



COMPLIANCE REVIEW REPORT

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

Compliance Review Unit
State Personnel Board
August 10, 2020

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INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) personnel practices in the areas of appointments, EEO, PSC's, mandated training, compensation, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Finding
Appointments	Probationary Evaluations Were Not Timely
Equal Employment Opportunity	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contract
Mandated Training	Ethics Training Was Not Provided for All Filers
Mandated Training	Leadership and Development Training Was Not Provided for All Supervisors, Managers, and CEAs
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employee Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Incorrectly Posted Leave Usage and/or Leave Credit
Leave	Incorrect Application of State Service and Leave Transaction
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Area	Finding
Policy	Performance Appraisals Were Not Provided to All Employees

A color-coded system is used to identify the severity of the violations as follows:

- Red = Very Serious
- Orange = Serious
- Yellow = Technical
- Green = In Compliance

BACKGROUND

The CAEATFA works collaboratively with public and private partners to provide innovative and effective financing solutions for California’s industries. The CAEATFA assists in reducing the state’s greenhouse gas emissions by increasing the development and deployment of renewable energy sources, energy efficiency, and advanced transportation and manufacturing technologies to reduce air pollution, conserve energy, and promote economic development and jobs.

The State Treasurer’s Office performs human resources operations for the CAEATFA.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CAEATFA’s, appointments, EEO program, PSC’s, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the CAEATFA’s personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

The CAEATFA did not conduct any examinations or permanent withhold actions during the compliance review period.

A cross-section of the CAEATFA’s appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CAEATFA provided, which included Notice of

¹ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CAEATFA did not conduct any unlawful appointment investigations or make any additional appointments during the compliance review period.

The CAEATFA's appointments were also selected for review to ensure the CAEATFA applied salary regulations accurately and correctly processed employees' compensation. The CRU examined the documentation that the CAEATFA provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application.

During the compliance review period, the CAEATFA did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, arduous pay, bilingual pay, monthly pay differentials, alternate range movements or out-of-class assignments.

The review of the CAEATFA's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The CAEATFA's PSC's were also reviewed.² It was beyond the scope of the compliance review to make conclusions as to whether the CAEATFA's justifications for the contracts were legally sufficient. The review was limited to whether the CAEATFA's practices, policies, and procedures relative to PSCs complied with procedural requirements.

The CAEATFA's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors, managers, and CEAs were provided leadership and development training and sexual harassment prevention training within statutory timelines.

The CRU reviewed the CAEATFA's Leave Activity and Correction Certification forms to verify that the CAEATFA created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a

²If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

small cross-section of the CAEATFA's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CAEATFA's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of CAEATFA positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements. The CAEATFA did not authorize Administrative Time Off (ATO).

Moreover, the CRU reviewed the CAEATFA's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the CAEATFA's policies and processes adhered to procedural requirements.

The CAEATFA declined to hold an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CAEATFA's written response on July 13, 2020, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, December 1, 2018, through November 30, 2019, the CAEATFA made five appointments. The CRU reviewed the five appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Staff Services Manager I	Certification List	Permanent	Full Time	2

FINDING NO. 1 – Probationary Evaluations Were Not Timely

Summary: The CAEATFA did not provide in a timely manner two probationary reports of performance for two of the five appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Associate Governmental Program Analyst	Certification List	3	1
Staff Services Manager I	Certification List	2	1
		5	2

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board’s record retention rules require

that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: The CAEATFA states that although the two probationary reports were completed, it acknowledges that the two probation reports were not completed within 10 days after the end of each one-third period of the probationary period as required.

Corrective Action: Within 90 days of the date of this report, the CAEATFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like CAEATFA, the EEO Officer may be the Personnel Officer.

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).

