



COMPLIANCE REVIEW REPORT

CALIFORNIA SCIENCE CENTER OFFICE OF EXPOSITION PARK MANAGEMENT CALIFORNIA AFRICAN AMERICAN MUSEUM

Compliance Review Unit
State Personnel Board
July 31, 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 comply 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 Science Center (CSC), the Office of Exposition Park Management (OEPM), and the California African American Museum (CAAM) 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	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
Personal Services Contracts	Written Justification Was Not Provided for All Personal Services Contracts
Mandated Training	Supervisory Training Was Not Provided for All Supervisors
Mandated Training	Sexual Harassment Prevention Training Was Not Provided For All Supervisors
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Area	Finding
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records
Leave	Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Injured Employees Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury.
Policy	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

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

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

BACKGROUND

The CSC represents one of California's premier educational destinations. Governed by a nine-member Board of Directors, appointed by the Governor, the Science Center develops and features award-winning exhibits and internationally renowned education programs. The annual attendance averages 2.1 million visitors. Hands-on educational exhibits and programs focus on science, math, and technology that explore biological processes of humans, animals, plants, the Earth's ecosystems, habitats, and geophysical processes. Engineering, communications, and transportation, on land and in space, are explored as well.

The CSC's mission values accessibility and inclusiveness, and strives to inspire interest in science among those traditionally underrepresented in science, math, technology and engineering.

The CSC has 110 authorized positions; and its workforce reflects a wide range of classifications. Facility operations and trades represent approximately 73 percent of its

workforce. The CSC's Administration Unit provides the OEPM, as well as the CAAM, with certain budget, human resources, and accounting services.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CSC, OEPM and CAAM's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if 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 CSC, OEPM and CAAM'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 CSC provided, which included examination plans, examination bulletins, job analyses, and scoring results.

The CSC, OEPM and CAAM did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the CSC, OEPM and CAAM'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 CSC provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CSC, OEPM and CAAM did not make any additional appointments nor conduct any unlawful appointment investigations during the compliance review period.

The CSC, OEPM and CAAM's appointments were also selected for review to ensure the CSC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CSC 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

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

functions related to compensation and pay: hire above minimum (HAM) requests and monthly pay differentials.

During the compliance review period, the CSC, OEPM, and CAAM did not issue or authorize any red circle rate requests, arduous pay, bilingual pay, or out-of-class assignments.

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

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

The CRU also identified the CSC, OEPM and CAAM's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the CSC to provide a copy of the leave reduction policies.

The CRU reviewed the CSC, OEPM and CAAM's Leave Activity and Correction Certification forms to verify that the CSC 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 units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the CSC, OEPM and CAAM employees who used Administrative Time Off (ATO) in

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

order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CSC, OEPM and CAAM positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

During the compliance review period, the CSC, OEPM and CAAM did not have any employees with non-qualifying pay period transactions.

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

On April 22, 2020, an exit conference was held with the CSC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CSC's written response on May 1, 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, 2017, through July 31, 2018, the CSC conducted two examinations. The CRU reviewed all of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Chief, Exposition Events	Open	Qualification Appraisal Panel ³ (QAP)	4/12/18	1
Program Manager	Open	QAP	9/21/17	2

FINDING NO. 1 – Examinations Complied with Civil Service Laws and Board Rules

The CRU reviewed two open examinations which the CSC administered in order to create eligible lists from which to make appointments. The CSC published and distributed examination bulletins containing the required information for all examinations. Applications received by the CSC were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the CSC conducted 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

³ The Qualification Appraisal Panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

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, February 1, 2018, through October 31, 2018, the CSC, OEPM and CAAM made 21 appointments. The CRU reviewed 9 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer Specialist	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Building Maintenance Worker	Certification List	Permanent	Full Time	1
Custodian Supervisor III	Certification List	Permanent	Full Time	1
Dispatcher Clerk	Certification List	Permanent	Full Time	1
Events Services Supervisor	Temporary	Temporary	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Stationary Engineer	Certification List	Permanent	Full Time	1
Electrician I	Transfer	Permanent	Full Time	1

FINDING NO. 2 – Appointments Complied with Civil Service Laws and Board Rules

The CSC, OEPM and CAAM measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the eight list appointments reviewed, the CSC ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed one CSC appointment made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive

officer. (Cal. Code Regs., tit. 2, § 425.) The CSC verified the eligibility of each candidate to his or her appointed class.

