A Report
to the
Montana
Legislature

Financial-Compliance Audit

Department of Public Service Regulation

For the Two Fiscal Years Ended June 30, 2020

May 2021

Legislative Audit Division

20-26

Financial-Compliance Audits

Financial-compliance audits are conducted by the Legislative Audit Division to determine if an agency's financial operations are properly conducted, the financial reports are presented fairly, and the agency has complied with applicable laws and regulations. In performing the audit work, the audit staff uses standards set forth by the American Institute of Certified Public Accountants and the United States Government Accountability Office. Financial-compliance audit staff members hold degrees with an emphasis in accounting and many staff members hold Certified Public Accountant (CPA) certificates.

The Single Audit Act Amendments of 1996 and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards require the auditor to issue certain financial, internal control, and compliance reports in addition to those reports required by *Government Auditing Standards*. This individual agency audit report is not intended to comply with these reporting requirements and is therefore not intended for distribution to federal grantor agencies. The Legislative Audit Division issues a statewide biennial Single Audit Report which complies with the above reporting requirements. The Single Audit Report for the two fiscal years ended June 30, 2019, was issued March 30, 2020. The Single Audit Report for the two fiscal years ended June 30, 2021, will be issued by March 31, 2022.

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LEGISLATIVE AUDIT DIVISION

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May 2021

The Legislative Audit Committee
of the Montana State Legislature:

This is our financial-compliance audit report on the Department of Public Service Regulation for the two fiscal years ended June 30, 2020. Included in this report are five recommendations related to department culture, compliance with state laws and policies, and internal controls.

As discussed further in the report, we had concerns about the integrity and competence of certain management personnel, due to an attempt to provide us with falsified documentation, potential waste of state resources, and disregard of state and internal policies, including management override of controls. As a result, we were unable to obtain reliable management representations regarding financial activities and compliance to support our audit work. This means we were unable to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. We disclaimed an opinion on the financial schedules and notes for each of the two fiscal years ended June 30, 2020. This disclaimer means we provide no assurance over the accuracy and completeness of the information presented in the financial schedules and note disclosures.

We thank the Commissioners and their staff for their cooperation and assistance throughout the audit. The department's response to the recommendations is on page C-1.

Respectfully submitted,

/s/ Angus Maciver

Angus Maciver
Legislative Auditor

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Elected and Administrative Officials

		Term Expires
Public Service Commission	James Brown, Chair	January 2025
	Brad Johnson, Vice Chair	January 2023
	Randy Pinocci	January 2023
	Jennifer Fielder	January 2025
	Tony O'Donnell	January 2025
	Roger Koopman (through January 2021)	
	Bob Lake (through January 2021)	
Administrative Officials	Mandi Hinman, Administrator, Centralized Services Division	
	Will Rosquist, Administrator, Regulatory Division	
	Justin Kraske, Administrator, Legal and Consumer Division (through December 2020)	
	Luke Casey, Acting Administrator, Legal and Consumer Division (effective January 2021)	

For additional information concerning the Department of Public Service Regulation programs, contact:

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FINANCIAL-COMPLIANCE AUDIT 20-26 MAY 2021

MONTANA LEGISLATIVE AUDIT DIVISION

Department of Public Service Regulation

FOR THE TWO FISCAL YEARS ENDED JUNE 30, 2020

BACKGROUND

The Department of Public Service Regulation (department) is charged with assuring the public receives safe and satisfactory utility and transportation services at reasonable rates. The department is responsible for regulating certain public utilities, motor carriers, railroads, and pipelines within the state, and performs safety inspections of regulated activities under the direction of the Public Service Commission.

Commissioners are elected by district and serve 4-year terms. Most department funding comes from a tax on the gross operating revenue of regulated companies collected by the Montana Department of Revenue. In fiscal years 2020 and 2019, the tax generated over $4 million and over $2 million, respectively. The tax is presented as a Direct Entry to Fund Equity on the Schedules of Changes in Fund Equity. The department also received federal grant funding.

During each audit we obtain written representations from appropriate leadership confirming they have fulfilled their responsibilities in regards to audit, including the fair presentation of the financial schedules and notes and for the design, implementation, and maintenance of internal controls. We were unable to obtain reliable management representations regarding financial activities to support our audit work. The current chairman of the Public Service Commission declined to sign a management representation letter because it was clear he was not responsible for operations during the audit period as he was not yet on the commission. Because we had concerns about the integrity and competence of other management personnel, there was no one else at the department who could give reliable representation. Without reliable management representation, we disclaimed an opinion on the financial schedules and notes for both fiscal years 2020 and 2019. Our integrity and competence concerns stemmed from an attempt to provide us with falsified documentation, potential waste of state resources, and disregard of state and internal policies, including management override of controls.

AUDITOR'S OPINION (page A-1): DISCLAIMER

This means we give no reliance on the information presented in the financial schedules or notes to the financial schedules.

For the full context of the department's financial activity, see the financial schedules and notes beginning on page A-3.

RECOMMENDATIONS:

In this report, we issued the following recommendations:
To the department: 5
To the legislature: 0

In this report, we determined the implementation status of recommendations in the prior audit:
Fully Implemented: 2
Partially Implemented: 0
Not Implemented: 3
No Longer Applicable: 1

(continued on back)

For the full report or more information, contact the Legislative Audit Division.

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The mission of the Legislative Audit Division is to increase public trust in state government by reporting timely and accurate information about agency operations, technology, and finances to the Legislature and the citizens of Montana.

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Recommendation #1 (page 3):
Compliance with state policies
We recommend the leadership of the Department of the Public Service Regulation comply with all internal policies and develop and implement a comprehensive plan to improve department culture.

Department response: Concur

Recommendation #2 (page 4):
Compliance with state policies
We recommend the Department of Public Service Regulation develop, implement, and monitor internal controls to facilitate compliance with and comply with various state policies.

Department response: Concur

Recommendation #3 (page 9):
Internal Controls
We recommend the Department of Public Service Regulation develop, implement, and document internal controls to ensure the completeness and accuracy of the rate charged and collected on the department's behalf.

Department response: Concur

Recommendation #4 (page 11):
Incomplete financial information
We recommend the Department of Public Service Regulation develop internal controls to ensure the accuracy and completeness of financial activity in the state's accounting records and comply with state accounting policy by recording all department financial activity in the state's accounting records

Department response: Concur

Recommendation #5 (page 13):
Controls over drafting notes to the financial schedules
We recommend the Department of Public Service Regulation develop and implement internal controls over note disclosure development, including the consideration of subsequent events disclosures prior to the audit process.

Department response: Concur

REPORT ON INTERNAL CONTROL AND COMPLIANCE (page B-1):
In this report, we identified the following:
Material Weaknesses in Internal Control: 3
Significant Deficiencies in Internal Control: 1
Material Non-Compliance: 0
Other Matters: 1

For the full context of this information, including the distinction between the types of items reported, see the report beginning on page B-1.