FINDING NO. 2 – Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CAEATFA’s EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CAEATFA. The CAEATFA also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, February 1, 2019, through January 30, 2020, the CAEATFA had 10 PSC's that were in effect. The CRU reviewed the 10 PSC's, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Blue Sky Consulting Group, LLC, Amendment #1	Technical Assistance	3/15/17 - 3/14/20	\$147,921	Yes	No
Blue Sky Consulting Group, LLC, Amendment #1	Technical Assistance	7/2/18 - 7/1/20	\$500,000	Yes	No
Concord Servicing Corporation, Amendment #1	Master Servicer Consulting	1/1/18 - 12/31/20	\$1,500,000	Yes	No
Energy Futures Group, Inc.	Technical Assistance	3/13/19 - 3/13/21	\$299,999	Yes	Yes
Energy Futures Group, Inc., Amendment #1	Technical Assistance	3/13/19 - 3/13/21	\$299,999	Yes	No
Frontier Energy, Inc.	Contractor Management	5/29/19 - 5/28/21	\$1,500,000	Yes	Yes
Frontier Energy, Inc., Amendment #1	Contractor Management	5/29/19 - 5/28/21	\$1,500,000	Yes	No
Gilbert CPAs, Amendment #1	Audits Services	9/24/18 - 9/24/20	\$21,400	Yes	No
US Bank National Association, Global Corporate Trust Services, Amendment #1	Trustee Services	1/1/18 - 12/31/20	\$285,000	Yes	No

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Zions Bancorporation National Association, Amendment #1	Trustee Services	6/23/17 - 6/22/20	\$11,325	Yes	Yes

FINDING NO. 3 – Unions Were Not Notified of Personal Services Contracts

Summary: The CAEATFA did not notify unions prior to entering into 7 of the 10 PSC's.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

Severity: Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for work that their members could perform.

CAEATFA Reply: The CAEATFA asserts that Government Code section 19132 does not explicitly state union notification is required for amendments to existing contracts.

SPB Response: Amendments to contracts are part of a contract. Therefore, appropriate union notification is required for all contracts and amendments prior to execution.

Corrective Action: It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the work to be contracted prior to executing the PSC. Within 90 days of the date of this report, the CAEATFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as “filers”) because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) and (b), & 19995.4, subd. (b).)

Additionally, the training must be successfully completed within the term of the employee’s probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial basis. (*Ibid.*)

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to

training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the CAEATFA's mandated training program that was in effect during the compliance review period, February 1, 2018, through January 30, 2020.

FINDING NO. 4 – Ethics Training Was Not Provided for All Filers

Summary: The CAEATFA did not provide ethics training to two of four existing filers. The CAEATFA had no new filers during the period under review.

Criteria: New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)

Severity: Very Serious. The department does not ensure that its filers are aware of prohibitions related to their official position and influence.

Cause: The CAEATFA states that despite the STO's tracking mechanism that monitors employees' ethics training completion status, the CAEATFA acknowledges that two individuals did not complete the mandatory ethics training as required.

Corrective Action: Within 90 days of this report, the CAEATFA must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 5 – Leadership and Development Training Was Not Provided for All Supervisors, Managers, and CEAs

Summary: The CAEATFA did not provide basic supervisory training to its 1 new supervisor within 12 months of appointment and did not provide biennial leadership training to 3 of 4 existing supervisors, managers, and/or CEAs.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subds. (b) and (c).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (e).)

Severity: Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.

Cause: The CAEATFA states that despite the STO's tracking mechanism that monitors employees' supervisory training completion status, the CAEATFA acknowledges that four supervisors did not complete the mandatory training required.

Corrective Action: Within 90 days of the date of this report, the CAEATFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors, managers, and CEAs are provided leadership and development training within twelve months of appointment, and that thereafter, they receive a minimum of 20 hours of leadership training biennially, as required by Government Code section 19995.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 6 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The CAEATFA did not provide sexual harassment prevention training to its one new supervisor within six months of appointment. In addition, the CAEATFA did not provide sexual harassment prevention training to its three existing supervisors every two years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subd. (a).)

Severity: Very Serious. The department does not ensure that all new and existing supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

Cause: The CAEATFA acknowledges that the four supervisors did not complete the sexual harassment training within the required time periods.

Corrective Action: Within 90 days of the date of this report, the CAEATFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that supervisors are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments

calculate and determine an employee’s salary rate³ upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, December 1, 2018, through November 30, 2019, the CAEATFA made five appointments. The CRU reviewed three of those appointments to determine if the CAEATFA applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$4,975
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$4,975
Staff Services Manager I	Certification List	Permanent	Full Time	\$5,917

FINDING NO. 7 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the salary determinations that were reviewed. The CAEATFA appropriately calculated and keyed the salaries for each appointment and correctly determined employees’ anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

³ “Rate” is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days⁴ worked and paid absences,⁵ is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

⁴ For example, two hours or ten hours counts as one day.

⁵ For example, vacation, sick leave, compensating time off, etc.