The CRU found no deficiencies in the appointments that the CSC, OEPM and CAAM initiated during the compliance review period. Accordingly, the CRU found that the appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

Equal Employment Opportunity

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

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

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

FINDING NO. 3 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO programs' roles and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CSC, OEPM and CAAM EEO programs provided employees with information and guidance on the EEO process including instructions on

how to file discrimination claims. Furthermore, the three entities' EEO programs outline the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The CSC EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CSC. The EEO Officer for the OEPM, who is also at a managerial level, reports directly to the General Manager of the OEPM on all matters related to EEO. The CAAM's EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CAAM. The CSC, OEPM and CAAM also provided evidence of efforts to promote EEO in their hiring and employment practices and to increase the hiring of persons with a disability.

Personal Services Contracts

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

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

During the period under review, November 1, 2017, through July 31, 2018, the CSC, OEPM and CAAM had 345 PSC's that were in effect. The CRU reviewed 23 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified	Union Notification	Contracting Dept.
All American Lock Corporation	Service/ Maintenance	4/18 - 6/18	\$3,054	No	No	CSC
Allison Mechanical Inc.	Service/ Maintenance	5/18 - 12/18	\$49,809	No	No	CSC
Allison Mechanical Inc.	Service/ Maintenance	5/18 - 12/18	\$55,725	No	No	CSC
Castelli Art Framing	Art Framing Services	12/17 - 12/17	\$5,097	No	No	CAAM
Cell Business Equipment	Service/ Maintenance	1/18 - 2/18	\$1,129	No	No	CAAM
Classic Parking, Inc.	Parking Services	3/18 - 6/18	\$1,620	No	No	OEPM
Cookes Crating, Inc.	Packing/ Crating	2/18 – 2/18	\$2,548	No	No	CAAM
Cookes Crating, Inc.	Packing/ Crating	4/18 - 4/18	\$1,775	No	No	CAAM
Daly Movers Inc.	Moving Services	3/18 - 6/18	\$1,002	No	No	OEPM
D'Andrea Graphics	Graphics Printing	11/17 - 12/17	\$6,329	No	No	CAAM
Data Ticket, Inc.	Parking Enforcement	7/17 - 6/18	\$4,999	No	No	OEPM
Diana Nawi	Curator Consulting	1/18 - 1/18	\$3,500	No	No	CAAM
Digital Plus, Inc.	Graphics Printing	1/18 - 2/18	\$24,987	No	No	CAAM
Digital Plus, Inc.	Graphics Printing	2/18 - 2/18	\$4,375	No	No	CAAM
Digital Plus, Inc.	Graphics Printing	4/18 - 4/18	\$875	No	No	CAAM
EJS Media, Inc.	Media Consulting	4/18 - 5/18	\$1,232	No	No	CAAM
EJS Media, Inc.	Media Consulting	6/18 - 6/18	\$510	No	No	CAAM

Vendor	Services	Contract Dates	Contract Amount	Justification Identified	Union Notification	Contracting Dept.
EMCOR Services	Service/Maintenance	4/18 - 6/18	\$1,445	No	No	CSC
Emma Jacobson Sive	Media Consulting	11/17 - 11/17	\$1,742	No	No	CAAM
Emma Jacobson Sive	Media Consulting	12/17 - 1/18	\$892	No	No	CAAM
Lisa Smith, The Tree Resource	Arborist Consulting	2/18 - 6/18	\$4,975	No	No	OEPM
Maximum Visibility Inc.	Service/Maintenance	6/18 - 6/18	\$33,043	No	No	OEPM
The Elumenati, LLC	Projection Services	6/18 - 12/18	\$23,125	Yes	No	CSC

FINDING NO. 4 – Unions Were Not Notified of Personal Services Contracts

Summary: The CSC did not notify unions for 5 contracts, the CAAM did not notify unions for 13 contracts, and the OEPM did not notify unions for 5 contracts, prior to entering into the PSC’s reviewed.

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 PSC’s in order to ensure they are aware contracts are being proposed for work that their members could perform.

