CALIFORNIA STATE PERSONNEL BOARD

COMPLIANCE REVIEW REPORT

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

Compliance Review Unit
State Personnel Board
July 23, 2018

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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 authority's 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.

Effective July 1, 2012, the Governor's Reorganization Plan Number One (GRP1) of 2011 consolidated all of the functions of the Department of Personnel Administration and the merit-related operational functions of the State Personnel Board (SPB) into the California Department of Human Resources (CalHR).

Pursuant to Government Code Section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, by mutual agreement, expanded the scope of items reviewed beyond merit-related issues into more operational practices that are 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.

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.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California Tax Credit Allocation Committee (CTCAC) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, policy and processes, and policy and processes[1]. 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	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Mandated Training Complied with Statutory Requirements
Compensation	Compensation Determinations Did Not Comply with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Worker's Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

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

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

BACKGROUND

The CTCAC administers the federal and state Low-Income Housing Tax Credit Programs. Both programs were created to promote private investment in affordable rental housing for low-income Californians. As of 2017, the CTCAC employed 10 executive and management staff, 35 program analysts, and three Office Technicians.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CTCAC, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes[2]. The primary objective of the review was to determine if CTCAC 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 CTCAC'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 CTCAC provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CTCAC did not conduct any permanent withholds during the compliance review period.

A cross-section of the CTCAC'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 CTCAC provided, which included Notice of Personnel Action (NOPA) forms, request for personnel actions (RPA's), vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CTCAC did not conduct any additional appointments or unlawful appointment investigations during the compliance review period.

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

The CTCAC's appointments were also selected for review to ensure the CTCAC applied salary regulations accurately and correctly processed employee's compensation and pay. The CRU examined the documentation that the CTCAC provided, which included employment and pay history, and any other relevant documentation such as certifications, degrees, and/or appointee's application. The CTCAC did not conduct any Hiring Above Minimum (HAM) requests, Red Circle Rate requests, Out-of-Class assignments, or monthly pay differentials including, but not limited to, Bilingual and Arduous Pay during the compliance review period.

The review of the CTCAC'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 upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The CTCAC's PSC's were also reviewed[3]. It was beyond the scope of the compliance review to make conclusions as to whether the CTCAC justifications for the contracts were legally sufficient. The review was limited to whether the CTCAC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CTCAC'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 were provided supervisory and sexual harassment prevention training within statutory timelines.

The CRU also identified the CTCAC 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 and are actively reducing hours. Additionally, the CRU asked the CTCAC to provide a copy of their leave reduction policy.

The CRU reviewed the CTCAC's Leave Activity and Correction Certification forms to verify that the CTCAC created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected all of the CTCAC's units in order to ensure they maintained accurate and timely leave accounting records. The CTCAC did not have any Temporary Authorization (TAU)

[3] 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.

employee's time to track, or any employee's placed on Administrative Time Off (ATO) during the compliance review period. The CRU also did not review any employee's 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 because the CTCAC did not have any employees in this category during the compliance review period.

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

The CTCAC agreed with the CRU's initial findings and recommendations and it was determined that no exit conference was necessary. The CRU received and carefully reviewed the CTCAC's written response on July 10, 2018, 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.) 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 in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934.) Generally, 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, August 1, 2016, to July 31, 2017, the CTCAC conducted two examinations. The CRU reviewed both of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Personnel Analyst	Departmental Promotional	Education and Experience [4]	11/22/2016	2
Career Executive Assignment (CEA) A, Deputy Executive Director	Open	Qualification Appraisal Panel[5]	9/28/2016	4

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

The CRU reviewed one departmental promotional and one open examination which the CTCAC administered in order to create eligible lists from which to make appointments. The CTCAC published and distributed examination bulletins containing the required information for all examinations. Applications received by the CTCAC 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 CTCAC 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.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and

[4] In an education and experience examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

[5] 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.

fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the period under review, August 1, 2016, to July 31, 2017, the CTCAC made 23 appointments. The CRU reviewed 22 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Associate Governmental Program Analyst	Certification List	Permanent	Full-time	4
Office Technician (Typing) LEAP	Certification List	Limited Term	Full-time	1
Staff Services Analyst	Certification List	Permanent	Full-time	7
Staff Services Manager I	Certification List	Permanent	Full-time	2
Staff Services Manager II	Certification List	Permanent	Full-time	1
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full-time	4
Office Technician (Typing)	Mandatory Reinstatement	Permanent	Full-time	1
Staff Services Manager I	Mandatory Reinstatement	Permanent	Full-time	1
Staff Services Analyst	Transfer	Permanent	Full-time	1

