

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5504**

1. Opening of Meeting:

The Appeals Board convened at 10:30 a.m., April 14, 2009 in Sacramento, with Acting Chair Aguiar presiding.

2. Roll Call: Members

Present

Absent

Bonnie Garcia, Chair

x

George Plescia, Vice Chair

x

Ann Richardson

x

Liz Figueroa

x

Cindy Montañez

x

Sharon Runner

x

3. Approval of the Minutes:

The March 10, 2009 minutes were approved by all members, except Members Figueroa and Runner, who were not present during the March meeting.

4. Chair's Report:

Chair Garcia thanked everyone for the opportunity to serve as Chair for CUIAB, stating it was a distinct honor to serve in that capacity and she will be looking to her fellow board members for help as they meet the challenges ahead. She stated that she was excited about all the things CUIAB is doing, hiring new staff, fast tracking the workload, and that the work CUIAB does makes the difference for families that are facing homelessness or challenges meeting their daily budgets. Chair Garcia stated it was a personal commitment and an honor to be working in a capacity to really impact lives, and that she is looking forward to working with the Board and the staffers as they move forward.

5. Board Member Reports:

Member Richardson thanked former Acting Chair Fred Aguiar for his contributions as Chair of this Board and welcomed Bonnie Garcia as the new Chair. She stated that she is really looking forward to working with Chair Garcia and that it is going to be a positive experience. She also welcomed the new member, Sharon Runner.

Chair Garcia thanked Member Richardson and noted that Member Richardson is helping the three junior members on the Board look at the issues through the spirit of the law.

Member Plescia congratulated Bonnie Garcia for taking on the task of being Chair and stated that he looks forward to working with her. The Board has been working very well together and he hopes to continue with that effort in getting the cases done and implementing new technologies to help people in need. Member Pleacia welcomed Member Sharon Runner to the Board.

Member Runner thanked everyone for the warm welcome and for training she has received. She thanked ALJ Marti Geiger and her team for their training, and stated that this is an opportunity for her to serve in a different capacity and help those families that need it the most at this point.

Chair Garcia introduced the new Vice Chair, Member Plescia and thanked him for taking on the challenge. She stated that she will be working more from the Sacramento office and Vice Chair Plescia will be working from the field offices in Southern California. This will give them balance to have someone in the Sacramento office and someone in the field offices to know what is really going on and how the workload is impacted. Chair Garcia welcomed Member Runner to the board.

Member Montañez congratulated both Member Bonnie Garcia as Chair and Member George Plescia as Vice Chair. She also welcomed Member Sharon Runner to the board.

6. Acting Executive Director Report:

Acting Executive Director Jehan Flagg reported on the Financial Integrity and Manager's Accountability Act (FISMA) Review Findings (Attachment A). There is a requirement that CUIAB conduct this audit every two years. This particular report tells the measures that have been taken to correct items that the audit noted. She stated that EDD conducted the audit for CUIAB, and will probably be conducting the audit again this year, which starts in July and finishes in December.

Member Richardson stated that one of the recommendations is that CUIAB conduct a physical inventory and property survey report, and asked if that has been done.

Acting Executive Director Flagg responded that they are in the process of doing so, and that it is usually done at the end of June of every year.

Member Richardson asked if the process was started in October 2008.

Acting Executive Director Flagg responded that it was her understanding that the process was started around July and that this is something that is done on a regular basis. She stated that one of the items that the BSA identified separately from the overall inventory audit is that they took issue with CUIAB's IT inventory

tracking. She stated that that is a separate item in the BSA report and that CUIAB is addressing it as a separate item.

Member Richardson commented that the reason she was asking is that they were about to talk in the budget about spending quite a bit of money on IT and she wanted to make sure that the inventory is reconciled before spending a lot of money.

Acting Executive Director Flagg reported that the BSA in its investigative report suggested and recommended that CUIAB investigate the previous Chief ALJ/Chief Executive's travel for the last 10 years to determine if any restitution should be sought. She asked EDD to conduct the initial review of the last 10 years worth of travel, which they have completed, and she will come back in May and give the Board the final recommendation.

Acting Executive Director Flagg reported from a recent Labor and Workforce Development Agency Senior Staff meeting that EDD is receiving \$60 million from the Federal stimulus package, and they would like to use that money for unemployment insurance administration funding of some sort. She stated that their Chief Deputy Director suggested there might be an opportunity for CUIAB to work with EDD on trying to facilitate some kind of joint IT project to expedite the backlog, to expedite some of the issues that are taking place with both EDD and CUIAB. She stated that they are having a meeting with very top level staff this week and have put together a list of things that might be agreeable to EDD. This money is one-time money and available for a very short period of time. Whatever is done will definitely be fast tracked. The good news is that we might come up with some joint solutions and implement them in a very quick turnaround time, in keeping with the Board and the Chair's wishes of trying to find some efficiencies.

Member Richardson's commented that she wanted to follow up on some other recommendations that were made and responses that CUIAB made to BSA about underground regulations. (Attachment B). She wanted to know where CUIAB was in the regulation process for the two items BSA criticized, and with CUIAB's response indicating that we were going to stop and seek regulations through the regulatory process.

Acting Executive Director Flagg responded that they are in the hopper with the Office of Administrative Law. She stated that they have been contacted and filled out the necessary paperwork and that the process has been started.

Member Figueroa asked how long that was going to take.

Chief Counsel Hilton responded that from start to finish a regulation takes a minimum of about 4 months and can go longer depending on what happens during the process.

Acting Executive Director Flagg reminded the Board that while they are seeking regulations with the Office of Administrative Law they are simultaneously meeting with the Department of Personnel Administration to make sure that they are not violating any other State rules or regulations that they are unaware of from a DPA perspective in how hiring decisions and staffing decisions are implemented. She stated that they want to make sure they are doing things properly on all fronts but they are definitely in the queue with OAH.

Member Richardson asked if they had started drafting regulations.

Acting Executive Director Flagg responded that they had not because they have still not gotten any validation from DPA as to whether or not they are on the right track, whether or not they should be done.

Member Richardson inquired if she knew when they would hear from DPA.

Acting Executive Director Flagg responded that she is playing telephone tag with someone from DPA.

Member Richardson asked to defer the discussion to next month's Board meeting.

Chair Garcia stated they would do that and also asked if they could get some kind of a report that shows an action plan and response to the audit itself on each of the items that were identified so that the Board knows how far CUIAB is in the process of addressing all the issues that were raise on that audit.

Acting Executive Director Flagg reported that she and Stephen Egan met in Oakland yesterday with the Division of Workers Compensation to discuss at a very high level how DWC went paperless in August 2008. The Division of Workers Compensation purchased and implemented a software program that had been demonstrated recently at CUIAB. They wanted to get first hand information as to how it was working for them, how long it took them from beginning to end, what were some of the lessons learned. Such a system would help this organization move in a direction that the Board seeks, and help with the backlog. Some of the unintended consequences were issues of security for confidential information, because you are no longer handling paper files and you are not transporting them from point to point, as it is all centralized in a database. Another benefit is that you don't have to try and figure out who is the keeper of specific information because everything is accessible through the database. The information will be shared with staff to see if that might be something CUIAB will pursue with EDD as part of the \$60 million or in addition to those funds.

Member Richardson asked if there was anyone from EDD at the meeting.

Acting Executive Director Flagg responded that there was not, as this was a meeting just with the Division of Workers Compensation because they are the ones who have implemented the program.

Member Richardson asked if Acting Executive Flagg assumed that EDD would have to be onboard or is this something CUIAB can do as a standalone.

Acting Executive Director Flagg replied that this was something CUIAB could do as a standalone.

Chair Garcia commented that it would help with efficiencies between Field and Appellate, shaving down processing days, and would also help employees who are telecommuting as they will not have to physically carry paperwork back and forth. In addition, it would help Board members with being able to access the records quicker so that they can meet some of the deadline dates and get responses back to the appellants. This really goes hand and hand with other issues CUIAB is working on at the education end. On the front end you want to load the claimants with information so they can never get to the appellate division, in other words, do such a good job when they are filing for their unemployment, that there is no waiting period for them. If they do end up in the appellate division they are armed with the necessary information so they go before the judge with all the information and facts they need to win their claim. Member Richardson has been working diligently on an effort to create information and she asked Member Richardson to elaborate on that and where they are with it.