Cause: The CSC acknowledges the findings. The non-compliance was a result of staff being unaware of the requirements, or misinterpretation of the requirements, to notify appropriate employee organizations. The three entities do not procure under the same Purchasing Authority, as delegated by the Department of General Services

(DGS). The CSC has its own Purchasing Authority, with OEPM as its secondary department; while CAAM has its own DGS delegated Purchasing Authority. Because of this, OEPM's contracts are only forwarded to CSC after they are fully executed, and CAAM's contracts are not forwarded to CSC at all.

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. The PSC's reviewed during this compliance review involved mechanical maintenance and graphics printing, functions which various rank-and-file civil service classifications perform. Within 90 days of the date of this report, the CSC, OEPM and CAAM must submit to the SPB a written corrective action response which addresses the corrections the departments 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.

FINDING NO. 5 – Written Justification Was Not Provided for All Personal Services Contracts

Summary: The CSC did not prepare or retain sufficient written justification for 5 contracts, the CAAM did not prepare or retain sufficient written justification for 13 contracts, and the OEPM did not prepare or retain sufficient written justification for 4 contracts, stating why the contracts satisfied Government Code section 19130, subdivision (b).

Criteria: Whenever an agency executes a personal services contract under Government Code section 19130, subdivision (b), the agency shall document, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions specified in Government Code section 19130, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60, subd. (a).) The agency shall maintain the written justification for the duration of the contract and any extensions of the contract or in accordance with the record retention requirements of section 26, whichever is longer. (Cal. Code Reg., tit. 2, § 547.60, subd. (b).)

Severity: Serious. Without specific written justification detailing why a PSC satisfies one or more conditions specified in Government Code section 19130, the CRU could not determine whether the department's PSC's complied with current procedural requirements.

Cause: The CSC states that of the 22 contracts that were non-compliant, 13 were CAAM's, 4 were OEPM's, and 5 were CSC's. The three entities identified which subdivision of Government Code section 19130 applied to the PSC's that were executed; however, the staff were unaware of the requirement to document, with specificity and detailed factual information, why a contract is permissible under Government Code section 19130.

Corrective Action: Within 90 days of the date of this report, the CSC, OEPM and CAAM must submit to the SPB a written corrective action response which addresses the corrections the departments will implement to ensure conformity with Government Code section 19130, subdivision (b), and California Code of Regulations, title 2, section 547.60, subdivision (a). 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 CSC, OEPM and CAAM's mandated training programs that were in effect during the compliance review period, August 1, 2016, through July 31, 2018. The CSC, OEPM and CAAM's ethics training were found to be in compliance. The CAAM's supervisory training was found to be non-compliant. Further, the CSC's, OEPM's and CAAM's sexual harassment prevention training were found to be out of compliance.

FINDING NO. 6 – Supervisory Training Was Not Provided for All Supervisors

Summary: The CAAM did not provide basic supervisory training to one of six new supervisors within twelve months of appointment.

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 of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subds. (b) and (c).)

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 CSC states that one employee did not complete Part II of Basic Supervisory training within 12 months of appointment due to the operational needs of the CAAM. As a key employee in the turnaround of the museum's galleries, he was the only employee available to oversee the essential business process. After the compliance review took place, the employee has since completed the mandatory training.

Corrective Action: Within 90 days of the date of this report, the CAAM must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors are provided supervisory training within twelve months of appointment 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. 7 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The CSC did not provide sexual harassment prevention training to 5 new supervisors, the OEPM did not provide training to 1 new supervisor, and the CAAM did not provide training to 1 new supervisor, within 6 months of their appointment. In addition, the CSC did not provide sexual harassment prevention training to 3 existing supervisors, and the CAAM did not provide training to 5 existing supervisors, every 2 years.

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

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

Cause: The CSC states that of the 7 new supervisors who did not receive the Sexual Harassment Prevention training within 6 months of appointment, 5 were CSC employees, 1 was an OEPM employee, and 1 was a CAAM employee. Of the 8 supervisors who did not receive the Sexual Harassment Prevention training every 2 years, 3 were CSC's, and 5 were CAAM's. At the time of the compliance review, the CSC did not have a program in place to effectively track supervisors who had not yet enrolled in training. A comprehensive tracking program has since been established.

