CALIFORNIA STATE PERSONNEL BOARD

COMPLIANCE REVIEW REPORT

CALIFORNIA HEALTH BENEFIT EXCHANGE

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 Health Benefit Exchange (Exchange) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examination Applications Were Accepted After the Final File Date
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Inappropriate Use of Department Specific Classifications
Appointments	Probationary Evaluations Were Not Provided for all Appointments Reviewed and Those That Were Reviewed Were Untimely[1]
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time[2]
Equal Employment Opportunity	Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period
Personal Services Contracts	Unions Were Not Notified of Personal Services Contract
Mandated Training	Ethics Training Was Not Provided for All Filers[3]
Mandated Training	Leadership and Development Training Was Not Provided for All Supervisors, Managers, and CEAs

[1] Repeat finding. November 30, 2016, the Exchange's Compliance Review report identified missing probation reports in 41 of 103 appointment files reviewed.
[2] Repeat finding. The November 30, 2016, report identified that out of 103 appointment files reviewed, 6 appointment files were missing Notices of Personnel Action (NOPA), and 10 appointment files were missing applications for recruitment.
[3] Repeat finding. The November 30, 2016, report identified 13 of 207 existing filers did not receive ethics training, and 9 of 177 new filers did not receive ethics training within 6 months of appointment.

Area	Finding
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors[4]
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Bilingual Pay
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Payroll Errors When Issuing Out-of-Class Payments
Leave	Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Was Not Properly Documented
Leave	Incorrectly Posted Leave Usage and/or Leave Credit
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed
Leave	Incorrect Application of State Service and Leave Transactions
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
Policy	Performance Appraisals Were Not Provided to All Employees

[4] Repeat finding. The November 30, 2016, report identified sexual harassment prevention training was not provided to 33 of 94 new supervisors within 6 months of appointment; and 102 of 143 existing supervisors every 2 years.

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

Following the passage of the federal Patient Protection and Affordable Care Act in 2010, the Exchange, also known as Covered California, was established to improve the health of all Californians by assuring their access to affordable, high quality care. The Exchange is an independent public entity within state government with a five-member board appointed by the Governor and the Legislature. The Exchange works to increase the number of insured Californians, improve health care quality, lower costs, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose the health plan and providers that give them the best value. The Exchange was initially funded by the federal government but is now self-supporting from fees paid by health plans and insurers participating in the Exchange.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the Exchange's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes[5]. The primary objective of the review was to determine if the Exchange'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.

A cross-section of the Exchange's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the Exchange provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the Exchange's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

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

A cross-section of the Exchange'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 Exchange provided, which included NOPA forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The Exchange did not conduct any unlawful appointment investigations during the compliance review period. Further, the Exchange did not make any additional appointments during the compliance review period.

The Exchange's appointments were also selected for review to ensure the Exchange applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the Exchange provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: hiring above minimum (HAM) requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the Exchange did not issue or authorize red circle rate requests or arduous pay.

The review of the Exchange'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 Exchange's PSC's were also reviewed.[6] It was beyond the scope of the compliance review to make conclusions as to whether the Exchange's justifications for the contracts were legally sufficient. The review was limited to whether the Exchange's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The Exchange'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.0

[6]If 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.

The CRU reviewed the Exchange's Leave Activity and Correction Certification forms to verify that the Exchange 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 small cross-section of the Exchange'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 Exchange'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 the Exchange employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of Exchange positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

On July 7, 2020, an exit conference was held with the Exchange to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the Exchange's written response on July 9, 2020, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid*.) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid*.) Every applicant for examination shall file an application with the department or a designated appointing power as directed by

the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, November 1, 2018, through July 30, 2019, the Exchange conducted 13 examinations. The CRU reviewed eight of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Director, Program Policy, Career Executive Assignment (CEA) A,	CEA	Statement of Qualifications (SOQ)[7]	1/31/19	25
Chief Technology Officer, CEA B	CEA	SOQ	3/13/19	30
Deputy Director, Financial Planning & Forecasting Operations, CEA A	CEA	SOQ	12/29/18	11
Deputy Director, Financial Planning & Forecasting Operations, CEA A	CEA	SOQ	3/21/19	12
Health Program Specialist I	Open	Training and Experience (T&E)[8]	4/29/19	26
Health Program Specialist I	Open	T&E	12/21/18	11
Health Program Specialist II	Open	T&E	1/28/19	11

[7] In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

[8] The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Health Program Specialist II	Open	T&E	5/27/19	15

FINDING NO. 1 – Examination Applications Were Accepted After the Final File Date

Summary: The Exchange accepted and processed 2 out of 141 applications that were date stamped after the final filing date.

Criteria: California Code Regulations, title 2, section 174 requires timely filing of applications: All applications must be filed at the place within the time, in the manner, and on the form specified in the examination announcement.

Filing an application "within the time" shall mean that the application is electronically transmitted, or postmarked by the postal service. Or date stamped at one of the Department's offices or at the appropriate office of the agency administering the examination no later than the final filing date specified on the examination announcement. (Cal. Code. Regs., tit. 2, § 174, subd. (b).)

Severity: Technical. Final filing dates are established to ensure all applicants are given the same amount of time in which to apply for an examination and to set a deadline for the recruitment phase of the examination. Therefore, although the acceptance of applications after the final filing date may give some applicants more time to prepare their application than other applicants who meet the final filing date, the acceptance of late applications will not impact the results of the examination.

Cause: The Exchange states that they have researched this finding extensively and cannot find evidence to support the reasons why these applications were accepted late. They have since implemented new procedures to prevent the acceptance of any late applications.

Corrective Action: Within 90 days of the date of this report, the Exchange must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Rule 174. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond, or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing, and shall notify the candidate of his or her appeal rights. *(Ibid.)* A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. *(Ibid.)*

During the period under review, November 1, 2018, through July 30, 2019, the Exchange conducted eight permanent withhold actions. The CRU reviewed all eight of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Associate Governmental Program Analyst	9PB04	11/5/18	11/5/19	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Associate Governmental Program Analyst	9PB04	11/16/18	11/16/19	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	12/27/18	12/27/19	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	3/21/19	3/21/20	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	4/9/19	4/9/20	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	4/27/19	4/27/20	Failed to Meet Minimum Qualifications
Staff Services Analyst	7PB34	7/17/18	7/17/19	Failed to Meet Minimum Qualifications
Staff Services Manager II (Supervisory)	9PB18	9/6/18	9/6/19	Failed to Meet Minimum Qualifications