Chapter I – Introduction and Background

Introduction

We performed a financial-compliance audit of the Department of Public Service Regulation (department) for the two fiscal years ended June 30, 2020. The objectives of the audit were to:

1. Obtain an understanding of the department's internal controls to the extent necessary to support our audit of the financial schedules and, if appropriate, make recommendations for improvements in management and internal controls of the department.
2. Determine whether the department complied with selected state laws and regulations.
3. Determine whether the department's financial schedules present fairly the results of operations and changes in fund equity for the two fiscal years ended June 30, 2020.
4. Determine the implementation status of prior audit recommendations.

During the audit we focused our audit efforts on personal services, direct entries to fund equity, budget authority, and presentation and disclosure. This testing included understanding the department's internal control policies and procedures, preforming analytical procedures, and reviewing accounting transactions. We also completed testing over department procard and travel expenses and tested compliance with state laws and regulations.

Background Information

The department operates under the direction of the Public Service Commission (commission). The commission consists of five voting members who are elected on a district basis and serve a four-year term. After each general election, commissioners elect a chairman and vice chairman, to serve until the next general election. The chairman exercises authority on behalf of the commission. The department's responsibility is to assure the public receives safe and adequate utility and transportation services at reasonable rates. The department is responsible for the regulation of certain public utilities, motor carriers, railroads, and pipelines within the state, and performs safety inspections of regulated activities under the direction of the commission.

The department's 37.5 full-time equivalent (FTE) positions (as of June 30, 2020) consist of five commissioners, a Communications Director (vacant), and staff of the following three divisions:

- The **Regulatory Division** (17 FTE) advises the commission on the activities of the regulated public utilities, including rate determination and safety standards. The division also exercises general supervisory control over the activities of motor carriers and railroads.

- The **Centralized Services Division** (5 FTE) provides financial, human resources, information technology, and administrative support to the department.
- The **Legal and Consumer Division** (9.5 FTE) advises the commission on matters requiring a legal interpretation or opinion, represents the commission in legal proceedings, and assists with customer complaints and issues.

The aggregate of the department's expenditure activity is shown in the Public Service Regulation Program on pages A-7 and A-8. The department is primarily funded by a fee that is levied on regulated companies to fund amounts appropriated by the legislature for a specific fiscal year as required by §69-1-402, MCA. The fee is based upon a percentage of the gross operating revenue of all activities regulated by the commission for each calendar quarter of operation. The fee is collected by the Department of Revenue on their behalf and is presented in the financial schedules as a direct entry to fund equity.

Prior Audit Recommendations

The prior audit had six recommendations. The department fully implemented two recommendations, did not implement three recommendations, and one recommendation is no longer applicable. The fully implemented recommendations are related to the requesting and recording of federal revenue.

One of the prior audit recommendations is related to revenue estimates. Department staff reported they implemented new controls over revenue estimates, but they did not retain documentation of the new controls. In June 2020, the Legislative Audit Committee removed revenue estimates from the presentation of the Schedule of Total Revenues and Transfers-In. There is no longer a risk of misstatement, so we have no further recommendation because the prior audit recommendation is no longer applicable.

The other three prior audit recommendations not implemented are explained further in the Findings and Recommendations chapter. They are related to controls over the department's direct entries to fund equity, controls over the drafting and review of the notes to the financial schedules, and missing financial information related to the hiring of a consultant, further information found in Findings and Recommendations 3, 4, and 5 starting on page 9.

Chapter II – Findings and Recommendations

Organizational Challenges

The Department of Public Service Regulation (department) can benefit from effective leadership and a healthy culture.

During this audit, we encountered several situations indicative of an unhealthy organizational culture and ineffective leadership, including certain commissioners overriding department controls. We believe this culture limited management personnel's ability to enforce compliance with state and department policy. During the audit, one member of management attempted to provide us with falsified documentation to support expenditure activity recorded on the accounting records. We consider the actions of this member of management to be abuse, which is behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice. We consider commissioners disregarding travel policy to be management override of controls, leading to potential waste of state resources and disregard for state and internal policies. As the following report sections indicate, we identified multiple instances where the department did not comply with state policies, recorded financial activity incorrectly in the state's accounting system, did not establish internal controls over key financial activity, or did not implement prior audit recommendations related to fiscal internal controls and policy compliance. Collectively, the results of our audit procedures cause us to doubt the integrity and competence of certain members of management and the commission.

During each audit we obtain written representations from appropriate leadership confirming they have fulfilled their responsibilities in regard to audit, including the fair presentation of the financial schedules and notes and for the design, implementation, and maintenance of internal controls. We were unable to obtain reliable management representations regarding financial activities to support our audit work. The current chairman of the Public Service Commission declined to sign a management representation letter because it was clear he was not responsible for operations during the audit period as he was not yet on the commission. Because of the ethical concerns described in this chapter, there was no one else at the department who could give reliable representation.

If we cannot get reliable management representation, we need to decide to either withdraw from the engagement or disclaim our opinion on the financial schedules and notes. We cannot withdraw from this audit, because we are required by law to complete it. Therefore, we disclaimed our audit opinion as outlined in the Independent

Auditor's Report starting on page A-1. This means we provide no assurance over the accuracy and completeness of the financial schedules and notes.

As outlined in state policy, "Management's attitude, actions, and values set the tone of an organization, influencing the control consciousness of its people. Internal controls are likely to function well if management believes control activities are important and communicates this view to employees at all levels through policy statements, codes of conduct, and leading by example. Managers must comply with established personnel policies and practices." The results of this audit indicate the Public Service Commission has an opportunity to change the organization's culture through improved leadership. This includes establishing expectations for employee conduct, obtaining a comprehensive understanding of applicable law and policy, implementing a comprehensive and appropriate internal control structure, and monitoring agency adherence to that structure. Commissioners should always comply with policies they expect management and employees to follow. During this audit, new commissioners took a more active role in the audit process than occurred in the past. There is an opportunity for them to develop internal controls to ensure compliance with state law and policies by developing a plan to improve department culture. This plan could include things like management training, working with a consultant skilled in developing a positive working environment, and surveying employees to gather ideas for change. We believe department culture, at least in part, caused the other Findings and Recommendations in this chapter.

Recommendation #1

We recommend the leadership of the Department of the Public Service Regulation:

A. *Comply with all internal policies.*

B. *Develop and implement a comprehensive plan to improve department culture.*

Compliance With State Policies

We found a variety of instances where the department did not follow state procard, travel, inventory, and procurement policies.