Member Richardson responded that it is a project that the Web Committee is working on in conjunction with AO judge Bill Purcell, a computerized hearing information program that can be installed on the web, to provide the users of the process all of the information they will need in advance of the hearing. The hearing process is very intimidating for the end users. This project is something that was recommended about six years ago, and has stopped and started in the meantime, it is time that CUIAB goes forward and gets this information onto the Web. This should also cut down on the Agency's telephone usage and answering questions, people having to wait in a queue and not getting the information they need. With this they can go online and see what they need to do, figure out how they can get a continuance, how they can maybe get a telephone hearing.

Chair Garcia commented that it complements the direction of moving towards a paperless system that is much more efficient. She has talked to staff about also finding a way to create a database of the claimants' phone numbers so that we can do exactly what the airlines and doctors offices do, by calling to remind about appointments. So that we can call 2,000 claimants the week or a few days before their hearing, maybe capture their email address on the initial claim so that we can send them links to the websites that are being developed. All the information that they have up front will help us so that they show up at their hearing, show up prepared, and hopefully reduce the backlog.

Member Figueroa commented that some of the school districts are using such a system to remind the students of deadlines and other matters.

Chair Garcia responded that the Board will hear with the next reports about the significant impact no-shows have upon the Agency and the workload. She thanked Member Richardson for her work on that project.

Vice Chair Plescia questioned Acting Executive Director Flagg on the privacy issue of the paperless system and stated that he was very concerned about it, with social security numbers being used and identity theft. He asked if Workers Compensation felt that they have enough protections in their system.

Acting Executive Director Flagg stated she did not know how to answer his question about that. She stated that so far, when they met with them, they did not identify that they found any holes in the program but she is certain that anytime that you move from paper to online there are some issues that go with that. She stated that their IT staff works pretty diligently in trying to plug holes wherever things might occur but they did not share with her whether they had any issues with the online. She stated that she knows that CUIAB has had issues with the paper, transporting files from here to there, mailing, shipping them and things like that.

Member Plescia commented that this is something that all IT departments have to keep on top of.

Chair Garcia stated that one of the key things here is that this is something that CUIAB is looking to do internally, so we can create the firewalls and the security systems that we need and we are not looking to contract out with a third party that is going to be the keeper of the information for us and then transmitting it forward. Internally we are going to be able to build the system and have our IT create a framework to handle some of those issues and it is very smart to do a lessons learned before you actually invest in the equipment, because just by them identifying some of the security concerns you've saved up probably two years of headaches down the road. Also, making sure we are focused on what we need when we started designing whatever system we needed internally. She thanked staff for making that a priority.

7. Chief ALJ/Chief Executive Report:

Chief ALJ/Chief Executive Alberto Roldan congratulated both Chair Garcia and Vice Chair Plescia on their positions and welcomed to the Board Member Runner.

Chief ALJ/Chief Executive Roldan reported that they have been hiring and are essentially done with Phase One, and well into Phase Two. They just graduated a class of 13, of which he was a member making it 14, and that they completed their phase of training the week of March 23rd through April 3rd and as of last week have gone out to their respective field offices and starting to hear cases. They have a class of 6 new additional ALJs that started on April 13, and we expect that the May 12th class is going to be a much larger class, probably in the range of 12 – 15 ALJs. Lillian Waters, the Chief Trainer ALJ is doing a fabulous job. Chief ALJ/Chief

Executive Roldan had the opportunity first hand to be one of her students, and will actually be starting a calendar in the Sacramento office on April 24, Friday afternoon. This will be a regular field office calendar to start helping with the caseload.

Chief ALJ/Chief Executive Roldan reported that Chair Garcia has been encouraging him to get out to the field offices, and he was in the Oxnard office yesterday for a field visit. He only has Pasadena, Fresno, and Inland left in terms of field visits to all of the offices. He expects to have all of the site visits completed by the next board meeting.

Chief ALJ/Chief Executive Roldan reported that ALJ II Elena Gonzales, the Acting Head of the Tax Unit, is the person in charge of the Phone Pilot Project and that project is now back on track again.

Chief ALJ/Chief Executive Roldan reported that the Sacramento Office of Appeals conducted a very significant phone mass hearing calendar a couple weeks ago, and that information was shared with both the Acting Executive Director and himself. He stated that what he would like to do is to have ALJ Elena Gonzales and the PALJ of the Sacramento office share information and see if that particular approach can be exported to some of the other field offices.

Chief ALJ/Chief Executive Roldan reported on the Chair's request to distinguish between cases, which is how we report information to the Department of Labor, and actual claimants who come before the Board, because there could be some confusion with the general public as to what exactly CUIAB's workload is. He reported that they define cases as being the decisions that the ALJs issue, but that doesn't necessarily correspond to the number of claimants that are before them. They will now start reporting on both on the number of cases before the Board and the number of claimants.

Chief ALJ/Chief Executive Roldan reported that the March workload was the seventh straight month in which verifications exceeded 30,000 cases. There were 33,645 cases, which corresponds to approximately 21,700 appellants. This was an 8 percent increase over the average month for the fiscal year. The dispositions were at 30,253, cases which correspond to approximately 19,513 appellants. Dispositions were the most in one year and a 14 percent increase above the fiscal year average. When you look at those numbers you start to see the impact of the additional hires that were made in Phase One, but it also reflects the need of the additional ALJs that were authorized for Phase Two. Looking at the numbers for just the most recent week, we are at the point where even though verifications exceeded dispositions in the last week, it was only by less than 300 cases. We keep getting closer and closer to the point where will be processing more cases than we have coming in, which is consistent with the projections. We will have dispositions exceeding verifications in very short order. Having 14 new ALJs who are going to deal with UI cases starting as of last week should really turn the numbers around significantly in that particular area.

Chair Garcia congratulated Chief ALJ/Chief Executive Roldan on completing the hires and exceeding what they expected in moving towards Phase Two and getting staff onboard and the training done as quickly as possible. Chair Garcia stated that they had talked at one of the past board meetings about moving the ALJ IIs towards the mass calendars and at that time it was indicated that by mid-April we should be at 75 percent or more hearing mass calendars, and asked where they were in terms of that issue.

Chief ALJ/Chief Executive Roldan responded that they had talked about a goal of reaching participation of 75 percent of the ALJ IIs in mass calendars, and they have moved a lot closer to that goal. Chief ALJ/Chief Executive Roldan did not have a particular number in relation to that goal, but what he did ask in relation to questions that were posed by Member Richardson and Chair Garcia was what was keeping them from getting to the ideal of 100 percent participation, because each ALJ II by definition is someone that can participate in a mass calendar. A mass calendar is, rather than having calendar cases, there are a number of raw cases that are placed in a docket and the judges pull the cases out and they perform on them. You could never reach the ideal of 100 percent use of the ALJ IIs because of a number of factors, including the need to staff outstations. There are 12 field offices, but also have a number of outstations that they have to have coverage on so that claimants do not have to travel long distances to be at the mass calendars. Mass calendars are best organized in the field offices but you cannot have a situation where you are not staffing the outstations in an appropriate fashion for the convenience of claimants. There is also a need to have more experienced ALJs who are participating in hearing complex cases which are not appropriate for putting in a mass calendar. Mass calendars tend to be identified by the PALJs as being less complex cases, one-party cases, cases that are appropriate for a judge to get up to speed on very quickly. One of the other factors is that they have all these new ALJs that are coming onboard and as part of their training they need to be mentored by assigning a more experienced ALJ II or PALJ to actually sit in and watch when they preside over cases so that if they are getting off track or doing something that is not consistent with DOL quality review that can be pointed out and corrected very quickly. While they are going through the processes of training new ALJs and bring them onboard there will be some limited utility of ALJ IIs in mass calendars because they are pulled off for that duty. Vacation and sick leave are issues that also come into play that keep them from having full utility of the ALJs. There is also the factor that the PALJs have to be keyed in to avoiding burn out with the judges. You cannot constantly have them circulating through mass calendars because that is a very stressful type of calendar for them to deal with. He stated that he has encouraged all of the PALJs to really look to having as much participation as possible. The vast majority of ALJ IIs are participating in mass calendars. Usually the PALJs will have a number of ALJ IIs that will volunteer and then they will make the decisions bases on the other factors as to whether they should be in that calendar or not. Also, a number of the ALJ Is who are a little bit more experienced have expressed a willingness and have actually stepped up and have been participating in the mass calendars to help out.