Corrective Action: Within 90 days of the date of this report, the CSC, OEPM, and CAAM must submit to the SPB a written corrective action response which addresses the corrections the departments 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 rate⁴ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

⁴ "Rate" is any one of the salary rates in the resolution by CalHR, which establishes the salary ranges, and steps of the Pay Plan (CA CCR 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, February 1, 2018, through October 31, 2018, the CSC, OEPM and CAAM made 21 appointments. The CRU reviewed 7 of those appointments to determine if the CSC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Staff Services Analyst	New to State	Permanent	Full Time	\$3977
Building Maintenance Worker	New to State	Permanent	Full Time	\$3516
Stationary Engineer	Promotion	Permanent	Full Time	\$5681
Custodian Supervisor III	Promotion	Permanent	Full Time	\$3373
Associate Governmental Program Analyst	Promotion	Permanent	Full Time	\$5438
Dispatcher Clerk	Transfer	Permanent	Full Time	\$3258
Accounting Officer Specialist	Promotion	Permanent	Full Time	\$4605

FINDING NO. 8 – 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 CSC 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.

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 Section 3517.5, the memorandum of understanding shall be controlling without further legislative action.⁵ (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.*)

⁵ 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.

During the period under review, February 1, 2018, through October 31, 2018, the CSC authorized two HAM requests. The CRU reviewed all of those authorized HAM requests to determine if the CSC 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)
Accounting Officer (Specialist)	Certification List	New to State	\$4177 - \$5230	\$4605
Associate Governmental Program Analyst	Certification List	New to State	\$4788- \$5988	\$5274

FINDING NO. 9 – 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 CSC made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

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 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, February 1, 2018, through October 31, 2018, the CSC, OEPM, and CAAM issued pay differentials⁶ to 35 employees. The CRU reviewed six of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Museum Security Officer	245	2%
Museum Security Officer	245	2%
Museum Security Officer	245	4%
Museum Security Officer	245	4%
Museum Security Officer	245	8%
Supervising Museum Security Officer	245	2%

FINDING NO. 10 – 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 CSC, OEPM and CAAM 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.

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

⁶ For the purposes of CRU’s review, only monthly pay differentials were selected for review at this time.

days⁷ worked and paid absences,⁸ is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

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

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 CSC and CAAM had 35 employees whose hours were tracked⁹. The CRU reviewed 16 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Time Base	Time Frame	Time Worked
Administrative Assistant I, Science Center, California	Temporary	Intermittent	132
Guide II, California Afro-American Museum	Temporary	Intermittent	117

⁷ For example, two hours or ten hours counts as one day.

⁸ For example, vacation, sick leave, compensating time off, etc.

⁹ The OEPM had no positive paid employees at the time of review.

Classification	Time Base	Time Frame	Time Worked
Guide II, California Afro-American Museum	Temporary	Intermittent	97
Guide II, California Afro-American Museum	Temporary	Intermittent	94
Guide II, California Afro-American Museum	Temporary	Intermittent	83
Guide II, California Afro-American Museum	Temporary	Intermittent	120
Guide II, California Afro-American Museum	Temporary	Intermittent	127
Guide II, California Afro-American Museum	Temporary	Intermittent	137
Guide II, California Afro-American Museum	Temporary	Intermittent	17
Guide II, California Afro-American Museum	Temporary	Intermittent	91
Guide II, California Afro-American Museum	Temporary	Intermittent	142
Guide II, California Afro-American Museum	Temporary	Intermittent	85
Guide II, California Afro-American Museum	Temporary	Intermittent	132
Guide II, California Afro-American Museum	Temporary	Intermittent	115
Guide II, California Afro-American Museum	Temporary	Intermittent	88
Guide II, California Afro-American Museum	Temporary	Intermittent	148

FINDING NO. 11 – 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 CSC and CAAM provided sufficient justification 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, February 1, 2018, through October 31, 2018, the CSC placed one employee on ATO. The CRU reviewed the ATO appointment to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

Classification	Time Frame	No. of Days on ATO
Exhibit Electronics Technician	6/21/18 – 7/20/18	30

FINDING NO. 12 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the ATO transaction reviewed during the compliance review period. The CSC provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

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, February 1, 2018, through April 30, 2018, the CSC reported 6 units comprised of 60 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 2018	200	15	15	0
March 2018	200	14	14	0
April 2018	200	14	14	0
February 2018	601	6	6	0
March 2018	601	6	6	0
April 2018	601	5	5	0

FINDING NO. 13 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The CSC failed to provide completed Leave Activity and Correction Certification forms all units reviewed during the February, March, and April 2018 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 CSC states that it did not utilize the Leave Activity and Correction Certification form, at the time of the compliance review. However, it had an established method for review and audit of time entered into the leave accounting system.

