December 31, 2015

Diana Dooley, Secretary
California Health and Human Services Agency
1600 9th Street #460
Sacramento, CA 95814

Dear Ms. Dooley,

In accordance with the State Leadership Accountability Act (SLAA), the Department of Social Services submits this report on the review of our systems of internal control and monitoring processes for the biennial period ended December 31, 2015.

Should you have any questions please contact Pat Leary, Chief Deputy Director, at (916) 657-2598, Pat.Leary@dss.ca.gov.

BACKGROUND

The mission of the California Department of Social Services (CDSS) is to serve, aid, and protect needy and vulnerable children and adults in ways that strengthen and preserve families, encourage personal responsibility and foster independence.

The CDSS provides administration and oversight of programs that affect nearly three million of California’s most vulnerable residents; foster children and youth, children and families receiving aid through the California Work Opportunities and Responsibility to Kids (CalWORKs), adults and elderly in licensed community care facilities, and aged, blind, and disabled recipients requiring In-Home Supportive Services (IHSS) or Supplemental Security Income/State Supplementary Payment assistance. California is a state supervised, county administered system. Consequently, CDSS administers most of our state programs in partnership with California’s 58 counties and sovereign tribes.

CDSS priorities (in no particular order):
- Statewide data on program performance
- Nutrition
- Access to employment
- Safety, independence and well-being
- Program integrity
- Workforce development
- Workload relief and program efficiency

RISK ASSESSMENT PROCESS

The Department’s risk assessment process included the following activities:
- Identifying the highest risks to the Department as a whole
- Assessing the probability of the risk actually happening
- Evaluating the impact of how the risk will impact the Department and/or the public
- Identifying the Department priorities that relate to the identified risks
- Developing action plans that identify the steps the Department will take to mitigate the risk and identify monitoring information that will be used to evaluate if controls are operating as intended

The Executive Management Team consisting of 12 Deputy Directors consulted with their staff to present identified risks at an executive meeting. The deputies presented their risks, identified the source of the risk, discussed the risks and merged any similar risks at the meeting. Each identified risk was assessed a numerical rank by deputies that represented the probability of the risk occurring and the impact to the
Department if the risk occurred. The numerical rank for probability and impact were averaged to give a rank total that identified the highest risks to the Department. The deputies then clarified risk statements and developed action plans. The action plans identify the control/steps the Department plans to take to mitigate each identified risk. The action plans will also identify how the risks will be monitored and indicate how the control/steps are operating.

EVALUATION OF RISKS AND CONTROLS

Compliance- External- Complexity or Dynamic Nature of Laws or Regulations

Outdated CDSS regulations place clients, counties and the state at risk in several program areas including Community Care Licensing (CCL), CalFresh (CF), and Child Care (CC).

For Clients: Clients are potentially harmed by outdated regulations in a range of ways:
- Severe harm from loss of basic-needs benefits (CF)
- Severe health and safety risks to residents and participants (CCL) (CC)
- Harm from mistaken issuance of benefits and then over-issuances/hearings/collections
- Delay in accessing needed services because of unclear guidance to counties
- Unequal services because of unclear guidance to counties and licensees
- Confusing guidance to clients delaying access to services
- Confusing guidance to licensees impacting quality of care (CCL)

For State: Misapplication of the law results in costs to the State:
- Litigation/appeal costs and potential losses
- Federal compliance consequences and potential fiscal sanctions (e.g. CF error rate)
- Incorrect citations by licensing program analysts (CCL)

For Counties: Inefficiencies exist for the 58 counties in implementing policies with outdated regulations because each county needs to:
- Decipher the state’s policy guidance from new all county letters (ACLs) and outdated regulations
- Write updated guidance for staff on how to interpret the regulations
- Train staff to work around outdated regulations
- Supervise staff to avoid errors from relying on outdated regulations

Control/Action Step
Create teams in each policy branch to update regulations with their own staff coordinator, staff/RA writer, and advisory committee of stakeholders.

