

## DRAFT IMPROVEMENT PLAN

The Orange County Power Authority (OCPA) Board of Directors takes audits seriously and sees them as a resource as we strive for continued improvement. As a new Community Choice Energy provider with a critically important mission of climate action, a focus on continuous improvement will allow OCPA to reach its goal of providing our customers with energy choice. The Board is committed to working with staff on this Improvement Plan that includes consideration of the recommendations contained in the following reports.

### **ORANGE COUNTY GRAND JURY REPORT**.....ISSUED JUNE 24, 2022

The Orange County Grand Jury began its investigation into OCPA in response to significant public discussion and criticism regarding OCPA’s formation and activities.

### **LOCAL POWER LLC**.....ISSUED DECEMBER 9, 2022

At the request of the Orange County Board of Supervisors, Local Power LLC conducted an analysis of OCPA to determine whether its staff, operational structure, policies, and procedures are proficient at mitigating risks to customers who join the OCPA in search of finding a reliable source of renewable energy. The report does not include recommendations but refers to best practices some CCAs use.

### **ORANGE COUNTY AUDIT**.....ISSUED ON DECEMBER 14, 2022

At the request of the Orange County Board of Supervisors, the Orange County Auditor reviewed business practices including contracting, disbursements, human resources, payroll, invoicing, and analyzed financial data and costs incurred by OCPA on behalf of Orange County.

The auditor reviewed and evaluated OCPA’s policies, procedures, and controls over these key business processes, obtained information related to costs attributable to the County if they were to withdraw from the OCPA, and analyzed financial data.

### **CALIFORNIA STATE AUDITOR**.....ISSUED FEBRUARY 28, 2023

As directed by the Joint Legislative Audit Committee of the California Legislature, the State Auditor evaluated OCPA’s finances, projections, and other business operations including compliance with various statutory requirements.

Conclusions reached in the reports include the following areas:

#### **TRANSPARENCY**

OCPA is fully transparent with its finances by posting budgets, treasurer reports, and audited financial statements on its website.

OCPA follows state law when it keeps certain details of power purchase agreements confidential, such as the price of power, but could demonstrate a commitment to transparency by doing more to safely share information about its power purchase agreements with the governing bodies of its member communities.

OCPA generally complied with Public Records Act requirements. Auditors concluded that the OCPA met the requirement to, within 10 days, notify the person making the request of its determination about whether the request sought disclosable records. Concern was raised about some requests remaining open for six months or more.

OCPA could strengthen its ability to demonstrate compliance with open meetings law by tracking information showing when meeting agendas are made publicly available.



OCPA could build trust with its current and potential customers by updating its website to provide additional useful information about its operations and how it has provided savings to customers and other relevant benefits to member communities.

### **GOVERNANCE**

OCPA has not implemented bylaws and has underutilized its Community Advisory Committee.

OCPA could strengthen its risk management practices, by expanding its risk oversight committee to include a subset of Board members and establish a schedule for the committee to report its activities to the full Board.

### **BUDGETING AND FORECASTING**

Due to data limitations that were beyond its control, the OCPA used outdated 2019 customer usage data from Southern California Edison to prepare budgets for fiscal years 2021-22 and 2022-23. The California State Auditor's Office endorses OCPA's current plan to use information it has collected on customer power usage and opt-out rates when making projections of revenues, expenditures, and its need to procure power.

Decisions made by member communities to adopt default rate tiers with a greater proportion of renewable energy caused OCPA's cost of energy to be higher than originally projected. In addition, member communities deciding to change their default rate with little warning to OCPA could negatively affect budget projections.

Concerns were raised about the participation rates for commercial and residential customers being lower than projected and the impact of high opt-out rates. The California State Auditor suggests that a low participation rate could hinder OCPA's ability to operate efficiently but acknowledges that due to its size as one of the largest CCAs in the state it will likely be able to absorb a significant opt-out rate.

### **STAFFING**

OCPA relies on external contractors for industry expertise and should continue to recruit and hire in-house expertise.