Corrective Action: Within 90 days of the date of this report, the CSC 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. The CSC must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave Reduction Efforts

Departments must create a leave reduction policy for their organization and monitor employees' leave to ensure compliance with the departmental leave policy; and ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. (Human Resources Manual Section 2124.)

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion."¹⁰ (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount¹¹ as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

¹⁰ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 06 there is no established limit and for Bargaining Unit 05 the established limit is 816 hours.

¹¹ Excluded employees shall not accumulate more than 80 days.

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation, ensuring employees maintain the capacity to optimally perform their jobs. (Cal. Code Regs., tit. 2, § 599.742.1.) For excluded employees, the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work-life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2018, 18 CSC, OEPM and CAAM employees exceeded the established limits of vacation or annual leave. The CRU reviewed 13 of those employees' leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Administrator, Industrial Education Program	M21	861	Yes
Career Executive Assignment, CEO and President	M01	1202	Yes
Career Executive Assignment, Deputy Director of Administration	M01	792	Yes
Chief of Plant Operations I	S12	770	Yes
Custodian	R15	751.4	Yes
Custodian	R15	736.3	Yes
Custodian	R15	728	Yes
Custodian	R15	740	Yes
Custodian	R15	719.29	Yes
Exhibit Supervisor	S01	859	Yes
Museum Security Officer	R07	720.25	Yes
Staff Services Analyst	R01	756	Yes
Staff Services Manager II, HR Director	S01	1143.25	Yes
Total		10,778.49	

FINDING NO. 14 – Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU reviewed employee vacation and annual leave to ensure that those employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. In addition, the CRU reviewed the department’s leave reduction policy to verify its compliance with applicable rule and law, and to ensure its accessibility to employees. Based on our review, the CRU found no deficiencies in this area.

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 but are not limited to, association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) In addition, there may be personal relationships beyond this general definition that could be subject to these policies. (*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. 15 – 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 CSC, OEPM and CAAM’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CSC, OEPM and CAAM’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.*)

In this case, the CSC, the OEPM, and the CAAM did not employ volunteers during the compliance review period.

FINDING NO. 16 – Injured Employees Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury

Summary: CRU reviewed five CSC worker's compensation claim forms. Three of the forms were not provided to the employee within one working day of notice or knowledge of injury.

Criteria: An employer shall provide a claim form and notice of potential eligibility for workers' compensation benefits to its employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness. (Code, § 540.1, subd. (a).)

Severity: Very Serious. An injured employee was not provided the required form within the 24-hour time period. Providing the form within 24-hours of injury prevents any delay in treatment to which the employee is entitled. A work related injury can result in lost time beyond the employee's work shift at the time of injury and/or result in additional medical treatment beyond first aid.

Cause: The CSC acknowledges that, due to a lack of training, not all of its managers and supervisors had knowledge of how to properly

complete the workers' compensation claim form; nor did they understand the importance of providing an injured worker with the claim forms upon knowledge of an injury. The Health and Safety Officer has since provided workers' compensation training to all managers and supervisors.

Corrective Action: Within 90 days of the date of this report, the CSC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 8, section 9880. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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 41 permanent CSC, OEPM and CAAM employees to ensure that the departments were conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Accounting Officer	7/8/2018
Administrator, Science Programs	12/1/2018
Associate Government Program Analyst	8/31/2018
Building Maintenance Worker	3/31/2018
Building Maintenance Worker	4/30/2018
Carpenter II	11/13/2018
Chief Engineer II	1/15/2018
Chief Of Plant Operations I	9/7/2018
Chief Of Plant Operations I	9/30/2018

