



# COUNTY OF HUMBOLDT

For the meeting of: 4/12/2022

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File #: 22-443

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**To:** Board of Supervisors

**From:** Supervisor Virginia Bass and Supervisor Michelle Bushnell

**Agenda Section:** Initiated by Board Member

**SUBJECT:**

Consideration of a Resolution and Vote of No Confidence in Karen Paz Dominguez, Auditor - Controller. (Supervisor Bass and Supervisor Bushnell)

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Consider taking a Vote of No Confidence in Karen Paz Dominguez, Auditor-Controller; and adopt the resolution expressing a Vote of No Confidence in the job performance of the Humboldt County Auditor-Controller.

**SOURCE OF FUNDING:**

N/A

**DISCUSSION:**

Today's agenda item is coming before the Board based on new important information and newly received documentation. A letter signed by department heads representing more than 90% of county employees was submitted to the Board on Apr. 4, 2022, stating that, despite department heads' efforts to support the Auditor-Controller, she has failed to fulfill the duties and responsibilities of her position and as a result has put the county in a financial crisis. While the Board has received similar letters from outside agencies in education, local municipal government, workforce development, public safety and the private sector, as well as letters from individuals within the county, the attached letter is the first time that a majority of department heads have submitted such documentation to the Board. The letter is sent from department leadership, both elected and appointed, expressing that their departments cannot collaborate with the one department through which all financial transactions must be recorded, and as a result they are facing dangerous financial challenges which must be fixed.

The Board is charged with ensuring that county government functions properly and has delegated responsibilities for functions such as health and human services, roads, agriculture, planning and building, library services and others to officers who lead departments to carry out those services. Such an expression from department heads represents a threat to county services.

As stated in the letter, departments have attempted to support the Auditor-Controller's Office, and the Board has allocated substantial resources to assist the Auditor-Controller, to no avail. These resources included consultants to assist with year-end and payroll process, additional staffing, and leadership training and coaching. At this point, the Board has seen no indication that the Auditor-Controller is willing to take the steps needed to remedy the issues at hand.

In recognition of this statement from county departments and the Board's continuing commitment to doing all it can to provide public services from the county government, we are presenting a Vote of No Confidence in the Auditor-Controller. The Vote of No Confidence is a vote that the Board no longer has confidence in the job performance of Karen Paz Dominguez, Humboldt County Auditor-Controller, as detailed within the resolution. Adoption of the resolution along with the Vote of No Confidence will direct that the Auditor-Controller to act with all speed and diligence to remedy all items detailed in today's agenda item, and to faithfully fulfill the duties of her office.

The Auditor-Controller is an elected county official. Government Code Section §26881 provides that the county auditor, or in counties that have the office of controller, the auditor-controller shall be the chief accounting officer of the county. Upon order of the Board of Supervisors, the auditor or auditor-controller shall prescribe, and shall exercise a general supervision, including the ability to review departmental and countywide internal controls, over the accounting forms and the method of keeping the accounts of all offices, departments, and institutions under the control of the Board of Supervisors and of all districts whose funds are kept in the county treasury.

As the Board is aware, on Nov. 22, 2021, the Board heard an agenda item similar to today's regarding a Vote of No Confidence. That item was a result of delayed financial reporting and other deficiencies, and it passed with a 3-2 vote. That item highlighted the below list of deficiencies:

Karen Paz Dominguez's tenure as Auditor-Controller has been marred with deficiencies in the following ways (*all of which remain deficient*):

- Interest apportionment has not taken place for the entirety of Fiscal Year (FY) 2020-21 or 2021- 22;
- Cash has not been reconciled since before FY 2018-19 (currently Macias, Gini & O'Connell [MGO] is bringing this work up to date);
- As reported by Fortuna Union High School, statutory deadlines for reporting property taxes are not being met;

On Nov. 10, 2021, the Board of Supervisors was notified that the Fortuna Union High School District passed a vote of non-confidence in the county Auditor-Controller, Karen Paz Dominguez

- FY 2019-20 single audit is two months past due, following a six-month extension. This has significant impacts on Workforce Innovation and Opportunity Act (WIOA) funding, the Department of Child Support Services, California Development Block Grant (CDBG) funds, Roads funding, First 5 and has made the county ineligible for United States Department of Agriculture (USDA) grants and potentially other competitive state and federal programs;
  - The Workforce Development Board passed a Vote of No Confidence in the

