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COLORADO ENERGY OFFICE FOLLOW UP TO 2012 AUDIT

DECEMBER 2016

PERFORMANCE AUDIT

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DIANNE E. RAY, CPA

STATE AUDITOR

December 28, 2016

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Colorado Energy Office (CEO) within the Governor's Office. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government; Section 24-38.5-107, C.R.S., which requires the State Auditor to complete a performance audit of CEO no later than January 15, 2017; and Section 2-7-204(5), C.R.S., which requires the State Auditor to annually conduct performance audits of one or more specific programs or services in at least two departments for purposes of the SMART Government Act. The report presents our findings, conclusions, and recommendations, and the responses of CEO.

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COLORADO ENERGY OFFICE FOLLOW UP TO 2012 AUDIT
PERFORMANCE AUDIT, DECEMBER 2016

GOVERNOR'S OFFICE

CONCERN

Although the Colorado Energy Office (CEO) has made significant improvements in several key areas related to its core functions since the 2012 performance audit, additional improvements could be made to better ensure expenditures are properly approved and supported and contract monitoring activities provide maximum value to the State.

KEY FINDINGS

- CEO has implemented the program management and overall office management recommendations from the 2012 audit and strengthened policies in both areas. Based on our current (2016) audit work, the problems identified during the 2012 audit in these two areas have been addressed.
- CEO staff are not consistently complying with expenditure policies. We found problems related to a lack of required approvals and/or insufficient justifications and other supporting documentation for 42 of the 111 expenditures in our samples. Although CEO implemented our 2012 audit recommendation to develop policies for travel and other expenditures, and the current policies are a substantial improvement, by not holding staff accountable for complying with them, CEO cannot ensure that state funds are spent responsibly and for the benefit of the State. Based on our audit work covering the first 9 months of Fiscal Year 2016, we project with 90 percent confidence that the following percentages of CEO's expenditures did not have proper approvals, justifications, and/or supporting documentation:
  - Between 61 and 80 percent of the $32,100 spent on out-of-state travel.
  - Between 21 and 29 percent of the $96,100 spent on other expenditures, such as advertising, subscriptions, and registration fees.
  - Between 9 and 25 percent of the $24,200 spent on in-state travel.
- Supervisors did not review procurement cardholders' receipts or credit card statements supporting expenditures prior to payment, as required by CEO policies, for any of the 56 credit card transactions we reviewed totaling about $15,000.
- CEO implemented a majority of the 2012 audit recommendations related to improving contract management practices by establishing written contracting policies and templates, and providing training to staff. However, CEO could make further improvements related to contract management. We found that some payments (valued at $606,000) in six of the 20 contracts reviewed did not comply with payment terms required by statute, State Fiscal Rules, and/or the contracts themselves, and two contracts (valued at $857,000) did not include required performance schedules.

BACKGROUND

- CEO's mission is to improve the effective use of all of Colorado's energy resources and the efficient consumption of energy in all economic sectors.
- CEO manages programs in support of its mission. Fiscal Year 2016 programs targeted market areas such as residential home, agricultural, and public school energy efficiency; the use of alternative fuels for transportation; and financing mechanisms for these areas.
- Between Fiscal Years 2014 and 2016, CEO had revenue and expenditures of approximately $29 million annually.
- In 2012, the General Assembly created two dedicated funding streams to support CEO—the Clean and Renewable Energy Fund and the Innovative Energy Fund. Both of these funding sources will be repealed as of January 1, 2017.

KEY RECOMMENDATIONS

- Improve compliance with state requirements related to expenditures by holding staff accountable for following established policies and providing additional guidance on the documentation required to support expenditures.
- Provide further guidance to staff on what types of communications with vendors should be documented and how to structure appropriate and effective performance schedules in contracts for unique services.

CHAPTER 1

OVERVIEW

The Colorado Energy Office (CEO) was established in 1977 as the Office of Energy Conservation by an executive order in response to the national oil crisis of the late 1970s. Executive orders in 1999 and 2005 expanded CEO's role related to managing other nonfederal energy programs. In 2008, the General Assembly codified CEO in statute [Section 24-38.5-101, et seq., C.R.S.]. In 2012, legislation changed the office's name from Governor's Energy Office to Colorado Energy Office and secured, or guaranteed, state funding for the office for 5 years, through Fiscal Year 2017.

CEO's purpose, according to statute [Section 24-38.5-102(1), C.R.S.], is to advance energy efficiency and development by conducting activities such as:

- Promoting renewable and traditional energy sources, high performance buildings, and technology transfer and economic development.
- Providing technical assistance regarding energy codes, home energy efficiency improvements for low-income households, and grants to advance energy-efficient design.
- Improving energy efficiency in public schools and state government.

CEO defines its mission as, "[To] improve the effective use of all of Colorado's energy resources and the efficient consumption of energy in all economic sectors, through providing technical guidance, financial support, policy advocacy and public communications." Its vision is to "help Coloradans live more prosperous and healthy lives by promoting innovative energy production and efficient energy consumption practices that are beneficial to the economic and environmental health of the state."

PROGRAM ADMINISTRATION

CEO is part of the Governor's Office and groups its activities into the following sections:

PROGRAMS. CEO manages seven programs in support of its mission. A program provides a comprehensive structure for overseeing the expenditure of funds, has a detailed budget, addresses a specifically defined market, and defines a general objective and goals to be achieved. According to CEO, in Fiscal Year 2016 its programs targeted market areas such as residential home, agricultural, public school energy efficiency; use of alternative fuels for transportation; and financing mechanisms for many of these areas. For example, the agricultural energy efficiency program provides energy audits to dairy farms and large-scale irrigators to identify areas for energy efficiency improvements.

POLICY AND RESEARCH. This section conducts legislative analysis, facilitates regulatory reform, and engages in research initiatives in support of CEO's mission.

FINANCE AND OPERATIONS. This section manages CEO's accounting, budget, and fiscal responsibilities.