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the CAEATFA had one positive paid employee whose hours were tracked. The CRU reviewed one positive paid appointment to ensure compliance with applicable laws, regulations, policies and guidelines, which is listed below:

Classification	Tenure	Time Frame	Time Worked
Student Assistant	Temporary	11/7/19 – 2/28/20	196 Hours

FINDING NO. 8 – Positive Paid Employee Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the positive paid employee reviewed during the compliance review period. The CAEATFA provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for the positive paid employee.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. (*Ibid.*) If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*Ibid.*)

During the period under review, August 1, 2019, through October 30, 2019, the CAEATFA had 1 unit comprised of 20 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
August 2019	001	20	20	0
September 2019	001	20	20	0
October 2019	001	20	20	0

FINDING NO. 9 – Incorrectly Posted Leave Usage and/or Leave Credit

Summary: The CAEATFA did not correctly enter 1 of 20 timesheets into the Leave Accounting System (LAS) during the October 2019 pay period. As a result, one employee retained her prior leave balance despite having used leave credits.

Criteria: Departments shall create a monthly internal audit process to verify that all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

Severity: Very serious. Errors in posting leave usage and/or leave credits puts the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, the risk of liability related to recovering inappropriately credited leave hours and funds, and/or the increase of the state’s pension payments.

Cause: The CAEATFA states that it has a monthly internal audit process in place that includes the Personnel Specialist verifying leave credits at multiple points; however, the error with the timesheet in question was not caught.

Corrective Action: Within 90 days of the date of this report, the CAEATFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Human Resources Manual Section 2101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

The state recognizes two different types of absences while an employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is considered to be a qualifying or non-qualifying pay period for state service and leave accruals.

An employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.⁶ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs. tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs. tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees⁷ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

⁶ Except as provided in California Code of Regulations, title 2, sections 599.609 and 599.776.1, subd. (b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

⁷ As identified in Government Code sections 19858.3, subd. (a), 19858.3, subd. (b), or 19858.3, subd. (c) or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subd. (c), or California Code of Regulations, title 2, section 599.752, subd. (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period, are not counted or accumulated towards leave credits.

During the period under review, December 1, 2018, through November 30, 2019, the CAEATFA had one employee with non-qualifying pay period transactions. The CRU reviewed two transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	2

FINDING NO. 10 – Incorrect Application of State Service and Leave Transaction

Summary: The CRU found the following error in the CAEATFA’s state service transactions:

Type of Transaction	Time base	State Service Incorrectly Posted	Leave Accruals Incorrectly Posted
Non- Qualifying Pay Period	Full Time	1	1

Criteria: In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: (1) has had 11 or more working days of service in a monthly pay period; or (2) would have had 11 or more working days of service in a monthly pay period but was laid off or on a leave of absence for the purpose of lessening the impact of an impending layoff. (Cal. Code Regs., tit.2, § 599.608.) Absences from state service resulting from permanent separation for more than 11 consecutive working days which fall into two consecutive pay periods shall disqualify one of the pay periods. (*Ibid.*)

Hourly or daily rate employees working in a state agency in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit.2, § 599.609.) When an

employee has a break in service or changes to full-time, any combination of time worked which does not equal one qualifying month of full-time service shall not be accumulated or counted. (*Ibid.*)

Severity: Very Serious. For audit purposes, accurate and timely attendance reporting is required of all departments. If the length of an informal leave results in a non-qualifying pay period, a state service transaction must be processed. Inappropriately authorizing state service credits and leave accruals to employees who did not earn them results in a monetary loss for the department.

Cause: The CAEATFA states that the Personnel Specialist keyed the information to disqualify the May pay period. However, the Leave Accounting System (LAS) was not updated.

Corrective Action: Within 90 days of the date of this report, the CAEATFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure state service transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

FINDING NO.11 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the policy was disseminated to all staff and emphasized the CAEATFA’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CAEATFA’s nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers’ Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers’ compensation law. (Cal. Code Regs., tit. 8, § 9880 subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee’s “personal physician,” as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401 subd. (a).)

Public employers may choose to extend workers’ compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers’ compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers’ compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*) In this case, the CAEATFA did not employ volunteers during the compliance review period.