Chair Garcia commented that two things she wanted to point out are that they have been looking at the delays in cases arriving in Sacramento and in looking at reports over the last couple of months they have seen a significant drop in the number of days that it has been taking to move from the field offices to Sacramento. She stated that they appreciate the work that is being done at the field office level to help them deal with those cases sooner. She stated that they know they will be looking at some challenges ahead again with new legislation that was introduced to address the issue of telephone hearings to help people get their cases adjudicated sooner. She stated that in looking at some of CUIAB's workload on average about one out of four people do not show up for their hearing. Either they forgot, they did not get the paperwork, there was some delay, they had transportation, babysitting, whatever problems or challenges they had coming to that office. She stated that that impacts the appellate division and then again the field office and that when they were looking at the claimant and cases numbers that is an explanation sometimes on why those numbers do not match. She stated that you have a person that has two or three issues. Either they created those issues by not showing up to a hearing or there were two or three issues that needed to be resolved. She went on to say that for the public they need to understand that it is not as simple as whether they are entitled to benefits, but that there are other issues that need to be considered. She expressed her appreciation to Chief ALJ/Chief Executive Roldan for providing more information for the Board members to understand the challenges but also the education on what can be done to reduce those impacts and make it easier for the claimants that are in the system to get resolution sooner. She stated that she will be joining him on the road to visit the field offices to see firsthand what is going on out there.

Chief ALJ/Chief Executive Roldan reported that regarding the Dragon Naturally Speaking pilot project, they had a number of ALJs step up and volunteer. They have identified the number of licenses that will be necessary for the project. The number of volunteers was in excess of the number of licenses that they currently have. All of the people for that project have been identified. An issue they have been struggling with is getting cases, as it is not just the judges that do the work that is necessary to get things done, but there is the typing of the decisions, preparations and sending them out. They have had some backlog created because of the pressure on the Hub. Their hope is that the Dragon Naturally Speaking project, since it completely bypasses the Hub, will relieve some of the pressure on the Hub and assist the typist getting out the decisions for those persons that use dictation rather than typing their own decisions or using the voice recognition software.

Member Richardson asked how long they were going to pilot Dragon.

Chief ALJ/Chief Executive Roldan responded that given the nature of the project, from getting the software in the hands of the ALJs who are going to be using it, which will occur within the next week or two, to the end of the project will be about six months. He stated that it does not need to be a yearlong project and that they will get a pretty immediate picture of the impact of the software, figure out the best

and worst case scenarios in which it can be used and figure that out rather quickly. He has talked about it with Rafael Placentia who is heading up the IT portion of the project, and he thinks that is a sufficient amount of time to study the project, and Chief ALJ/Chief Executive Roldan agrees.

Chair Garcia welcomed the other board member to out on the road with them to look at some of the challenges.

Chief ALJ/Chief Executive Roldan reported that a previous Chief ALJ, Jack Dale Clevenger, who served at the board for 20 years from 1959 to 1979, had passed away April 12, 2009. His daughter, Linda Clevenger, also served as an AO judge for a period of time.

Chair Garcia expressed the Board's condolences to the Clevenger family.

8. Branch Report:

a. Acting Presiding Judge, Appellate Operations (AO), Jorge Carrillo congratulated Chair Garcia and Vice Chair Plescia and welcomed Sharon Runner. He thanked ALJ Marti Geiger for her work and service in training for the new Board members.

Acting PALJ Carrillo reported that for the month of March 2009, Appellate Operations (AO) registered 1,964 cases, which is 25% above the fiscal year average of 1,571 cases and the highest number registered since March 2005. This number is due to the hard work of registration staff and the continued use of overtime. Even with this high number, AO has a backlog of over 600 unregistered cases since last week and has climbed even further to 800 unregistered cases. We like this number to be much lower, at least in half, at most 200 to 300 unregistered cases. We have 4 full time staff members assigned to registration and borrow from other units to help when possible. We will be adding one new registration staff person at the end of this month through a transfer and we will be hiring another as a Permanent Intermittent to help keep up with the workload.

AO closed 1,780 cases in March which is 16% above the fiscal year average. AO has benefited from the help of one full time retired annuitant and another who has worked half time. We have hired one Permanent Intermittent Administrative Law Judge, Kelly Boyd Van Camp, who started on April 8, 2009 who was present and introduced to the Board. AO is also in the process of hiring a second Permanent Intermittent ALJ, Peri De Marco, who will be starting at the end of this month. We have a team of three ALJs, Nancy Kirk, Bill Purcell and Pat Poyner, who are providing training to Ms Van Camp and Ms. De Marco. I want to especially thank Nancy Kirk for planning, developing and organizing the training program.

The Board appeal rate for March rose to 7.4%, 23% above the fiscal year average and significantly higher than the 4.9% appeal rate in February 2009. The balance

of open cases rose to 2,270 cases, which is slightly above the fiscal year average of 2,254 cases.

For the first time in over five years, Appellate Operations met all three Department of Labor time lapse guidelines: 60% of its dispositions were within 45 days of the appeal date, significantly above the 50% standard expected by DOL; 93% closed within 75 days of the appeal date which is above the expected standard of 80%; and 98% closed within 150 days of the appeal date which is above the expected standard of 95%.

Member Richardson congratulated Acting PALJ Carrillo and staff on meeting the DOL time lapse guidelines and commented that that achievement is due in large part to their hard work.

Acting PALJ Carrillo responded that back in September or October he was reporting that AO only closed under 5% of cases within 45 days and his goal was that they would get up to 30% at some point in time but even that seemed rather difficult. So to be there are 60% is a real testament to staff who works very hard, and who care about the Agency, the work and the parties.

Member Montañez also congratulated AO and asked if they will be able to sustain that.

Acting PALJ Carrillo reported that unfortunately, AO's case aging number (the average age of open cases) rose to 59 days, which is significantly above DOL's guideline of 40 days or less. The primary cause of this high number is missed applications to vacate under section 5068 of our regulations. When a party misses a hearing and receives an unfavorable decision on the merits of the appeal, its appeal is treated as an application to vacate the ALJ's decision on the merits. The field ALJ must decide if that party had good cause to miss the hearing. If the ALJ issues an order finding there is no good cause, the order and the appeal to the ALJ decision must be forwarded to the Board. Unfortunately, over 169 cases were not forwarded and they are now at the Board. Many of these cases are over a year old and their numbers have significantly impacted our case aging number. We are going to expedite the processing of these cases to close them as quickly as we can before the end of this month but it will likely take us awhile to do so and will impact our time lapse numbers for the next couple of months as we focus on these cases instead of the newer appeals. Therefore, you can expect that we will not meet time lapse standards for the next month or two. These cases could also affect our case aging number for the next two months. Meanwhile, we have been working with Field Operations to identify any other missed applications to vacate and to provide training and reports to help us identify and catch these cases if they are inadvertently missed in the future.

Chair Garcia asked if it would be appropriate to report those cases separately or differently because this is an unusual situation which is not of our making. She stated that as she understands from the last Board meeting discussion the cases

had been closed incorrectly and never forwarded to AO so that they were never in our possession. She asked if it was possible to report them separately so that they do not impact what the true numbers are.

Acting PALJ Carrillo responded that he can work with IT to see if they can identify those cases and separate them out so that they know what the case aging would have been had they not had those case. He stated that he could report that at the next board meeting.

Member Richardson commented that that sounded reasonable because then they can tell how they are doing with the regular caseload.

Chair Garcia commented that last month they also talked about what could be done differently so that it does not happen again. In this case it was some training issues and some identification issues which had them going to the closed folder verse the adjudicated and undecided.

Acting PALJ Carrillo responded that they are working with Field Operations to develop a monthly report in which they will track these cases so that they can catch them early if they are missed. They are also in the process of providing some training to the mail clerks who are the ones that are mailing the decisions and also generating a coversheet that would go on these cases so that the mail clerk can see the coversheet and immediately recognize that they need to be forwarded to the Board. He stated that this situation will affect their time-lapse for the next month or so because they are going to concentrate on working on these old cases and not be able to concentrate as much on the new cases as they have been to date. He stated that they should be done in a month or two and then they should be able to go back and hopefully maintain their time lapse measures.

Member Richardson asked if there was a way to assign the cases to AO so that there is one person focusing on these older cases verses spreading them around the entire unit.

Acting PALJ Carrillo responded that they have been assigning them to all the ALJs because they all know how to handle these cases and rather than having one person doing so many of these cases they try to spread them out so everyone has a fair amount to do. Everyone has been alerted that these cases are important and need to be processed. By assigning them across the board they should be able to get most of them through without being to burdensome on anyone individual judge.

Member Figueroa asked if there was anything they could do as the Board to expedite or assist him in that matter.