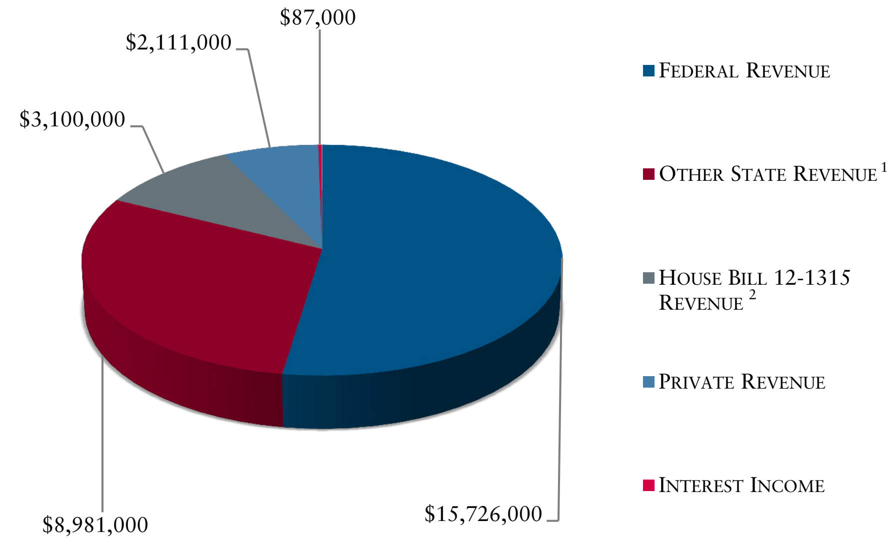
COMMUNICATIONS. This section supports CEO's mission and programs through strategic messaging by providing energy information to various audiences through the media.

PROGRAM FUNDING

CEO has historically been funded with federal monies, some of which will eventually be depleted. To address the future of CEO and secure its funding, 2012 legislation (House Bill 12-1315) created two dedicated funding streams to support CEO—the Clean and Renewable Energy Fund and the Innovative Energy Fund. These funds respectively receive money primarily from the General Fund and severance tax revenue and account for about 10 percent of CEO's total funding each year. Pursuant to the legislation, both of these funding sources will be repealed as of January 1, 2017. In addition, a portion of CEO's revenue comes from electric vehicle registration fees, which supports the installation of recharging stations for electric vehicles; transfers from other Departments, which statute designates to low income energy assistance activities; and private sources, such as utility rebates.

On average, between Fiscal Year 2014 and 2016, CEO had revenue and expenditures of approximately $29 million annually. EXHIBIT 1.1 provides an overview of CEO's revenue by funding source for Fiscal Year 2016.

EXHIBIT 1.1
COLORADO ENERGY OFFICE
FISCAL YEAR 2016 REVENUE



SOURCE: Office of the State Auditor analysis of Colorado Resource Engine (CORE) data.
[1] Other State Revenue includes funds from the Departments of Natural Resources, Revenue, and State, and electric vehicle registration fees.
[2] House Bill 12-1315 revenue includes $1.6 million from the General Fund and $1.5 million in severance tax funds.

AUDIT PURPOSE, SCOPE, AND METHODOLOGY

We conducted this audit pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government; Section 24-38.5-107, C.R.S., which requires the State Auditor to complete a performance audit of CEO no later than January 15, 2017; and Section 2-7-204(5), C.R.S., the State Measurement for Accountable, Responsive, and Transparent Government (SMART) Act. This audit was conducted from March to December 2016. We appreciate the assistance provided by the management and staff of the Colorado Energy Office during this audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The key objectives of the audit were to assess CEO's implementation of the recommendations contained in the December 2012 *Colorado Energy Office Performance Audit* and to determine whether the steps CEO took to implement these recommendations addressed the problems identified in the 2012 audit. The objectives addressed whether CEO made improvements in the following areas:

- **PROGRAM MANAGEMENT,** including program budgets, performance data, planning, monitoring, and training.

- **CONTRACTS,** including adherence to state contract requirements, recording information in the State's Contract Management System, and providing training on contract management.

- **CONTRACT MONITORING,** including developing guidance on contract monitoring responsibilities, documenting monitoring activities, and performing supervisory review of monitoring and vendor payments.

- **EXPENDITURES,** including establishing, implementing, and documenting the approval process, and ensuring expenditures are justified and consistent with CEO's mission, or goals.

- **OVERALL OFFICE MANAGEMENT,** including developing an accounting system that stores program budget and expenditure data, conducting budget-to-actual comparisons for programs, and analyzing program costs compared to their intended results to determine which programs merit continued funding.

To address the audit objectives, we performed the following audit work:

- Reviewed applicable statutes, State Fiscal Rules, CEO and Governor's Office policies and procedures, Office of the State Controller guidance, including the *Commercial Credit Card Handbook*.

- Interviewed Governor's Office and CEO management and staff.

- Reviewed CEO program strategic plans and goals, planning documents, performance data and evaluations, and office-wide and program-specific budgets for Fiscal Year 2016.

- Evaluated training records for staff and program managers' job descriptions.

- Reviewed progress reports, invoices, deliverables, performance measures, budgets, scopes of work, and payments related to personal services contracts with effective dates during Fiscal Year 2015, 2016, or both fiscal years.

- Analyzed expenditure transactions and supporting documentation maintained by CEO for the first 9 months of Fiscal Year 2016, and overall expenditure trends for Fiscal Years 2014 to 2016.

We relied on sampling to support our audit work and selected the following samples:

- **PROGRAMS.** A non-statistical sample of six of the seven programs that were in place during Fiscal Year 2016.

- **CONTRACTS.** A non-statistical random sample of 20 out of the 37 personal services contracts valued at $100,000 or more with a performance period in Fiscal Year 2015, 2016, or both fiscal years.

- **EXPENDITURES.** Three statistically valid samples, including:

- A sample of 37 out-of-state travel expenditures totaling about $10,140 out of 365 expenditures totaling $32,000 from the first 9 months of Fiscal Year 2016.

- A sample of 38 in-state travel expenditures totaling about $2,800 out of 730 expenditures totaling $24,200 from the first 9 months of Fiscal Year 2016.