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

The CTCAC 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 15 list appointments reviewed, the CTCAC 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 CTCAC made six appointments via mandatory reinstatement. A state agency is required to reinstate an employee to his or her former position if the employee is (1) terminated from a temporary or limited-term appointment by either the employee or the appointing power; (2) rejected during probation; or (3) demoted from a managerial position. (Gov. Code, § 19140.5.) The following conditions, however, must apply: the employee accepted the appointment without a break in continuity of service and the reinstatement is requested within ten working days after the effective date of the

termination. (Ibid.) The CTCAC complied with the rules and laws governing mandatory reinstatements.

The CRU reviewed one CTCAC 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 Reg., tit. 2, § 425.) The CTCAC verified the eligibility of each candidate to their appointed class.

The CRU found no deficiencies in the appointments that the CTCAC initiated during the compliance review period. Accordingly, the CRU found that the CTCAC's 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; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the CalHR by providing access to all required files, documents and data. (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.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

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 Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CTCAC EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the State Treasurer on any matters related to EEO. In addition, the CTCAC has an established DAC which reports to the State Treasurer on issues affecting persons with disabilities. The CTCAC also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the CTCAC EEO program complied with civil service laws and board rules.

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 Reg., 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 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, August 1, 2016, to September 30, 2017, the CTCAC had three PSC's that were in effect. The CRU reviewed all three PSC's, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Benningfield Group, Inc.	Energy Consulting	10/1/2017-9/30/2019	$191,690	Yes
Boston Capital Asset Management, LP	Asset Management Services	2/17/2015-12/31/2017	$1,200,000	Yes
Spectrum Enterprises	Asset Management Services	4/22/2016-4/21/2018	$179,000	Yes

FINDING NO. 4 – Personal Services Contracts Complied with Procedural Requirements

Whenever an agency executes a PSC under Government Code section 19130, subdivision (b), the department must document a written justification that includes specific and detailed factual information that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.) In addition to a written justification, under Government Code section 19132, subdivision (b), the department shall not execute any contract until they have notified all organizations that represent state employees who perform the type of work to be contracted

The total dollar amount of all the PSC's reviewed was $1,570,690 It was beyond the scope of the review to make conclusions as to whether CTCAC justifications for the contract were legally sufficient. For all PSC's reviewed, the CTCAC provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Additionally, the CTCAC complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CTCAC PSC's complied with civil service laws and board rules.

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 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), & (c), & 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 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 biannual 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.

FINDING NO. 5 – Mandated Training Complied with Statutory Requirements

The CTCAC provided ethics training to its five new filers within six months of appointment and semiannual ethics training to its five existing filers during two-year calendar year period commencing in 2015. The CTCAC also provided supervisory training to its two new supervisors within 12 months of appointment. In addition, the CTCAC provided sexual harassment prevention training to its two new supervisors within six months of appointment, and sexual harassment prevention training to its eight existing supervisors every two years. Thus, the CTCAC complied with mandated training requirements within statutory timelines.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR (Cal. Code Reg., tit. 2, § 599.666). Several salary rules dictate how departments calculate and determine an employee's salary rate[6] upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

During the period under review, August 1, 2016, to July 31, 2017, the CTCAC made 23 appointments. The CRU reviewed 21 of those appointments to determine if the CTCAC applied salary regulations accurately and correctly processed employees' compensation transactions. These appointments are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary
Associate Governmental Program Analyst	Certification List	Permanent	Full-time	$4,600
Associate Governmental Program Analyst	Certification List	Permanent	Full-time	$4,784
Associate Governmental Program Analyst	Certification List	Permanent	Full-time	$4,784

[6] "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).