FINDING NO. 12 – Workers’ Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the CAEATFA provides notice to their employees to inform them of their rights and responsibilities under California’s Workers’ Compensation Law. Furthermore, the CRU verified that when the CAEATFA received workers’ compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must “prepare performance reports.” Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

The CRU selected 11 permanent CAEATFA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	3/10/19
Associate Governmental Program Analyst	4/22/19
Associate Governmental Program Analyst	12/3/19
Executive Assistant	12/31/19
Office Technician (Typing)	7/1/19
Office Technician (Typing)	9/4/19
Office Technician (Typing)	7/30/19
Staff Services Manager I	11/30/19
Staff Services Manager I	6/13/19
Staff Services Manager I	8/8/19
Staff Services Manager II (Supervisory)	12/1/19

FINDING NO. 13 – Performance Appraisals Were Not Provided to All Employees

Summary: The CAEATFA did not provide annual performance appraisals to 5 of 11 employees reviewed after the completion of the employee’s probationary period.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the

employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

Severity: Serious. The department does not ensure that all of its employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The CAEATFA acknowledges the employees' performance appraisals were not completed at least once in each 12 month period following the end of the employee probationary period as required.

Corrective Action: Within 90 days of the date of this report, the CAEATFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The CAEATFA's response is attached as Attachment 1.

SPB REPLY

Based upon the CAEATFA's written response, the CAEATFA will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified, must be submitted to the CRU.



CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

915 Capitol Mall
Sacramento, CA 95814
p (916) 651-8157
f (916) 589-2855
caeatfa@treasurer.ca.gov
www.treasurer.ca.gov/caeatfa

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President
Public Utilities Commission

EXECUTIVE DIRECTOR
Deana J. Carrillo

July 13, 2020

Suzanne M. Ambrose, Executive Director
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. Ambrose,

Response to Compliance Review Report

The State Treasurer's Office (STO) provides personnel services for the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA). On behalf of CAEATFA, the STO submits this letter in response to the State Personnel Board's (SPB) compliance review of the CAEATFA personnel practices for the period December 1, 2018 through November 30, 2019. CAEATFA and the STO appreciate SPB's review and the opportunity to respond to its findings. Please reference the enclosed Attachment A for detailed responses.

The STO, on behalf of CAEATFA, respectfully disagrees with one finding, as noted on Attachment A. That said, CAEATFA in coordination with the STO has taken or will take immediate steps to develop and submit a Corrective Action Plan within 60 days of the release of the report to address the deficiencies identified.

Thank you for the opportunity to respond to your draft report. If you have any questions, or require additional information, please do not hesitate to contact me at (916) 653-3382, or by email at csneed@treasurer.ca.gov.

Sincerely,

Christopher Sneed
Chief of Management Services

Enclosure

cc: Rebecca Grajski, Administration Division Director, STO
Genevieve Jopanda, Chief Deputy Treasurer, STO
Deana Carrillo, Executive Director, CAEATFA

FINDING No. 1 – Probationary Evaluations Were Not Timely

Cause: Probationary evaluations were not timely.

Department's Response: Probationary reports were completed for the two employees in question; however, they were not completed within 10 days after the end of each one-third portion of the probationary period, as required by CA Code of Regulations, Title 2, section 599.795.

Moving forward, CAEATFA management, in coordination with the STO, will ensure that probation reports are completed in a timely manner and in adherence with the CA Code of Regulations.

FINDING No. 2 – Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules

Cause: None.

Department's Response: No adverse findings were reported during the compliance review.

FINDING No. 3 – Unions Were Not Notified of Personal Services Contracts

Cause: None.

Department's Response: As noted in the contract file and as provided to SPB, CAEATFA notified the appropriate union prior to the execution of all personal service contracts in question as required by Government Code § 19130. Thus, the contracts met the requirements of Government Code § 19132, subd.(b)(1), of notifying all organizations that represent the state employees who perform the type of work to be contracted. Four of the six contracts in question included amendments to exercise one-year optional extensions. Two included amendments adding provisions required for program administration to govern the confidentiality of utility information and customer data. Finally, the last contract in question included an amendment clarifying language with regard to the contractor's name from "Gilbert Associates, Inc." to "Gilbert CPAs".

The SPB Compliance Review Division asserts the "stance" that amendments made to the contract are required to be sent to the unions as well. However, Government Code § 19132 does not explicitly state that there is a requirement that amendments be sent to the unions. Additionally, the Department of General Services (DGS), the control agency that oversees the state contracting process and maintains the State Contract Manual, does not require that amendments be sent to the unions.