- A sample of 36 other expenditures totaling about $80,500 for advertising and marketing; books, periodicals, and subscriptions; dues and memberships; and registration fees out of 201 expenditures totaling $96,200 from the first 9 months of Fiscal Year 2016.

The results of our testing of the non-statistical samples were not intended to be projected to the entire population. These samples were selected to provide sufficient coverage to test controls of those areas that were significant to the objectives of the audit.

The results of the three statistically-valid expenditure samples are projected to the total population and were also used to evaluate the controls for the areas significant to our audit objectives.

We planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objectives. Our conclusions on the effectiveness of those controls, as well as specific details about the audit work supporting our findings, conclusions, and recommendations, and a summary of the implementation status of the five recommendations included in the 2012 audit report are described in CHAPTER 2.

CHAPTER 2

FOLLOW UP TO 2012 AUDIT

The Colorado Energy Office (CEO) was created to "sustain the Colorado energy economy and promote all Colorado energy" [Section 24-38.5-101(1)(a), C.R.S.]. CEO works with the public and private sectors to promote innovative energy production, and efficient energy consumption. Through individual expenditures and contracts, CEO uses state resources to achieve its mission and vision and fulfill its statutory obligations.

The focus of our audit was to determine whether CEO had implemented the five recommendations from our December 2012 *Colorado Energy Office Performance Audit,* and whether the problems identified during that audit have been addressed through the changes implemented by CEO, or if those problems still exist. The 2012 audit identified problems with CEO's program management, contract requirements, contract monitoring, expenditures, and overall office management.

Overall, we found that CEO has made significant improvements in several key areas related to its core functions. Specifically, we found that CEO has implemented the program management and overall office management recommendations and strengthened the policies and procedures in both of these areas. Based on our current (2016) audit work, the problems identified during the 2012 audit in these two areas have been addressed. We also found that CEO has strengthened its policies around expenditures and contracts. However, we found that staff are not consistently complying with the expenditure policies and CEO could make further improvements to its contract policies and practices.

In this chapter, we discuss the issues identified during the current audit related to expenditures and contracts. We then provide a summary of the five findings and recommendations made in the 2012 audit, the actions CEO has taken to implement these recommendations, and our conclusion on whether CEO's actions have addressed the problems identified in the 2012 audit.

TRAVEL AND OTHER EXPENDITURES

To fulfill its mission of advancing Colorado's energy resources, CEO spends money on items such as conferences, travel, advertising, memberships, and event sponsorships. CEO has created separate policies to establish the review and approval processes for each type of expenditure, such as out-of-state travel, in-state travel, and other expenditures. In general, CEO policies identify two key controls for all expenditures between $100 and $5,000—pre-expenditure approval by supervisors and post-expenditure review by supervisors prior to payment or reimbursement. According to CEO policies, "Effective stewardship of CEO funds is critical to ensure compliance with State [F]iscal [R]ules, statutes and grant regulations."

EXHIBIT 2.1 shows CEO's expenditures for out-of-state and in-state travel, and other expenses, such as advertising and public relations, dues and memberships, conference registrations, and books and subscriptions for the first 9 months of Fiscal Year 2016.

EXHIBIT 2.1
COLORADO ENERGY OFFICE
TRAVEL AND OTHER EXPENDITURES
FISCAL YEAR 2016[1]

EXPENDITURE	AMOUNT
Out-of-state travel	$32,100
In-state travel	$24,200
Other expenditures	
Advertising and public relations	$47,600
Books, periodicals, and subscriptions	$17,300
Dues and memberships	$10,900
Registration fees	$20,300
TOTAL	$152,400

SOURCE: Office of the State Auditor analysis of COFRS and CORE data.
[1] Includes expenditures from July 2015 to March 2016, the first 9 months of Fiscal Year 2016.

WHAT AUDIT WORK WAS PERFORMED AND WHAT WAS THE PURPOSE?

We reviewed 111 expenditures totaling about $93,450 of the $152,400 in expenditures incurred by CEO during the first 9 months of Fiscal Year 2016 for the categories in our samples. This consisted of three statistically valid samples:

1. 37 out-of-state travel expenditures totaling about $10,140, which represented about 32 percent of the total amount expended on out-of-state travel during the first 9 months of the fiscal year;

2. 38 in-state travel expenditures totaling about $2,800, which represented about 12 percent of the total amount expended on in-state travel during the first 9 months of the fiscal year; and

3. 36 other expenditures for advertising and marketing; books, periodicals, and subscriptions; dues and memberships; and registration fees totaling about $80,500, which represented about 84 percent of the total amount spent on other expenditures during the first 9 months of the fiscal year.

We reviewed the expenditure samples to evaluate whether the expenditures were properly approved and were “reasonable and necessary,” in accordance with applicable requirements. We also assessed CEO’s implementation of the recommendations contained in our 2012 audit related to strengthening controls over expenditures. In the 2012 audit, we found that some out-of-state and out-of-country travel did not have the required approvals and some travel and other expenditures were missing adequate justification documentation to show that the trips were reasonable and necessary for state business, per State Fiscal Rules.

WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY AND HOW WERE THE RESULTS MEASURED?

We found that in response to our 2012 recommendation, CEO developed policies for travel and other expenditures that are a substantial improvement over the policies that were in place at the time of the 2012 audit. CEO has also provided training to its staff on the new policies. However, we found a significant lack of compliance with these expenditure policies.

OUT-OF-STATE TRAVEL EXPENDITURES. Based on the results of our audit work, we estimate with 90 percent confidence that CEO spent between about $19,600 and $25,500 on out-of-state travel without the required written preapprovals, justifications, and/or other supporting documentation, or between 61 and 80 percent of all out-of-state travel expenditures for the first 9 months of Fiscal Year 2016. This estimate is based on the following problems we identified with 24 out-of-state travel expenditures in our sample totaling about $7,400. Some expenditures had more than one problem.

