



JOHN CHIANG  
California State Controller

July 17, 2009

Daniel W. Hancock, Chairman  
Little Hoover Commission  
925 L St., Suite 805  
Sacramento, CA 95814

Dear Chairman Hancock and Commission Members:

First let me congratulate you on an overall excellent report regarding the California Institute for Regenerative Medicine's (CIRM) governance structure. As Chair of the Citizens Financial Oversight and Accountability Commission (CFAOC), I could not agree more with the report's finding that CIRM's governance structure is cumbersome and needs to be reformed to enhance accountability and ensure taxpayer dollars are spent effectively.

However, I was disturbed by your statement that the CFAOC had not "exercised its authority to look beyond CIRM's finances to review the agency's general performance." (see p. 9) As you appear to agree, when you state the CFAOC should be given statutory authority, if needed, to conduct performance audits, the CFAOC's ability to go beyond fiscal reviews is ambiguous, at best, under the current statute.

I am a strong proponent of oversight and have made it clear that I would like to review CIRM's programmatic and strategic performance. However, my Chief Counsel has advised that under Proposition 71, the CFAOC has no authority to conduct any audits of CIRM. The CFAOC's statutory authority is limited to reviewing the annual financial audit, reviewing the State Controller's report and evaluation of the annual financial audit, reviewing CIRM's financial practices, and providing recommendations regarding CIRM's financial practices and performance. In other words, once the CFAOC has done the financial review, the committee is authorized to provide recommendations on the financial practices and financial performance – not independently conduct a performance review.

Because nothing in Proposition 71 provides the CFAOC with authority to conduct its own independent review, I had my office, instead of the CFAOC, conduct an audit of

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CIRM's Conflict-of-Interest Policies, Grant Administration, and Administrative Expenses and Expenditures, which was published in 2008.

Prior to the publication of your report, my staff made it clear to your staff that the CFAOC's statutory authority to exercise oversight was extremely narrow and limited only to financial matters. My staff was very open about our desire to broaden CFAOC's authority to include conducting performance audits as well as financial reviews.

Unfortunately, there is no reference in your report to my office's legal opinion that the statute, as currently drafted, does not authorize the CFAOC to conduct performance audits of CIRM. I understand your staff did not consult with an attorney regarding their interpretation of the CFAOC's authority under current statute. That omission, unfortunately, has resulted in the incorrect conclusion that CFAOC has not exercised its authority. In the future, when there is ambiguity about statutory language, I recommend your staff consult with the Attorney General's office before publishing their layman's interpretation.

As I stated earlier, I am very supportive of the recommendations, particularly Recommendation 3, to obtain statutory authorization to conduct performance audits and hold regular meetings to review CIRM's programmatic and strategic performance. I will be sharing this report with the CFOAC members and plan to hold a CFAOC hearing on the report, at which I will propose that we endorse the recommendations.

I want to make it clear that the CFAOC does not believe it currently has the legal authority to conduct the performance audits and hearings that the report recommends. I would appreciate it if you would have your staff post this letter along with the report on your web site, and include it with any printed versions you release.

Sincerely,

A handwritten signature in black ink, appearing to read "John Chiang", is written over the printed name and title.

JOHN CHIANG  
California State Controller