Classification	Appointment Type	Tenure	Time Base	Salary
Associate Governmental Program Analyst	Certification List	Permanent	Full-time	$4,600
Office Technician (Typing) LEAP	Certification List	Limited Term	Full-time	$2,809
Staff Services Analyst	Certification List	Permanent	Full-time	$3,824
Staff Services Analyst	Certification List	Permanent	Full-time	$3,824
Staff Services Analyst	Certification List	Permanent	Full-time	$3,824
Staff Services Analyst	Certification List	Permanent	Full-time	$3,824
Staff Services Analyst	Certification List	Permanent	Full-time	$3,824
Staff Services Analyst	Certification List	Permanent	Full-time	$2,945
Staff Services Analyst	Certification List	Permanent	Full-time	$4,600
Staff Services Manager I	Certification List	Permanent	Full-time	$5,470
Staff Services Manager I	Certification List	Permanent	Full-time	$5,470
Staff Services Manager II	Certification List	Permanent	Full-time	$7,136
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full-time	$5,758
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full-time	$5,758
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full-time	$5,758
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full-time	$5,758
Office Technician (Typing)	Mandatory Reinstatement	Permanent	Full-time	$2,809
Staff Services Analyst	Transfer	Permanent	Full-time	$4,015

The CRU found no deficiencies in 20 out of 21 salary determinations that the CTCAC made during the compliance review period. The CTCAC appropriately calculated and processed 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.

However, the CTCAC incorrectly applied compensation laws, rules and/or CalHR policies and guidelines for one salary determination reviewed.

FINDING NO. 6 – Incorrect Application of Compensation Laws, Rules, and/or CalHR Policies and Guidelines

Summary: The CRU found the following error in the CTCAC's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Staff Services Analyst(General)	On February 1, 2017, the CTCAC appointed the employee to the Staff Services Analyst classification. The employee did not have any prior permanent or probationary status, and per Rule 599.673, should have received the entrance rate of Range C, which is $3,824. The employee was overpaid at $4,600.	599.673

Criteria: 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 Reg., tit. 2, § 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.

Severity: Very Serious. The CTCAC 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 pay amounts.

Cause: The CTCAC states that the Personnel Specialist miscalculated the salary rate when an employee who had no prior permanent or probationary status was appointed to a permanent Staff Services

Analyst position. The error occurred when CCR 599.673 was applied incorrectly.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CTCAC submit to the CRU a written corrective action plan that addresses the corrections implemented to ensure conformity with California Code of Regulations, title 2, section 599.673. It is also recommended that within 90 days of the Executive Officer's approval of these findings and recommendations, the CTCAC will correct the transaction, set up an accounts receivable, and begin collecting the overpayment.

Leave

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 Reg., tit. 2, § 599.665).

Additionally, in accordance with CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. 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. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

During the period under review, August 1, 2016, to July 31, 2017, the pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Number of Units Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
August 2016	1	40	40	0
September 2016	1	40	39	1
February 2017	1	44	44	0
May 2017	1	44	43	1

FINDING NO. 7 –	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The CTCAC failed to provide completed Leave Activity and Correction Certification forms for two out of four months reviewed during the review period. The CTCAC notified CRU they only complete the Leave Activity Correction Certification form when they have changes.

Criteria: In accordance with California Code of Regulations, title 2, section 599.665, departments are responsible for maintaining accurate and timely leave accounting records for their employees. In an effort to ensure departmental compliance, CalHR mandates that departments audit processes include the comparison of "what has been recorded in the leave accounting system as accrued/earned or used by each employee to their attendance record for the pay period" (CalHR Online Manual Section 2101). CalHR also dictates that departments identify and record all leave errors found using a Leave Activity and Correction Certification form (Ibid.). Moreover, CalHR requires that departments certify that all leave records for the unit/pay period identified on the certification form be reviewed regardless of whether errors were identified.

Severity: Non-serious or 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 CTCAC states that historically, Leave Activity and Correction Certification Forms were not completed for units that did not have any errors on their leave accounting records.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CTCAC submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.665 and

CalHR Online Manual Section 2101. Copies of any relevant documentation should be included with the plan.

Leave Reduction Efforts

Departments must comply with the regulations that require a written leave plan for every employee over their cap (Cal. Code Regs., tit. 2, § 599.742.1 and applicable MOU sections). Bargaining Unit Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, according to California Code of Regulations, title 2, section 599.737, if a represented employee does not use all of the vacation to which he or she is entitled in a calendar year, "the employee may accumulate the unused portion, provided that on January 1st of a calendar year, the employee shall not have more than "the established limit as stipulated by the applicable bargaining unit agreement[7]". Likewise, if an excluded employee does not use all of the vacation to which he or she is entitled in a calendar year, the "employee may accumulate the unused portion of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days" (Cal. Code Regs., tit. 2, § 599.738).