- **WRITTEN APPROVAL.** We found 15 expenditures totaling approximately $4,500 where the traveler either did not obtain or we could not determine if the traveler obtained all of the required written preapprovals prior to making out-of-state travel arrangements. State Fiscal Rules and Governor's Office policies require that all out-of-state travel be preapproved in writing. CEO policies require that the traveler obtain supervisor, CEO Executive Director, and the Governor's Office approvals prior to making travel arrangements. Of the 15 expenditures, three did not have any of the required signatures and two were missing two of the three required signatures. For the remaining 10 expenditures, we could not determine if the traveler obtained the required written preapprovals because there were multiple versions of the travel request forms for the same trip and each version contained different approval signatures and/or approval dates.

- **EXPENSE JUSTIFICATION.** We found 10 expenditures totaling approximately $3,400 for which the travel was not supported by an explicit statement describing why the trip would benefit CEO. Governor's Office policy requires that out-of-state travelers include a statement to "show how the travel: improves public safety, enhances protection of the State's resources, enables or significantly improves the traveler's current [j]ob [p]erformance, facilitates more effective regulation, represents the State's interest, or other specified benefit." Although the travel request forms included brief statements on the purpose of the trips, the forms did not provide the explicit statement required by the Governor's Office policy. CEO was able to explain the justification for each of these expenditures, but this information was not documented at the time the expenditure was approved.

  We identified similar concerns in our 2012 performance audit related to lack of adequate justification documentation for out-of-state travel expenditures.

- **REIMBURSEMENT REQUESTS.** We found two expenditures for which the travelers did not provide sufficient documentation to support the full amount of the expenditures, as required by State Fiscal Rules and CEO policies. The amount of the expenditures that was unsupported totaled $110.

OTHER EXPENDITURES. Based on the results of our audit work, we estimate with 90 percent confidence that CEO spent between about $19,800 and $28,200 on other expenditures without the required written approvals, justifications, and/or other supporting documentation, or between 21 and 29 percent of all other expenditures for the first 9 months of Fiscal Year 2016. This estimate is based on the following problems identified with 12 other expenditures in our sample totaling $17,500. Some expenditures had more than one problem.

- **WRITTEN APPROVAL.** We found five expenditures totaling approximately $8,900 where staff did not obtain or we could not determine if staff obtained all of the required written approvals.

State Fiscal Rules prohibit the disbursement of state funds unless the "required approvals have been received." CEO policies require that expenditures receive written approval from a supervisor prior to initiating a purchase and before funds are disbursed.

- **EXPENSE JUSTIFICATION.** We found eight expenditures totaling approximately $9,600 for which there was insufficient documentation to describe the goods and services purchased and/or to show that the expenditures were reasonable and necessary to the State, as required by State Fiscal Rules. CEO policies require that expenditures between $100 and $5,000 be supported by statements justifying the expenditures. CEO was able to explain the justification to us for each of these expenditures but the justification was not explicitly documented on the approval form.

IN-STATE TRAVEL EXPENDITURES. Based on the results of our audit work, we estimate with 90 percent confidence that CEO spent between about $2,200 and $6,100 on in-state travel without being able to demonstrate that it obtained the required written approvals and/or supporting documentation, or between 9 and 25 percent of all in-state travel expenditures for the first 9 months of Fiscal Year 2016. This estimate is based on the following problems we identified with six in-state travel expenditures in our sample totaling $520. Some expenditures had more than one problem.

- **WRITTEN APPROVAL.** We found five expenditures totaling approximately $500 that lacked written approval prior to in-state travel. CEO policies require that all in-state travel expenditures be approved by the traveler's supervisor prior to travel. We identified similar concerns in our 2012 performance audit related to obtaining appropriate approval for travel.

- **REIMBURSEMENT REQUESTS.** We found three expenditures where portions of the travelers' in-state reimbursements totaling about $400 were not consistent with State Fiscal Rule requirements and CEO policies.

In addition to the issues identified above, we found from the three samples that there were 56 expenditures totaling about $15,000 that were paid for with a procurement card. We found that for all 56 procurement card expenditures, the cardholders' supervisors did not review the receipts and credit card statements supporting the expenditures prior to payment. This included:

- 25 out-of-state travel expenditures totaling about $7,300.
- 21 in-state travel expenditures totaling about $1,630.
- 10 other expenditures totaling about $6,150.

According to the *Commercial Credit Card Handbook,* which CEO policies state that all procurement card purchases should comply with, upon receiving the credit card statement, the cardholder must gather the receipts for the expenses and provide the receipts and the credit card statement to the cardholder's supervisor for approval before payment is made. Not only did none of these 56 expenditures have review and payment approval by the supervisor, 14 of them also did not have all of the required preapprovals or we could not determine if they had the required preapprovals. We found that for the 25 out-of-state travel procurement card expenditures, the actual amount spent exceeded the preapproved amount by more than $3,000.

Finally, we found five expenditures from the "other expenditure" sample totaling $22,500 that were made approximately 240 days after the vendor submitted the invoices to CEO. State Fiscal Rules require disbursements to be made within 45 days of receiving products or services and correct notice of the amount due, after which CEO may be required to pay interest unless there is a good faith dispute concerning the State's obligation to pay the vendor. CEO did not have documentation that such a dispute existed. According to CEO, four of the five payments were not late because it has yet to receive the service. However, the terms of CEO's agreements with the vendors state that CEO would pay for the services in advance.

WHY DID THESE PROBLEMS OCCUR?

In general, CEO does not hold staff accountable for complying with state requirements and CEO policies related to expenditures. CEO reports that staff receive training on all policies and procedures, including travel, when they are hired, and training on expenditures annually, thereafter. In addition, CEO's written policies and procedures are available for all staff to review at any time. However, we identified several instances where CEO management reported to us that they allow staff to routinely deviate from these policies. For example, although CEO policies require that all out-of-state travel receive written approval by the traveler's supervisor, CEO Executive Director, and Governor's Office prior to making travel arrangements, CEO reports that verbal approval is sometimes sufficient.