We identified several instances where the department did not follow state policy during the audit period, as outlined in the subsections below. We attribute the noncompliance, in part, to the department not having internal controls in place for staff to review state policies on a regular basis and evaluate whether the department is doing what is required of them as a state agency under those policies. As indicated in the prior section, state policy requires management to implement internal controls, which serve to protect state employees and state resources. The lack of internal control at this agency contributed to a waste of state resources, management override of controls, and increased the risk of loss of equipment.

Compliance With Procard and Travel Expenses

As part of the audit, we reviewed operating expenditures we considered risky, because they involved out-of-state travel or purchases of items of a sensitive nature, like computers and tablets. We found a variety of concerns in this testing, the most important of which are summarized below. We initially tested 26 operating expense transactions totaling approximately $17,000 for compliance with governing state policies, and subsequently expanded our testing to include review of all commissioners' out-of-state travel totaling approximately $47,000 based on concerns identified in our initial testing.

Non-Travel Expenses:

- State policy requires employees keep receipts, or a fill out a missing receipt form, for all procard purchases. We identified multiple instances where receipts were not included, and the missing receipt form was not attached to the documentation.

  For one expenditure being tested, staff realized there was no supporting receipt or missing receipt form on file so they had management sign and back-date a missing receipt form to the original purchase date. In doing so, the member of management falsified the support for the $185 expense, creating a document in 2021, but dating it as if it were created over a year and a half prior. When the member of management directed a staff member to also sign the form while the audit was on-going, the staff member brought it to our attention, provided us a copy of the partially complete document, and reported the incident to legal counsel and the current Chairman of the commission, who advised the staff member not to sign the backdated document. The document was not provided to us by management after this intervention.

  The management team member who created the document indicated it was not created in an attempt to mislead us, but rather that there was a misunderstanding about the how the form works. The audit process evaluates the adequacy of controls in place during the audit period. Supporting documents should never be created or cleaned-up to show the auditor a better picture than what was in place during the audit period. We observed other supporting documents where the same member of management dated a review when the review was done instead of when the transaction happened, so we believe there is at least a risk the falsification of the form was intentional.

In addition to the item discussed above, we also we found two other purchases without receipts, including one hotel stay and a purchase of two tablets. As discussed in greater detail in the inventory section below, the tablets were not tracked on the IT inventory list, but we were able to observe the tablets during the audit.

- State policy requires an explanation for the purchase if it appears unusual or if the business need is not apparent. For six of the expenditures tested totaling approximately $2,000, the business need was not obvious and was not documented as required by state policy. Without a documented business need, it is often difficult to determine if the item is for state or personnel use.
- State policy requires procard receipts to be approved by the supervisor. For four expenditures tested, totaling approximately $3,000, a supervisor did not approve the purchase as required by state policy.

Travel Expenses:

- State policy requires reimbursable travel expenses to be for state business and the use of the most efficient and economical mode of transportation. Receipts are also required for purchases over $25. We found the following in our review of the 33 instances of commissioner out-of-state travel.
    - ◊ Most commissioner travel arrangements were booked by department personnel. However, one commissioner booked travel independently, using a state procurement card. The commissioner consistently used one airline, which increases risk the most economical ticket was not always purchased, as required by state policy.
    - ◊ Commissioners are required to obtain the approval of another commissioner per commission policy. We identified 13 instances where travel forms were not approved by another commissioner, totaling approximately $15,000. Two commissioners during the audit period submitted forms without another commissioner's approval. Commissioners approving their own travel, contrary to internal policy, constitutes management override of internal controls. We also found five missing receipts and two trips without travel forms. The department only filled out travel forms if there was per diem involved, contrary to state policy requiring an itemized travel form for every trip.
    - ◊ We identified two instances of potential waste of state resources related to commissioner travel. Waste is defined as, "the act of using or expending resources carelessly, extravagantly, or to no purpose." In one instance, a flight to Washington DC was purchased without documentation of why it was a state related expense. In another, two commissioners traveled to Washington DC, and the plane ticket for one commissioner was comfort class and cost more than twice as much as a plane ticket of the other commissioner. The

comfort class ticket cost $1,414, whereas the other ticket cost $515. One flight was out of Great Falls and one was out of Helena, but we did not think the departure location was likely to cause the $899 difference in price.

◊ We identified three instances where one commissioner used state procards for personal travel expenses like seat upgrades and beverages and claimed the full per diem on their travel form. In these situations, the accounting staff adjusted the claimed expenses, so the commissioners were not paid more than what was appropriate. However, this practice makes the travel claim review process more complicated and increases risk of travel reimbursements being made in excess of what is allowed by law and policy. It also has the potential for management override of controls if accounting staff do not feel comfortable enough to correct commissioners.

Compliance With Inventory

State policy requires an agency to take a complete physical inventory of all capital assets, tagged minor equipment, and sensitive equipment at least every two years. The policy also requires all major and sensitive equipment to be tagged when possible. While the department has a list of IT equipment, we identified items missing from the list as well as equipment with no name or location on the list. As noted in the prior section, two tablets were purchased during the audit period. They were not on the list, and the staff member responsible for maintaining the IT list was not aware of the purchase. While we only identified the two items missing from the list of IT equipment, there is risk of other items missing from the list.

In addition, the department does not have a policy to complete a physical inventory or to tag any state property as required by state policy. We also noted that when IT equipment does not work anymore, the department donates it or recycles it themselves, which is contrary to state law and policy requiring the use of the Surplus Property Program of the General Services Division of the Department of Administration when disposing of unwanted state property.

Compliance With Procurement Agreement

The department has a procurement agreement with the Department of Administration. It states, "Agency may use a limited solicitation procedure when making services purchases with a total contract value between $5,000.01 and $25,000." The agreement further states, "A limited solicitation requires a solicitation from a minimum of three viable sources." There is an exception to this for "expert witness hired for use in litigation."

We noted two instances during the audit and subsequent events period where the department hired legal services above $5,000 for services that were not "expert witness hired for use in litigation." One purchase was for defense for appeals related to utility activity. The department paid $85,000 in fiscal year 2019 and $109,708 in fiscal year 2020. In fiscal year 2021, the department paid $8,235 for an internal investigation.

In this case of noncompliance, the department was aware of procurement policy, but incorrectly applied the exception for expert witnesses, thinking all legal counsel was excluded from the delegation agreement. The department noted legal issues often happen with short notice and require specialized legal knowledge. There is an exigency purchase exception in the delegation agreement that may apply to the purchases noted above, but the department needs to document any such exigencies per the agreement. We believe internal controls related to procurement should be strengthened by documenting any exigency exceptions.

Compliance With the Transfer of Receivables

State policy requires timely billing of receivables, periodic review of balances, and a transfer to the Department of Revenue (DOR) or outside collection agency when an agency has made all reasonable attempts to collect. Policy further states, "Receivables and their related allowance should not permanently sit idle in the accounting system."