FINDING NO 2 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules

The CRU found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

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, November 1, 2018, through July 30, 2019, the Exchange made 240 appointments. The CRU reviewed 49 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	4
Attorney III	Certification List	Permanent	Full Time	1
Chief Technology Officer, CEA B	Certification List	CEA	Full Time	1
Health Program Specialist I	Certification List	Permanent	Full Time	1
Health Program Specialist II	Certification List	Permanent	Full Time	1
Information Officer II	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	3
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Labor Relations Manager I	Certification List	Permanent	Full Time	1
Marketing Specialist, California State Lottery	Certification List	Permanent	Full Time	1
Personnel Specialist	Certification List	Limited Term	Full Time	1
Program Technician II	Certification List	Permanent	Intermittent	5
Program Technician III	Certification List	Permanent	Full Time	1
Research Data Analyst I	Certification List	Permanent	Full Time	1
Research Data Analyst II	Certification List	Permanent	Full Time	1
Research Data Specialist I	Certification List	Permanent	Full Time	1
Research Data Specialist II	Certification List	Permanent	Full Time	2
Research Scientist III (Social/Behavioral Sciences)	Certification List	Permanent	Full Time	1
Staff Management Auditor	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Staff Services Analyst (General)	Certification List	Permanent	Full Time	2
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Limited Term	Full Time	1
Health Program Specialist I	Transfer	Permanent	Full Time	1
Health Program Specialist II	Transfer	Permanent	Full Time	2
Program Technician II	Transfer	Permanent	Full Time	1
Program Technician III	Transfer	Permanent	Full Time	1
Research Data Specialist I	Transfer	Permanent	Full Time	1
Research Data Specialist II	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Limited Term	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	3
Staff Services Manager I	Transfer	Permanent	Full Time	1

FINDING NO. 3 – Inappropriate Use of Department Specific Classifications

Summary: The Exchange is inappropriately using classifications outside of the intentions of the classification specifications without prior approval from CalHR. Specifically, the Exchange is using the following California State Lottery (Lottery) classifications:

- Marketing Analyst I, California State Lottery
- Marketing Analyst II, California State Lottery
- Marketing Specialist, California State Lottery
- Senior Marketing Specialist, California State Lottery

The duties outlined in these classification specifications are specific to the sales and processing of lottery products.

Although the Exchange entered into a signed agreement with the Lottery to share the Lottery's examination lists, the Exchange's use of the Lottery classifications without CalHR approval violates the Delegation Agreement for Exceptional Allocations (Delegation

Agreement). The Exchange could not produce evidence it had received CalHR approval to use these classifications.

Criteria: The department[9] shall administer the Personnel Classification Plan of the State of California including the allocation of every position to the appropriate class in the classification plan. (Gov. Code, § 19818.6.) The department may designate an appointing power to allocate positions to the Personnel Classification Plan in accordance with Section 19818.6 and department rule. The department may audit position allocations. If the department finds that an appointing power has allocated positions inappropriately, the department may order corrective action, including, but not limited to, reallocating positions, voiding lawful personnel transactions, and revoking or restricting the appointing power's ability to allocate positions. (Gov. Code, § 19818.14.)

As specified in the Delegation Agreement, the Exchange has not been provided the authority to use department-specific classes belonging to another department without CalHR's prior approval. (Delegation Agreement, page 2, section B)

Severity: Very Serious. The Exchange did not adhere to the terms of its signed Delegation Agreement with CalHR, thus failing to maintain a classification plan that is consistent with the standards and guidelines of the administration of the personnel management system.

Cause: The Exchange states that in 2011, as a new organization operating with minimal resources, the Exchange partnered with the Department of Social Services (DSS) to conduct its administrative functions. The Exchange worked closely with DSS to create an organizational structure utilizing the appropriate classifications that met the critical needs and mission of the organization. The Exchange engaged with CalHR and the California State Lottery (Lottery) for use of the Lottery's department-specific classification on November 7, 2012. However, they were unable to locate the historical documentation that reflects CalHR's approval for the use of the Lottery's Marketing Specialist classification. In good faith, the

[9] The "department" refers to CalHR.

Exchange entered into an interagency agreement with the Lottery on October 1, 2015 (Agreement Number 15-C-048) which has continued to be renewed since its origination. The Exchange will work with CalHR to obtain documented approval to continue the use of the Lottery's department-specific classifications.

SPB Response: CRU consulted with CalHR to determine if the Exchange had sought approval to utilize the Lottery classifications identified above. CalHR had no records supporting the Exchange requested approval to utilize the Lottery classifications.

Corrective Action: Within 90 days of the date of this report, the Exchange must submit to the SPB a written corrective action response which addresses the corrections the department has implemented to ensure conformity with their delegation agreement. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 4 – Probationary Evaluations Were Not Provided for all Appointments Reviewed and Those That Were Reviewed Were Untimely

Summary: The Exchange did not provide 17 probationary reports of performance for 15 of the 49 appointments reviewed by the CRU. In addition, the Exchange did not provide seven probationary reports of performance in a timely manner, as reflected in the table below. This is the second consecutive time this has been a finding for the Exchange.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Associate Governmental Program Analyst	Certification List	1	1
Attorney III	Certification List	1	1
Information Officer II	Certification List	1	1

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Information Technology Specialist I	Certification List	2	2
Information Technology Specialist II	Certification List	1	2
Program Technician II	Certification List	1	1
Research Data Specialist I	Certification List	1	1
Research Scientist III (Social/Behavioral Sciences)	Certification List	1	1
Staff Services Manager II (Supervisory)	Certification List	1	1
Health Program Specialist I	Transfer	1	1
Health Program Specialist II	Transfer	1	2
Research Data Specialist II	Transfer	1	1
Staff Services Analyst (General)	Transfer	1	1
Staff Services Manager I	Transfer	1	1

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Accountant Trainee	Certification List	1	1
Associate Governmental Program Analyst	Certification List	1	3
Staff Management Auditor	Certification List	1	1

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Staff Services Analyst (General)	Transfer	2	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; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (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 Exchange states that their Human Resources Branch (HRB) makes a good faith effort to inform supervisors and managers regarding the requirements of completing probationary evaluations. However, the Exchange lacked a tracking process. An updated tracking process allows the HRB to follow-up with supervisors and

managers with past due probationary reports to ensure timely completion.

Corrective Action: Within 90 days of the date of this report, the Exchange 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 19172. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 5 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: The Exchange failed to retain personnel records. Of the 49 appointments reviewed, the Exchange did not retain 10 NOPA's. This is the second consecutive time this has been a finding for the Exchange.

Criteria: As specified in section 26 of the Board's Regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.)

Severity: Technical. Without documentation, the CRU could not verify if the appointments were properly conducted.

Cause: The Exchange states that a tracking process did not exist to verify that NOPAs were signed by the employee and received in HRB for filing in employee Official Personnel Files (OPF).

Corrective Action: Within 90 days of the date of this report, the Exchange must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26. 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).)

