



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA TRANSPORTATION COMMISSION**

Compliance Review Unit  
State Personnel Board  
6/12/18

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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 by the SPB's CRU beyond merit-related issues to more operational practices delegated to departments, and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and not monitored on a consistent, 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 to 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.

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California Transportation Commission (CTC) personnel practices in the areas of examinations, appointments, EEO, mandated training, PSC’s, compensation and pay, leave, and policy and processes<sup>1</sup>. 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 and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Hiring Above Minimum Transaction Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely
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	Workers’ Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Were Not Provided to All Employees

<sup>1</sup> 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 CTC is an independent public agency dedicated to ensuring a safe, financially sustainable, world-class multimodal transportation system that reduces congestion, improves the environment, and facilitates economic development through the efficient movement of people and goods. The CTC consists of eleven voting members and two non-voting ex-officio members. Of the eleven voting members, nine are appointed by the Governor, one is appointed by the Senate Rules Committee, and one is appointed by the Speaker of the Assembly. The two ex-officio non-voting members are appointed from the State Senate and Assembly, usually the respective chair of the transportation policy committee in each house.

The CTC is a part-time body that meets on a regular basis to formally review, approve and/or adopt state policy. The CTC is responsible for programming and allocating funds used in the construction of highway, intercity passenger rail, transit and active transportation improvements throughout California. The CTC is statutorily responsible for making specific decisions in the programming and allocating of state transportation funds to the following programs: State Transportation Improvement Program; State Highway Operation and Protection Program; Active Transportation Program; Propositions IA, IB, and 116; Traffic Congestion Relief Program; Local Assistance; Aeronautics and other programs.

The CTC is supported by an organization headed by an Executive Director who oversees a staff of 24 permanent authorized positions and 2 temporary help positions. The Executive Director acts as a liaison with the State Transportation Agency Secretary, the Caltrans Director, and regional agency executive directors and their respective staff. The Executive Director also acts as a liaison between the CTC and the Legislature and its staff, interpreting actions taken by the Legislature and reporting to the CTC on areas of concern to the Legislature. Further, the Executive Director serves as a member of the Toll Bridge Program Oversight Committee and the California Transportation Financing Authority.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CTC examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup> when applicable. The primary objective of the review was to determine if CTC 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 CTC'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 CTC provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CTC did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the CTC'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 CTC 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 CTC did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CTC did not make any additional appointments during the compliance review period.

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

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<sup>2</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

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

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

The CRU also identified the CTC 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 CTC to provide a copy of their leave reduction policy.

The CRU reviewed the CTC's Leave Activity and Correction certification forms to verify that the CTC 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 CTC's units in order to ensure they maintained accurate and timely leave accounting records. During the compliance review period, the CTC did not have any employees with non-qualifying pay period transactions. The CTC also did not authorize Administrative Time Off (ATO). Additionally, the CTC did not track any temporary intermittent employees by actual time worked during the compliance review period.

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

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<sup>3</sup> 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.

On May 1, 2018 an exit conference was held with the CTC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CTC's written response on May 22, 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, June 1, 2016, through June 30, 2017, the CTC conducted five examinations. The CRU reviewed all of the examinations, which are listed below:



Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) C, Chief Deputy Director	Open	Qualification Appraisal Panel <sup>4</sup>	4/14/2016	8
CEA B, Deputy Director of Transportation and Finance and Legislation	Open	Statement of Qualifications (SOQ) <sup>5</sup>	8/9/2016	4
CEA B, Deputy Director of Transportation Planning	Open	SOQ	8/9/2016	8
CEA B, Deputy Director of Transportation Programming	Open	SOQ	8/9/2016	6
CEA B, Deputy Director of Transportation Road Charge Pilot Program	Open	SOQ	12/15/2016	16

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

The CRU reviewed five open examinations which the CTC administered in order to create eligible lists from which to make appointments. The CTC published and distributed examination bulletins containing the required information for all examinations. Applications received by the CTC 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 CTC conducted during the compliance review period.

<sup>4</sup> 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.

<sup>5</sup> In a statement of qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

## 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 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, June 1, 2016, through June 30, 2017, the CTC made three appointments. The CRU reviewed the three appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Administrative Assistant I	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Supervising Transportation Engineer, Caltrans	Transfer	Permanent	Full Time	1

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

The CTC 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 two list appointments reviewed, the CTC 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 CTC 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 CTC verified the eligibility of the candidate to their appointed class.