Acting PALJ Carrillo replied that he has asked his secretary, Juanita, to track these cases and she has been working with Cathy Vandeleur to identify these cases and they are going to try to make sure they close them before the end of the month so

that they are gone and not outstanding. He stated that they will keep track of them and perhaps have staff point them out to the board.

Member Figueroa commented that she appreciates the emails and calls from staff prompting her when to expedite cases.

Acting PALJ Carrillo noted that sometimes they are sending cases to the Board with one or even the same day due date and the Board is closing those cases within that time period. He stated that the success numbers is due in part to the work of the Board.

Chair Garcia pointed out that on average the Board members have been working on 400 cases a month each and that really is significant especially when this Board operated with all the growth it was having in claims with only four members. She commented that they also have a reduction in third member cases. They are having great communication between the board members that render a decision and that communication is key, providing your point of view on an issue that's significant and that is happening in a very short time span. She stated that they are certainly taking advantage of technology, working with the staff members to look at getting a turnaround time in the same day in many cases and then having that communication between the Board members. She stated that they honor the work that the judges are doing at the field level and at the appellate division and they are doing their part also to make sure that they get the cases out in a timely manner to meet the deadlines imposed. She thanked the support staff and Board members.

Acting PALJ Carrillo reported that three of AO ALJs are going to participate in a pilot, along with ALJs from the Field Operations, to use Naturally Speaking Dragon, a voice to text software program, for dictating decisions. In the case of AO ALJs, they will be using the software to dictate proposed Board decisions for AO's Decision Typists to put into final form. With the current workload and expected increase in AO's work as a result of Field Operations' increased production, the use of this software should help reduce the amount of typing that our decision typists have to do and will hopefully allow them to keep up with the typing workload.

Finally, Acting PALJ Carrillo reported that AO ALJ Bill Purcell is in the process of reviewing several agency pamphlets and forms that explain the hearing process and procedures to the parties. His goal is to ensure that the information is accurate, concise, useful and easy to understand. He will be working with representatives of the different branches to accomplish this task. It is my plan to have him also review the letters and forms that Appellate Operations and the Board use for the Board appeal processes so that our forms are similarly useful and concise.

Member Richardson commented that Acting PALJ Carrillo picked a good person in ALJ Bill Purcell because before he joined CUIAB he ran the entire UI program in Connecticut. She thanked him for all his hard work and extra work on making sure

CUIAB's forms have readability.

Chair Garcia commented that the Board took action on at the previous Board meeting on the electronic transfer of the files that were in the possession of the appellate judges so that they arrived at the Board electronically and allowed the Board members to meet some of those S-Dates and M-Dates that has been significant as well. She stated that if they have a way of tracking that it would be important.

b. Deputy Director Pam Boston on behalf of Administrative Services congratulated Bonnie and George to their new positions and looks forward to working with both of them. Also, she welcomed Sharon Runner to the Board.

Deputy Director Boston reported that they have hired a new Labor Relations Officer, Elbia Jue. She comes from the Department of Corrections, the Receiver Program. At the Department of Corrections she is currently working in their discipline unit providing guidance and expertise to management and supervisors on employee discipline, advising management on labor relations issues, grievances, etc. She has worked in the personnel area since 1992 and came highly recommend to CUIAB. She stated that they did make one minor change to her position. In the past she would represent CUIAB at the Unit 2 (ALJ's) bargaining table, and that will now be changed over to Kim Hickox. The reason that decision was made is because Kim Hickox currently represents on Units 1 and 4 (support staff), and it is a good addition for Kim to do the Unit 2 also. Elbia Jue will be starting April 27.

Deputy Director Boston reported that the SEIU contract has been ratified by the members. For our agency that is Unit 1 and Unit 4. It now has to go to the Legislature and Governor for approval which is still pending. As far as Unit 2 is concerned, there has been no progress in March bargaining.

Deputy Director Boston reported that during the month of May they will be conducting their first bi-annual bilingual pay audit. Last year they made some changes to the bilingual pay program to include a process by which individuals who receive the bilingual pay are recertified every year. In order to be eligible for bilingual pay an individual must perform bilingual duties on a continuing basis averaging 10% of the time. They have established the months of May and November for these audits, during which they will be completing a time ladder outlining the time spent performing these bilingual duties. Then in July they will send out information to the PALJs who will recertify their employees so they will continue to receive the bilingual pay. They have computerized all the tracking sheets to make it very easy for the employees to complete so they hope it will not take a lot of their time. They do realize the workload is the priority but it is very easy for them to complete. CUIAB currently has about 70 employees who receive bilingual pay of \$100 per month.

Member Figueroa asked how many different languages are represented.

Deputy Director Boston responded that the bilingual people will do the language they are proficient in. She did not have that number but will get it to the board.

Vice Chair Plescia commented regarding PALJ Carrillo's report (Attachment C) that all the offices have continued to improve every month and asked that they be told they are doing good job. He commented that he was still concerned with Pasadena and asked if they have been helped out. They do the least amount of cases and take the longest time. He asked if there was something they need to do to help them.

Chief ALJ/Chief Executive Roldan responded that Pasadena is on his list of offices to visit and that is one of the conversations he will be having with the PALJ Irene Server, as to what they can do to assist them in making that change because the other field offices have made significant adjustments. He stated that he would also like to take the best performing offices and the persons who perform the functions in related offices who are at the top of the list and have them communicate directly with the people who are dragging along behind in their performance. He stated he might even have them come out and visit Orange County, which is in driving distance, and spend a day or two with the Pasadena staff who are struggling a bit in this area.

Vice Chair Plescia asked what was the Tax Office.

Chief ALJ/Chief Executive Roldan responded that the Tax Office was located here in Field Operations Headquarters. It is a direct report to the Chief's Office and he introduced the Acting PALJ Elena Gonzales who was in the audience. Acting PALJ Gonzales stated that it is the transfer point for all the employer tax cases, the employers who have to pay on their accounts to pay the unemployment benefits. They farm some cases out to the local offices where the auditors are to have the tax hearings. They do the more complicated ones or rulings in house at the Tax Office located on the 2nd floor. They have four ALJs assigned to the Tax Office, but they are also doing the phone pilot project for UI hearings from the Tax Office.

Chair Garcia clarified what they are really looking at is hearings that are being held at satellites coming on to Sacramento and the impact that is having coming from the satellite offices.

Member Richardson pointed out that with respect to the tax cases, many of them are in negotiation verses hearing. So you have a petitioner and respondent and many people do not want to go to hearing, and so there is a lot of involvement with EDD in negotiating back and forth. These are not your regular UI cases that are heard in the field and then move to appellate. They move in a very different way.

Chair Garcia thanked Deputy Director Boston, Acting Executive Director Flagg and the rest of the staff for leading the furlough committee effort because it really kept communication open with the field offices, and we were one of the State Agencies

that were ordered under the Governor's Order to do a self-directed furlough. She stated that as they talked about all the challenges this Agency had they forgot to talk about the impact of not being available two days a month and now one day a month until the Legislature acts. The doors have not closed here one day a week, and in fact we have staff working Monday through Friday and on overtime to address the backlog and the needs of the claimants. In large part the ability to do that was driven by the work that the staff did in making sure the Board knew the impact to the local operations, the impact to appellate and giving them all a voice in this discussion. She thanked Jehan, Pam and the rest of the staff that participated in that.

9. Chief Counsel's Report:

Chief Counsel Ralph Hilton congratulated Chair Garcia and Vice Chair Plescia and welcomed Member Runner to the Board.

In litigation Chief Counsel Hilton reported that the Board is currently carrying 187 cases. Three new cases were filed last month and two cases were closed. In both of those cases the Superior Court affirmed the decision of the Board.

Chief Counsel Hilton reported that in the 3rd extraordinary session of the Legislature AB-29 was passed. It deals with a couple of items. The one item that affects the Board relates to phone hearings. The bill has a provision that, in essence, instructs CUIAB to adopt regulations to liberalize our current regulations with regard to phone hearings, to make our hearings more assessable to people who cannot attend them in person. Proposed regulation action has been placed on the rule making calendar and we will be drafting some regulations in that regard. AB-29 is affective 91 days after the end of the extraordinary session. CUIAB should have new regulations by the end of the year.

Member Figueroa requested before he sends out the recommendations that it go through the Board.

Chief Counsel Hilton responded that the Board will have to approve the draft regulations as part of the process.

Chair Garcia asked when about the rule making calendar and the regulation process.