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. 6 – Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period

Summary: The Exchange provided evidence that four discrimination complaints related to a disability, medical condition, or denial of reasonable accommodation were filed during the compliance review period. However, two of the four complaint investigations exceeded 90 days and the Exchange failed to provide written communication to the complainant regarding the status of the complaint.

Criteria: The appointing power must issue a written decision to the complainant within 90 days of the complaint being filed. (Cal. Code Regs., tit. 2, § 64.4, subd. (a).) If the appointing power is unable to issue its decision within the prescribed time period, the appointing power must inform the complainant in writing of the reasons for the delay. (*Ibid*.)

Severity: Very Serious**.** Employees were not informed of the reasons for delays in decisions for discrimination complaints. Employees may

feel their concerns are not being taken seriously, which can leave the agency open to liability and low employee morale.

Cause: The Exchange acknowledges that they did not notify the complainant in a timely manner for one case due to a delayed review. Regarding the second case, the complainant continued to submit information and witness names, which extended the investigation past 90 days. Therefore, the complainant was aware of the ongoing nature of the investigation.

Corrective Action: Within 90 days of the date of this report, the Exchange 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 California Code of Regulations, title 2, section 64.4, subdivision (a). Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, November 1, 2018, through July 30, 2019, the Exchange had 94 PSC's that were in effect. The CRU reviewed 21 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification
Bilingo Media	Broadcasting Phone Bank	11/12/18-12/10/18	$11,000	Yes	No
California Department of Social Services	Eligibility and Enrollment Appeals Services	7/1/19-6/30/20	$9,053,443	Yes	Yes
Cambria Solutions	Project Management and Scrum Certified Services	7/1/19-6/30/22	$4,495,800	Yes	Yes
CBRE, Inc.	Real Estate & Construction Project Advisory Services	12/7/18-12/6/20	$500,000	Yes	No
CMGRP, Inc. dba IPG	Development & Implementation of a Statewide Public Relations Campaign	7/1/19-6/30/22	$7,500,000	Yes	No
Cooperative Personnel Services (CPS) HR Consulting	Consulting Services	1/28/19-6/30/19	$49,400	Yes	Yes
Crown Worldwide Moving and Storage	Moving & Cleaning Services	7/1/19-6/30/22	$298,000	Yes	Yes
Culture Amp	Employee Engagement Survey Software Subscription	4/22/19-3/31/22	$130,680	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification
Integrated Healthcare Association	Statistical Data & Technical Assistance Services	2/1/19-6/30/20	$150,000	Yes	Yes
Leading Resources, Inc.	Written Communication Training	11/15/18-6/30/19	$40,300	Yes	Yes
LinkedIn Corporation	Recruiting services	7/1/19-6/30/21	$120,000	Yes	No
Milliman, Inc.	Salary Survey for Exempt Positions	5/9/19-12/31/19	$200,000	Yes	No
National Security Industries	Uniformed Security Guard Services	7/1/19-6/30/22	$2,654,520	Yes	Yes
Nicole Schapiro & Associates	Executive Management Coaching Services	12/5/18-12/4/20	$247,940	Yes	Yes
NWN Corporation	Professional Services	7/1/19-6/30/20	$749,700	Yes	Yes
NWN Corporation	Professional Services	7/1/19-6/30/22	$569,776	Yes	Yes
Office of Systems Integration	IT Services	7/1/19-6/30/24	$185,128,250	Yes	Yes
Regents of the University of California, Los Angeles	CalSIM 2.3 Model	7/1/19-6/30/21	$955,896	Yes	Yes
Regents of the University of California, Los Angeles	California Health Interview Survey	7/1/19-6/30/21	$1,350,000	Yes	Yes
Squared Up, Inc.	Consulting Services	7/1/19-6/30/20	$400,000	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification
Trinity Technology Group, Inc.	Consulting Services	7/1/19-6/30/20	$633,760	Yes	Yes

FINDING NO. 7 – Unions Were Not Notified of Personal Services Contracts

Summary: The Exchange did not notify unions prior to entering into 5 of the 21 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.

Cause: The Exchange states that their Contracts Unit experienced significant changes concerning staff and management during the 2017-2018 period. With a new manager and new analysts on-boarded during this timeframe, significant training and knowledge transfer was required, and this audit finding is a result of that.

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 Exchange 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), (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 Exchange's mandated training program that was in effect during the compliance review period, August 1, 2017, through July 30, 2019.

FINDING NO. 8 – Ethics Training Was Not Provided for All Filers

Summary: The Exchange did not provide ethics training to 25 of 84 existing filers. In addition, the Exchange did not provide ethics training to 11 of 58 new filers within six months of their appointment. This is the second consecutive time this has been a finding for the Exchange.

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 Exchange states that prior to mid-2018, when its Training Operations team was created, the Exchange did not have a process for compliance monitoring and reporting.

Corrective Action: Within 90 days of this report, the Exchange 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. 9 – Leadership and Development Training Was Not Provided for All Supervisors, Managers, and CEAs

Summary: The Exchange did not provide basic supervisory training to 11 of 23 new supervisors within 12 months of appointment; did not provide CEA training to its one new CEA within 12 months of appointment; and did not provide biennial leadership training to 19 of 125 existing supervisors, managers, and/or CEAs. This is the second consecutive time this has been a finding for the Exchange.

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 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 Exchange states that prior to the establishment of the Training Operations team, training compliance was not regularly monitored and tracked. Since creating the Training Operations team, they have been conducting compliance reporting regularly.

Corrective Action: Within 90 days of the date of this report, the Exchange 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. 10 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The Exchange did not provide sexual harassment prevention training to 35 of 56 new supervisors within 6 months of their appointment. In addition, the Exchange did not provide sexual harassment prevention training to 79 of 195 existing supervisors every 2 years.

This is the second consecutive time this has been a finding for the Exchange.

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 Exchange states that prior to the establishment of the Training Operations team, compliance reporting was not being done regularly for sexual harassment prevention training.

Corrective Action: Within 90 days of the date of this report, the Exchange 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 and Pay

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 rate[10] upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

[10] "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).