In accordance with CalHR Online Manual Section 2124, 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 and are actively reducing hours.

During the period under review, August 1, 2016, to July 31, 2017, the CTCAC reported four employees who were over the cap of Vacation or Annual Leave. The CRU reviewed all 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[8]	Leave Reduction Plan Provided
Associate Governmental Program Analyst	R01	56	No
Chief Executive Assignment	M01	229.75	No
Staff Services Manager I	S01	137.75	No

[7] For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.
[8] As of September 2017

Staff Services Manager I	S01	87	No
Total Hours		510.5	

FINDING NO. 8 – Leave Reduction Policy and Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits

Summary: The CTCAC did not provide leave reduction plans for the four employees reviewed whose leave balances were "over the cap." Additionally, CTCAC did not provide a general departmental policy addressing leave reduction.

Criteria: It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation. (Cal. Code Regs., tit. 2, § 599.742.1), ensuring employees maintain the capacity to optimally perform their jobs. 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 for reasons other than those listed in sections 599.737 and 599.738 of these regulations 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. (Cal. Code Regs., tit. 2, § 599.742.)

According to CalHR Online Manual Section 2124, "It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the 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 and are actively reducing hours".

Severity: Non-serious or Technical. California state employees have accumulated significant leave hours over the last several years creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary

increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

Cause: The CTCAC currently has a published policy that addresses leave balances that are in excess of the established limits. However, there has not been an enforcement mechanism established to address these excess balances.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CTCAC submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.742 and CalHR Online Manual Section 2124. Copies of any relevant documentation should be included with the plan.

Policies 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. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. 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. Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies. Overall, departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning employees. Departments have the discretion, based on organizational structure and size, to develop nepotism policies as they see fit (CalHR Online Manual Section 1204).

FINDING NO. 9 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the CTCAC's nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the CTCAC's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CTCAC'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 as outlined in CalHR's Online Manual Section 1204.

Worker's Compensation

Pursuant to California Code of Regulations, title 8, section 9880, employers shall provide to every new employee 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. This notice shall also contain a form that the employee can use to pre-designate their personal physician or medical group as defined by Labor Code section 4600. Additionally, employers shall also provide a claim form and notice of potential eligibility to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness (Labor Code § 5401).

According to Labor Code 3363.5, public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. Workers' compensation coverage is not mandatory for volunteers as it is for employees. This is specific to the legally uninsured state departments participating in the Master Agreement. Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (SCIF) office to discuss the status of volunteers (PML, "Workers' Compensation Coverage for Volunteers," 2015-009). Those departments who have volunteers should have notified or updated their existing notification to the SCIF by April 1, 2015, whether or not they have decided to extend workers' compensation coverage to volunteers. In this case, the CTCAC did not employ volunteers during the compliance review period.

After reviewing the CTCAC's workers' compensation process that was in effect during the compliance review period, the CRU verified that the CTCAC provides notice to their employees to inform them of their rights and responsibilities under CA workers' compensation law.

FINDING NO. 10 – Worker's Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Performance Appraisals

According to Government Code section 19992.2, departments 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 13 permanent CTCAC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines. These are listed below:

Classification	Position #	Date Probation Ended	Date Performance Appraisal(s) Due
Associate Governmental Program Analyst	342-001-5393-042	1/31/2013	1/31/2017
Associate Governmental Program Analyst	342-001-5393-034	4/30/2011	4/30/2017
Associate Governmental Program Analyst	342-001-5393-043	11/14/2013	11/14/2016
Associate Governmental Program Analyst	342-001-5393-041	1/31/2012	1/31/2017
Associate Governmental Program Analyst	342-001-5393-003	5/31/1996	5/31/2017
Associate Governmental Program Analyst	342-001-5393-004	5/7/2005	5/7/2017
Associate Governmental Program Analyst	342-001-5393-015	3/27/2008	3/27/2017
Associate Governmental Program Analyst	342-001-5393-009	3/31/2010	3/31/2017
Associate Governmental Program Analyst	342-001-533-044	11/14/2013	11/14/2016
Associate Governmental Program Analyst	342-001-5393-033	4/30/2011	4/30/2017
Associate Governmental Program Analyst	342-001-5393-040	7/23/2005	7/23/2017

Classification	Position #	Date Probation Ended	Date Performance Appraisal(s) Due
Staff Services Manager I	342-001-4800-005	1/18/2011	8/1/2017
Staff Services Manager I	342-001-4800-001	11/7/2013	11/7/2016

FINDING NO. 11 – Performance Appraisals Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

The CTCAC provided 13 of 13 written performance appraisals for the permanent CTCAC employees selected for review. Accordingly, the reviewed processes satisfied civil service laws, board rules and CalHR policies and guidelines.