Chief Counsel Hilton replied that the rule making calendar is just a place holder. The Office of Administrative Law requires that each agency submit a list of regulations that it contemplates adopting, amending, or repealing at the beginning of every year. CUIAB has already passed the due date for the rule making calendar, but since this is recently-adopted legislation, we will be able to add these regulation changes to that rule making calendar. After that it is just a matter of engaging in the regulation process, which includes drafting the new regulations, publishing them, and conducting hearings.

Chair Garcia requested that this be added as an update every month so that the Board knows we are in the process, to make sure that we don't end up in noncompliance.

10. Unfinished & New Business:

Acting Executive Director Flagg introduced Lori Kurosaka to the Board. Lori comes to CUIAB on loan from the Labor and Workforce Development Agency, and in the week and a half she has been here she has been invaluable.

Acting Executive Director Flagg reported that last month the Board and Chair Garcia had asked that they come back with a list of things that could potentially be purchased in the 4th quarter of this year versus waiting until the 2009/10 fiscal year budget. She deferred to Renee Erwin who presented the budget proposal via PowerPoint. (Attachment D)

Renee Erwin presented the 2008/09 Update and the 4th quarter Spending Plan. (Attachment E) She reported that CUIAB has in its reserve for the 2008/09 budget year the Unallocated Reserve that was approved by the Board in the amount of \$1.6 million that was not allocated to any specific branch; an additional 1.3 million that represents a 4% Cost of Living Adjustment for the ALJ's, dependent upon a labor negotiations; and a 2006/07 Prison Industry Associations encumbrance in the amount of \$126,000.

Member Richardson commented that she was looking at the PowerPoint Ms. Erwin presented last month and asked if the Unallocated Reserve was on that PowerPoint.

Ms. Erwin responded that that it was not on that PowerPoint.

Member Richardson responded that then last month when they were looking at the \$4.2 million under Option A we actually had more than \$4.2.

Ms. Erwin replied that they did, but part of that was \$1.6 million the Board allocated for the Phase One and Phase Two Workload Reduction Plan. They used that money to fund those plans.

Ms. Erwin corrected information that was provided at the last Board meeting and clarified in regard to CUIAB's funding levels. At the last Board meeting she indicated that the 1st and 2nd quarter over-base earnings were at 32%; the correction is that the 1st quarter is actually the last quarter of the Federal fiscal year and that quarter was funded at 100% for both base workload and over-base workload. That would be the \$568,000 for the 1st quarter of over-base earnings. Then we go to the 2nd through the 4th quarter earnings the funding levels are unknown until the Federal budget is passed and as of yesterday EDD still did not have an answer as to CUIAB's funding levels. So there is an uncertainty as to whether CUIAB would be receiving 32% for over-base earnings or up to 100%

funding for over-base if there is no Federal shortfall.

Chair Garcia asked if there were any restrictions on the 1st quarter funds.

Ms. Erwin responded not other than that is be spent for UI activity.

Chair Garcia asked if we had to spend it down by the end of the fiscal year or does it carry over to the next one.

Ms. Erwin replied that if we do not spend any of our budget those dollars are returned to EDD and the UI dollars are available to them to utilize in what they call the 5th quarter. It is the last quarter of the Federal fiscal year. What they have done historically is they will use those moneys for their operations during that last quarter. She stated that CUIAB would lose anything that it did not spend.

Member Richardson commented that again she was looking at last month Option A and Option B and she sees 2nd quarter \$1,477,132 and then 3rd and 4th quarter on the new document \$1,795,683. Then last month we had \$1,431,196.

Ms. Erwin responded that that was because last month we did not have our full 3rd quarter completed and since then we have received our March figures.

Member Richardson agreed and then commented that CUIAB actually has more to spend.

Ms. Erwin stated that the workload cases closed out came in much higher numbers in March than what was anticipated.

Ms. Erwin continued to report that the document shows two columns for the Board to consider whether we would be putting together a plan to spend at the 32% funded rate or the 100% funded rate. As shown in the 2nd quarter the UI that is subject to reduced funding is coming in at \$826,000 at 32% or if it is funded at 100% it would be \$2.5 million. Also included in the over-base funding they discovered from EDD is the EUC program, the emergency extension that was effective in August of 2008 and even though that is being captured in over-base it is not subject to reduced funding. It is guaranteed 100% funding as an emergency program signed by the President. That is why she is giving the Board those two figures so that they can see the difference of how the Agency is being funded in over-base reports provided by EDD.

Acting Executive Director Flagg commented that they found out around March 23 that EDD had been reporting the EUC in a way that looked like it was only being funded at 32% as well but it was actually being funded at 100%. That changes their assumptions and calculations which is why Ms. Erwin has broken it up so that the Board could see the difference.

Member Richardson asked if in fact EDD does report their figures at 32% or are we

just making that assumption.

Ms. Erwin responded that the Board gave that direction back in October when they approved the budget, that they would be spending at a 32% rate until there was a definitive answer.

Chair Garcia asked regarding the EUC money if CUIAB has restrictions on what it can be used for.

Ms. Erwin replied only that it needs to be used for UI activities and administering the extension program.

Chair Garcia asked for clarification. She asked if it meant that it could be used to communicate with past claimants, letting them know that they can apply, can it be used for personnel, technology.

Ms. Erwin responded yes, and that it could also be used for furniture, equipment, anything associated with that program.

Ms. Erwin continued to report that the 3rd quarter is coming in at \$1.8 million at 32% or \$3.8 million at 100%, and the estimates for the 4th quarter are the same figures because historically the 3rd and 4th quarters have always been very close in the numbers of dispositions that are issued. She stated that those are estimates for the 4th quarter. Next she identified the reserve items and those items with variable funding and the total amount that would be available for a Spending Plan is shown in Column A of 32% amounting to \$8.7 million or in Column B a total of \$14.5 million available for spending. What they identified for planned expenditures are (1) what the Board already approved in Phase One and Phase Two Workload Reduction Plans, and these are the revenues after the salaries and wages of the hires and adding back in the earnings that are generated through the dispositions, coming to \$1.3 million at 32% or \$636,000 at 100%. For Appellate Operations, it's \$148,000 at 32% or \$13,000 at 100%. Then in Phase Two the net revenue for Field, Admin., Executive and IT is \$945,000 at 32% or \$397,000 at 100% earnings. Those earnings in Phase Two are just the dispositions from the additional team calendars of the ALJ IIs. The Board also approved an augmentation for overtime for Field and Appellate of \$76,000, for a total in the Workload Reduction Plans of \$2.5 million at 32% or \$1.1 million at 100% earnings.

Member Richardson questioned with respect to the \$8,767,767 which is the total under Option A, doing the math she came up with \$1.2 million difference in terms of Handout #2 and Handout #4.

Ms. Erwin explained how the columns were added up. She stated that the \$826,000 plus the \$651,000 does total \$1.4 and the 100% calculations are \$651,000 plus \$2.5 million is the \$3.2 million. They take the \$1.6, \$1.3 and \$126,568 plus \$3.2 plus \$3.7 plus \$3.7 is \$14.5 million.

Robert Silva reported on the details of the spending plan. (Attachment F) At the last Board meeting the Board approved OE &E augmentation for positions that were being hired through the Workload Reduction Plan. He referred to the handout and indicated that it showed the augmentation by branch, the request and the remaining balance.

Chair Garcia stated the Agency was overdrawn on its overtime situation and asked if that was caught up with in the budget.

Ms. Erwin stated that there are sufficient dollars available in the Temp Help budget that could be used for overtime.

Member Richardson stated that last month under the 32%, Option A, they had \$4,226,512 to work with but now the reserve and available balance is \$8,767,767. She stated that when she added up the EUC money it does not close that gap between the \$4 million and the \$8.7 that they have.

Ms. Erwin stated that the 3rd and 4th quarters were much lower in the previous report because they were estimating the workload based on what the offices had provided to them in their mid-month reports and what was projected in the revise. She stated that in actuality the 3rd and 4th quarter estimates came in at \$1.4 million and they know for a fact that the 3rd quarter really came in at \$1,795,000, so the last two quarters are probably the reason that it is increasing the amount in addition to the \$1.6 million added in of the unallocated reserve.

Ms. Erwin reported on the planned expenditures for personnel services, salaries, wages and benefits. For the Executive Office there is Mr. Egan on an Inter-Agency agreement for 9 months at \$125,965 and Lori Kurosaka on an Inter-Agency agreement from Labor Agency for 3 months for this fiscal year at \$25,863. For Administrative Services the Board approved the CEA 2 classification budgeted at 2 months for an additional \$22,086. Then there are directions issued by a Budget Letter issued by Department of Finance to all state agencies to identify the dollar amount of savings due to the furlough that will be removed for CUIAB's budget authority identified at \$1.5 million salary savings that will need to be removed for the budget and returned to EDD and the General Fund.