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, November 1, 2018, through July 30, 2019, the Exchange made 240 appointments. The CRU reviewed 20 of those appointments to determine if the Exchange applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Accounting Analyst	Certification List	Permanent	Full Time	$5,543
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	$4,975
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	$4.975
Accountant Trainee	Certification List	Permanent	Full Time	$3,665
Information Officer II	Certification List	Permanent	Full Time	$6,187
Health Program Specialist II	Certification List	Permanent	Full Time	$7,002
Labor Relations Manager I	Certification List	Permanent	Full Time	$7,719
Marketing Specialist, California State Lottery	Certification List	Permanent	Full Time	$5,759
Program Technician II	Certification List	Permanent	Full Time	$3,194
Program Technician III	Certification List	Permanent	Full Time	$3,522
Research Data Specialist II	Certification List	Permanent	Full Time	$6,025
Research Scientist III (Social/Behavioral Sciences)	Certification List	Permanent	Full Time	$6,911
Staff Services Analyst (General)	Certification List	Permanent	Full Time	$3,345
Staff Services Manager I	Certification List	Permanent	Full Time	$5,917
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	$7,719

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Transfer	Limited Term	Full Time	$6,049
Health Program Specialist II	Transfer	Permanent	Full Time	$7,514
Health Program Specialist II	Transfer	Permanent	Full Time	$7,514
Program Technician II	Transfer	Permanent	Full Time	$3,812
Research Data Specialist II	Transfer	Permanent	Full Time	$7,209

FINDING NO. 11 – 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 Exchange 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.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, November 1, 2018, through July 30, 2019, the Exchange employees made 17 alternate range movements within a classification. The CRU reviewed 13 of those alternate range movements to determine if the Exchange applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Information Technology Associate	A	B	Full Time	$4,790
Information Technology Specialist I	B	C	Full Time	$6,360
Information Technology Specialist I	B	C	Full Time	$6,358
Information Technology Specialist I	B	C	Full Time	$7,001
Information Technology Specialist I	B	C	Full Time	$7,920
Personnel Specialist	A	B	Full Time	$3,468
Personnel Specialist	A	B	Full Time	$3,518
Staff Services Analyst (General)	A	B	Full Time	$3,936
Staff Services Analyst (General)	N/A	A	Full Time	$3,484
Staff Services Analyst (General)	B	C	Full Time	$4,136
Staff Services Analyst (General)	B	C	Full Time	$4,136
Staff Services Analyst (General)	B	C	Full Time	$4,482
Staff Services Analyst (General)	B	C	Full Time	$4,534

FINDING NO. 12 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Summary: The CRU found the following errors in the Exchange's determination of employee compensation:

Classification	Description of Findings	Criteria
1. Staff Services Analyst (General)	Employee's anniversary date was incorrectly determined resulting in the employee receiving a merit salary adjustment one month early and thus being overcompensated.	Cal. Code Regs., tit. 2, § 599.608

2. Staff Services Analyst (General)	Employee was not placed in Range B after serving 6 months in Range A in accordance with the alternate range criteria resulting in undercompensation.	Alternate Range Criteria 069
3. Staff Services Analyst (General)	Employee should have initially been placed in Range B of the Staff Services Analyst classification. The Exchange's action of placing the employee in Range A then immediately moving the employee to Range B on the same day was improper.	Cal. Code Regs., tit. 2, § 599.674, subd. (a)

Criteria: Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. In three instances, the Exchange failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules not in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The Exchange acknowledges that two of the three Staff Services Analyst (SSA) appointments resulted in keying errors.

The third SSA employee was appointed as a transfer (from the SSA transfer exam) and was placed in range A because the employee did not meet the criteria for range B or range C per Alternate Range Criteria 069. Then, on the same day, the Exchange processed a range change because salary rule 599.674, subd. (a) directed placement into range B.

Corrective Action: Within 90 days of the date of this report, the Exchange must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The Exchange must establish an audit system to correct current compensation transactions as well as future transactions. Additionally the Exchange must create accounts receivables to collect the overpayments and also verify that the underpaid employee has been appropriately compensated. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above-the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. *(Ibid.)* Delegated HAM authority does not apply to current state employees. *(Ibid.)*

Extraordinary qualifications may provide expertise in a particular area of a department's program. *(Ibid.)* This expertise should be well beyond the minimum qualifications of the class. *(Ibid.)* Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. *(Ibid.)* The scope and depth of such experience should be more significant than its length. *(Ibid.)* The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. *(Ibid.)* The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. *(Ibid.)* Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. *(Ibid.)*

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum

of understanding shall be controlling without further legislative action.[11] (Gov. Code § 19836 subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. *(Ibid.)* A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. *(Ibid.)* Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. *(Ibid.)*

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee's salary in the exempt appointment. *(Ibid.)* For example, An employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. *(Ibid.)*

During the period under review, November 1, 2018, through July 30, 2019, the Exchange authorized six HAM requests. The CRU reviewed all of the six authorized HAM requests to determine if the Exchange correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Health Program Specialist II	Certification List	New to State	$6,003 - $7574	$6,619
Information Technology Specialist I	Certification List	New to State	$6,179 - $8,280	$7,250
Information Technology Specialist I	Certification List	New to State	$6,179 - $8,280	$7,571

[11] Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

Information Technology Specialist I	Certification List	New to State	$6,179 - $8,280	$7,962
Information Technology Specialist I	Certification List	New to State	$6,179 - $8,280	$8,280
Research Data Supervisor II	Certification List	New to State	$6,495 - $8,070	$8,070

FINDING NO. 13 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found that the HAM requests the Exchange made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, November 1, 2018, through July 30, 2019, the Exchange issued bilingual pay to 18 employees. The CRU reviewed 13 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base
Associate Governmental Program Analyst	R01	Full Time
Associate Governmental Program Analyst	R01	Full Time
Associate Governmental Program Analyst	R01	Full Time
Associate Governmental Program Analyst	R01	Full Time

Associate Governmental Program Analyst	R01	Full Time
Health Program Specialist II	R01	Full Time
Information Officer I (Specialist)	R01	Full Time
Information Officer II	R01	Full Time
Marketing Specialist, California State Lottery	R01	Full Time
Program Technician II	R04	Full Time
Staff Services Manager I	S01	Full Time
Staff Services Manager II (Supervisory)	S01	Full Time
Supervising Program Technician III	S04	Full Time

FINDING NO. 14 – Incorrect Authorization of Bilingual Pay

Summary: The CRU found four errors in the Exchange's authorization of bilingual pay:

Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14
Health Program Specialist II	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14
Staff Services Manager I	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14
Supervising Program Technician III	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14

Criteria: For any state agency, a "qualified" bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296 subd. (a) (3).) An individual must be in a position that has been certified by the department as a position

which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

Severity: Very Serious. Failure to comply with the state civil service pay plan by incorrectly applying compensation rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay.

Cause: The Exchange states that they researched extensively and could not locate proper supporting documentation (Bilingual Pay Authorization form, STD 897) beyond the five-year retention period demonstrating the need for pay for bilingual services for four employees.