DEPARTMENTAL RESPONSE

The CTCAC's response is attached as Attachment 1.

SPB REPLY

Based upon the CTCAC's written response, the CTCAC will comply with the CRU recommendations and findings and provide the CRU with an action plan.

It is further recommended that the CTCAC comply with the afore-stated recommendations within 60 days of the Executive Officer's approval and submit to the CRU a written report of compliance.

Attachment 1

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

915 Capitol Mall, Suite 485
Sacramento, CA 95814
p (916) 654-6340
f (916) 654-6033
www.treasurer.ca.gov/ctcac

MEMBERS

JOHN CHIANG, CHAIRMAN
State Treasurer

BETTY YEE
State Controller

MICHAEL COHEN
Director of Finance

EXECUTIVE DIRECTOR
Mark Stivers

July 9, 2018

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

Dear Ms. Ambrose,

Response to Compliance Review Report

The State Treasurer's Office (STO) provides personnel services for the CA Tax Credit Allocation Committee (CTCAC). On behalf of CTCAC, the STO submits this letter in response to the State Personnel Board's (SPB) compliance review of the CTCAC's personnel practices for the period August 1, 2016 through September 30, 2017. CTCAC appreciates SPB's review and the opportunity to respond to its findings. Please reference the enclosed Attachment A for detailed responses.

CTCAC agrees with SPB's findings, and has taken or will take immediate steps to develop and submit a Corrective Action Plan within 60 days of the release of the report to address the deficiencies identified.

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

Sincerely,

Christopher Sneed
Chief of Management Services

Enclosure

cc: Rebecca Grajski, STO
Vincent Brown, STO
Mark Stivers, CTCAC

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

Cause: None

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

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

Cause: None

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

FINDING No. 3 – Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules

Cause: None

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

FINDING No. 4 – Personal Services Contracts Complied with Procedural Requirements

Cause: None

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

FINDING No. 5 – Mandated Training Complied with Statutory Requirements

Cause: None

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

FINDING No. 6 – Incorrect Application of Compensation Laws, Rules, and/or CalHR Policies and Guidelines

Cause: The Personnel Specialist miscalculated the salary rate when an employee who had no prior permanent or probationary status was appointed to a permanent Staff Services Analyst position. This error occurred when CCR 599.673 was applied incorrectly.

Department's Response: On behalf of CTCAC, the STO employs a two-part verification process to ensure salary determinations are calculated accurately. However, during this period, there was one vacant transactional staff position in the two-position unit, who would normally verify the calculations from the other staff member. The STO has since developed backup measures to ensure the two-part verification process is followed even when the unit is understaffed.

FINDING No. 7 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records

Cause: Historically the STO/CTCAC has not completed the Leave Activity and Correction Certification form for units that did not have any errors on their leave accounting records.

Department's Response: On behalf of CTCAC, the STO now understands that this form is required whether or not there are errors to be noted and we have subsequently adjusted our procedures and now complete the form for each unit, every pay period.

FINDING No. 8 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

Cause: The STO/CTCAC currently has a published policy that addresses leave balances that are in excess of the established limits. However, there has not been an enforcement mechanism established to address these excess balances.

Department's Response: On behalf of CTCAC, the STO will immediately begin providing quarterly reports to the CTCAC management team in an effort to assist them with monitoring excess leave balances. Additionally, on a regular basis, CTCAC will: (1) require all supervisory staff to monitor their employees' vacation/annual leave balances for excess time; (2) encourage staff to use excess time in the pay period accrued when possible; and (3) will require the completion of an annual reduction plan for staff with excess leave balances.

FINDING No. 9 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None

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

FINDING No. 10 – Worker's Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None

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

FINDING No. 11 – Performance Appraisals Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None

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