State law requires the department to advertise certain commission proceedings in order to make the public aware of potential actions regarding regulated companies. The department initially pays for the costs of the advertisements and, pursuant to state law, bills the pertinent regulated companies at a later date. Prior to a recommendation made in our 16-26 audit report, the department wrote-off the related accounts receivables they were unable to collect rather than transferring them to DOR for collection. In response to a recommendation made in that audit, the department began collecting tax IDs from transportation companies to facilitate transferring the receivables to DOR for collection.

They did not collect tax IDs from utility companies because some staff members had security concerns about collecting tax IDs. However, company tax IDs are public information. Without the tax IDs, the department is not able to transfer the receivables to DOR for collection. The department has kept all related unpaid receivables from utility companies on the accounting records and has no policy in place to review and adjust receivable balances, or to facilitate transferring receivables to DOR or an outside collection agency. There were $3,086 of receivables established before fiscal year 2019 still on the accounting records as of February 2021.

The department is not in compliance with state policy and is potentially not receiving all of the revenue to which it is entitled. In addition, PSR receivables are "permanently sitting idle in the accounting system," which is contrary to state policy. Per department staff, almost all the uncollected receivable is from one company.

Summary

State policies change often and can be complex, but we believe the widespread noncompliance with state policy described above points to a significant deficiency in internal controls as described in the Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Schedules Performed in Accordance with *Government Auditing Standards* starting on page B-1, because it indicates no one at the department is taking responsibility for compliance with procard, travel, inventory, or accounting policies related to receivables, even for issues we have communicated in the past.

Recommendation #2

We recommend the Department of Public Service Regulation develop, implement, and monitor internal controls to facilitate compliance with and comply with state policies by ensuring:

A. *Travel and Procard expenses are supported by accurate and sufficient documentation.*

B. *Inventory is completed, state property is tagged when required, and the Surplus Property Program is used to dispose of state property.*

C. *Procurement is in compliance with state law and policy, including the agreement with the Department of Administration.*

D. *Uncollectable receivables are transferred to the Department of Revenue or outside collection agency.*

Internal Controls and Missing Financial Information

We found a variety of instances where the department should enhance internal controls related to financial reporting. We also found instances where the department's records in the state's accounting system were incomplete.

State policy requires management to complete risk assessment activities to consider risks of financial misstatement specific to their department, design control activities to respond to risks identified, and establish and operate monitoring activities to evaluate their internal control system. The control activities in state policy are meant to assist the department in ensuring they report financial activity accurately, comply with state laws and policies, and they ensure the safeguarding of state resources. Department management indicated risk assessments and monitoring activities were completed during the audit period but were not able to provide any evidence of such procedures having been performed. Additionally, we found specific instances where internal control related to financial reporting could be improved, and instances where the financial schedules and notes were incomplete as described below.

Controls Over the Department's Funding Activity

In the prior two audits, we have issued recommendations to the department to establish internal controls over the fee supporting most department activities. We communicated a risk of material misstatement related to the department's Direct Entries to Fund Equity presented on the Schedules of Changes in Fund Equity. The department is primarily funded by a quarterly fee levied on all regulated companies within the state. This fee is based on the percentage of gross operating revenue of all activities regulated by the Public Service Commission and calculated and collected by DOR on behalf of the department pursuant to state law. DOR deposits the collected fee into a State Special Revenue account shared with the department. The department records expenditures in this shared fund throughout the fiscal year. During the fiscal year-end closing process, the cash collected and deposited into the shared fund by DOR under their business unit is moved to the department's business unit via a direct entry to fund balance. The Direct Entry amounts were over $2 million in fiscal year 2019 and over $4 million in fiscal year 2020.

In response to recommendations in the prior two audits, the department began collecting quarterly reports from DOR and assigned a staff member to review the reports. However, the reviews were not documented, and the individual left the department before the audit started, so we were unable to confirm the control was in place for the audit period. Additionally, when we asked questions about the activity, related to the changes between years of the direct entries and cash balances, differences in the utilities in the quarterly reports, and differences in the way DOR completed the rate calculation, no current staff at the department were able to answer our questions. This indicates a continued need for staff to enhance internal controls over the activity.

Without internal controls over this activity, the department's schedules may not be complete and accurate, the department may not be receiving all the cash to which they are entitled, or the department may be getting too much cash, and over-charging utilities. We consider this issue a material weakness in internal controls as described in the Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Schedules Performed in Accordance

With *Government Auditing Standards* on page B-1, because a material misstatement could occur without the department detecting it.

Recommendation #3

We recommend the Department of Public Service Regulation develop, implement, and document internal controls to ensure the completeness and accuracy of the rate charged and collected on the department's behalf.

Incomplete Financial Information

There is missing information from both years of the department's schedules.

State law allows the commission to engage independent engineering, financial, and management consultants or advisory services to evaluate a public utility's plan. This law also requires the commission to charge a fee to the public utility to pay for the costs of consultants or advisory services. The related revenues and expenditures should be recorded in the State Special Revenue Fund as required by state law.

As described in our prior audit report, a consultant was hired by the commission in fiscal year 2018. The contract written by the commission required a utility to pay the consultant directly, contrary to state law, resulting in an understatement of expenditures and revenues in the state's accounting records. We issued a recommendation to the department to charge the utility a fee as required and to record the related revenues and expenditures in the State Special Revenue Fund, and the department concurred with the recommendation but noted the department wanted the consultant hired quickly so they could be a part of the utilities' planning process, and they did not have the budget authority to record the expenses at the end of fiscal year 2018. We agree this situation existed, but compliance with state law is still required.

The contract activity carried into fiscal year 2019, and department personnel did not record the revenue or expenditures associated with this contract in the state's accounting system in fiscal year 2019. We estimate total revenues and expenditures in fiscal year 2019 are understated by approximately $100,000.

Per department personnel, the revenue and expenditures were not recorded on the state's accounting records because no cash passed through the department, and accordingly, accounting staff and management did not think an entry was necessary.

However, state law requires the activity to be recorded in the State Special Revenue Fund. Additionally, recording the activity in the state's accounting records is necessary to give the public the full picture of the department's activity.

In addition to the missing financial activity for this contract, there were missing expenditures in fiscal year 2020 related to information technology costs. The department used State Information Technology Services Division (SITSD) to complete maintenance work for the department's information system used for case management. The department and SITSD disagreed about the expenses billed for the project, and the department did not record the approximately $40,000 of disputed expenditures in fiscal year 2020. Department management indicated they believed they could record the expenses later and charge the fiscal year 2020 program year. The department is working with SITSD to resolve their dispute, but recording an expense in a different fiscal year than when the services were provided is not proper accounting.

In addition, department management accepted the system application as being ready for implementation, recognizing any issues, defect resolution, and enhancements prioritized by the department would incur billable time.