Member Figueroa asked where the 10% that staff took showed as a reduction.

Ms. Erwin identified the \$1.5 million as the furlough reduction and stated that there is a directive for state agencies to have their budget appropriations reduced by that amount so they do not turn around and spend it on overtime or new hires.

Member Figueroa inquired how much of the furlough was actual time not here, that people took as a furlough versus the 10% reduction that people took on salaries.

Ms. Erwin responded that what was shown was an across-the-board 2-day / 9.23% or 4.62 for 1 day for some of the staff. She stated that the figure \$1.5 was factoring

all staff at 2 days at 9.23%.

Chair Garcia requested that it be clarified at what percentage rate. She stated that if the Legislature acts based on the negotiations with the Unions that might change the ratio and we do not want to be too fast to give money back that we may never get back. She questioned if any of these dollars, the over-base earnings, is there any method or legal reason that we could not use that to back fill the workdays for the furloughed employees so that we are running at 100% capacity. She asked if there was anything within the Governor's Order or legislation that would not allow CUIAB to use the savings for that purpose. She stated that she thought that she read in the Order that you could not supersede funding elsewhere. She wanted to be clear on the record that CUIAB cannot use any of its dollars that it got to backfill lost days because of the furlough.

Acting Executive Director Flagg responded that we cannot use any dollars to augment staff pay in exchange for dollars lost due to the furlough.

Chair Garcia clarified that even if we wanted to exempt ourselves out of the Order we could not use those dollars to circumvent the furlough order.

Ms. Erwin questioned that CUIAB did get an exemption for overtime and for staff hires.

Acting Executive Director Flagg reiterated that it was very clear that overtime was not to be used in a manner that helps augment staff pay if they were not already working overtime. It is supposed to be used in the same manner as it was being used before, not to replace the salaries lost.

Chief ALJ/Chief Executive Roldan responded that we need to demonstrate that any use of overtime correlates with our Workload Reduction Plan and since we had a Workload Reduction Plan in place before the furlough we would be able to demonstrate that we were using it for that purpose because we could show the correlation of the Workload Reduction Plan. That it is not something new or came into existence because of the furloughs. He stated that CUIAB is in good shape as long as it sticks to the Workload Reduction Plan.

Member Montañez stated she was still unclear with regard to the staff who worked without this money and asked for explanation as to why it could not be used to pay people their full amount of salary if we have the position money.

Acting Executive Director Flagg responded that it was very clear in the Executive Order that we are not to circumvent and supplement peoples lost incomes as a result of the furlough with other means, including overtime. She stated she used overtime because for CUIAB it is a real example. CUIAB has a lot of staff that traditionally and historically have worked overtime and it is alright for that staff to continue to work overtime in the manner that they always have. If CUIAB was one of those agencies that did not have a whole lot of staff working overtime and as a

result of the furlough lost income, our staff could not get authorization to all of a sudden work overtime because it would appear as though we were doing it to replace lost income due to the furlough.

Chair Garcia asked if we can use it to augment new services that we currently do not offer, for example, evening hours or weekend hours or expansion of services.

Acting Executive Director Flagg responded that she did not know the answer but would look into it.

Ms. Erwin replied that she was not certain about the answer but that she did think that CUIAB could go back and ask for an additional exemption to hire additional staff or to spend those dollars in the way that Chair Garcia was suggesting and get an exemption to do so.

Chair Garcia stated that they needed to legal explanation. She did not want to lose the dollars if they are available, she wanted to make sure CUIAB was maximizing its current facilities and access to public so that we are doing what other agencies are doing, providing extended hours, weekend hours and see that we compensate the employees for what they are doing in a way that is fair and does not violate the Order.

Member Richardson concurred and stated that we are looking at the largest unemployment in the state in 25-30 years so we need to drive the case log down.

Member Figueroa stated that people need to understand that that is why there is such a backlog in that there have been other Executive Orders asking for CUIAB to have hiring freezes in previous years and other personnel issues that really have tied our hands in being able to serve the public well because of these budget crisis. She stated that this is a prime example of a way we are being cut back and staff is being cut back at the same time we have to hire and it just complicates the issue. She asked how many of the staff, even though they took the furlough and had the reduction of 9.23%, how many of them actually continued working. She thought that there were probably quite a few people who just kept working even though they had a reduction in pay and they knew about the furlough. She stated that the Board should take note and thank them, letting them know that the Board is aware and that they are not taken for granted, that they were still doing their job and serving the public. She stated she would appreciate knowing who those individuals were.

Member Richardson agreed and wanted to thank them and acknowledge them as well.

Acting Executive Director Flagg asked for clarification as to which pot of money they are being asked to find out if it could be used.

Chair Garcia responded that all of the money no matter what pot so that they are

clear that they cannot use it, for example, to pay back the Department of Finance for exempting CUIAB from the furlough. What in the Governor's Order prevents CUIAB from using any revenue that it has no matter what pot was backfilling that money so that we can self exempt ourselves of being part of the furlough and if that is even a legal possibility. She asked that if that is not a possibility what can the money be used for that would expand existing services that currently do not exist today. For example, if we want to open the field offices on Saturdays and Sundays or if we want to open from 5 – 9 on Thursdays evenings, something like that, could any of this money be used to provide extended services that would compensate the employees for their time and does that require any kind of negotiation with any of the Units that are going to be impacted, or what other legal ramifications should we consider.

Member Richardson commented that the more expedient we are about this the better off the Agency will be as a whole because people are responsible for driving down our backlog.

Acting Executive Director Flagg responded that request would have to be expedited because if we do not use this money it goes away.

Chair Garcia commented that she would rather use it for that than to buy paper, pencils and desks. The staff and the claimants would agree that is the number one goal. She asked if they could agree as a Board to get that information before the next meeting and if there is a possibility that they come back with a plan for the next Board meeting on how we can spend that down so that the Board is not only ready to hear it but to act on it as an action item.

Member Richardson stated that there was a BAC meeting scheduled for the end of April and possibly they would have some preliminary information by then.

Ms. Erwin stated that maybe when they reach the conclusion of her presentation the Board will give them some direction on what dollar amount they want them to look into utilizing after they look at the plans that are proposed for their consideration.

Ms. Erwin reported that the Personnel Services comes to a total cost to CUIAB of \$1.7 million.

Robert Silva gave the report on the CUIAB OE&E 2009/10 Call Letter requests submitted by all of the cost centers that the Budget Advisory Committee, and the Branch representatives identified as priority one items to advance to the 2008/09 4th Quarter Spending Plan (Attachment F). He stated that each fiscal year all branches within CUIAB submit Call Letter requests for operating expenses and equipment which are then vetted by Senior Staff. The report reflects what could feasibly be purchased before the 2008/09 fiscal cut off. These are items that are being requested for the 2009/10 fiscal year but could be purchased this year if approved by the Board. There are a lot of line items, some of the big ticket items

included copy machines and the larger printers that are used in Field Operations that are going to be hitting the end of their useful life expectancy at the end of this current fiscal year. Also included are lump sum tenant improvements which were previously approved by the Board at the last meeting. There are some IT items included such as Dictaphones servers which are at the end of their life. Those Dictaphone servers are what house our digitally recorded hearings as well as the decision dictation. He stated they are also looking to replace the router here at headquarters and the universal power supply which is used in all the field offices in case of emergency power failure. He stated that there were line items for replacement of laptops and PCs within the Agency. The unit amounts listed have been vetted by Senior Staff, but they are going to require further paring down. He commented that Member Richardson mentioned earlier about the audit and IT assets. With regard to the laptops, the unit numbers listed are all of the laptops within our Agency that are going to be out of warranty at the end of the fiscal year and that we may not need to replace every single one of them but that they will work with all the managers within the Agency to see which ones are being utilized consistently to pare that number down, but there was not time to do so before this Board meeting. It will be done before purchasing.

Chair Garcia asked if on page 5, slide 3 of Handout #4 which is showing the call letter request and on the following page 6, the Workload Reduction Plan, was the 4th quarter recap.

Ms. Erwin responded that page 6 is a recap of all of the previous slides.

Chair Garcia then asked what was added to the \$2,529 to equal \$2,539 and were we off by \$10,000.

Ms. Erwin indicated to go down two more rows, under the \$1.7 is the \$2,529.862 for the priority one call letter request.