### **CONTRACTING PRACTICES**

OCPA did not always maintain documentation to support its decision to use formal or informal solicitations, that proposals were reviewed and evaluated, and final vendor selection. In addition, when using sole source contracts, the OCPA did not always document its rationale for such use.

Some contracts did not include adequate cost or pricing details or not-to-exceed amounts.

OCPA staff circumvented key elements of its contracting policies, particularly when amending contracts.

OCPA staff did not evaluate contractor performance prior to amending existing contracts or proposing new contracts with the same vendor.

OCPA staff did not promptly report new contracts between \$50,000 and \$125,000 to the Board as required.

Amendments to its procurement policy to clarify delegated authority would strengthen OCPA's procurement process.

### **PAYROLL..... (Two minor issues)**

OCPA's employee pay matched supporting documentation and the master payroll file reconciled to the Payroll Disbursement report.

Two minor exceptions were identified by the Orange County Auditor regarding the timing of a merit increase and verification of a Board member’s attendance at a meeting prior to payment for such attendance.

**INVOICING** ..... **(No issues)**

OCPA’s rates agreed to customer invoices for all customers reviewed.

To address concerns raised in the various reports and to further improve operations, OCPA staff developed the attached Improvement Plan and look forward to working with our Board of Directors as we pursue our mission of providing cleaner, renewable choices at competitive rates, and invest in innovative programs that benefit residents, businesses, the environment, and the economy of our communities.

**PLANNED IMPROVEMENTS**

SUBJECT AREA	RECOMMENDATIONS	COMMENTS AND PLANNED IMPROVEMENTS	RESPONSIBLE EXECUTIVE	STATUS ESTIMATED COMPLETION DATE
<b>GOVERNANCE</b>	<p>Implement OCPA By-laws consistent with those of other CCEs within California.</p> <p><b>(Grand Jury)</b></p>	<p><i>OCPA staff and counsel have drafted a set of By-laws and presented them to the Board at its February 15, 2023.</i></p> <p><i>After Board approval, the By-laws will be posted on the OCPA website.</i></p>	CEO	<p>2<sup>nd</sup> review March 15, 2023</p> <p>Final review and 30-day member distribution April 15, 2023</p> <p>Final implementation May 15, 2023</p>
<b>GOVERNANCE</b>	<p>Include the Community Advisory Committee (CAC) as a standing item on the OCPA Board agenda and recognize the Community Advisory Committee as an advisory committee.</p> <p><b>(Grand Jury)</b></p>	<p><i>As soon as our new Board was seated in January, we began the process of receiving appointments and soliciting public members for our Community Advisory Committee and will start the 2023 series of regular meetings in March. CAC committee reports have been and will continue to be provided to the Board on a regular basis.</i></p>	CEO	<b>COMPLETED March 2023</b>

<p><b>GOVERNANCE</b></p> <p><b>Risk management</b></p>	<p>To provide meaningful oversight of OCPA's efforts to monitor, measure, report and control the market and credit risks that it is exposed to in the normal course of business the Board should:</p> <ul style="list-style-type: none"> <li>· amend its risk management policy to include a subset of Board members,</li> <li>· establish a schedule for the Risk Oversight Committee (ROC) to provide reports of its activities to the full board, an</li> <li>· direct the committee to fulfill its functions as defined in the OCPA's risk management policy.</li> </ul> <p><b>(California State Auditor's Office)</b></p>	<p><i>In coordination with the Chair, a discussion will be brought to the Board including options for greater Board involvement in Risk Oversight.</i></p> <p><i>A regular quarterly schedule for an ROC Board report beginning with the June 2023 Board meeting.</i></p> <p><i>While the ROC has been meeting on a regular basis, beginning in March meetings will be formalized and documented.</i></p>	<p>CEO</p>	<p>Estimated completion May 15, 2023</p>
<p><b>TRANSPARENCY</b></p>	<p>To build trust with current and potential customers, update its website to provide additional useful information about its operations and communicate whether and how it has provided savings to customers and other relevant benefits to member communities.</p> <p><b>(California State Auditor's Office)</b></p>	<p><i>Improvements have been made over the last several months to the OCPA website to make it as user-friendly as possible and to convey more information about the cost of energy and the benefits of the program. A complete refresh of the website is underway with the goal of heightening transparency so people know who we are, what we provide, and how we benefit the community.</i></p>	<p>Director of Communications &amp; External Affairs</p>	<p>July 2023</p>

