to envision and develop enhanced requirements to reduce risks in implementing the future CUIAB appeals system.

CONCLUSION

The California Unemployment Insurance Appeals Board strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Elena Gonzales, Executive Director / CALJ

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