Chair Garcia asked where the \$2,539,099 comes from, stating that slide 5 shows 4th quarter and slide 6 is 4th quarter. She asked if the amount should be what is reflected on page 5 and not what is reflected on page 3.

Ms. Erwin responded that page 3 is the Workload Reduction net revenue cost, and page 5 is the line item that states the 2009/10 call letter request priority one that we are moving into proposed spending in 4th quarter. If you add up all of the items that were proposed to the board in the 4th Quarter Spending Plan recap, what was identified in reserve of \$8.7 million at 32% or \$14.5 million at 100%, and then each line item below the workload reduction plan, the net revenue costs for that, the personnel services costs for the Inter-Agency agreement, then the overtime funding and CEA 2 position, the cost for the call letter requests, that comes to a total spending of \$6.7 million or \$5.3 million leaving remaining available balance of \$1.9 million or \$9.1 million.

Chair Garcia commented that when looking at page 3, the workload reduction and

then page 4, personnel services, page 5 the 2009/10 call letters, she did not see where the \$568,502 was added back in. Where is that and how are we planning on spending that.

Member Richardson asked if that should be added into the bottom line numbers that the Board was looking at.

Chair Garcia stated that on page 3 is where they were reflecting the workload reduction plan, page 4 is the cost of the personnel services, page 5 consists of the 2009/10 call letter request, that is the subtotal spending plan but she does not see any of those numbers that added back the \$568,502 on page 2 that was not included last quarter that we got from 1st quarter over-base earnings.

Member Richardson agreed and stated that we got the 100% of earnings.

Ms. Erwin responded that the \$568,502 is part of the total \$8.7 million or \$14.5 million.

Chair Garcia questioned how was it divided up.

Member Richardson commented that page 2 is a reflection of how much money there is to spend which includes the \$568,502, the \$1,477,132, the \$1,795,683 and the \$1,795,666.

Chair Garcia reiterated that she wanted to know how the \$568,502 was divided up between the 3 priorities.

Ms. Erwin stated that they have not divided it up and that that was for the Board to decide how they wanted to divide it up and whether they want to spend all of it or part of it.

Chair Garcia stated that if they can address all these issues and they still have that \$1.5 million to address regarding the backfilling our obligation with the furlough that that is something we can use.

Ms. Erwin continued, stating that the internal deadline for CUIAB purchasing is Thursday, June 4, 2009 and then the external control agency deadline with EDD for submission of any purchasing by June 18, 2009, and the CUIAB pending fiscal year board meetings that remain are May 12 and June 9 .

Robert Silva continued to report on the 4th Quarter Spending Plan, commenting that these are items that are slated for 2009/10 fiscal year but could feasibly be purchased this year given the tight deadline in which to purchase items.

Acting Executive Director Flagg clarified that the Budget Advisory Committee was reorganized under the previous Chair's direction so that now the Senior Staff for each branch within CUIAB has complete responsibility for the call letters. So the

spending plan before the Board has been vetted by each Senior Staff member and she has reviewed them as well, but ultimately it is the Board's decision as to what to authorize for purchases, recognizing whatever money that is left over will probably go back to EDD.

Chair Garcia clarified for the Board that Member Richardson represents the Board on the BAC committee. It is a smart idea to have the people dealing directly with these purchases and know their staff and know the demands it might have on their time to be at the negotiating table so that we are not buying pencils and desks that are not priorities. She stated that if it is the Board's pleasure they will continue with that format. She thanked Member Richardson for sitting in on those meetings.

Member Montañez asked Acting Executive Director Flagg if she had gone through the entire budget spending requests.

Acting Executive Director Flagg responded that she has gone through most of it but has not fully vetted the Field Operations proposed expenses, but Chief ALJ/Chief Executive Roldan has done so.

Chief ALJ/Chief Executive Roldan stated that was his responsibility and that he sat down with Hugh Harrison, Maria Gomez, and Robert Silva, and they went through the proposals and that there were a number of expenditures that were requested by the respected field offices that were removed for the plan. Their approach was not that we have a lot of money so let's spend it all, but that his approach was that he did not want to have an expenditure out of Field Operations that he would read about in the newspaper. If he could not justify it to a member of the public they were not going to spend money on it even though we had an overall budget that might have allowed it.

Member Richardson commented that she sat at the BAC meeting and that everyone was extremely conservative in terms of furniture and things of that kind. The expenditures presented for furniture are for the new ALJs being hired. Whatever cannot be pillaged from the existing inventory will be purchased new and built out where needed. Each person that sits on the BAC committee reviews the proposal and approves it. She stated that it was her understanding that it was unanimous in terms of the BAC committee supporting the Field Operations expenditures and that Chief ALJ/Chief Executive Roldan was very circumspect and very conservative in his spending.

Chair Garcia commented that if you look at the items you will see that we have a lot of antiquated equipment that is due to be replaced anyway and it is much cheaper, better technology today, and to go with the newer faster equipment than to try to repair system equipment. She commented that even the Executive fax machine was extremely outdated. One of the reasons she thinks this is especially important is that all of our work is driven by deadlines and it is important that we are able to time stamp the information, be able to retrieve a copy, showing that you sent something from one office to another, and a lot of this older equipment does

not provide for that. Also, when you are dealing with limited staff and the amount of workload they have, you may have to stand there and manually feed the older equipment because it holds seven pages versus new equipment that might be able to hold 150 pages, hit a button and be able to walk away from it all stored in memory. All of the equipment that is requested in the Spending Plan, she is comfortable that each individual staff and department head has taken a closer look at it and that the BAC committee had vetted out the benefits of moving forward on the purchases that make sense. She said that unless the Board wanted to go line by line with these purchases she was ready to move on them and asked for a motion.

Vice Chair Plescia stated that he was not familiar with the purchasing process, but in trying to sympathetic to the budget, a ergonomic chair for \$430 seemed extreme.

Robert Silva responded that CUIAB is bound to purchase all of its furniture from Prison Industry Authority.

Vice Chair Plescia commented on the cost of BlackBerrys and Verizon service and asked why the Agency was paying for BlackBerrys.

Robert Silva replied that DGS requires us to go through bidding with that equipment as well.

Acting Executive Director Flagg commented that we do not have a choice in some of the ways we conduct some of our purchasing, that it is a state negotiated contract for some things.

Vice Chair Plescia also commented that under Information Technology in the proposal a Plantronics CS50 headset was quoted as \$500 in one place but \$300 in another.

Rafael Placentia responded that they were just different models. It depended on what the model was used for.

Robert Silva answered that the Plantronics CS50 headset was something that Field Operations uses for reception work and the one that IT has placed in their budget may just be an incorrect model or unit cost.

Chair Garcia stated that over the next year we would be purchasing quite a bit of things and can they take a look at that Prison Industry contract and whether there is an out. She stated that she understood earlier that we had a contract and were at the end of it.

Ms. Erwin responded that the Prison Industry encumbrance is that CUIAB bought a voucher for future purchasing so that is money that expires at the end of this fiscal year, and there is a means where you can go back and request that the money be

advanced for another three years but it is subject to approval by the control agencies and we take a risk of losing that money.

Pat Houston, SSM II responded that Business Services purchases everything for the Agency, and with respect to the PIA furniture as a whole we are mandated, all state agencies are, to purchase from PIA for all furniture. There is process where we could ask for a waiver if under certain circumstances PIA cannot meet our requirement in time or if they do not have a particular product. For example the ergonomic chair, there are some individuals that require a specific type of chair and so therefore PIA may not offer that, so we could get a waiver and at that point we go out to other vendors. That is when we purchase through small businesses, which is another mandate.

Chair Garcia clarified that at this point, CUIAB is spending down the voucher that it has for this year. She asked that when we are looking at fast tracking, for example all the new hires, can PIA meet our needs currently or are we in the middle of the exemption process for any of these things.

Pat Houston replied that CUIAB is not in the middle any exemption yet because we have not received any requests to purchase, but it is possible if there is a need for a chair right away and the office does not have one we could go through that waiver process.

The 2008/09 4th Quarter Spending Plan was approved unanimously by the Board.

Ms. Erwin stated she wanted to give a sneak peek at the budget for FY 2009/10. What they have on the horizon are some pending adjustments that need to be determined, and that is the May revise. CUIAB and EDD prepare our estimates, those estimates are then sent and presented to the Labor Agency for its approval or for any revisions before it then goes to the Department of Finance for final approval. That will then adjust our workload levels, give us authority for additional temporary help positions and the associated dollars to fund those. The furlough appropriation reduction is an unknown, whether we will need to reduce our budget by the 1 day or the 2 days, the 4.6% or 9.24%. So we are looking at anywhere from an \$3.7 to \$5.4 million adjustment that would need to be taken out of our base budget. In the May revise we are asking to reestablish 25.5 permanent positions that are subject to be abolished come June 30. That is because under the Government Code positions that remain vacant and unfilled for 6 months or longer are then subject to being abolished. CUIAB is asking that these positions be reestablished and not taken away from its budget along with the associated dollars of \$1.7 million.