The missing financial activity and management's response to the misstatements indicates a material weakness in internal controls as described in the Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Schedules Performed in Accordance With *Government Auditing Standards* on page B-1, because department management does not prioritize the completeness and accuracy of the financial information in the state's accounting system and sometimes does not seem to understand accounting requirements.

Recommendation #4

We recommend the Department of Public Service Regulation:

A. *Develop internal controls to ensure the accuracy and completeness of financial activity in the state's accounting records, and*

B. *Comply with state accounting policy by recording all department financial activity in the state's accounting records.*

Controls Over Drafting the Financial Schedule Notes

No controls were added to the drafting and review of the notes to the financial schedules until the audit process started.

The notes presented on page A-9 give the reader more detail on the department's financial information. They are written by department personnel. To comply with state policy requirements, the department should have appropriate internal controls in place to ensure the notes provided as part of the audit are free from material misstatement prior to the audit process.

In our prior report we recommended the department develop and implement controls to ensure the notes provided as part of the audit are free from material misstatements. In the current audit, management indicated they had planned to have a CPA on staff review the notes, but the staff member left before the audit started. The Chairman completed a review of the second version of the notes, but there was no review over the original notes, because management did not provide the original notes to the Chairman. Therefore, no controls were implemented before the audit process began. In addition, the department did not have procedures in place to consider whether there were any subsequent events or contingencies needing disclosure. We identified and communicated the need to disclose any material contingencies or subsequent events. The department added Note 5 in response to this communication.

Without the audit process, the notes would be incomplete. Therefore, we considered this a material weakness in internal controls as described in the Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Schedules Performed in Accordance With *Government Auditing Standards* on page B-1, because there is a reasonable possibility that a material misstatement of the entity's notes would not be prevented, or detected and corrected, on a timely basis.

Department staff report they provided the notes before the review process because they wanted to facilitate the audit process and get the notes to us as soon as possible. We believe management does not fully understand the audit process, or how to develop and implement internal controls for the note disclosure process. We suggest department management review our audit communications and reports from recent audits in preparation for the next audit, to increase their awareness of issues raised in prior audits. State Accounting Bureau at the Department of Administration can be a resource on how to develop and implement internal controls over the notes to the financial schedules.

Recommendation #5

We recommend the Department of Public Service Regulation work with State Accounting Bureau to develop and implement internal controls over note disclosure development, including the consideration of subsequent events and contingency disclosures, prior to the audit process.

Independent Auditor’s Report and Department Financial Schedules

LEGISLATIVE AUDIT DIVISION

Angus Maciver, Legislative Auditor
Deborah F. Butler, Legal Counsel

Deputy Legislative Auditors:
Cindy Jorgenson
William Soller

Independent Auditor's Report

The Legislative Audit Committee
of the Montana State Legislature:

Introduction

We were engaged to audit the accompanying Schedules of Changes in Fund Equity, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Department of Public Service Regulation for each of the fiscal years ended June 30, 2020, and 2019, and the related notes to the financial schedules.

Management's Responsibility for the Financial Schedules

Management is responsible for the preparation and fair presentation of these financial schedules in accordance with the regulatory format prescribed by the Legislative Audit Committee; based on transactions posted to the state's accounting system without adjustment; this responsibility includes recording transactions in accordance with state accounting policy; and designing, implementing, and maintaining internal controls relevant to the preparation and fair presentation of the financial schedules that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial schedules based on conducting the audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Because of the matters described in the Basis for Disclaimer of Opinions paragraph, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinions

During the audit, we had concerns about the integrity and competence of certain management personnel, due to an attempt to provide us with falsified documentation, potential waste of state resources, and disregard of state and internal policies. As a result of these matters, we were unable to obtain reliable management representations regarding financial activities and compliance to support our audit work.

Disclaimer of Opinion

Because of the significance of the matters described in the Basis for Disclaimer of Opinion paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on the accompanying financial schedules of the Department of Public Service Regulation.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated April 15, 2021, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the department's internal control over financial reporting and compliance.

Respectfully submitted,

/s/ Cindy Jorgenson

Cindy Jorgenson, CPA
Deputy Legislative Auditor
Helena, MT

April 15, 2021

PUBLIC SERVICE REGULATION
SCHEDULE OF CHANGES IN FUND EQUITY
FOR THE FISCAL YEAR ENDED JUNE 30, 2020

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund
FUND EQUITY: July 1, 2019	$ 0	$ 51,072	$ 0
ADDITIONS			
Budgeted Revenues & Transfers-In		41,724	144,588
Nonbudgeted Revenues & Transfers-In	26,000	9,870	9
Prior Year Revenues & Transfers-In Adjustments		(6)	
Direct Entries to Fund Equity	(26,000)	4,369,170	
Total Additions	0	4,420,759	144,597
REDUCTIONS			
Budgeted Expenditures & Transfers-Out		3,987,532	144,597
Nonbudgeted Expenditures & Transfers-Out		6,026	
Prior Year Expenditures & Transfers-Out Adjustments		934	
Total Reductions	0	3,994,492	144,597
FUND EQUITY: June 30, 2020	$ 0	$ 477,339	$ 0

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC SERVICE REGULATION
SCHEDULE OF CHANGES IN FUND EQUITY
FOR THE FISCAL YEAR ENDED JUNE 30, 2019

	State Special Revenue Fund	Federal Special Revenue Fund
FUND EQUITY: July 1, 2018	$ 1,107,720	$ 0
ADDITIONS		
Budgeted Revenues & Transfers-In	25,033	187,807
Nonbudgeted Revenues & Transfers-In	134	111
Direct Entries to Fund Equity	2,707,891	
Total Additions	2,733,057	187,918
REDUCTIONS		
Budgeted Expenditures & Transfers-Out	3,790,276	187,918
Nonbudgeted Expenditures & Transfers-Out	(5,323)	
Prior Year Expenditures & Transfers-Out Adjustments	4,753	
Total Reductions	3,789,706	187,918
FUND EQUITY: June 30, 2019	$ 51,072	$ 0

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC SERVICE REGULATION
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2020

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS				
Licenses and Permits		$ 11,610		$ 11,610
Taxes			$ 9	9
Charges for Services		30,109		30,109
Fines and Forfeits	$ 26,000			26,000
Inception of Lease/Installment Contract		9,870		9,870
Federal			144,588	144,588
Total Revenues & Transfers-In	26,000	51,589	144,597	222,186
Less: Nonbudgeted Revenues & Transfers-In	26,000	9,870	9	35,880
Prior Year Revenues & Transfers-In Adjustments		(6)		(6)
Actual Budgeted Revenues & Transfers-In	$ 0	$ 41,724	$ 144,588	$ 186,312

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC SERVICE REGULATION
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2019