Classification	Date Performance Appraisals Due
Custodian	3/31/2018
Dispatcher Clerk	7/16/2018
Electrician I	2/16/2018
Exhibit Designer/Coordinator	6/6/2018
Exhibit Designer/Installer	7/22/2018
Exhibit Electronic Supervisor	8/31/2018
Exhibit Electronic Technician	12/1/2018
Exhibit Supervisor	12/31/2018
Exhibit Supervisor	7/8/2018
Exhibit Worker	5/1/2018
Fiscal Officer I	1/4/2018
Fiscal Officer/Staff Services Manager II	5/30/2018
Graphic Designer III	4/5/2018
Guide II, Historical Monument (Supervisor)	1/22/2018
Health and Safety Officer	3/24/2018
Librarian	12/25/2018
Maintenance Mechanic	7/3/2018
Maintenance Mechanic	7/16/2018
Manager of Exhibit Services	1/19/2018
Museum Curator I, Education	1/22/2018
Museum Security Officer	9/9/2018
Office Technician	2/2/2018
Painter I	6/19/2018
Personnel Specialist	11/30/2018
Plumber I	11/13/2018
Program Manager, Visual Arts	2/28/2018
Registrar of Interpretive Relations	10/9/2018
Senior Personnel Specialist	9/30/2018
Staff Services Analyst	11/15/2018
Stationary Engineer	6/18/2018
Stationary Engineer	2/22/2018
Supervising Museum Security Officer	4/24/2018

FINDING NO. 17 – Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

The CRU found no deficiencies in the performance appraisals selected for review. Accordingly, the CSC, OEPM and CAAM performance appraisal policy and processes satisfied civil service laws, Board rules and CalHR policies and guidelines.

DEPARTMENTAL RESPONSE

The CSC's response is attached as Attachment 1.

SPB REPLY

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

California Science Center

700 Exposition Park Drive, Los Angeles, CA 90037
State Administrative Services Department
www.californiasciencecenter.ca.gov

ATTACHMENT 1

May 1, 2020

Ms. Diana Campbell
State Personnel Board Compliance Review

Dear Ms. Campbell:

The California Science Center (Science Center) has reviewed the State Personnel Board (SPB) draft compliance review report of the Science Center. The audit encompassed the areas of examinations, appointments, equal employment opportunity, personal services contracts, mandated training, compensation, leave, policy and processes.

We appreciate the time and effort that SPB has taken to communicate with Science Center Human Resources staff during the audit as it helps further improve our department's programs.

Background

The Science Center Human Resources department (HR) provides personnel services, for the California Science Center (CSC), the Office of Exposition Park Management (OEPM) and the California African American Museum (CAAM). The three departments are located in close proximity in Los Angeles. Each department has its own appointing authority and distinct purchasing authority.

The following responses addresses the findings by SPB:

FINDING NO. 1: Examinations Complied with Civil Service Laws and Board Rules

FINDING NO. 2: Appointments Complied with Civil Services Laws and Board Rules

FINDING NO. 3: Equal Employment Opportunity Program Complied with All Civil Services Laws and Board Rules

FINDING NO. 4: Unions Were Not Notified of Personal Services Contract

Summary: The CSC did not notify unions prior to entering into all of the PSC's reviewed.

Severity: Serious



Department's Response: Of the 23 contracts that were found to be non-compliant, 13 were CAAM's, four were OEPM's and six were CSC's. Review of the findings determined that non-compliance was a result of staff being unaware of the requirements—or misinterpretation of the requirements—to notify appropriate employee organizations. CAAM procurement staff was unaware that unions were to be notified of all PSCs before the department executes the contracts. OEPM and CSC staff misinterpreted the requirement and thought it only applied to PSCs \$10,000 and over. Lastly, although CSC staff sent notifications to SEIU, staff failed to notify other appropriate employee organizations (i.e. PECG, IUOE, etc.).

Although CSC provides human resources services to all three entities, all three entities do not procure under the same Purchasing Authority, as delegated by the Department of General Services (DGS). The CSC has its own Purchasing Authority, with OEPM as its secondary department, while CAAM has its own DGS delegated Purchasing Authority. Because of this, OEPM's contracts are only forwarded to CSC after they are fully executed, and CAAM's contracts are not forwarded to CSC at all.

Moving forward, all three entities are committed to adhering to GC 19132 and have agreed to adopt the following corrective actions:

- Update procurement checklist(s) to ensure employee organizations are notified.
- Develop a Personal Services Contract form to ensure compliance with DGS' Management Memo 14-01 for contracts not requiring a Std. 215.
- Notify all 13 employee organizations (representing 21 bargaining units) of potential PSCs.

The CSC will make recommendations to CAAM and OEPM's hiring authority pertaining to union notification requirements, however it is important to note that we have limited authority. CSC procurement staff does not review OEPM's contracts prior to execution, and never see CAAM's contracts.