Member Richardson asked if CUIAB had some positions that were lost last year as well that we are asking be reinstated. Ms. Erwin replied that we did not lose any positions last year.

Acting Executive Director Flagg clarified that these are the positions to which Member Richardson was referring. These positions are the ones that they have reported on previously. The positions do not technically go away until the end of this fiscal year. So this is what we are asking Department of Finance for at this point, can we get them back before they officially go away.

Member Richardson asked when the positions were lost. Acting Executive Director Flagg responded October or November of last year, because the positions were unfilled.

Member Richardson clarified that the positions were lost but now CUIAB is asking for them back.

Acting Executive Director Flagg responded that was correct. These are permanent positions as opposed to permanent intermittent positions, which are temp help positions. In this Agency we only are allocated a certain number of permanent positions, which are really important. Most of the hiring that is being done now under the Phases One and Two are essentially temp help positions so those will go away. These would be permanent positions. It is important for CUIAB to try and get them back if we are able. But the positions had been unfilled for many years. This Agency is allocated X number of permanent positions. Historically, for probably 4 to 6 years CUIAB had several permanent positions that remained unfilled for a number of years because they come with money so we were using those dollars associated with those positions in different ways. It helped CUIAB fund certain things in the past but now CUIAB actually wants to get those positions back and the associated dollars.

Member Richardson clarified then that the positions had not been filled for a number of years.

Member Montañez asked if the positions were support staff.

Acting Executive Director Flagg responded that the positions are at all levels of classifications.

Ms. Erwin went on to state that the level of Federal funding for the 2009 Federal fiscal year is unknown, and the BAC is meeting in Sacramento on April 23 to begin flushing out these issues and also the call letter requests. For a comparison, the 2008/09 initial budget approved by the Board was \$78.5 million. What has been seen is increased earnings of about \$5.6 million, so it is known for sure that next year's budget will not be any less, at a lower level, than it is currently with the \$7.8 plus the \$5.6 million, so we are looking at a potential \$84 million budget for 2009/10. The budget for next year should have ample funds to fund the temporary help resources, retired annuitants, and new hires and overtime to keep up with the increased workload, in addition to some new technology pilot projects and advancements that this Agency would like to pursue.

Chair Garcia asked if the initial budget for 2008/09 of \$78.5 million take into account the \$1.5 million give back under the furloughs. She commented that when the Board initially approved the \$78.5 million and then the \$84.1 estimate with increased earnings, does that reflect an estimate that includes whatever has to be given back the 4.6% or 9.23% for furloughs.

Ms. Erwin responded yes it did. The \$78.5 million has to be reduced by the \$1.5 million that needs to be given back and the \$84 million would have to be reduced also.

Member Richardson thanked Ms. Erwin, Mr. Silva and staff for all of their hard work on the budget.

Chair Garcia stated that Acting Chair Aguiar had asked for an analysis of what percentage of CUIAB's employees are represented by SEIU.

Acting Executive Director Flagg responded that it was approximately half, and stated that she would forward the email with the analysis to the Board members.

Deputy Director Boston reported on the recruitment update, starting by commending Personnel staff for going above and beyond the call of duty to get these recruitments done and get applications to the field offices. Phase One began in October of 2008, with the last hire to be completed in May. Out of the 27 approved hires for Phase One recruitment there is still 3 ALJ positions not yet to be filled, and those are in Oakland, Inland and Sacramento. Out of the 30 approved support staff hires there are 3 positions still not filled, one within the Regional Support Unit, and one in Oxnard and one at Appellate Operations. They fully expect to have all these hires completed within the time frame outlined for the Phase One hiring. In the Phase Two hiring, out of the 40 ALJ positions approved at the last Board meeting they have already filled 11 positions. Of the 11 positions they have 6 that they are still waiting for approval on the hire form, but she does not anticipate a problem with getting those approved. In filling these positions Personnel identified efficiencies to make the process a little bit easier for the offices. For the offices that had current recruitments going on they just contacted them and told them to increase the number of hires so that they could get them on board a little bit more quickly. The other ALJ recruitment packages were sent to the offices on April 6 so they expect that to be completed shortly.

Member Richardson asked Chief ALJ/Chief Executive Roldan if he expected to get the 6 new ALJs onboard in time for the May training.

Chief ALJ/Chief Executive Roldan responded that he has 5 approvals at his desk and a few others that have been passed along to Acting Executive Director Flagg that they are processing. He expects the May class to be a very large one. He believes the majority of the people are going to be able to make that May class. He does believe they will be onboard in time for the May class.

Member Figueroa asked if the positions requests go to Chief ALJ/Chief Executive Roldan and then they all have to go to Acting Executive Director Flagg for approval then where do they go back to Personnel.

Chief ALJ/Chief Executive Roldan responded that the process that was agreed to before he came on board was that he would review them and then they were submitted to Acting Executive Director Flagg for final review. Then once they are approved by Acting Executive Director Flagg on behalf of the Chair they go back to Personnel and the offer can be made. So the offer is not made until there is a double review by both himself and Acting Executive Director Flagg currently.

Member Figueroa stated that she thought that the Board did not delegate to anyone other than the Chief ALJ/Chief Executive.

Chair Garcia responded that the Chief ALJ retains the right to do the hiring but the oversight of it is done by Acting Executive Director Flagg but the signature is still the Chief ALJ/Chief Executive. The Acting Executive Director is signing off on those hires with Chief ALJ/Chief Executive Roldan but she is not holding hires pending her approval. That authority is still with Chief ALJ/Chief Executive Roldan.

Member Figueroa asked why the Acting Executive Director then sees them. She stated that there is a time constraint and that Chief ALJ/Chief Executive Roldan is the attorney.

Chair Garcia stated that one of the problems that was uncovered in this process was that there were some offices that were a bit more responsive than others. She stated that some of the field offices were more aggressive in their hiring and recruitment process and some of the field offices that were not. So having the Executive Director working directly with the Chief they were taking a look at which of the field offices were moving along or not. That authority still remains with Chief ALJ/Chief Executive Roldan. She stated that it was oversight and not approval.

Member Figueroa stated that she would propose pursuant to the AG's Opinion to allow Chief ALJ/Chief Executive Roldan the authority to hire the ALJs and give oversight to Acting Executive Director Flagg for the staff.

Chair Garcia responded that that authority still remains with Chief ALJ/Chief Executive Roldan and without Acting Executive Director Flagg's signature that hiring could still occur. She stated that Acting Executive Director Flagg is signing off on those with Chief ALJ/Chief Executive Roldan but there no holding up the hiring because her signature is not on them. She stated that the AG's Opinion allows the Chair to delegate some authority on certain issues but this authority still remains with the Chief ALJ/Chief Executive. His ability to consult with Acting Executive Director Flagg and make a hiring decision still remains with Chief ALJ/Chief Executive Roldan. She stated that it is her responsibility as the Chair to make sure that the Executive Director knows which Field Operation PALJs are moving quickly and which are not. She stated that in the hiring process they saw

PALJs who were aggressively putting together interview teams and some who were not. She stated she was still going to offer herself and any Board member who wants to help create those interview teams so that they can move those quickly. She stated that the Board's request at that last couple of meetings has been to get these people onboard as quickly as possible.

Members Figueroa and Richardson stated that they would be glad to participate in the interview process.

Chair Garcia thanked Personnel for their hard work.

Deputy Director Boston in closing reported that they have not yet filled any of the support staff approved under the Phase Two Workload Reduction Plan but the applications have been sent to the field offices so they should be starting up recruitment soon.

Chair Garcia stated that they want aggressive recruitment and if there is any way they can make the PALJs understand that this is time sensitive it would be appreciated.

Chief ALJ/Chief Executive Roldan commented that Personnel did a fabulous job getting those packets out to the field and it is his understanding that both the ALJ and the support staff packages arrived in the field offices last week. The communication he has received from the PALJs in relation to receiving those is that they have scheduled interviews beginning this week.

Member Richardson thanked them all for moving so quickly with this process of hiring and recruitment.

11. Public Comment:

There was no Public Comment.

Closed Session:

No votes were reported.

Adjournment