	State Special Revenue Fund	Federal Special Revenue Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS			
Licenses and Permits	$ 6,075		$ 6,075
Taxes		$ 111	111
Charges for Services	19,092		19,092
Federal		187,807	187,807
Total Revenues & Transfers-In	25,167	187,918	213,085
Less: Nonbudgeted Revenues & Transfers-In	134	111	245
Prior Year Revenues & Transfers-In Adjustments			0
Actual Budgeted Revenues & Transfers-In	25,033	187,807	212,840

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC SERVICE REGULATION
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2020

	Public Service Regulation Program	Total
PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT		
Personal Services		
Salaries	$ 2,517,490	$ 2,517,490
Employee Benefits	847,667	847,667
Total	3,365,156	3,365,156
Operating Expenses		
Other Services	283,632	283,632
Supplies & Materials	36,281	36,281
Communications	81,721	81,721
Travel	42,807	42,807
Rent	240,761	240,761
Repair & Maintenance	1,874	1,874
Other Expenses	79,158	79,158
Total	766,233	766,233
Equipment & Intangible Assets		
Capital leases - equipment	5,143	5,143
Total	5,143	5,143
Debt Service		
Capital Leases	2,557	2,557
Total	2,557	2,557
Total Expenditures & Transfers-Out	$ 4,139,089	$ 4,139,089
EXPENDITURES & TRANSFERS-OUT BY FUND		
State Special Revenue Fund	$ 3,994,492	$ 3,994,492
Federal Special Revenue Fund	144,597	144,597
Total Expenditures & Transfers-Out	4,139,089	4,139,089
Less: Nonbudgeted Expenditures & Transfers-Out	6,026	6,026
Prior Year Expenditures & Transfers-Out Adjustments	934	934
Actual Budgeted Expenditures & Transfers-Out	4,132,129	4,132,129
Budget Authority	4,649,217	4,649,217
Unspent Budget Authority	$ 517,088	$ 517,088
UNSPENT BUDGET AUTHORITY BY FUND		
State Special Revenue Fund	$ 378,958	$ 378,958
Federal Special Revenue Fund	138,130	138,130
Unspent Budget Authority	$ 517,088	$ 517,088

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC SERVICE REGULATION
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2019

	Public Service Regulation Program	Total
PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT		
Personal Services		
Salaries	$ 2,421,851	$ 2,421,851
Employee Benefits	823,675	823,675
Total	3,245,525	3,245,525
Operating Expenses		
Other Services	279,029	279,029
Supplies & Materials	24,680	24,680
Communications	57,799	57,799
Travel	57,970	57,970
Rent	242,565	242,565
Repair & Maintenance	2,762	2,762
Other Expenses	67,294	67,294
Total	732,099	732,099
Total Expenditures & Transfers-Out	$ 3,977,624	$ 3,977,624
EXPENDITURES & TRANSFERS-OUT BY FUND		
State Special Revenue Fund	$ 3,789,706	$ 3,789,706
Federal Special Revenue Fund	187,918	187,918
Total Expenditures & Transfers-Out	3,977,624	3,977,624
Less: Nonbudgeted Expenditures & Transfers-Out	(5,323)	(5,323)
Prior Year Expenditures & Transfers-Out Adjustments	4,753	4,753
Actual Budgeted Expenditures & Transfers-Out	3,978,194	3,978,194
Budget Authority	3,980,884	3,980,884
Unspent Budget Authority	$ 2,690	$ 2,690
UNSPENT BUDGET AUTHORITY BY FUND		
State Special Revenue Fund	$ 2,648	$ 2,648
Federal Special Revenue Fund	42	42
Unspent Budget Authority	$ 2,690	$ 2,690

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

Montana Department of Public Service Regulation
Notes to the Financial Schedules
For the Two Fiscal Years Ended June 30, 2020

1. Summary of Significant Accounting Policies

Basis of Accounting

The department uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental fund category (General, State Special Revenue, and Federal Special Revenue). In applying the modified accrual basis, the department records:

- Revenues when it receives cash or when receipts are realizable, measurable, earned, and available to pay current period liabilities.
- Expenditures for valid obligations when the department incurs the related liability and it is measurable, except for the cost of employees' annual and sick leave. State accounting policy requires the department to record the cost of employees' annual and sick leave when used or paid.

Expenditures and expenses may include: entire budgeted service contracts even though the department receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

Basis of Presentation

The financial schedule format was adopted by the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

The department uses the following funds:

Governmental Fund Category

- **General Fund** – to account for civil penalties issued by the commission.
- **State Special Revenue Fund** – to account for proceeds of specific revenue sources (other than private-purpose trusts or major capital projects) that are legally restricted to expenditures for specific state program purposes. Department State Special Revenue Funds include a fund to account for general operating revenues and expenditures and a fund to account for Qwest performance monitoring.

- **Federal Special Revenue Fund** – to account for activities funded from federal revenue sources. Department Federal Special Revenue Funds include a fund to account for Pipeline Safety and a fund to account for Railroad Safety.

2. Direct Entries to Fund Equity

Direct entries to fund equity in the General and Special Revenue funds include entries generated by SABHRS to reflect the flow of resources within individual funds shared by separate agencies.

3. Fines and Forfeits

The amount of Fines and Forfeits in the General Fund in fiscal year 2020 of $26,000 is due to civil penalties imposed by the commission per 69-12-108 and 69-13-105, MCA.

4. Unspent Budget Authority

In FY2020, the department unspent budget authority is made up of a restricted one-time only appropriation for consulting, new hearings-related appropriation established in HB 597, and Pipeline Safety appropriation. In FY2019, basically all authority was utilized.

5. Contingencies

There are multiple causes in which the Commission is a named defendant, however, there are no such cases in which there is a “reasonable possibility” as defined in GASB Statement 62, of monetary judgments against the Commission, and the Commission does not anticipate having a monetary settlement in the current fiscal year in any of the foregoing cases.

Having said that, there is one matter which is not the subject of active litigation, but in which the Montana State Information Technology Services Division (“SITS”) has asserted a claim, in the amount of $41,790 is owed by the Commission to SITSD for services rendered in connection with construction and maintenance of its Electronic Database for Docket Information (“EDDI”). The Commission disputes this claim in its entirety. Notwithstanding the foregoing dispute, the Commission and SITSD have executed a Memorandum of Understanding (“MOU”) focused, in part, on resolution of the foregoing claim and in light of that MOU, there is a “reasonable possibility” as defined in GASB Statement 62, that the Commission will incur a liability equal to all or part of the foregoing claim.

6. Related Party Transactions

Commissioners at the PSC are involved in several national organizations, such as (but not limited to) the National Association of Regulatory Utility Commissioners (NARUC), the Western Conference of Public Service Commissioners (WCPSC), the Organization of Midcontinent Independent System Operator States (MISO), the Federal Research Institute – University of Missouri (FRI), Western Interstate Energy Board (WINB), and Council of State Governments (CSG).