- county Auditor-Controller, Karen Paz Dominguez at their Nov. 19, 2021 Board meeting.
- First 5's legal counsel has contacted the county regarding the county's failure to comply with the Memorandum of Understanding between the county and First 5, specific to fiscal services through the county Auditor-Controller
  - *(As of April 8, 2022, the Single Audit is six months past the six-month extension and the target issuance date of March 31, 2022 has passed without a progress report)*
  - The FY 2020-21 cost plan was due Dec. 2019; it was not approved by the State Controller until June 2021 and still remains unposted;
  - The FY 2021-22 cost plan was due Dec. 2020 and is still not completed;
    - Due to delays, the FY 2021-22 budget was developed using FY 2019-20 costs as an estimate, it is likely there will be large deviations and thereby creating significant budgetary impacts
  - The Auditor-Controller failed to respond to correspondence from the IRS regarding payroll tax discrepancies, causing \$173,022 in penalties, assessments, and liens;
  - The Financial Transactions Report is due to the State Controller's Office by the end of January, following the close of the fiscal year. The Financial Transactions report has not been submitted for FY 2019-20 and the county can be penalized up to \$5,000 for the failure to meet this statutory deadline;
    - *(As of April 8, 2022, after receiving a Final Demand letter from the California State Attorney General, the Auditor-Controller finally submitted the Financial Transaction Report (FTR) in March 2022. The State Controller's Office has confirmed receipt but has not confirmed acceptance of the report. Staff discovered the unposted audit adjustments from FY 2018-19 after reviewing a copy of the FTR received from the State Controller's Office.)*
  - Lobbyist reports have not been submitted timely, \$14,000 in penalties have been assessed;
  - The Chart of Accounts has not been finalized yet and object codes continue to be closed;
    - Departments are struggling to obtain from the Auditor-Controller tools such as the setup of funds, budget units, ten-digit org keys and job ledger codes to effectively manage their budgets
  - Delays in posting journals, supplemental budgets and appropriation transfers, often times more than eight months after submittal, are limiting the ability of departments to effectively manage budgets and expenditures;
    - Failure to post these transactions timely forces staff to conduct extensive manual tracking
    - Failure to post transactions resulted in delinquent CARES Act reporting and other mandated financial reporting
  - Failure to pay vendors timely, resulting in late fees, inflated cost proposals, lost discounts and the elimination of credits accounts;
  - Failure to pay employee expense claims timely;
  - Failure to pay child support payments timely;

- Failure to promptly settle employees;
- Failure to timely post daily deposits to the general ledger;
- Failure to effectively transition and manage payroll;
- Interest apportionment has not taken place for the entirety of Fiscal Year (FY) 2020-21 or 2021-22;
- Cash has not been reconciled since FY 2018-19 (currently Macias, Gini & O’Connell [MGO] is bringing this work up to date);
- As reported by Fortuna Union High School, statutory deadlines for reporting property taxes are not being met;
  - On Nov. 10, 2021, the Board of Supervisors was notified that the Fortuna Union High School District passed a vote of non-confidence in the county Auditor-Controller, Karen Paz Dominguez;
- FY 2019-20 single audit is two months past due, following a six-month extension. This has significant impacts on Workforce Innovation and Opportunity Act (WIOA) funding, the Department of Child Support Services, California Development Block Grant (CDBG) funds, Roads funding, First 5 and has made the county ineligible for United States Department of Agriculture (USDA) grants and potentially other competitive state and federal programs;
  - The Workforce Development Board passed a Vote of No Confidence in the county Auditor-Controller, Karen Paz Dominguez at their Nov. 19, 2021 Board meeting.
  - *(The Workforce Development Board passed a second Vote of No Confidence in the county Auditor-Controller at a special meeting held on Apr. 1, 2022, after the Auditor-Controller failed to meet the promised completion of the FY 2019-20 Single Audit Report by Mar. 31, 2022.)*
  - First 5’s legal counsel has contacted the county regarding the county’s failure to comply with the Memorandum of Understanding between the county and First 5, specific to fiscal services through the county Auditor-Controller
  - *(As of April 8, 2022, the Single Audit is six months past the six-month extension and the target issuance date of March 31, 2022 has passed without update)*
- The FY 2020-21 cost plan was due Dec. 2019; it was not approved by the State Controller until June 2021 and still remains unposted;
- The FY 2021-22 cost plan was due Dec. 2020 and is still not completed;
  - Due to delays, the FY 2021-22 budget was developed using FY 2019-20 costs as an estimate, it is likely there will be large deviations and thereby creating significant budgetary impacts
- The Auditor-Controller failed to respond to correspondence from the IRS regarding payroll tax discrepancies, causing \$173,022 in penalties, assessments, and liens;
- The Financial Transactions Report is due to the State Controller’s Office by the end of January, following the close of the fiscal year. The Financial Transactions report has not been submitted for FY 2019-20 and the county can be penalized up to \$5,000 for the failure to meet this statutory deadline;