<p><b>TRANSPARENCY</b></p>	<p>OCPA’s Board should develop a policy outlining the means by and circumstances under which OCPA can share key terms of its power purchasing agreements with officials from member agencies without compromising confidentiality of those terms.</p> <p><b>(California State Auditor’s Office)</b></p>	<p><i>OCPA has developed a process and executed an NDA with one member agency and is waiting for execution from agreements with two additional members who have also been offered NDAs. We will follow the same process for similar future requests from member agencies.</i></p>	<p>CEO</p>	<p>May 2023</p>
<p><b>TRANSPARENCY</b></p>	<p>To more conclusively demonstrate that it is appropriately responding to public record act (PRA) requests, improve its tracking, and handling of those requests by developing and following written procedures governing how it processes them.</p> <p><b>(California State Auditor’s Office)</b></p>	<p><i>The SAO determined that OCPA is largely in compliance with the PRA. In order to enhance PRA performance and public transparency staff will document our existing process for tracking and responding to PRAs, maintain a local copy of the PRA tracking log currently managed by our law firm, and will further pursue implementing custom PRA tracking software.</i></p>	<p>CEO</p>	<p>Document PRA process April 2023</p> <p>Implement software system December 2023</p>
<p><b>TRANSPARENCY</b></p>	<p>By May 2023, direct staff to report no less than quarterly on the number of public records act requests received, closed, and pending; the average time OCPA took to respond, and the reasons for withholding or not providing requested documentation, if applicable.</p> <p><b>(California State Auditor’s Office)</b></p>	<p><i>See PRA item above. Staff will seek feedback from the Board and respond with information accordingly.</i></p>	<p>CEO</p>	<p>Board Discussion May 2023</p>

<b>TRANSPARENCY</b>	<p>To demonstrate to stakeholders its compliance with state law requiring open meetings, by May 2023, begin tracking information showing when meeting agendas are made publicly available.</p> <p><b>(California State Auditor's Office)</b></p>	<p><i>The SAO determined that we are in compliance with Public Meeting laws but could improve by establishing an auditable trail. OCPA has updated its server software which now generates a log each time a document is posted to the website.</i></p>	CEO	<b>COMPLETED</b> <b>February 2023</b>
<b>BUDGETING AND FORECASTING</b>	<p>Beginning with its Fiscal Year 2023-24 budget, OCPA should implement its plan to use information it has collected on customer power usage and opt-out rates when making projections of its revenues, expenditures, and its need to procure power.</p> <p><b>(California State Auditor's Office)</b></p>	<p><i>Like all CCAs, prior to launching service OCPA needed to rely on customer load estimates provided by the incumbent investor owned utility. OCPA will use our own customer consumption dataset and participation rates when developing the FY2023-24 budget plus 5-year projection.</i></p>	CFO	June 2023
<b>BUDGETING AND FORECASTING</b>	<p>To allow OCPA sufficient time to buy and sell the energy necessary to accommodate changes in member community participation, the Board should establish a policy specifying a process for member communities to follow when changing their default rate that includes the following:</p> <ul style="list-style-type: none"> <li>The number of days of advance notification a member agency must provide to</li> </ul>	<p><i>Staff will seek feedback at a future Board meeting, which will guide the drafting of a policy.</i></p>	CEO	<p>Board discussion May 2023</p> <p>Policy adoption June 2023</p>