There are times that such organizations will offer reimbursement for Commissioner participation. During this audit period, the PSC was reimbursed $1,344.70 from MISO, $222.00 from FRI, $2,207.37 from WIEB, and $150.00 from CSG. Also, during the audit period, Chairman (at the time) Brad Johnson was Secretary Treasurer of the WCPSC, but no reimbursements took place during the time he was in this role. Vice-Chairman Johnson was elected into the role as President of WCPSC July of 2020.

Report on Internal Control and Compliance

LEGISLATIVE AUDIT DIVISION

Angus Maciver, Legislative Auditor
Deborah F. Butler, Legal Counsel

Deputy Legislative Auditors:
Cindy Jorgenson
William Soller

Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Schedules Performed in Accordance With *Government Auditing Standards*

The Legislative Audit Committee
of the Montana State Legislature:

We were engaged to audit, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to the financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Schedules of Changes in Fund Equity, Schedules of Total Revenues, and Schedules of Total Expenditures of the Department of Public Service Regulation for each of the fiscal years ended June 30, 2020, and 2019, and the related notes to the financial schedules, and have issued our report thereon dated April 15, 2021. Our report disclaims opinions on the financial schedules and notes for fiscal years 2020 and 2019, because we had concerns about the integrity and competence of certain department personnel, due to an attempt to provide us with falsified documentation, potential waste of state resources, and disregard of state and internal policies, including management override of controls, and as a result were unable to obtain reliable management representations regarding financial activities and compliance to support our audit work. We were unable to obtain sufficient appropriate audit evidence to provide a basis for audit opinions for the two fiscal years ended June 30, 2020.

Internal Control Over Financial Reporting

In connection with our engagement to audit the financial schedules, we considered the department's internal control over financial reporting to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial schedules, but not for the purpose of expressing an opinion on the effectiveness of the department's internal control. Accordingly, we do not express an opinion on the effectiveness of the department's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial schedules will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described below to be material weaknesses.

> As described starting on page 10, the department's internal controls over the following activity should be strengthened: their main funding source, collected by another state agency on their behalf; the overall completeness and accuracy of their financial activity in the state's accounting records; and over their preparation and review of the department's notes to the financial schedules.

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit the attention by those charged with governance. We consider the deficiencies described below to be significant deficiencies.

> As described starting on page 4, procard and travel expenses often did not have a documented approval, which we consider management override of controls, contributing to potential wastes of state resources. In addition, inventory and accounting policy related to receivables was not followed.

Compliance and Other Matters

In connection with our engagement to audit the department's financial schedules, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial schedule amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that can be reported under *Government Auditing Standards*. The identified other matters are described below:

> As described on page 3, there was an attempt to provide us with falsified audit documentation. We consider this abuse. In addition, we observed travel costs with the potential to be waste of state resources. We consider the abuse and these costs important enough to report, given the concepts of public accountability.

Department of Public Service Regulation Response to Findings

The department's response to the findings identified in our audit are described on page C-1 of this report. The department's response was not subjected to the auditing procedures applied in the audit of the financial schedules and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the department's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the department's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,

/s/ Cindy Jorgenson

Cindy Jorgenson, CPA
Deputy Legislative Auditor
Helena, MT

April 15, 2021

Department of Public Service Regulation

Department Response

Montana Public Service Commission

May 20, 2021

Mr. Angus Maciver
Legislative Auditor
State Capitol Building
Room 160
PO Box 201705
Helena, MT 59620-1705

RECEIVED
MAY 20 2021
LEGISLATIVE AUDIT DIV.

Dear Mr. Maciver:

On behalf of the other members of the Commission, let me thank you for the opportunity to sit down with you and your staff on May 5th, 2021 to discuss the audit results for the Department of Public Service Regulation (PSR). As verbalized by the members of the Public Service Commission, the course of the meeting and the audit process itself was both informative and helpful. The information received will allow for the agency to move forward in terms of management.

You will find enclosed with this missive the response(s) of the Montana Public Service Commission to the 2019-2020 Financial Audit.

Please do not hesitate to contact me or any of the other Commissioners if any questions arise, or should you need additional information as to the enclosed agency response(s).

Sincerely,

James E. Brown, Esq.
Chairman

Cc: Brad Johnson, Tony O'Donnell, Randall Pinocci, Jennifer Fielder

AUDIT REPORT 20-26, RECOMMENDATION #1 – We recommend the leadership of the Department of the Public Service Regulation comply with all internal policies and develop and implement a comprehensive plan to improve department culture.

Department Response: Strongly Concur.

Person Responsible for the Corrective Action Plan: Commissioners Fielder and Chairman Brown

Implementation Dates: Jan 20, 2021 – Nov 20, 2021

Corrective Action Plan: In January 2021, agency leadership began intensive Strategic Planning efforts to improve the operations, performance, culture, and reputation of the Department. This process was instituted by the two incoming commissioners and was started prior to the audit findings.

The DPSR's Strategic Planning efforts have already begun to result in notable improvements. Much of this initiative was spurred by the results of the last two agency audits, as well as by early alerts brought to our attention during the current audit process. In addition, suggestions from legislators during the agency's budget hearings, as well as the personal observations of Commissioners, staff, and members of the public strongly reinforce the need to carry out this recommendation.

While entering a biennium in which the DPSR will have the fewest FTE's the agency has had in twenty years, the agency is presently instituting methods and processes to effectively use staff time and skills more wisely, with a special emphasis now being placed on audit compliance. Among the most relevant changes currently underway are:

1) Thoroughly assessing staff performance and, in turn, restructuring the job duties and supervisory responsibilities of personnel within the Centralized Services Division to ensure that audit compliance matters are more competently carried out by budget/fiscal staff;

2) Converting the agency's vacant Communications Director position to that of an Executive Director position. The Executive Director will be responsible for effectively overseeing all internal administrative matters of the agency – including process development, documentation, and maintenance of internal controls;

3) Actively recruiting a CPA for a vacancy within the classified staff ranks of our Regulatory Division. This person would be tasked with, in addition to the standard regulatory work, working with the budget/fiscal staff in the Centralized Services Division to ensure agency compliance with state and federal financial requirements. By having an employee from the

regulatory division work with staff from the centralized services division ensures that the CPA will never be in the awkward position of checking the work of his or her superior; but rather will be "checking the work of" staff in an entirely different division;

4) Conducting extensive review of internal policies and procedures to ensure the agency is complying with the MOM; and

5) Establishing appropriate agency-wide standards of conduct -- and processes -- to improve the operations, performance, culture, and the reputation of the Department.