Corrective Action: Within 90 days of the date of this report, the Exchange 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 7296 and Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of

the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, November 1, 2018, through July 30, 2019, the Exchange issued pay differentials[12] to 591 employees. The CRU reviewed 60 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
CEA	71	10%
CEA	71	10%
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
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Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100

[12] For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician II	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Program Technician III	402	$100
Research Scientist III (Social/Behavioral Sciences)	434	3%
Supervising Program Technician III	402	$100
Supervising Program Technician III	402	$100
Supervising Program Technician III	402	$100
Supervising Program Technician III	402	$100
Supervising Program Technician III	402	$100
Supervising Program Technician III	402	$100
Supervising Program Technician III	402	$100
Supervising Program Technician III	402	$100

FINDING NO. 15 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the pay differentials that the Exchange authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

For excluded[13] and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, November 1, 2018, through July 30, 2019, the Exchange issued OOC pay to nine employees, one of which had two different OOC assignments. The CRU reviewed these 10 OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

[13] "Excluded employee" means an employee as defined in section 3527, subd. (b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Management Auditor	R01	Staff Management Auditor	11/1/18 – 12/1/18
Associate Personnel Analyst	R01	Staff Services Manager I	4/2/19 – 6/17/19
Information Officer I (Specialist)	R01	Information Officer II	10/1/18 – 1/28/19
Office Assistant (Typing)	R04	Office Technician (Typing)	2/14/19 – 4/23/19
Office Assistant (Typing)	R04	Staff Services Analyst (General)	4/24/19 – 6/13/19
Office Technician (Typing)	R04	Staff Services Analyst (General)	5/1/19 – 7/30/19
Staff Services Analyst (General)	R01	Associate Governmental Program Analyst	5/1/19 – 7/30/19
Staff Services Manager I	S01	Labor Relations Manager I	2/15/19 – 4/30/19
Staff Services Manager I	S01	Staff Services Manager II (Managerial)	4/1/19 – 7/30/19
Staff Services Manager II (Supervisor)	S01	Staff Services Manager III	4/8/19 – 7/30/19

FINDING NO. 16 – Payroll Errors When Issuing Out-of-Class Payments

Summary: The CRU found six errors in the Exchange's authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Findings	Criteria
Associate Management Auditor	Staff Management Auditor	Incorrect calculation of OOC pay resulting in the employee being overcompensated	Pay Differential 91
Associate Personnel Analyst	Staff Services Manager I	Incorrect calculation of OOC pay resulting in the employee being undercompensated.	Pay Differential 91

Classification	Out-of-Class Classification	Description of Findings	Criteria
Office Assistant (Typing)	Office Technician (Typing)	Incorrect calculation of OOC pay resulting in the employee being overcompensated in one month and undercompensated in another.	Pay Differential 91
Information Officer I (Specialist)	Information Officer II	Incorrect calculation of OOC pay resulting in the employee being overcompensated.	Pay Differential 91
Staff Services Analyst (General)	Associate Governmental Program Analyst	Incorrect calculation of OOC pay resulting in the employee being overcompensated.	Pay Differential 91
Staff Services Manager II (Supervisor)	Staff Services Manager III	Incorrect calculation of OOC pay resulting in the employee being undercompensated.	Pay Differential 101

Criteria: Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in writing and the employee is given a copy of the assignment; and the duties performed by the employee are not described in a training and development assignment and further, taken as a whole, are fully consistent with the types of jobs described in the specification for the higher classification; and the employee does not perform such duties for more than 120 days in a fiscal year. (Cal. Code Regs., tit. 2, § 599.810, subd. (b)(1)(3)(4).)

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. (c).) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, § 599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the

CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, subd. (e).)

Severity: Very Serious. The Exchange failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

Cause: The Exchange states that the out-of-class payroll errors were due to human error.

Corrective Action: Within 90 days of the date of this report, the Exchange must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Gov. Code, § 599.810, and Pay Differential 91 and 101. Additionally the Exchange must create accounts receivables to collect the overpayments and verify that underpaid employees have been appropriately compensated. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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 days[14] worked and paid absences, [15] 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

[14] For example, two hours or ten hours counts as one day.
[15] For example, vacation, sick leave, compensating time off, etc.

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.

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 Exchange had 129 positive paid employees whose hours were tracked. The CRU reviewed 27 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Associate Governmental Program Analyst	Retired Annuitant	1/17/18 - 12/31/18	930.25 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/18 - 6/30/19	942.00 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/18 - 6/30/19	939.60 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/18 - 6/30/19	368.50 Hours

Classification	Tenure	Time Frame	Time Worked
Associate Governmental Program Analyst	Retired Annuitant	7/1/18 - 6/30/19	957.26 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/18 - 6/30/19	873.50 Hours
Business Services Officer II (Specialist)	Retired Annuitant	7/1/18 - 6/30/19	959.50 Hours
Program Technician II	Permanent	1/1/18 - 8/30/18	1421.63 Hours
Program Technician II	Permanent	1/1/18 - 12/31/18	1696.70 Hours
Program Technician II	Permanent	1/1/18 - 12/31/18	1590.25 Hours
Program Technician II	Permanent	1/1/18 - 12/31/18	2109.50 Hours
Program Technician II	Permanent	1/1/18 - 5/22/18	730.95 Hours
Program Technician II	Permanent	1/1/18 - 12/31/18	2126.75 Hours
Program Technician II	Permanent	1/1/18 - 12/31/18	2112 Hours
Program Technician II	Permanent	1/1/18 - 12/31/18	2111.25 Hours
Program Technician II	Permanent	1/22/18 - 12/31/18	1994.50 Hours
Program Technician II	Permanent	2/20/18 - 12/31/18	1839.50 Hours
Program Technician II	Permanent	2/20/18 - 12/31/18	1838.50 Hours
Program Technician II	Permanent	2/20/18 - 12/31/18	1834.75 Hours
Program Technician II	Permanent	3/12/18 - 12/31/18	1730.50 Hours
Program Technician II	Permanent	3/12/18 – 12/31/18	1672.50 Hours
Program Technician III	Permanent	1/1/18 - 2/28/18	358 Hours
Staff Administrative Analyst (Accounting Systems)	Permanent	7/1/18 - 06/30/19	957.75 Hours
Student Assistant	Temporary	12/12/17- 12/12/18	607 Hours
Youth Aid	Temporary	6/15/18 - 8/31/18	333.33 Hours

Classification	Tenure	Time Frame	Time Worked
Youth Aid	Temporary	6/15/18 - 8/24/18	350 Hours
Youth Aid	Temporary	2/6/18 - 9/10/18	516 Hours

FINDING NO. 17 – Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The Exchange provided sufficient justification[16] and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. *(Ibid.)* ATO can also be granted when employees need time off for reasons such as blood or organ donation; extreme weather preventing safe travel to work; states of emergency; voting; and when employees need time off to attend special events. *(Ibid.)*

During the period under review, May 1, 2018, through April 30, 2019, the Exchange placed 512 employees on ATO. The CRU reviewed 30 of these ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Accounting Analyst	1/10/19	6 Hours
Associate Accounting Analyst	1/10/19	5.50 Hours
Associate Governmental Program Analyst	11/20/18	6 Hours

[16] The Exchange has delegated authority to approve exceptions to the hours/days worked limitations, provided there is sufficient justification and the approval on file. The Exchange provided this documentation during the review.