FINDING NO. 5: Written Justification Was Not Provided for All Personal Services Contracts

Summary: The CSC did not prepare or retain sufficient written justification why 26 contracts satisfied Government Code Section 19130, subdivision (b).

Severity: Serious

Department's Response: Of 22 contracts that were found to be non-compliant, 13 were CAAM's, four were OEPM's, and five were CSC's. The Science Center, Office of Exposition Park Management and California African American Museum identified which subdivision of GC 19130 applies to the Personal Services Contracts that were executed, however all three departments were unaware of the requirement to document—with specificity and detailed factual information—why a contract is permissible under GC 19130.

As mentioned in Finding No. 4, all three entities do not procure under the same Purchasing Authority; however, all three entities are committed to adhering to CCR, tit. 2, section 547.60 (a) and have agreed to adopt the following corrective actions:

CSC Compliance Response

- Update procurement checklist(s) to ensure ample justification demonstrating why the contract satisfies one or more of the conditions of GC 19130 is documented.
- Develop a Personal Services Contract form to ensure ample justification is documented for contracts not requiring a Std. 215.

The CSC will make recommendations to CAAM and OEPM's hiring authority pertaining to written justification requirements, however it is important to note that we have limited authority. CSC procurement staff does not review OEPM's contracts prior to execution, and never see CAAM's contracts.

FINDING NO. 6: Supervisory Training Was Not Provided for All Supervisors

Summary: The CSC did not provide basic supervisory training to one of six new supervisors within twelve months of appointment.

Severity: Very Serious

Department's Response: The employee who did not attend Basic Supervisory training within 12 months of appointment belonged to the California African American Museum. The CAAM employee completed Part I timely and was registered for Part II of Basic Supervisory Training within 12 months of appointment, on March 6, 2017, however the individual was unable to attend due to operational needs. As a key employee in the turnaround of the museum's galleries, he was the only employee available to oversee the essential business process. The employee was able to complete Part II by October 8, 2018.

It is important to note that the human resources department and the Training Officer work for the CSC and provide personnel services to OEPM and CAAM. Likewise, they provide recommendation to the individual hiring authorities, although each department ultimately determines when it is feasible to schedule staff for trainings based on work commitments. Since the Science Center is not the hiring authority for OEPM or CAAM employees, we have limited authority. We advise the appointing authority but cannot mandate when OEPM's or CAAM's staff attend trainings. To assist in staff's compliance with mandated trainings, the Science Center's Training Officer will continue to monitor training requirements for all three departments while advising staff of mandated trainings. When obstacles are encountered with meeting these requirements the Science Center will escalate the issue as appropriate.

The Science Center, Office of Exposition Park Management and California African American Museum operate in Los Angeles and each department faces unique challenges when it comes to training. Among those challenges for CAAM are the logistic difficulties in scheduling new supervisors for trainings that are largely based out of Sacramento. CAAM is a particularly small department with only 18 PY, and they face challenges unique to small departments. At times, the department finds it difficult to accommodate time away from the museum.

The Science Center is committed to being proactive and will continue to advise CAAM's hiring authority of not only who needs to attend basic supervisory trainings, but also of upcoming supervisory trainings to gain compliance with the Gov. Code. CAAM can use

this information to determine when to schedule new supervisors accordingly. Going forth, CAAM understands the importance of ensuring that new supervisors receive the required training within the employee's probationary period.

The Science Center will also continue to provide opportunities to all three departments to meet the minimum of 40 hours of training, as prescribed by Government Code 19995.4.

FINDING NO. 7: Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The CSC did not provide sexual harassment prevention training to seven of 18 new supervisors within six months of their appointment. In addition, the CSC did not provide sexual harassment prevention training to eight of 30 existing supervisors every two years.

Severity: Very Serious

Department's Response: Of the seven new supervisors that did not receive the Sexual Harassment training within six months of appointment, five were Science Center employees, one is an employee with OEPM, and one is a CAAM employee. Of the eight employees that did not receive the Sexual Harassment Prevention Training every two years, three are Science Center employees and five are CAAM employees. At the time, the CSC did not have a program in place to efficiently track supervisors who had not yet been enrolled in training. A comprehensive tracking program, managed by the EEO and Training Officer, has since been established. This program will be used to identify those who need the training, as well as those who need to attend this class every two years.