- *(As of April 8, 2022, after receiving a Final Demand letter from the California State Attorney General, the Auditor-Controller finally submitted the Financial Transaction Report (FTR) in March. The State Controller's Office has confirmed receipt of the FTR but has not confirmed acceptance of the report. Staff discovered the unposted audit adjustments from FY18-19 after reviewing a copy of the FTR received from the State Controller's Office.)*
- Lobbyist reports have not been submitted timely, \$14,000 in penalties have been assessed;
- The Chart of Accounts has not been finalized yet and object codes continue to be closed;
  - Departments are struggling to obtain from the Auditor-Controller tools such as the setup of funds, budget units, ten-digit org keys and job ledger codes to effectively manage their budgets
- Delays in posting journals, supplemental budgets and appropriation transfers, often times more than eight months after submittal, are limiting the ability of departments to effectively manage budgets and expenditures;
  - Failure to post these transactions timely forces staff to conduct extensive manual tracking
  - Failure to post transactions resulted in delinquent CARES Act reporting and other mandated financial reporting
- Failure to pay vendors timely, resulting in late fees, inflated cost proposals, lost discounts and the elimination of credits accounts;
- CalCard penalties for failure to process payments timely;
- Delayed payment of Election/Poll Worker's stipends;
- Refusal to post interest apportionment from non-general funds to the general fund as allowed by Government Code. This has eliminated more than \$1 million in interest that is rightfully due to the general fund as discretionary revenue;
- The Auditor-Controller has publicly misrepresented status of the single audit;
- Budget blocks have been removed, making it difficult to manage appropriations;
  - Government Code §29122 The board shall not approve a claim and the auditor shall not issue payment for any obligation in excess of that authorized in the budget unit appropriation, except upon an order of a court, for an emergency, or as otherwise provided by law
- FY 2020-21 Adopted Budget has not been finalized or submitted to the State Controller Office as actuals for FY 2019-20 are not yet available;
  - The deadline was Dec. 1, 2020
  - *(As of Apr. 8, 2022, the FY 2020-21 and FY 2021-22 Adopted Budgets have been submitted to the State Controller Office but were rejected because the state mandated annual Appropriation Limits (Gann Limits) have not been adopted by the Board since FY 2018-19, when the then Interim Auditor-Controller presented the calculation to the Board for approval. The Adopted Budgets also lacked reliable fund balance numbers and certain schedules failed to balance due to the lack of complete financial information from FY 2019-20 and FY 2020-21.)*
- Failure to adhere to the Board of Supervisors request for written Board reports

detailing operational impacts associated to the payroll transfer and other county operations;

- Failure to participate in meetings, collaborate or communicate with departments or external agencies regarding financial transaction activities;
- Refusal to update budget reports and participation in the budget process; and
- Failure to take responsibility for her actions.
  - Failure to pay employee expense claims timely;
  - Failure to pay child support payments timely;
  - Failure to promptly settle employees;
  - Failure to timely post daily deposits to the general ledger; and
  - Failure to effectively transition and manage payroll;

FINANCIAL IMPACT:

N/A

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by providing community-appropriate levels of service .

OTHER AGENCY INVOLVEMENT:

N/A

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion

ATTACHMENTS:

Vacancy Notice

PREVIOUS ACTION/REFERRAL:

Board Order No.: NA

Meeting of: NA

File No.: NA