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	11/20/18	6 Hours
Associate Governmental Program Analyst	11/20/18	3 Hours
Associate Governmental Program Analyst	12/20/18 – 12/28/18	45.5 Hours
Associate Governmental Program Analyst	1/10/19	6 Hours
Associate Governmental Program Analyst	11/20/19	6 Hours
Health Program Specialist II	11/20/18	8 Hours
Information Technology Associate	11/20/18	7.50 Hours
Information Technology Specialist I	10/29/18 – 11/5/18	6 Days
Information Technology Specialist II	11/20/18	8 Hours
Information Technology Specialist II	1/10/19	8 Hours
Information Technology Manager I	11/20/18	4 Hours
Marketing Specialist, California State Lottery	11/20/18	6 Hours
Personnel Specialist	11/20/18	6.5 Hours
Personnel Specialist	1/10/19	5 Hours
Program Technician II	10/5/18 – 12/7/18	344 Hours
Program Technician II	10/8/18 – 11/20/18	242.50 Hours
Program Technician II	3/22/19 – 4/30/19	208 Hours
Program Technician III	9/20/18	1.25 Hours
Research Data Analyst II	11/20/18	5 Hours
Senior Accounting Officer (Specialist)	1/10/19	5 Hours
Senior Accounting Officer (Specialist)	1/10/19	5 Hours
Senior Marketing Specialist, California State Lottery	11/20/18	2.50 Hours

Classification	Time Frame	Amount of Time on ATO
Staff Services Analyst (General)	1/10/19	6.25 Hours
Staff Services Manager I	7/9/18 – 7/17/18	48 Hours
Staff Services Manager III	11/20/18	5.50 Hours
Supervising Program Technician III	9/20/18	1.50 Hours
Supervising Program Technician III	11/9/18 – 11/16/18	40 Hours

FINDING NO. 18 – Administrative Time Off Was Not Properly Documented

Summary: The Exchange did not grant ATO in conformity with the established policies and procedures. For 2 of the 30 ATO authorizations reviewed by the CRU, the Exchange did not obtain approval from CalHR prior to authorizing ATO in excess of 30 days. Additionally, the Exchange did not key four employees' ATO hours correctly into the Leave Accounting System.

Criteria: Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they "have delegated authority to approve up to 30 calendar days." (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. *(Ibid.)* In most cases, if approved, the extension will be for an additional 30 calendar days. *(Ibid.)* The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. *(Ibid.)*

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. *(Ibid.)* ATO may not be used and will not be granted for an indefinite period. *(Ibid.)* If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. *(Ibid.)*

Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. *(Ibid.)*

Severity: Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Cause: The Exchange states that the lack of notice to CalHR for two ATO extensions was an oversight.

During this time period, the Exchange implemented the California Leave Accounting System (CLAS). Inexperience with CLAS, the lack of auditing measures, and human error contributed to the incorrect keying of ATO for four employees.

Corrective Action: Within 90 days of the date of this report, the Exchange 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 19991.10 and Human Resources Manual Section 2121. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, January 31, 2019, through April 30, 2019, the Exchange reported 20 units comprised of 1202 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
February 2019	130	66	66	0
February 2019	140	31	31	0
March 2019	121	12	12	0
March 2019	122	4	4	0
April 2019	121	12	12	0
April 2019	122	4	4	0
April 2019	351	24	24	0
April 2019	370	28	28	0

FINDING NO. 19 – Incorrectly Posted Leave Usage and/or Leave Credit

Summary: The Exchange did not correctly enter 21 of 181 timesheets into the Leave Accounting System (LAS) during the February 2019 to April 2019 pay periods. As a result, 21 employees retained their 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 Exchange states that the lack of auditing measures and human error contributed to the errors identified in this finding.

Corrective Action: Within 90 days of the date of this report, the Exchange 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.

FINDING NO. 20 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The Exchange failed to provide completed Leave Activity and Correction Certification forms for all eight units reviewed during the February, March, and April 2019 pay periods.

Criteria: Departments are responsible for maintaining accurate and timely leave accounting records for their employees. (Cal. Code Regs., tit. 2, § 599.665.) Departments shall identify and record all errors found using a Leave Activity and Correction form. (Human Resources Manual Section 2101.) Furthermore, departments shall certify that all leave records for the unit/pay period identified on the certification form have been reviewed and all leave errors identified have been corrected. *(Ibid.)*

Severity: Technical. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. For post-audit purposes, the completion of Leave Activity and Correction Certification forms demonstrates compliance with CalHR policies and guidelines.

Cause: The Exchange states that the lack of auditing measures and human error contributed to this finding.

Corrective Action: Within 90 days of the date of this report, the Exchange must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that their monthly internal audit process is documented and that all leave input is keyed accurately and timely. 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.[17] (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.

[17] 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.

(Ibid.) On the first day following a qualifying monthly pay period, excluded employees[18] shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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, October 31, 2018, through July 30, 2019, the Exchange had 29 employees with non-qualifying pay period transactions. The CRU reviewed 24 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	19
Qualifying Pay Period	Full Time	5

FINDING NO. 21 – Incorrect Application of State Service and Leave Transactions

Summary: The CRU found the following errors in the Exchange's state service transactions:

Type of Transaction	Time base	State Service Incorrectly Posted	Leave Accruals Incorrectly Posted
Non- Qualifying Pay Period	Full Time	4	2
Qualifying Pay Period	Full Time	0	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.

[18] 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.

Code of 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 Exchange states that a lack of auditing measures and human error contributed to this finding.