Control/Action Step
Expand staff in the Office of Regulations Development (ORD) and Legal to manage catch-up process for each policy branch Subject Matter Expert (SME).

Control/Action Step
Manage from the Executive level with a calendar of deliverables.

Control/Action Step
Plan for adequate staffing to maintain regulations after this catch-up project is complete.

Control/Step
Outline a calendared work plan to update all CDSS regulations.

Control/Step
Design a staffing structure to do the work.
Secure funds and other resources, as needed, including document and project management software.
Please note: If additional resources are not available, policy work will be prioritized and postponed or reassigned as necessary.

**Control/Step**
Review current federal and state law to identify out-of-date regulations.

**Compliance- External- Funding—Sources, Levels**
The programs for which CDSS conducts hearings are vital to the support and well-being of vulnerable families and individuals, which is jeopardized when fair hearings decisions are not timely. Late fair hearing decisions also violate timeframes mandated by federal law and result in fiscal penalties payable out of the State General Fund. CDSS priorities are adversely impacted to the extent General Fund monies are used to pay penalties.

**Control/Action Step**
Continue with the procurement process to secure a vendor in 2016 that will work to replace the State Hearings Division’s (SHD) antiquated information technology system with a new Appeals Case Management System.

Having a modern, flexible, and accessible system that meets SHD business requirements will allow California to meet the due process needs of clients, facilitate and improve the scheduling and conduct of hearings, avoid fiscal and legal penalties for late decisions, and achieve compliance with the Health Insurance Portability and Accountability Act and civil rights language/translation requirements. The expected implementation date is December 2018.

**Control/Action Step**
Continue to generate monthly reports monitoring workload, penalties and vacancies.

**Control/Action Step**
Continue to work with stakeholders to identify, develop, and implement cost effective strategies for improving the state hearings system with the goal of improving overall timeliness of hearings and decisions. Assess effectiveness of such efforts on an annual basis.

**Operations- Internal- Resource Management**
The California Department of Social Services is faced with a significant unfunded liability based on the amount of annual leave and vacation balances currently carried by its employees. This includes employees who have leave balances in excess of the maximum allowable hours for vacation and annual leave.

The growth in leave balances is in part due to the furlough programs, state hiring freeze and position reductions that were initiated as part of the necessary budget reductions implemented between Fiscal Years 2008-09 and 2012-13. As a result of these actions, employees utilized more furlough time off while vacation and annual leave balances continued to grow, and took less time off generally as Divisions strove to maintain service levels with a reduced workforce. As employees retire, the amount of separation payouts to these employees by CDSS has grown to over $2.8 million annually starting in Fiscal Year 2013-14.

In anticipation of pending retirements, CDSS began budgeting for lump sum leave balance payouts approximately 10 years ago. However, the scope of the increase attributed to recessionary actions were not accounted for, and remain a major factor in this unfunded liability. As retirements occur and the higher leave balance payments are made, the Department’s ability to fund these costs becomes challenging without negatively impacting Department operations.

**Control/Action Step**
In an effort to reduce the vacation and annual leave balance amounts, CDSS will provide each Program Deputy with a report listing the leave balance hours for each of their employees twice a year (January and July of each year) beginning in January 2016. Each Division will then develop individual plans to reduce excess leave balances.

**Control/Action Step**
The Human Resources Services Branch will provide the Director’s Office and each Program Deputy with a report comparing the number of employees with excess leave balances since the last report, as well as the change in the leave hour amounts in order to measure the impact these leave plans have had on reducing leave balances for these employees. These summary reports will also be provided twice a year (January and July).

**Compliance- Internal- Resource Limitations**

CDSS’s lack of dedicated staffing resources and modern information technology systems impair its ability to provide responses to Public Records Act (PRA) requests. This may result in:
- Delays in the public receiving timely responses to PRA requests.
- Inconsistent and inadequate responses due to a variety of different staff being assigned to handle PRA requests and due to limited information technology.
- Inadvertent releases of confidential, sensitive, or personal information.