One reason CEO may not be following its policy of obtaining written preapprovals from supervisors and the Executive Director for out-of-state travel requests is because CEO believes it makes the overall process too lengthy. CEO management and staff told us it takes a couple of weeks to obtain Governor's Office approval, so getting verbal approvals within CEO allows more time for the Governor's Office approval. However, we found that for the out-of-state travel expenditures in our sample, the Governor's Office approved most the same day they were received or the next day (83 percent). CEO allows staff to book travel as soon as they receive Governor's Office approval, regardless of whether they have obtained written approval from a supervisor or the Executive Director, which is contrary to CEO policy.

Similarly, CEO reports that, in practice, it does not require post-purchase supervisory review of procurement card charges because there is insufficient time between receipt of procurement card statements by staff and the payment due date. However, procurement cards typically have payment due dates approximately 30 days from the statement date. To ensure that all expenditures are appropriate and for the benefit of the State, CEO needs to ensure that staff comply with state requirements and CEO policies and not issue payments if all of the required reviews and approvals have not occurred.

In addition, CEO could strengthen some of its policies to provide further guidance to staff on the information and documentation required to support expenditures. For example, although CEO policies require staff to include a statement of justification on the expenditure request form, the policies do not say what information this statement should include or what documentation staff should provide in support of the justification. Also, the policies do not address when a late payment may be authorized, such as when there is a good faith dispute of the amount due, and how this authorization should be documented. Finally, CEO allows each staff member who incurs an expense related to a single trip to maintain his or her own version of the travel request form. The policies do not require that there be a final "official" version of the out-of-state travel request form for each trip that includes all of the required approvals. This practice is inefficient and makes it difficult for CEO to ensure that all of the required approvals were obtained prior to making travel arrangements.

WHY DO THESE PROBLEMS MATTER?

When staff do not follow State Fiscal Rules, and Governor's Office and CEO policies, for travel and other expenditures, CEO cannot ensure that state funds are spent responsibly and for the benefit of the State. CEO established policies over the expenditure approval processes that are intended to ensure that only reasonable, necessary, expenditures that further CEO's objectives are incurred. However, by not consistently following and enforcing these policies, CEO is not accomplishing this intent.

Additionally, not paying invoices in a timely manner could result in the State being charged interest. State Fiscal Rules provide that state agencies may be required to pay 1 percent interest per month on the unpaid balance beginning on the 45th day after receipt of goods or services and a correct invoice. For the five invoices in our sample that were paid late, CEO could have had to pay the vendors approximately $1,500 in interest. While the vendors submitting these invoices did not request interest, CEO cannot be assured that its future vendors will not do so.

RECOMMENDATION 1

The Colorado Energy Office (CEO) should improve compliance with state requirements related to expenditures by holding staff accountable for following established policies and strengthening policies to provide additional guidance on the information and documentation required to support expenditures. If current policies do not accurately reflect CEO's intended control structure, the policies should be revised, as long as they remain consistent with state requirements.

RESPONSE

COLORADO ENERGY OFFICE

AGREE. IMPLEMENTATION DATE: FEBRUARY 2017.

CEO agrees that it can be more effective in documenting explicit expenditure justifications. CEO commits to enforcing the existing policy requiring employees to provide complete justification for expenditures. CEO will ensure that expenditure justifications more explicitly align with CEO's mission and goals and with the Governor's Office requirements. Additionally, CEO will conduct additional staff trainings focused on crafting explicit expenditure justifications.

CEO agrees and commits to improving its process by explicitly requiring in its policies a post-credit card purchase review and approval by a supervisor prior to payment.

In order to better demonstrate compliance with preapproval requirements related to travel, CEO will implement a single form, manual process for requesting out of state travel that will contain all required signatures on one form.

CONTRACT MANAGEMENT

CEO enters into personal services contracts with private businesses, utility companies, nonprofit organizations, and other government entities for a variety of activities to help fulfill its mission to improve the effective use of all of Colorado's energy resources and the efficient consumption of energy in all economic sectors. During Fiscal Years 2015 and 2016, CEO had 37 active personal services contracts with values ranging from $100,000 to $6.8 million each, and totaling more than $30.6 million in aggregate. The contracted services included:

- **EXPERT SERVICES,** such as conducting energy audits for public facilities, schools, and agricultural producers and providing home weatherization upgrades for low-income residents.

- **CONSULTING SERVICES,** such as conducting studies commissioned by CEO and training construction industry professionals on energy code compliance.

- **CONSTRUCTION SERVICES,** such as developing publicly accessible compressed natural gas and electric vehicle charging stations in Colorado.

CEO employs a full-time contract manager who helps program staff develop the contracts according to the State Procurement Code and State Fiscal Rules. Once contracts are in place, CEO program staff are responsible for monitoring vendor compliance with the terms of the contracts and progress against the performance measures outlined in the contracts. In addition, program staff are responsible for reviewing and approving vendor invoices prior to payment.

WHAT AUDIT WORK WAS PERFORMED AND WHAT WAS THE PURPOSE?

We reviewed a random sample of 20 personal services contracts, each valued at $100,000 or more, with a performance period in Fiscal Year 2015, 2016, or both fiscal years, along with related progress reports, invoices, and CEO payments. We reviewed the sample of contracts to evaluate whether they were executed and monitored according to applicable statute, State Fiscal Rules, Office of the State Controller guidance, and CEO policies and procedures.

We also assessed CEO's implementation of the recommendations in our 2012 audit related to improving contract management processes. In the 2012 audit, we found that for the 22 contracts in our sample, up to 91 percent did not fully comply with contracting or contract monitoring expectations. Areas of deficiency included missing statutorily required performance schedules or budgets tied to performance requirements, inaccurate and incomplete contract information in the Department of Personnel & Administration's Contract Management System, incomplete progress reports, and insufficient evidence that payments to the vendor were tied to receipt of progress reports.

WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY AND HOW WERE THE RESULTS MEASURED?

We found that CEO implemented a majority of the 2012 audit recommendations related to improving contract management practices. For example, CEO developed written policies that require: (1) creating contracts that include statutorily required elements such as performance schedules, (2) using vendor reports to measure progress, (3) reviewing and approving invoices before payment, and (4) documenting informal communications with the vendor. The policies also include a template that vendors must use to report on activity, deliverables, and expenses, that program managers are to use to measure progress according to the terms of the contract. CEO also developed templates for staff to use when drafting contracts and created a log for program managers to document informal communications between CEO and vendors. Finally, CEO trained staff on contracting requirements, processes, and monitoring.