Corrective Action: Within 90 days of the date of this report, the Exchange 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. 22 – 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 Exchange's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the Exchange'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 subds. (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.)*

FINDING NO. 23 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the Exchange 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 Exchange received worker's 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 76 permanent Exchange 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
Accountant Trainee	1/1/18
Accounting Administrator I (Supervisor)	4/1/18
Accounting Officer (Specialist)	10/6/18
Accounting Officer (Specialist)	8/22/18
Administrative Assistant II	5/2/18
Associate Accounting Analyst	5/27/18
Associate Administrative Analyst, Accounting Systems	10/15/18
Associate Governmental Program Analyst	8/22/18
Associate Governmental Program Analyst	5/25/18
Associate Governmental Program Analyst	11/22/18
Associate Governmental Program Analyst	10/20/18
Associate Governmental Program Analyst	4/1/18
Associate Governmental Program Analyst	1/15/18
Associate Governmental Program Analyst	5/1/18

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	6/2/18
Associate Governmental Program Analyst	5/24/18
Associate Management Auditor	10/25/18
Associate Management Auditor	9/2/18
Associate Management Auditor	4/30/18
Health Program Specialist I	3/22/18
Health Program Specialist II	8/1/18
Information Officer I (Specialist)	4/1/18
Information Officer I (Specialist)	11/6/18
Information Technology Manager I	2/1/18
Marketing Specialist, CA State Lottery	7/31/18
Office Assistant (Typing)	5/24/18
Office Technician (Typing)	12/24/18
Office Technician (Typing)	11/1/18
Personnel Specialist	11/10/18
Program Technician II	9/3/18
Program Technician II	11/12/18
Program Technician II	1/31/18
Program Technician II	8/10/18
Program Technician II	2/4/18
Program Technician II	1/31/18
Program Technician II	1/31/18
Program Technician II	5/18/18
Program Technician II	3/8/18
Program Technician II	2/4/18
Program Technician II	8/10/18
Program Technician II	8/10/18
Program Technician II	3/29/18
Program Technician II	1/31/18
Program Technician II	1/1/18
Program Technician II	7/31/18
Program Technician III	6/15/18
Program Technician III	1/31/18
Program Technician III	8/10/18

Classification	Date Performance Appraisals Due
Program Technician III	5/17/18
Program Technician III	8/9/18
Program Technician III	4/7/18
Program Technician III	1/31/18
Research Data Analyst II	1/4/18
Research Data Specialist I	8/18/18
Research Data Specialist II	8/19/18
Senior Accounting Officer (Specialist)	1/22/18
Senior Marketing Specialist, CA State Lottery	4/27/18
Senior Personnel Specialist	3/28/18
Staff Services Analyst (General)	2/9/18
Staff Services Manager I	7/1/18
Staff Services Manager I	7/31/18
Staff Services Manager I	6/24/18
Staff Services Manager I	11/30/18
Staff Services Manager I	4/16/18
Staff Services Manager I	5/27/18
Staff Services Manager II (Supervisory)	8/31/18
Supervising Program Technician III	2/10/18
Supervising Program Technician III	6/16/18
Supervising Program Technician III	5/15/18
Supervising Program Technician III	11/18/18
Supervising Program Technician III	10/1/18
Supervising Program Technician III	8/19/18
Supervising Program Technician III	1/13/18
Supervising Program Technician III	2/10/18

FINDING NO. 24 – Performance Appraisals Were Not Provided to All Employees

Summary: The Exchange did not provide annual performance appraisals to 66 of 76 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 Exchange acknowledges that performance appraisals were not provided to all employees. The Exchange is currently developing a standardized process to ensure supervisors and managers complete performance appraisals for their employees on an annual basis.

Corrective Action: Within 90 days of the date of this report, the Exchange 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 Exchange's response is attached as Attachment 1.

SPB REPLY

Based upon the Exchange's written response, the Exchange 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.

July 9, 2020

Suzanne Ambrose
Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. Ambrose,

This letter is in response to the State Personnel Board's (SPB) Compliance Review of the California Health Benefit Exchange's (the Exchange), also known as Covered California:

- Examinations, appointments, personal services contracts, compensation and pay, leave (leave auditing and timekeeping, administrative time off, 715 transactions, and leave reduction plan) for the period November 1, 2018, through July 30, 2019,
- Performance appraisals for calendar year 2018,
- Mandated training program for the period August 1, 2017 through July 31, 2019,
- Equal Employment Opportunity (EEO) Program for the period December 2018 through November 2019, and
- Policy and processes.

The Exchange would like to thank SPB's Compliance Review Unit (CRU) for their oversight and thoroughness in conducting our compliance review. The CRU's review afforded us the opportunity to work collaboratively with SPB to explore opportunities for enhancements to our hiring and leave processes, EEO Program, personal services contracts, and administration of mandated training.

The following are in response to SPB's Compliance Review Report.

Finding No. 1 – Examination Applications Were Accepted After the Final File Date

The Exchange has researched this finding extensively and cannot find evidence to support the reasons why these applications were accepted late. We have since implemented new procedures to prevent the acceptance of any late applications.

BOARD MEMBERS Dr. Mark Ghaly, Chair Paul Fearer Jerry Fleming Dr. Sandra Hernandez Art Torres EXEC. DIRECTOR Peter V. Lee

Finding No. 3 – Inappropriate Use of Department Specific Classifications:

In 2011, as a new organization operating with minimal resources, the Exchange partnered with the Department of Social Services (DSS) to conduct its administrative functions. The Exchange worked closely with DSS to create an organizational structure utilizing the appropriate classifications that met the critical needs and mission of the organization. The Exchange engaged with CalHR and the California State Lottery (Lottery) for use of the Lottery's department-specific classification on November 7, 2012. Although the Exchange engaged CalHR and we have documentation as such, we were unable to locate the historical documentation that reflects CalHR's approval for the use of the Lottery's Marketing Specialist classification. In good faith, the Exchange entered into an interagency agreement with the Lottery on October 1, 2015 (Agreement Number 15-C-048) and has continued to be renewed since its origination. The Exchange will work with CalHR to obtain documented approval to continue the use of the Lottery's department-specific classifications.

Finding No. 4 – Probationary Evaluations Were Not Provided for all Appointments Reviewed and Those That Were Reviewed Were Untimely

The Exchange's Human Resources Branch (HRB) makes a good faith effort to inform supervisors and managers regarding the requirements of completing probationary evaluations. Supervisors and managers are provided the forms and due dates of probationary evaluations of their employees. An updated tracking process allows the Human Resources Branch to follow-up with supervisors and managers with past due probationary reports to ensure timely completion.

The Exchange provides leadership training to its supervisors and managers, of which is geared towards a wide variety of supervisory roles and responsibilities. One such class covers the area of Progressive Discipline and focuses on the supervisor's role during the process, highlighting the importance of providing staff with timely probationary reports.

Finding No. 5 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time:

A tracking process did not exist to verify that Notices of Personnel Action (NOPA) were signed by the employee and received in HRB for filing in employee Official Personnel Files (OPF). The Exchange recognizes the importance of maintaining and retaining appointment documentation and began revamping our processes prior to SPB's Compliance Review. As of January 2020, HRB reviewed and replaced OPFs for all active employees. The project included replacement of outdated OPF folders, as well as training for clerical staff and personnel specialists regarding proper filing and retention of documents in the OPFs. The Exchange has also implemented a streamlined tracking process to ensure receipt of signed NOPAs from employees and direct placement into the OPF. The tracking is monitored by the Payroll and Benefits Manager through desk audits, as a strategy to reduce human error and to ensure signed NOPAs are received from employees and filed in their OPF.