	<p>OCPA of its decision to change its default rate before the change occurs.</p> <ul style="list-style-type: none"> <li>The maximum number of times a member community may change its default rate.</li> </ul> <p><b>(California State Auditor's Office)</b></p>	<p><i>Staff will seek feedback at a future Board meeting, which will guide the drafting of a policy.</i></p>	CEO	<p>Board discussion May 2023</p> <p>Policy adoption June 2023</p>
<b>STAFFING</b>	<p>Hire a Director of Power Purchases or other qualified staff positions to oversee Pacific Energy Advisors and Calpine contractors utilizing best practices.</p> <p><b>(Grand Jury)</b></p> <p>Immediately devote additional effort to hiring a power resources director with the necessary expertise to update its projections of power needs, to better evaluate purchase agreements, and to effectively oversee the work performed by its relevant contractors.</p> <p><b>(California State Auditor's Office)</b></p>	<p><i>OCPA has contracted with one of the most experienced and respected firms in the state to provide power procurement support. OCPA is actively recruiting for a Power Resources Director. We review candidate submission on a weekly basis and conduct interviews of qualified candidates on a regular basis. If the position is not filled by the end of May 2023, Staff will return to the Board with options including adjusting compensation ranges and hiring an outside recruiting firm.</i></p>	CEO	By May 2023 or request additional resources from the Board in June 2023

<p><b>STAFFING</b></p>	<p>Utilize a member agency clerk or assign a qualified OCPA staff member to handle the agendas and minutes for the OCPA Board and OCPA Community Advisory Committee to ensure that they are prepared properly and posted in a timely manner.</p> <p><b>(Grand Jury)</b></p>	<p><i>In November 2022, OCPA hired a Board Clerk and Assistant to the CEO who has over 20 years of experience. The Board clerk is responsible for coordinating all Board meeting agendas, making an official record of each public meeting, and publishing those details via written minutes and meeting videos. She will also be tracking required FPPC regulatory filings for Board members and Staff. All agendas and staff reports are distributed in accordance with the Brown Act. All minutes are approved by the OCPA Board and are posted as soon as possible after being approved. All minutes conform to industry standards.</i></p>	<p>CEO</p>	<p><b>COMPLETED</b> <b>December 2022</b></p>
<p><b>CONTRACTING PRACTICES</b></p>	<p><u>Policies</u></p> <p>Reduce the \$125,000 dollar threshold required for formal solicitation.</p> <p>Remove the provisions that allow the CEO to bypass existing OCPA purchasing requirements or revise to only allow such bypass in emergencies with appropriate documented justification.</p> <p><b>(Orange County Auditor)</b></p>	<p><i>Research policies that other CCAs use regarding threshold and discuss any suggested change with the Board.</i></p> <p><i>Discuss with the Board whether to remove the provision allowing CEO to bypass existing requirements and if recommendation is to keep provision ensure that there is a process to ensure adequate documentation of decision to bypass.</i></p>	<p>CEO/CFO</p>	<p>June 2023</p>



<p><b>CONTRACTING PRACTICES</b></p>	<p>To strengthen its procurement process, the Board should amend its procurement policy and contract delegation authority to clarify whether the thresholds in these policies apply to contract amendments.</p> <p><b>(California State Auditor’s Office)</b></p>	<p><i>Staff will recommend a policy revision to the Board creating clarity regarding contract delegation authority related to contract amendments.</i></p>	<p>CEO/CFO</p>	<p>June 2023</p>
<p><b>CONTRACTING PRACTICES</b></p>	<p><u>Solicitations</u></p> <p>To ensure that OCPA enters contracts with the most qualified vendor it should do the following:</p> <ul style="list-style-type: none"> <li>· When appropriate, ensure that contracts are competitively bid,</li> <li>· Proposals are received and evaluated, and</li> <li>· Adequately document the vendor selection process.</li> <li>· When using sole source procurements adequately justify and document rationale.</li> </ul> <p><b>(Orange County Auditor and California State Auditor’s Office)</b></p>	<p><i>OCPA will document its contracting processes and ensure that the following steps are included:</i></p> <p><i>Document type of procurement, informal or formal.</i></p> <p><i>Document process for soliciting, reviewing, and evaluating proposals.</i></p> <p><i>Document results of proposal evaluations and vendor selection</i></p> <p><i>Properly document decision and justification for using sole source procurement.</i></p> <p><i>Follow the procurement process policy that prohibits contract splitting to avoid competitive procurement requirements.</i></p>	<p>CFO</p> <p>Respective Departments</p> <p>Respective Departments</p> <p>Respective Departments</p> <p>Respective Departments</p> <p>Respective Departments</p>	<p>April 2023</p> <p>April 2023</p> <p>April 2023</p> <p>April 2023</p> <p>April 2023</p> <p>April 2023</p>