Our current audit work indicates that a majority of the problems identified in the 2012 audit have been addressed through these improvements. However, we found that there are two areas related to contract management where CEO could make further improvements. Specifically, we identified problems in 7 of the 20 contracts in our sample (35 percent) that included six contracts with noncompliant payments to vendors and two contracts missing a required element. Some contracts had more than one problem.

PAYMENTS DID NOT COMPLY WITH STATE REQUIREMENTS. We identified payments related to six (valued at $606,000) of the 20 sampled contracts that did not comply with the payment terms outlined in statute, State Controller and CEO policies, and/or the contracts themselves (30 percent).

- **PAYMENTS WERE NOT TIMELY.** We found that the six contracts had ten payments totaling nearly $593,000 that were made between 52 and 198 days after the vendor submitted the invoice to CEO out of more than $1 million paid on these six contracts during Fiscal Years 2015 and 2016. Section 24-30-202(24), C.R.S., and State Fiscal Rules require payments to be made within 45 days of receiving the products or services and a correct notice of the amount due, after which CEO may be required to pay interest. According to CEO, the payments were not timely because the vendors did not submit a correct invoice and/or they did not provide sufficient documentation to support the payment. However, this information was not documented in the contract or payment file.

- **PAYMENT FOR WORK COMPLETED OUTSIDE OF CONTRACT DATES.** We found one contract where CEO paid the vendor more than $2,800 for work completed before the contract was effective; this was out of the $170,000 paid on this contract during Fiscal Year 2016. *State Controller Policy for Effective and Made Dates*, section (2)(a), prohibits the vendor from beginning performance prior to the contract's effective date, which is the date the contract is approved by the State Controller. The contract itself also prohibits paying the vendor for performance or expenses incurred prior to the effective date and CEO's policies state that, "It is imperative that work does not begin until the actual date of contract/P[urchase] O[rder] execution. Any work that does begin prior to the date of contract/P[urchase] O[rder] execution will not be reimbursed by the CEO."

- **PAYMENT FOR THE FULL VALUE OF THE CONTRACT BEFORE THE SCOPE OF WORK WAS COMPLETED.** We found one contract where CEO paid the vendor $11,800, which was the final amount left on the $150,000 contract to be paid, 2 months before the contract end date and before the vendor completed the final two tasks described in the contract's statement of work. The contract included language, as required by statute, providing that payments *can* be withheld until successful completion of the contract terms [Section 24-103.5-101(2)(b), C.R.S.]. The vendor did complete the remaining two tasks. According to CEO, management made a conscious decision to pay the vendor prior to the work being completed on the contract because the contractor did not have enough funds to pay its employees. However, this information was not documented in the contract or payment file.

- **PAYMENT FOR NON-BILLABLE TASKS.** We found one contract with specific budget line items for which CEO paid the vendor about $1,300 for items that were not budgeted as part of a specific line item; this was out of the $170,000 paid on this contract during Fiscal Year 2016. The statement of work for this contract stated that, "Payments shall be made in accordance with the provisions set forth in the Contract and [the Budget]," and CEO reported that, "Only tasks identified in the Budget can be invoiced."

CONTRACTS MISSING REQUIRED ELEMENT. We found two (valued at $857,000) of the 20 sampled contracts did not include performance schedules, as required by *State Controller Policy for Content – Mandatory Provisions in State Contracts*, Section 6(e) (10 percent). For example, one contract valued at approximately $607,000 listed several tasks the vendor was to complete, such as conduct outreach activities to potential program participants and give presentations to decision-making groups; however, the tasks did not identify how many activities and presentations should be completed and by when. For the other contract valued at $250,000, specific deadlines were not included for any of the tasks, as required by CEO policies.

CEO describes both of these contracts as "on demand" service contracts which makes it difficult to develop a performance schedule. However, both contracts are for services that are the subject of performance measures contained in CEO's Fiscal Year 2016 SMART Government Act Performance Plan, which is required by Section 2-7-201, et seq., C.R.S. These performance measures include goals for the services that will be provided under the contracts. Given this, CEO has an idea of how much outreach and how many presentations they expect the contractors to provide, and this information could be included in the contracts. We identified similar concerns in the 2012 performance audit and CEO agreed to revise its policies and provide training to ensure that contracts contained all of the required performance elements.

WHY DID THESE PROBLEMS OCCUR?

The primary cause of the problems we found is that CEO needs to strengthen its policies related to documenting communications with vendors and ensure that staff comply with these policies. In response to the 2012 audit, CEO developed policies which state that each contract monitor must use his or her discretion to determine which, if any, informal communications he or she captures. This means that the policies do not require staff to specifically document when these communications relate to deviations from CEO's policies and the reasons for the deviations. For example, CEO reports that many of the untimely payments we found were due to "back and forth" communications between the contract monitors and vendors to obtain documentation to support the vendor invoices. However, there was no documentation to show that this was the reason for any of the delays in payments. Documenting these types of communications would allow staff to show that the deviation was justified. We identified a similar problem in the 2012 performance audit.

In addition, CEO could strengthen its guidance to staff on how to include performance schedules in unique contracts, such as those that provide "on demand services." For example, the State Procurement Manual states that work plans and schedules can be simple for on demand services contracts, but that the work plan and schedule should be logical and show the relationship between the tasks and the objectives of the contract.

WHY DO THESE PROBLEMS MATTER?

When vendor payments do not meet state requirements or the reason for deviations in the payments is not documented, CEO cannot demonstrate that it is prudently spending state monies. Statute provides that state agencies may be required to pay 1 percent interest per month on the unpaid balance beginning on the 45th day after an invoice is received [Section 24-30-202(24), C.R.S.]. For the 10 invoices in our sample that were paid late, CEO could have had to pay the vendors approximately $18,000 in interest if it could not provide sufficient justification for the late payments. While the vendors submitting these invoices have not requested interest, CEO cannot be assured that vendors will not seek interest payments in the future. In addition, when contracts lack a performance schedule, CEO cannot accurately measure the vendors' performance, as required by Section 24-103.5-101(2)(a), C.R.S., and effectively assess whether vendors are meeting the contract terms and providing value to the State.