As correctly noted by the auditors, with the recent change in the composition of the Commission and the subsequent election of a new Chair in January of 2021, the Commissioners themselves have shifted more of their focus to carrying out supervisory responsibilities. This management oversight shift included encouraging all Commissioners to participate and be active in the audit process so that every Commissioner is personally aware of areas in which the agency is deficient. Similarly, Commissioners are actively participating in the agency's Strategic Planning process and, through this process, have made commitment to set the "tone from the top" attitude that is necessary to effect positive change.

AUDIT REPORT 20-26, RECOMMENDATION #2 – We recommend the Department of Public Service Regulation develop, implement, and monitor internal controls to facilitate compliance with and comply with various state policies.

Department Response: Strongly Concur.

Person Responsible for the Corrective Action Plan: Chairman James Brown (enforcement of travel policy and oversight responsibility for tasks assigned to staff), Commission Secretary Patricia Trooien (inventory, storage & surplus), Attorney Luke Casey, (documentation of exigent circumstances related to outside legal services).

Implementation Dates: March 2021 – August 2021

Corrective Action Plan. Based upon a review of the auditor's findings related to travel, current leadership believes that a vast majority of the problems identified in this specific area stem, not from the Commission failing to have in place proper controls and procedures, but from the failure of certain Commissioners and certain management staff to follow such proper controls and procedures. The DPSR has long had in place policies and procedures for properly documenting and for properly getting approval of travel-related expenses.

Such controls require that the individual seeking travel reimbursement to properly document the state-related business purpose for the travel, to submit supporting receipts, and to obtain the approval of the Chairman or another Commissioner for requested reimbursement. Those existing policies and controls are being better monitored and enforced by the current DPSR Chairman. In fact, the Chairman requested that the lone commissioner who had a procard turn in the procard and to utilize the proper travel processes moving forward. This request has been granted as to the return of the procard. As no Commissioner travel has occurred since the start of the year due to the covid-19 pandemic, there is no basis to determine if travel policies and procedures are being properly followed at present.

As to inventory and procurement, current leadership has already directed management staff to institute a policy both for completing asset inventory and for properly disposing of surplus state property. Further, shortly after being sworn into office, the current Chairman noticed equipment sitting unattended in empty, unlocked offices and directed staff to inventory and properly store such unused equipment. That process has been completed, and a facility assessment has been initiated as a precursor to planning and implementing storage system improvements.

The DPSR acknowledges that it twice failed to properly follow Department of Administration policy when seeking and retaining legal help. The Department does note that it is often difficult, if not impossible, to retain outside legal counsel in the manner provided for by DOA policy when there are exigent circumstances related to court deadlines and quick case turnaround times. The DPSR recognizes that better documentation is required when such exigencies occur, and leadership has directed management staff to properly document such exigencies in order to fully comply with this audit recommendation.

AUDIT REPORT 20-26, RECOMMENDATION #3 – We recommend the Department of Public Service Regulation develop, implement, and document internal controls to ensure the completeness and accuracy of the rate charged and collected on the department's behalf.

Department Response: Concur.

Person Responsible for the Corrective Action Plan: Chairman Brown (oversight); CPA hire, budget/fiscal staff.

Implementation Dates: June 2021 - August 2021

Corrective Action Plan. As correctly noted by the auditors in this audit, this is an area where the auditors have twice previously recommended the Department institute new or better controls to ensure the Department is properly accounting for rates charged and collected on the Department's behalf and to better account for expenditures. The DPSR took affirmative steps during the period at issue to carry out the auditor's recommendations, including working with the Department of Revenue to better account for the agency's revenue estimates and collection. In addition, the Department assigned the Agency's then acting CPA to work with the budgeting/financial staff on properly tracking expenditures and income. Unfortunately, the agency's CPA left the agency to go work for the federal government. The agency has been unable to replace the CPA position despite advertising for many months. Consequently, the DPSR did not fully carry out the auditor's prior recommendation(s) due, in part, to the departure of a key staffer.

As noted, the Department has been advertising for an agency CPA since November 2020. And in recent months, the DPSR has aggressively stepped up recruitment efforts. As a result of these more aggressive marketing efforts, the DPSR presently has multiple qualified applicants for this position. The successful candidate, once hired, will be assigned to check the work of the budget/financial staff to enhance internal controls over agency financial activity. Further, the two "newest" PSC Commissioners have conferred with the budget/fiscal staff on multiple occasions to have such staff explain to the two commissioners the processes they employ to ensure the correctness and the soundness of the agency budget, and to better inform the agency head as to the mechanics and specifics of the agency's fiscal position and processes. This attempt by the two newest commissioners to learn about and understand the Agency's budget and fiscal processes should lead to better internal controls, processes and, ultimately, better audit results.

AUDIT REPORT 20-26, RECOMMENDATION #4 – We recommend the Department of Public Service Regulation develop internal controls to ensure the accuracy and completeness of financial activity in the state's accounting records and comply with state accounting policy by recording all department financial activity in the state's accounting records.

Department Response: Concur.

Person Responsible for the Corrective Action Plan: Chairman James Brown, budget/fiscal staff, a newly hired Executive Director.

Implementation Dates: July 1, 2021

Corrective Action Plan. The error related to properly recording the costs related to consultants and advisory services has been noted and acknowledged. And, as such, the Department and transactions involving the same will be properly accounted for moving forward so that the public has a complete and full picture of the DPSR's budget activity. A memo to this effect will be dispersed to all Commissioners and the appropriate management and budget staff.

The error related to properly accounting for the ongoing contract dispute by and between the DPSR and the Department of Administration as to the quality and workability of the agency's EDDI software system is acknowledged and admitted. Moving forward, a disputed expense will be recorded in the year in which the disputed expense is incurred, and not the year in which it may be actually paid out. A memo to this effect will be dispersed to all Commissioners and to appropriate management and budget staff.

AUDIT REPORT 20-26, RECOMMENDATION #5 – We recommend the Department of Public Service Regulation develop and implement internal controls over note disclosure development including the consideration of subsequent events disclosures prior to the audit process.

Department Response: Concur.

Person Responsible for the Corrective Action Plan: Chairman James Brown, newly hired Executive Director, and budget/fiscal staff, newly hired CPA.

Implementation Dates: June 2021 - August 2021

Corrective Action Plan. This is a recommendation that is of great disappointment to the current Commission. The auditors made clear in the prior audit that the DPSR was to implement controls to properly carry out the audit note disclosure process. This recommendation was not carried out, thereby resulting in great confusion to the current Chairman and to the current acting Chief Legal Counsel during the current auditing process, as well as in fomenting a choppy audit process. The Commissioners appreciate the guidance being offered by the Auditor for the Commission to reach out to the State Accounting Bureau at the Department of Administration and to garner that agency's input into better developing and implementing internal control process as to financial note disclosure and financial schedules. This agency-to-agency contact will be implemented as soon as possible after our new CPA is hired and fully on-boarded.