Finding No. 6 – Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period:

The Exchange acknowledges that we did not notify the complainant timely for one case due to delayed review. With regards to the other case, the complainant continued to submit information and witness names, which extended the investigation past 90 days. Therefore, the complainant was aware of the ongoing nature of the investigation. To date, this case is still in litigation.

To mitigate this, the Exchange's EEO plans to develop form letters and a reminder notice procedure, so that all notices are sent prior to the 90-day mark if the investigation is not complete yet. These processes will be implemented by July 1, 2020 for all active cases.

Finding No. 7 – Unions Were Not Notified of Personal Services Contracts:

During the period 2017-2018, the Exchange's Contracts Unit experienced significant changes concerning staff and management. With a new manager and new analysts on-boarded during this timeframe, significant training and knowledge transfer was required, and this audit finding is a result of that. Additionally, our team services 22 programs and in order to meet the expectations of expediting contracts, the lack of time needed for all parties to thoroughly review has resulted in the seven missed contracts. Fortunately, over the past year, the Contracts Unit has been aggressive in implementing useful tools and practices to ensure such discrepancies do not continue to occur at the following levels:

- Analyst Level Action: Immediately begin tracking union notice on the Std. 215 prior to executing contracts utilizing an internal tracking log.
- Manager Level Action: Verify tracking log is complete, and the Labor Relations Office has been notified on the Std. 215.
- Senior Manager Level Action: Conduct research and develop a project charter for a contract management system that would include the workflow to check for Labor Relations notice.

Further, attached are the union notifications for personal services contract numbers 19-C-019 and 19-C-020.

Finding No. 8 – Ethics Training Was Not Provided for All Filers:

The Exchange has historically required all staff to complete ethics training, not only the Form 700 filers. The training is provided by the Attorney General's website and not directly by the Exchange, which has made us dependent on staff to submit their certificates to the Exchange's Covered California University (CCU) Training Operations team for recording in our learning management system (LMS) upon completion. This process has not been strictly followed by staff which resulted in the LMS records being incomplete. In mid-2018, CCU created a Training Operations team with the most critical deliverable being compliance tracking and reporting. Prior to the establishment of the CCU Training Operations team, there was no process for compliance monitoring and reporting. Reports are now being issued weekly, monthly or quarterly depending on the type of report to management. We also issue email notifications upon hiring, promotions

and other date-related triggers that mandatory courses need to be taken. When staff remain out of compliance after being notified and reminded, we escalate the reminders to upper management to the Director level, if necessary. These efforts were not previously in place and have improved our compliance.

Finding No. 9 – Leadership and Development Training Was Not Provided for All Supervisors, Managers, and CEAs:

Prior to the establishment of the Training Operations team compliance reporting was not being done regularly for new hires and the 20-hour biennial training was not being tracked. Since creating the Training Operations team, we have been conducting compliance reporting regularly. This report includes the individually calculated biennial 20-hours of training. In between reports, the Training Operations team sends initial notifications of the required training and reminders to new hires and promotions that trigger the different levels of leadership training. These efforts were not previously in place and have improved our compliance.

Finding No. 10 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors:

Since creating the Training Operations team, compliance reporting is done on a regular schedule. Our current process includes issuing monthly compliance reports to management and designated training liaisons on all mandatory training, including Sexual Harassment Prevention. We also issue reminders to staff and escalate past due reminders to their supervisors/managers for follow-up with their out of compliance staff. These efforts have greatly improved our compliance.

Finding No. 12 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines:

The Exchange acknowledges that two of the three Staff Services Analyst (SSA) appointments resulted in keying errors. However, one of the SSA employees was appropriately appointed as a transfer (from the SSA transfer exam) and was placed in range A because the employee did not meet the criteria for range B or range C per Alternate Range Criteria 069. The Exchange processed a same day range change because salary rule 599.674a placed her into range B.

Finding No. 14 – Incorrect Authorization of Bilingual Pay:

The Exchange researched extensively and could not locate proper supporting documentation (Bilingual Pay Authorization form, STD 897) beyond the five-year retention period demonstrating the need for pay for bilingual services for four employees.

Finding No. 16 – Payroll Errors When Issuing Out-of-Class Payments:

The Out-of-Class payroll errors were due to human error. Although Payroll and Benefits Unit staff at the Exchange have received the salary determination training, additional

training and desk guides are being implemented to ensure employees are compensated properly. As of June 1, 2020, the Exchange implemented a second level review of all special payments.

Finding No. 18 – Administrative Time Off Was Not Properly Documented:

The notice to CalHR for Administrative Time Off (ATO) extensions of two employees was not completed timely in error. A review of ATO processes and procedures has occurred and potential gaps in the CalHR extension request and approval requirements have been remediated.

During this time period, the Exchange newly implemented the California Leave Accounting System (CLAS). Inexperience with CLAS, the lack of auditing measures, and human error contributed to the incorrect keying of ATO for four employees.

Finding No. 19 – Incorrectly Posted Leave Usage and/or Leave Credit:

As mentioned above, the new implementation of CLAS, during this time, the lack of auditing measures, and human error contributed to the errors identified in this finding. The Exchange is creating training materials and providing training to all personnel specialists to ensure accurate and timely posting of leave usage and credit.

Finding No. 20 – Leave Activity and Correction Forms Were Not Completed For All Leave Records Reviewed:

Again, the implementation of CLAS, during this time period, the lack of auditing measures, and human error contributed to the finding. The Exchange will create a monthly audit process to include identifying and recording all errors during the comparison period utilizing the Leave Activity and Correction Certification Form.

Finding No. 21 – Incorrect Application of State Service and Leave Transactions:

Again, the implementation of CLAS, during this time period, the lack of auditing measures, and human error contributed to the finding. The Exchange will create a monthly audit

process to include identifying and recording all errors during the comparison period utilizing the Leave Activity and Correction Certification Form.

Finding No. 24 – Performance Appraisals Were Not Provided to All Employees:

The Exchange acknowledges that performance appraisals were not provided to all employees. The Exchange is currently developing a standardized process to ensure supervisors and managers complete performance appraisals for their employees on an annual basis.

In response to SPB's Compliance Review, we acknowledge there are continual opportunities to build upon our processes pertaining to appointment, compensation and pay, leave and timekeeping, personal services contracts, performance appraisals, leave reduction, EEO complaints, and completion of mandated training. Through this process, we are confident we have established and communicated practices to ensure compliance with laws and rules governing our appointments and mandated training.

Sincerely,

Jaclyn Padilla

Jaclyn Padilla, Deputy Director
Human Resources Branch