RECOMMENDATION 2

The Colorado Energy Office (CEO) should improve compliance with contracting requirements by providing further guidance to staff on what types of communications with vendors should be documented and how to structure appropriate and effective performance schedules for contracts that provide a unique service and requiring staff to follow this guidance.

RESPONSE

COLORADO ENERGY OFFICE

AGREE. IMPLEMENTATION DATE: FEBRUARY 2017.

CEO agrees that it can improve documentation of its extensive contract monitoring activities.

CEO agrees that it can improve the consistency of documenting its vendor interactions while working through invoice validation. CEO will revise its contract monitoring policies and procedures to include a process that requires documentation including the date invoices are received, and the date they are deemed valid, and the specific reasons for any delay.

CEO reviews vendor invoices to ensure they are in compliance with contract requirements and vendor progress reports. Through its contract management processes, CEO will occasionally deem invoices invalid at the time of receipt and the requirement to pay within 45 days is based on receipt of a valid invoice. The change to our policies and procedures will ensure that CEO documents when an invoice is paid more than 45 days after initial receipt because it is not valid.

CEO Contracts Manager will work with the State Purchasing & Contracts Office to identify how CEO can include simple, but logical performance schedules for unique and on-demand services. Further, CEO commits to sending at least one Staff member per Division to Contract Drafting Boot Camp training sponsored by the Central Contract Unit within the Office of the State Controller.

IMPLEMENTATION STATUS OF 2012 AUDIT RECOMMENDATIONS

EXHIBIT 2.2 provides a summary of the recommendations made in the 2012 audit, the actions taken by CEO to implement these recommendations, and the OSA's conclusion on the implementation status based on work conducted during the current (2016) audit.

EXHIBIT 2.2
IMPLEMENTATION STATUS OF 2012 AUDIT RECOMMENDATIONS

PROGRAM MANAGEMENT	
The 2012 audit found that CEO lacked effective program management processes and did not consistently document and maintain program information. Specifically, the audit found: ▪ CEO had not implemented some statutorily-required programs. ▪ CEO had not developed and maintained program budgets, staffing plans, goals, strategies to achieve program goals, data on the extent to which goals were achieved, or information on program monitoring.	
RECOMMENDATION A	
Implement an agency-wide program planning process that prioritizes statutory programs, incorporates program budget and performance data into planning decisions, links program funding to results, and includes written office policies and procedures that program staff are required to follow.	
ACTIONS TAKEN	OSA CONCLUSION
CEO implemented written office policies for program planning, management, monitoring, and assessment. Program managers are now required, with help and approval from their supervisors, to set fiscal year goals for each program; develop program management work plans for meeting the fiscal year goals; monitor program budgets; and provide regular updates on program performance and adherence to goals and timelines to the Division Director through weekly one-on-one meetings and written monthly program reports.	Implemented – These actions address the problems identified in the 2012 audit.

EXHIBIT 2.2
IMPLEMENTATION STATUS OF 2012 AUDIT RECOMMENDATIONS

RECOMMENDATION B	
Establish an organized, central repository that program managers are required to use to document planning, budgets, goals, and monitoring of the programs, and stores CEO's administrative and program policies.	
ACTIONS TAKEN	OSA CONCLUSION
CEO reorganized the office shared document drive so that important program and contract related documents, as well as office policies and procedures, are easy to locate and readily accessible to all staff. Staff are required to document their monitoring activities on the shared document drive.	Implemented – These actions address the problems identified in the 2012 audit.
RECOMMENDATION C	
Provide training to program managers and staff on how to follow the above-referenced program management processes.	
ACTIONS TAKEN	OSA CONCLUSION
CEO provided training to program managers on the policies and procedures for planning, managing, and monitoring programs.	Implemented – These actions address the problems identified in the 2012 audit.

EXHIBIT 2.2
IMPLEMENTATION STATUS OF 2012 AUDIT RECOMMENDATIONS

CONTRACT REQUIREMENTS	
The 2012 audit found that some CEO contracts did not comply with state requirements. Specifically, the audit found: ▪ Some contracts did not include all performance elements. ▪ CEO did not maintain accurate contract information in the State's Contract Management System.	
RECOMMENDATION A	
Ensure that staff are made aware of and provided training on the state requirements governing how all state agencies should manage state contracts. To ensure that the training provided to staff responsible for preparing and monitoring contracts is consistent with guidance issued by the State Controller's Office, CEO should utilize the expertise of the CEO contract specialist when developing staff training on contract requirements.	
ACTIONS TAKEN	**OSA CONCLUSION**
CEO staff responsible for preparing contracts received training on state contract requirements that is consistent with CEO policies, State Controller's Office guidance, and state statutory requirements. CEO's contract specialist is involved in the contract process.	Implemented – These actions address the problems identified in the 2012 audit.
RECOMMENDATION B	
Establish internal written policies and procedures that give CEO staff further guidance on their day-to-day responsibilities, including requirements on developing contracts with all necessary performance measures and standards and on recording required information in the State's Contract Management System.	
ACTIONS TAKEN	**OSA CONCLUSION**
CEO developed written policies that provide guidance on day-to-day responsibilities such as developing contracts and including necessary performance measures and standards. CEO's current practice is to record all required information in the State's Contract Management System.	Partially Implemented – The 2016 audit identified problems related to contract performance schedules. See RECOMMENDATION 2.