The CRU found no deficiencies in the appointments that the CTC initiated during the compliance review period. Accordingly, the CRU found that the CTC'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 California Department of Human Resources 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 All Civil Service Laws and Board Regulations**

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 CTC 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 Director of the CTC. In addition, the CTC has an established DAC which reports to the Director on issues affecting persons with disabilities. The CTC 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 CTC 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, June 1, 2016, through September 1, 2017, the CTC had one PSC that was in effect. The CRU reviewed the PSC listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Department of Transportation	Interagency	7/1/2017 – 7/31/2019	\$144,564	Yes

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

When an agency executes a personal services contract 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.)

The total dollar amount of the PSC reviewed was \$144,564. It was beyond the scope of the review to make conclusions as to whether CTC justifications for the contract were legally sufficient. For the PSC reviewed, the CTC provided specific and detailed factual information in the written justifications as to how each of the three contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the CTC PSC 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 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), & (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 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 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.

In reviewing the CTC's mandated training program that was in effect during the compliance review period, the CRU determined the following:

**FINDING NO. 5 – Mandated Training Complied with Statutory Requirements**

The CTC provided ethics training to its 10 new filers within six months of appointment and semiannual ethics training to its two existing filers during two-year calendar year period commencing in 2014. The CTC also provided supervisory training to its 10 new supervisors within 12 months of appointment. In addition, the CTC provided sexual harassment prevention training its 10 new supervisors within six months of appointment, and sexual harassment prevention training to its two existing supervisors every two years. Thus, the CTC 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<sup>6</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

During the period under review, June 1, 2016, through June 30, 2017, the CTC made three appointments. The CRU reviewed two of the appointments to determine if the CTC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,046
Supervising Transportation Engineer, Caltrans	Transfer	Permanent	Full Time	\$12,157

### **FINDING NO. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the two salary determinations that were reviewed. The CTC 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**

Government Code section 19836 authorizes CalHR to allow payments above-the minimum rate in the salary range (HAM) in order to hire persons who have extraordinary qualifications. On April 1, 2005, CalHR granted delegated authority to all departments to approve HAM's for extraordinary qualifications, former legislative employees, and

<sup>6</sup> "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).

former exempt employees (PML, “Delegation of Personnel Management Functions,” 2005-012). On September 25, 2007, CalHR also granted delegated authority for all departments to approve exceptions to the HAM criteria for extraordinary qualifications for all new state employees without prior review or approval from CalHR. However, for existing state employees, departments should obtain approval from CalHR and delegated authority does not apply (PML, “Hiring Above Minimum Standards for Extraordinary Qualifications,” 2010-005).

Prior to approving a HAM under delegated authority, departments should demonstrate and document the candidate’s extraordinary qualifications. The candidate’s extraordinary qualifications should contribute to the work of the department significantly beyond that which other applicants offer. The extraordinary qualifications should provide expertise in a particular area of the department’s program well beyond the normal requirements of the class. The department may also consider the unique talent, ability or skill demonstrated by the candidate’s previous job experience as extraordinary qualifications, but the scope and depth of such experience should be more significant than the length. The qualifications and hiring rates of State employees already in the same class should be carefully considered (CalHR Online Manual Section 1707). In all cases, the candidate’s current salary or other bona fide salary offers should be above the minimum rate, verified and appropriately documented. Additionally, departments must request and approve HAM’s before a candidate accepts employment (Ibid.).

During the period under review, June 1, 2016, through June 30, 2017, the CTC authorized one HAM request. The CRU reviewed the authorized HAM request to determine if the CTC correctly applied Government Code section 19836 and appropriately verified, approved and documented candidate’s extraordinary qualifications and subsequent salaries, which is listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Administrative Assistant I	List Appointment	New to State	Range A	\$3,939

**FINDING NO. 7 – Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found that the HAM request the CTC made during the compliance review period, satisfied civil service laws, board rules and CalHR policies and guidelines.