Thus, we respectfully disagree with this finding. Notifying unions of amendments to contracts for which they have been previously notified is not a requirement by DGS, the control agency that oversees the state contracting process. Nor is this a requirement of Government Code § 19132. Finally, this requirement has never been communicated to the staff that have received training by DGS to develop contracts on behalf of CAEATFA.

FINDING No. 4 – Ethics Training Was Not Provided for All Filers

Cause: Two individuals that are required to file a statement of economic interest did not complete the mandatory ethics training as required by Government Code § 11146.1 and § 11146.3.

Department's Response: CAEATFA, in coordination with the STO, requires that all members, officers, or designated employees who are required to file a statement of economic interest complete ethics training in accordance with Government Code § 11146.1 and § 11146.3. The STO has a tracking mechanism in place to monitor ethics training completion status; however, the two individuals in question did not complete the mandatory training.

Additionally, the STO's training office, in an effort to further address this issue, has implemented a notification process that will remind employees of the ethics training requirement.

FINDING No. 5 – Leadership and Development Training Was Not Provided for All Supervisors, Managers, and CEAs

Cause: One new supervisor and three existing supervisors did not complete the leadership and development training within the required time period.

Department's Response: CAEATFA, in coordination with the STO, requires that all supervisors and managers attend the leadership and development training in accordance with Government Code § 12950.1. The STO has a tracking mechanism in place to monitor employee training status; however, the four supervisors in question did not complete the mandatory training.

When new supervisors are on boarded, the STO training office provides them with a list of required training items. The one new supervisor in question, did attend the first week of required supervisor training. However, an issue came up and that individual was not able to attend the second week, thus they did not meet the requirement. All supervisors in question have since either completed, or will be enrolled in the required leadership and development training courses, once the course have been calendared. There has been a delay in some courses being schedule due to the COVID-19 pandemic.

In the future, the STO training office will send out reminder notifications to all supervisors that are required to complete leadership and development training. Additionally, moving forward, CAEATFA management will ensure that leadership and development training is completed in accordance with Government Code § 12950.1.

FINDING No. 6 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Cause: One new supervisor and three existing supervisors did not complete the sexual harassment training within the required time period.

Department's Response: CAEATFA, in coordination with the STO, requires that all supervisors and managers attend the sexual harassment training in accordance with Government Code § 12950.1. The STO

has a tracking mechanism in place to monitor employee training status; however, the four supervisors in question did not complete the mandatory training.

Moving forward, the STO training office will send out reminder notifications to all employees that are required to complete sexual harassment prevention training. Additionally, CAEATFA management will ensure sexual harassment training is completed in compliance with Government Code § 12950.1.

FINDING No. 7 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

FINDING No. 8 – Positive Paid Employee Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

FINDING No. 9 – Incorrectly Posted Leave Usage and/or Leave Credit

Cause: The Senior Personnel Specialist did not accurately enter the information from the timesheet in question into the Leave Accounting System (LAS).

Department's Response: CAEATFA and the STO understand the importance of accurately entering information into the LAS. The STO has a monthly internal audit process in place that includes the Personnel Specialist verifying leave credits at multiple points; however, the error with the timesheet in question was not caught. The STO will develop additional measures to ensure leave credits are accurately posted into the LAS.

FINDING No. 10 – Incorrect Application of State Service and Leave Transaction

Cause: CAEATFA had one employee with a non-qualifying pay period; however leave accruals and state service were still earned.

Department's Response: The employee in question was on maternity leave and requested to use enough leave credits each month to cover their benefits until they returned to work in June 2019. The Personnel Specialist keyed the information on 05/31/2019 to disqualify the May pay period, which was on-time so automatic accruals should not have happened. In November 2019, the Personnel Specialist added a correction to the system to properly pay the employee for the requested three days, however the LAS was not updated.

FINDING No. 11 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

FINDING No. 12 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

FINDING No. 13 – Performance Appraisals Were Not Provided to All Employees

Cause: Performance evaluations were not conducted timely.

Department's Response: Performance appraisals were completed for the five employees in question; however, they were not completed at least once in each 12 calendar months period following the end of the employee's probationary period, as required by CA Code of Regulations, Title 2, section 599.798.

Moving forward, CAEATFA management, in coordination with the STO, will ensure that performance evaluations are completed in a timely manner as required by the CA Code of Regulations.