EXHIBIT 2.2
IMPLEMENTATION STATUS OF 2012 AUDIT RECOMMENDATIONS

CONTRACT MONITORING	
The 2012 audit found that CEO had not established an effective contract monitoring process that ensured contractors were adequately monitored and met the performance measures and standards established in contracts. Specifically, the audit found: ▪ Contractor monthly progress reports were not submitted or were incomplete. ▪ Program managers did not use monthly reports to monitor contractor progress or complete contractor performance evaluations.	
RECOMMENDATION A	
Ensure that any established training and written guidance on contract management include specific requirements on contract monitoring responsibilities, such as how contractor progress reports should be used in conjunction with informal phone and email updates, the extent to which monitoring activities must be documented to support payment authorizations, and the completion of a final performance evaluation for contractors.	
ACTIONS TAKEN	OSA CONCLUSION
CEO developed written guidance related to contract management responsibilities and provided training to staff responsible for contract monitoring. CEO's current practice is to complete a final performance evaluation for its contractors consistent with state statutes and guidance.	Partially Implemented – The 2016 audit identified problems related to documenting informal contract monitoring activities. See RECOMMENDATION 2.
RECOMMENDATION B	
Develop a system of supervisory review that includes a review of monitoring activities against authorized contractor payments, and annual CEO staff evaluations that specifically assess contract monitoring activities.	
ACTIONS TAKEN	OSA CONCLUSION
CEO developed a system that includes discussions with supervisors of contractor activities and supervisory approval of payments to contractors. CEO staff evaluations specifically assess contract monitoring activities.	Partially Implemented – The 2016 audit identified problems related to payments to contractors. See RECOMMENDATION 2.

EXHIBIT 2.2
IMPLEMENTATION STATUS OF 2012 AUDIT RECOMMENDATIONS

TRAVEL AND EXPENDITURES	
The 2012 audit found issues with travel and other expenditures, including expenditures that lacked the required approvals and adequate justification.	
RECOMMENDATION A	
Work with the Governor's Office to establish, implement, and document an expenditure approval process for expenses incurred by the CEO Director that includes direction on which travel and other expenditures made by the CEO Director must be authorized by someone in a superior position.	
ACTIONS TAKEN	OSA CONCLUSION
CEO established an expenditure approval process that requires all CEO Director expenditures be authorized by the Governor's Office.	Partially Implemented – The 2016 audit identified problems with expenditures, some of which included expenditures by the Director. See RECOMMENDATION 1.
RECOMMENDATION B	
Ensure that approval for all out-of-country travel is well documented and approved in advance by the Governor's Office in written or electronic format.	
ACTIONS TAKEN	OSA CONCLUSION
CEO developed a written policy that requires Governor's Office approval prior to out-of-country or out-of-state travel.	Unable to Determine– There were no out-of-country travel expenditures during the 2016 audit review period. Therefore, we were unable to test the implementation status. However, the 2016 audit identified problems related to out-of-state travel expenditure approvals, which has the same approval process as out-of-country travel expenditures. See RECOMMENDATION 1.

EXHIBIT 2.2
IMPLEMENTATION STATUS OF 2012 AUDIT RECOMMENDATIONS

RECOMMENDATION C	
Enforce the existing policy requiring all employees, including the Director, to provide a justification for expenditures that explicitly aligns with CEO's mission and goals and, if applicable, with the goals of the program that the expenditure benefits.	
ACTIONS TAKEN	OSA CONCLUSION
CEO is required to follow Governor's Office policy, which requires that all out-of-state travel expenditures be justified and CEO policies require in-state travel and other expenditures to be supported by a justification statement.	Partially Implemented – The 2016 audit identified problems related to the justification of expenditures. See RECOMMENDATION 1.

EXHIBIT 2.2
IMPLEMENTATION STATUS OF 2012 AUDIT RECOMMENDATIONS

OVERALL OFFICE MANAGEMENT	
The 2012 audit found deficiencies in CEO's internal accounting and administrative control systems that led us to question CEO's ability to implement programs successfully. Specifically, the audit found: ▪ CEO had not established program or staffing requirements, including comprehensive master and program budgets to show how funding was allocated and spent each year, and how many FTE were allocated and used to administer the programs. ▪ CEO had not established internal program management processes and controls to guide program staff on how to develop, manage, or assess the programs, contracts, or other activities the office administered. ▪ CEO had not maintained adequate data or data systems to support planning and monitoring activities, such as what program information must be maintained, where files should be kept, or a listing of all active contracts. The audit recommended that CEO improve overall office management policies and procedures.	
RECOMMENDATION A	
Establish an internal system of accounting that is used in conjunction with the State's accounting system to collect comprehensive financial information for each program, including tracking program budget-to-actual data comparisons and all expenditures by both the funding source and the program or project funded.	
ACTIONS TAKEN	**OSA CONCLUSION**
CEO established an office-wide master budget for each fiscal year that tracks revenue and expenditures by program and fund, and tracks the FTE required for each program and the funding sources and amounts for each position. CEO also developed program-specific budgets to track program expenses. On a monthly basis, the CEO leadership team and program managers compare the monthly master budget and program budget-to-actual using data from CORE, the State's financial management system.	Implemented – These actions address the problems identified in the 2012 audit.

EXHIBIT 2.2
IMPLEMENTATION STATUS OF 2012 AUDIT RECOMMENDATIONS

RECOMMENDATION B	
Analyze, on a regular basis, the overall costs of each program compared to whether the program is producing intended results, and use that analysis in conjunction with overall office priorities to determine which programs merit continued funding.	
ACTIONS TAKEN	OSA CONCLUSION
CEO established a process for regularly assessing programs based on their achievement of goals, which are reported monthly to CEO leadership and the Governor's Office. In addition, CEO established an annual strategic planning and budgeting process that analyzes each program's achievements and progress toward goals, and adjusts the goals and/or budget based on the prior year's progress, and eliminates programs that are ineffective or that have achieved their intended purpose.	Implemented – These actions address the problems identified in the 2012 audit.
RECOMMENDATION C	
Develop and implement the infrastructure necessary to support effective program management activities, including establishing criteria and a process for assessing program effectiveness, and clearly defining program management roles and responsibilities among staff.	
ACTIONS TAKEN	OSA CONCLUSION
In addition to the steps taken for Part B, CEO develops a SMART Government Act performance plan that includes each program's goals and is submitted annually to the Governor's Office of State Planning and Budgeting as part of the budget planning cycle. CEO also developed formal job descriptions that outline the responsibilities of program management staff.	Implemented – These actions address the problems identified in the 2012 audit.