## 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, January 1, 2017, through March 31, 2017, the CTC reported one unit comprised of 20 active employees during the January 2017 pay period, 20 active employees during the February 2017 pay period, and 22 active employees during the March 2017 pay period. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
January 2017	004	20	20	0
February 2017	004	20	20	0
March 2017	004	22	22	0

**FINDING NO. 8 – Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely**

**Summary:** The CTC<sup>7</sup> failed to implement a monthly internal audit process to verify time worked is keyed accurately and timely. In one instance,

<sup>7</sup> The CTC is contracted with the California Department of Transportation to perform the leave auditing and timekeeping function.

a positive attendance<sup>8</sup> employee's time worked was not entered correctly into the State Controller's Office (SCO) system, which resulted in the employee being underpaid. Furthermore, the CTC failed to provide completed Leave Activity and Correction Certification forms for the unit reviewed during the January through March 2017 pay period.

**Criteria:** In accordance with California Code of Regulations, title 2, section 599.665, 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). CalHR also directs 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 have been reviewed regardless of whether errors were identified.

**Severity:** Serious. The CTC failed to key the correct amount of hours an employee worked at the conclusion of the pay period, which affected employee compensation. 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 CTC states that the personnel services, including processing time sheets and leave accounting are provided by Caltrans. While Caltrans does have a monthly internal audit process for timesheets, they have indicated that human error resulted in a report that was not reviewed.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CTC submit to the CRU a written corrective action plan that addresses the

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<sup>8</sup> Positive attendance is the reference term for employees whose regular payroll warrants are written after the close of the pay period. Payments are made based on actual time worked that is reported on a time sheet and keyed by the department. If the department fails to key time worked, no pay will issue. There is no "automatic" issuing of payments for positive paid employees.

corrections the department will implement to ensure conformity with CalHR Online Manual, section 2101.

Leave Reduction Efforts

Departments must comply with the regulations and CalHR policies that require a leave plan for every employee with vacation or annual leave hours over the maximum amount permitted (Cal. Code Regs., tit. 2, § 599.742.1 and applicable Bargaining Unit Agreements). 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<sup>9</sup>”. 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.

As of December 31, 2016, five CTC employees exceeded the established limits of vacation or annual leave. The CRU reviewed all five 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
CEA	M01	62	Yes
CEA	M01	193	Yes

<sup>9</sup> 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.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Principal Transportation Engineer, Caltrans	M09	482	Yes
Senior Transportation Planner	S01	622	Yes
Supervising Transportation Engineer, Caltrans	M09	1155	Yes
<b>Total</b>		2514	

**FINDING NO. 9 – 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. 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. 10 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

After reviewing the CTC’s nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the CTC’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CTC’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.

The CRU strongly encourages the CTC to develop an internal complaint process for addressing nepotism complaints from employees.

Workers’ 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 section 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 that 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 CTC did not employ volunteers during the compliance review period.

**FINDING NO. 11 – Workers’ Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

After reviewing the CTC’s workers’ compensation process that was in effect during the compliance review period, the CRU verified that when the CTC provides notice to their employees to inform them of their rights and responsibilities under CA workers’ compensation law. Furthermore, the CRU verified that when the CTC received workers’ compensation claims, the CRU properly provided claim forms within one working day of notice or knowledge of injury.

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 three permanent CTC 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.

**FINDING NO. 12 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The CTC did not provide performance appraisals to the two employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.

Classification	Date Performance Appraisal(s) due
Assistant Executive Director, California Transportation Commission	7/30/2015
Associate Governmental Program Analyst	10/31/2016

**Criteria:** Departments are required to “prepare performance reports and keep them on file as prescribed by department rule” (Government Code section 19992.2). 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.

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

**Cause:** The CTC states that they did not provide an annual performance appraisal to one employee because that employee had given notice of retirement, was using up accrued leave time before officially separating, and the due date of the performance appraisal was close to the official date of separation. The second employee did not receive an annual performance appraisal due to turnover within management.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CTC submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of any relevant documentation should be included with the plan.

### **DEPARTMENTAL RESPONSE**

The CTC's response is attached as Attachment 1.

### **SPB REPLY**

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

It is further recommended that the CTC 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.