The California Science Center has improved its onboarding process to ensure all new employees receive the required mandated Sexual Harassment Training on their first day of hire and will track the mandated training. The CSC will also work with OEPM and CAAM to assist them in ensuring they complete the mandatory training on their first day of hire. As well as, work with their hiring authority to track and confirm the training is completed. Supervisors for all three departments complete the mandated Supervisory (two-hour) Sexual Harassment Prevention Training offered via a Learning Management System (LMS) administered by the California Natural Resources Agency.

To further ensure compliance, the LMS includes an email notification system that alerts new supervisors who are unable to complete training on their first day. The LMS is frequently monitored by the Training Officer, who corresponds with employees and supervisors when necessary to ensure the completion of mandated training. The training officer also maintains ongoing quarterly reports to track employee progress in completing mandated training while remaining on pace to reach required training hours. All state employees of the Science Center, including managers and supervisors, must complete Sexual Harassment Prevention Training on every two years.

FINDING NO. 8: Salary Determinations Complied with Civil Services Laws, Board Rules, and CalHR Policies and Guidelines

FINDING NO. 9: Hire Above Minimum Request Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

FINDING NO. 10: Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

FINDING NO. 11: Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

FINDING NO. 12: Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

FINDING NO. 13 – Leave Activity and Correction Certification Forms Were Not Completed for All Leave Records Reviewed

Summary: The Science Center failed to provide completed Leave Activity and Correction Certification forms for all units reviewed during the February, March, and April 2018 pay periods.

Severity: Technical

Department's Response: The Science Center understands the importance of maintaining accurate leave accounting records for their employees. Although the CSC was not in the practice of utilizing the Leave Activity and Correction Certification form, the CSC had an established method for review and audit of time entered into the leave accounting system. The process includes verifying that accrued leave and time used as reflected on the employee's time sheet was entered correctly in the leave accounting system for each employee. The process includes an independent audit by the Classification and Pay Analyst that compares the employee's attendance record with the Leave Activity Balance (LAB) for reconciliation purposes. Once audited, the personnel analyst notifies the Personnel Specialist if corrections are required and signs the LAB.

Going forward to gain compliance, the CSC has revised the leave accounting and timesheet audit process to include use of the Leave Accounting Leave Correction Certification form for all units reviewed. This step will certify that the audit was conducted and that any errors identified on the certification form have been corrected.

FINDING NO. 14: Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

FINDING NO. 15: Nepotism Policy Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

FINDING NO. 16: Injured Employee Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury

Summary: Of the five workers' compensation claims forms reviewed by the CRU, three of them were not provided to the employee within one working day of notice or knowledge of injury.

Severity: Very Serious

Department's Response: The Science Center strives to provide an employee workers' compensation claim forms within one working day of knowledge of injury. During the audit, it was determined that not all supervisors had knowledge of how to properly complete the workers' compensation claim form nor did they understand the importance of providing an injured worker with the claim forms upon knowledge of an injury. The Science Center has improved its workers' compensation program to ensure that all injured employees receive the required workers' compensation forms within one working day. The Health and Safety Officer provided workers' compensation training to all managers and supervisors on 6/4/2019 and 6/5/2019. The training is designed to emphasize several important policies and procedures of the Science Center's workers' compensation process. This includes the distribution of claim forms to injured employees within one working day of notice or knowledge of a work-related injury (Cal. Lab. Code, Section 540.1., subd. (a)).

Additionally, workers' compensation training will be provided on annual basis to all managers and supervisors to ensure continuous compliance. The Health and Safety Officer monitors the entire workers' compensation process and will remain proactive in ensuring timely issuance of claim forms upon notice or knowledge of an injury.

FINDING NO. 17: Performance Appraisals Policy and Process Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

Conclusion

The Science Center has a firm commitment to ensuring compliance with civil service laws, rules and policies as well as ensuring best practices are followed in accordance with their delegated agreement. Although the Science Center has limited authority when it comes to the Office of Exposition Park Management and the California African American Museum we will continue to make recommendations to ensure policies and processes are followed and will continue to work with the hiring authorities of OEPM and CAAM to ensure their departments are in compliance. When obstacles are encountered with meeting these requirements the Science Center will escalate the issue as appropriate.

If you have any questions or require additional information, please contact me at mjohnson@californiasciencecenter.ca.gov or Patricia Marquez, Deputy Director of administration at pmarquez@californiasciencecenter.ca.gov.

Sincerely,



Martha Johnson
Human Resources Director
California Science Center