**Control/Action Step**
In 2016-17, develop an enhanced and ongoing PRA training curriculum to help ensure staff understand the requirements for complying with the Public Records Act. This training will be coordinated and a regular ongoing training schedule will be developed.

**Compliance- Internal- Resource Limitations**

CDSS does not currently have attorneys who are experts on privacy laws. This could result in:
- Inadvertent releases of confidential, sensitive, or personal information.
- Incorrect and inconsistent application of privacy laws to data exchanges or other information releases.
- Costs arising from litigation alleging violation of privacy laws and resulting harm to individuals whose confidential data is released.

**Control/Action Step**
Develop and maintain an ongoing annual privacy program for new and existing employees in 2016-17 to ensure the Department complies with the California Information Practices Act (Civil Code section 1798 et seq.), HIPAA privacy rules, and other federal and state privacy laws and regulations.

**Control/Action Step**
Designate an Attorney IV position to become the lead privacy attorney who will be responsible for review and analysis of all Federal and State privacy laws relevant to the Departments programs and will advise the Information Security Officer on legal privacy issues.

**Control/Action Step**
Require all Information Technology and Contracts attorneys to have knowledge of privacy laws and provide privacy training for the attorneys with legal privacy duties.

**Operations- Internal- Technology—Data Security**
Failure to adequately protect the personal and confidential data that is collected by our department, and/or resides in the systems that we are responsible for, could result in any or all of the following:

- Improper release of personal or confidential information causing financial and personal harm to individuals that use our government services.
- Discontinuance of critical data transmissions/access from federal oversight entities resulting in an inability to properly administer government services.
- Lack of trust in the Department by the State oversight entities (Health and Human Services Agency, the Department of Finance, the Governor’s Office, and the Legislature) and the general public, resulting in reduced services to the public we serve.

**Control/Action Step**
Continually create, improve, and enforce departmental information security policies and standards which focus on maximizing the appropriate use of data to provide and improving the administration of our public services, and actively protecting personal and confidential data.

In October 2015, CDSS completed a comprehensive review, assessment, and prioritization of its Information Security & Privacy policies and standards to ensure compliance with current regulatory policies and standards. A policy roadmap to bring the policies and standards into compliance has been developed including the following:

- By February 2016, the Department will publish the updated Privacy Policy Statement and Conditions of Use documents that will be displayed on every CDSS internet page. The documents will meet current state policies and government codes.
- By March 2016, the Department will implement targeted periodic reviews of the Information Services Division’s progress in developing and implementing Information Security Program and Risk Management goals with compliance checks at three (3) month intervals.
- By October 2016, the Department will update the CDSS Security Policy e-Book.

**Control/Action Step**
Enhance data protection training and education within the Department. This includes both general awareness for all department staff, and specific training for the user and information technology groups. Our current efforts for general awareness are conducted annually, and by October 2016, they will be increased to three times a year.

In addition, the focused training for IT and user groups has not previously been coordinated at the Department level. This will be changed to have a consolidated departmental plan. By October 2016, a new general security awareness training program will be launched, and the Department will develop and implement a specific IT and user group training program that meets current regulatory guidelines and standards.

**Operations- Internal- Technology—Outdated, Incompatible**

Failure to replace outdated technology in three program systems could result in the following:

1. Systems failure and an inability to complete county claiming processes. The absence of modern system tools to ensure timely, accurate, and consistent treatment of costs, procedures, methodologies, policies and regulation’s, puts the Department at risk for loss of funds due to non-compliance with state and federal reporting requirements and accounting principles.
2. Systems failure and an inability to complete state hearings processes. Potential impacts include delayed or inappropriate dispositions resulting in negative consequences to claimants and potential significant financial penalties to the state.
3. Systems failure and an inability to complete community care licensing processes. Potential impacts include health and safety risks to California’s vulnerable populations if the systems are unavailable for license program analysts to fulfill their duties.