<p><b>CONTRACTING PRACTICES</b></p>	<p>Ensure that contracts include sufficient cost details to clearly support the services being procured and establish a maximum obligation amount.</p> <p><b>(Orange County Auditor)</b></p>	<p><i>All contracts will include sufficient cost details to clearly support the services being procured and establish a maximum obligation amount.</i></p>	<p>Respective Departments</p>	<p>March 2023</p>
<p><b>CONTRACTING PRACTICES</b></p>	<p><u>Board Notification</u></p> <p>Ensure that new contracts between \$50,000 and \$125,000 are appropriately reported to the Board.</p> <p><b>(Orange County Auditor and California State Auditor's Office)</b></p>	<p><i>Since October 2022, all contracts between \$50,000 and \$125,000 have been reported to the Board.</i></p>	<p>CFO</p>	<p><b>COMPLETED October 2022</b></p> <p><b>ONGOING</b></p>
<p><b>CONTRACTING PRACTICES</b></p>	<p><u>Board Approval</u></p> <p>Ensure the Board approves all contracts of more than \$125,000 before execution.</p> <p><b>(California State Auditor's Office)</b></p>	<p><i>All active contracts more than \$125,000 received Board approval.</i></p> <p><i>For all contracts of more than \$125,000 staff will seek Board's approval before execution.</i></p>	<p>Respective Departments</p>	<p><b>COMPLETED</b></p> <p><b>ONGOING</b></p>
<p><b>CONTRACTING PRACTICES</b></p>	<p>By May 2023 the Board should direct staff to provide reports on at least a quarterly basis that specify the dollar value of each service contract, the amount paid to each contractor to date, and the amount owed to the contractor for work performed but not yet paid.</p> <p><b>(California State Auditor's Office)</b></p>	<p><i>Provide Quarterly Contract Progress Report to the Board specifying the dollar value of each service contract, the amount paid to each contractor to date, and the amount owed to the contractor for work performed but not yet paid.</i></p>	<p>CFO</p>	<p><b>COMPLETED March 2023</b></p> <p><b>ONGOING</b></p>

<b>CONTRACTING PRACTICES</b>	Perform periodic evaluations of contractors' performance and provide those evaluations for the board's review when staff request approval of new contracts or contract amendments with those contractors.  <b>(California State Auditor's Office)</b>	<i>Develop a format for the contractor performance evaluations and include it on the staff report for the board's review when staff request approval of new contracts or contract amendments with those contractors in amount that exceed \$125,000.</i>	Respective Departments	March 2023
<b>CONTRACTING PRACTICES</b>	Ensure that a purchase requisition is completed for all contracts to document that purchasing duties are adequately segregated.  <b>(Orange County Auditor)</b>	<i>The existing OCPA Purchase Requisition Form, that was utilized for all non-contract and non-sole source purchases, will be completed for all contracts to ensure proper segregation of duties being documented.</i>	Respective Departments	March 2023
<b>CONTRACTING PRACTICES</b>	Ensure that requisitions are completed for all purchases to document that duties are adequately separated.  <b>(Orange County Auditor)</b>	<i>The existing OCPA Purchase Requisition Form, that was utilized for all non-contract and non-sole source purchases, will be completed for all contracts to ensure proper segregation of duties being documented.</i>	Respective Departments	March 2023
<b>DISBURSEMENTS</b>	Maintain a log to document who receives a manual check to establish accountability.  <b>(Orange County Auditor)</b>	<i>OCPA Manual Check Request Form has been created to ensure accountability.</i>	CFO	<b>COMPLETED February 2023</b>
<b>DISBURSEMENTS</b>	Require large checks to be counter-signed by senior management.  <b>(Orange County Auditor)</b>	<i>OCPA Manual Check Process has been updated to include the counter-sign requirement for a manual check that exceeds \$5,000.</i>	CFO	<b>COMPLETED February 2023</b>