FRAN INMAN, Chair  
JAMES EARP, Vice Chair  
BOB ALVARADO  
YVONNE B. BURKE  
LUCETTA DUNN  
JAMES C. GHIEMMETTI  
CARL GUARDINO  
CHRISTINE KEHOE  
JAMES MADAFFER  
JOSEPH TAVAGLIONE  
PAUL VAN KONYNENBURG

STATE OF CALIFORNIA

EDMUND G. BROWN Jr., Governor

Attachment 1

SENATOR JIM BEALL, Ex Officio  
ASSEMBLY MEMBER JIM FRAZIER, Ex Officio

SUSAN BRANSEN, Executive Director



## CALIFORNIA TRANSPORTATION COMMISSION

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May 22, 2018

Ms. Suzanne M. Ambrose, Executive Officer  
State Personnel Board  
801 Capitol Mall, Suite 1200  
Sacramento, CA 95814

RE: California Transportation Commission Compliance Review Report

Dear Ms. Ambrose:

The California Transportation Commission (Commission) submits this letter in response to the State Personnel Board (Board) compliance review of the Commission's personnel practices related to examinations, appointments, equal employment opportunity, and personal services contracts for the 2016-17 fiscal year. The Commission appreciates the Board's review and the opportunity to respond to the findings. The Commission's responses to the Board's findings in the Draft Compliance Review Report are as follows:

**Finding No. 8 – Department has not implemented a monthly internal audit process to verify timesheets are keyed accurately and timely.**

The Commission's human resources and personnel services are provided by the California Department of Transportation (Caltrans). Caltrans uses a number of reports housed within its Staff Central web portal to reconcile leave credits.



## California Transportation Commission Response to Compliance Review Report

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CalHR Online Manual, section 2101 requires departments to create a monthly internal audit process to verify the accuracy of time accounting and specifies use of a "Leave Activity Correction and Certification Form." Caltrans uses the "Employee Detailed Time Report" (Attachment 1), which is specific to Caltrans' Staff Central system, and contains all of the information specified on the CalHR Leave Activity Correction and Certification Form.

Commission staff enter their time through Caltrans' Staff Central web portal. If time accounting is changed after the time has been reported and approved, this generates an Attendance Action Report (Attachment 2). There is a monthly Reconciliation Report (Attachment 3) that Caltrans HR staff uses to reconcile data entry in Staff Central with all of the other reports that are run at regular times each month according to their Staff Central Processing Calendar (Attachment 4).

According to Caltrans' HR staff, the reason for the incorrect entry into the State Controller's system appears to be human error. It is unclear to the Commission why the Attendance Action Report was not processed correctly by Caltrans. The Commission has hired a new Deputy Director for Administrative Services who will be tasked with working closely with Caltrans to ensure that the internal control systems that are in place are utilized effectively.

**Finding No. 12 – Performance appraisals were not provided to all employees.**

The Board's Compliance Review identified two Commission employees for which performance appraisals had not been provided during the time period covered by the review. The first was the Assistant Executive Director. The reason why a performance appraisal was not provided during this time period is this employee's date of retirement was quickly approaching. This employee had given notice and was in the process of exhausting her leave balance until the end of the fiscal year, which coincided with the due date of the performance appraisal. The second employee identified, an Associate Governmental Program Analyst, was supervised by three different managers during the period of time covered by the review. Multiple staff changes contributed to the delay of this performance appraisal.

The Commission has adopted an internal best practice in response to this Compliance Review to complete performance appraisals for every employee at the beginning of each fiscal year. This will provide a regular, annual deadline by which managers and supervisors will be held accountable. Further, the new Deputy Director for Administrative Services will work closely with Caltrans to ensure that the internal control systems that are in place are utilized effectively.

The Commission is an independent public agency that serves to advise the Administration and the Legislature on transportation policy and financial sustainability for the State's transportation programs. The Commission also provides oversight and works to ensure transparency and accountability. To that end, the Commission understands and appreciates the importance of adherence to the State Leadership and Accountability Act and proper implementation of internal audits and control systems to ensure proper and responsible use of state resources.

California Transportation Commission Response to Compliance Review Report

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The Commission would like to thank the Board for their work and their recommendations to improve personnel practices moving forward. If you have any further questions or concerns, please do not hesitate to contact me at (916) 654-4245 or via email at [Susan.Bransen@catc.ca.gov](mailto:Susan.Bransen@catc.ca.gov).

Sincerely,



SUSAN BRANSEN

Director

- Attachments:
1. Employee Detailed Time Report
  2. Attendance Action Report
  3. Monthly Reconciliation Report
  4. Staff Central Processing Calendar