The significant resources needed to develop new systems have made replacement of these systems a challenge, particularly in recent years of economic downturn and limited state resources. There are
highly significant impacts associated with this increasing risk and the Department will take the following corrective action steps.

**Control/Action Step**
The Department has active projects to replace all three of these systems. The Department will continue to provide support for these replacement system projects including, where applicable, project management and technical direction and guidance to ensure system development will meet the needs of our customers and beneficiaries. We will monitor and review project deliverables and communicate the project issues and risks with Executive Management.

**Control/Action Step**
The Department will continue to ensure that current production systems are performing as required by the customer including appropriate backups and maintenance (including appropriate system patches, workarounds etc.). On a quarterly basis, we will review the infrastructure environment and potential changes to the environment (internal and external) to determine the potential impact to legacy systems (i.e., end of life support of service, databases, etc.).

**Compliance- External- Service Provider—Inadequate Internal Control System**

Lack of oversight for county compliance with the Indian Child Welfare Act (ICWA) places the state at risk of federal Title IV-B fiscal penalties by increasing exposure from tribal governments to state and federal authorities including the state Department of Justice (DOJ) and the Federal Bureau of Indian Affairs.

**Control/Action Step:**
The policy and oversight branches will work with representatives from the ICWA workgroup, county child welfare and probation agencies and researchers to create new ICWA outcome indicators for inclusion in the existing child welfare oversight system. The oversight system will also include specific ICWA questions in its case review processes. The policy branches will be consulting with tribal representatives in policy and program development to identify areas where the ICWA compliance can be improved.

**Compliance- External- Complexity or Dynamic Nature of Laws or Regulations**

Non-compliance with the federal Child Abuse Prevention and Treatment Act requirements for near fatality reporting places the state at risk of federal Title IV-B fiscal penalties that are used for child abuse prevention activities and child welfare services.

**Control/Action Step:**
The federal government has recently notified the state that they are requiring a Program Improvement Plan (PIP) to bring the state into conformance with this requirement. Pursuant to this PIP, the negotiated plan and associated activities will need to be completed by October 2016.

**ONGOING MONITORING**

Through our ongoing monitoring processes, the Department of Social Services reviews, evaluates, and improves our systems of internal controls and monitoring processes. The Department of Social Services is in the process of formalizing and documenting our ongoing monitoring and as such, we have determined we partially comply with California Government Code sections 13400-13407.

**Roles and Responsibilities**

As the head of Department of Social Services, Will Lightbourne, Director, is responsible for the overall establishment and maintenance of the internal control system. We have identified Pat Leary, Chief Deputy Director, as our designated agency monitor(s).
Frequency of Monitoring Activities

Deputies will be leading ongoing, separate evaluations of the controls that will be reported as updates on a quarterly basis at an executive meeting. The meeting is also an opportunity to inform deputies of monitoring activities that are occurring, identify unforeseen issues, draw on the expertise in the room to assist in mitigating risks, and revise action plans and re-prioritize controls and/or action steps that impact programs across the Department.

Reporting and Documenting Monitoring Activities

Monitoring results will be documented in a summary of the executive meeting that will include an assessment update of the control/action steps, the emerging issues encountered, potential changes that may be necessary and monitoring successes. The summary is reported to the Department Director.

Procedure for Addressing Identified Internal Control Deficiencies

The Department receives reports of control deficiencies via staff reporting to program management, executives or the departmental comments box. All managers have been notified of and tested for knowledge of internal controls requirements. Reports of control deficiencies through the comment box are logged into a departmental tracking system, and investigated within thirty days. Upon conclusion of the investigation, Management determines the type of corrective action to take.

CONCLUSION

The Department of Social Services strives to reduce the risks inherent in our work through ongoing monitoring. The Department of Social Services accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies. I certify our systems of internal control and monitoring processes are adequate to identify and address material inadequacies or material weaknesses facing the organization.

Will Lightbourne, Director
Department of Social Services

c: Department of Finance
   Legislature
   State Auditor
   State Library
   State Controller
   Secretary of Government Operations