



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION

Compliance Review Unit
State Personnel Board
October 12, 2020

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California Department of Forestry and Fire Protection (CAL FIRE) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed ¹
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
Personal Services Contracts	Written Justification Was Not Provided for All Personal Services Contracts
Mandated Training	Supervisory Training Was Not Provided for All Supervisors
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Exception to Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ Repeat finding. March 17, 2016, the CAL FIRE's Compliance Review Report identified 16 missing probationary reports in 13 of the 92 appointment files reviewed.

Area	Finding
Compensation and Pay	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Bilingual Pay
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off (ATO) Was Not Properly Documented
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records
Leave	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or 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

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

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

BACKGROUND

The California Department of Forestry and Fire Protection (CAL FIRE) protects the people, property, and natural resources of California. The Department's diverse programs work together to plan protection strategies for over 31 million acres of wildlands, and to provide emergency services of all kinds throughout California. The mission of the Department is to serve and safeguard the people and protect the property and resources of California. The CAL FIRE's vision is to be the leader in providing fire prevention and protection, emergency response, and enhancement of natural resource systems. The organization is comprised of nearly 8,000 permanent and seasonal employees.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CAL FIRE's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if the CAL FIRE's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CAL FIRE'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 CAL FIRE provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CAL FIRE's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

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

The CAL FIRE did not make any additional appointments nor conduct any 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 CAL FIRE's appointments were also selected for review to ensure the CAL FIRE applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CAL FIRE provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the CAL FIRE did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, or arduous pay.

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

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

The CAL FIRE'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 training and sexual harassment prevention training within statutory timelines.

The CRU reviewed the CAL FIRE's Leave Activity and Correction Certification forms to verify that the CAL FIRE 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 CAL FIRE's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CAL FIRE's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the

³If 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.

CRU reviewed a selection of the CAL FIRE employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CAL FIRE positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

The CAL FIRE declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CAL FIRE's written response on September 14, 2020, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE conducted 19 examinations. The CRU reviewed six of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Arson and Bomb Investigator	Departmental Open	Qualification Appraisal Panel ⁴	4/13/18	37
Communications Operator	Departmental Open	Performance ⁵	11/13/17	242
Fire Fighter II (Paramedic)	Departmental Open	Written ⁶	1/4/18	213
Forester III	Departmental Promotional	Statement of Qualifications (SOQ) ⁷	1/8/18	15
Forestry Assistant II	Departmental Open	Training and Experience (T&E) ⁸	12/19/17	18
Senior Land Surveyor	Departmental Open	T&E	5/31/18	6

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

The CRU reviewed one departmental promotional and five open examinations which the CAL FIRE administered in order to create eligible lists from which to make appointments. The CAL FIRE published and distributed examination bulletins containing the required

⁴ 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.

⁵ A Performance examination requires applicants to replicate/simulate job related tasks or duties.

⁶ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

⁷ 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.

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

information for all examinations. Applications received by the CAL FIRE 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 CAL FIRE conducted during the compliance review period.

Permanent Withhold Actions

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

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE conducted 29 permanent withhold actions. The CRU reviewed eight of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Deputy State Fire Marshall	6FS05	11/18/16	11/18/18	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Fire Apparatus Engineer	5FS04	4/26/16	4/26/20	For Cause
Fire Apparatus Engineer	5FS04	4/26/16	4/26/20	For Cause
Fire Apparatus Engineer	5FS04	4/26/16	4/26/20	For Cause
Fire Apparatus Engineer (Paramedic)	5FS05	6/2/18	6/2/19	For Cause
Fire Fighter II	5FS13	4/5/16	4/5/20	For Cause
Fire Fighter II	5FS13	4/5/16	4/5/20	For Cause
Fire Fighter II (Paramedic)	5FS16	6/2/18/	6/2/19	For Cause

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

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

Appointments

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

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE made 1,640 appointments. The CRU reviewed 104 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant I (Specialist)	Certification List	Permanent	Full Time	1
Assistant Chief	Certification List	Permanent	Full Time	2
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Battalion Chief	Certification List	Permanent	Full Time	10
Communications Operator	Certification List	Permanent	Full Time	3
Engineer, Civil	Certification List	Permanent	Full Time	1
Fire Apparatus Engineer	Certification List	Permanent	Full Time	18
Fire Captain	Certification List	Permanent	Full Time	12
Fire Captain (Paramedic)	Certification List	Permanent	Full Time	1
Fire Fighter II	Certification List	Permanent	Full Time	9
Fire Fighter II (Paramedic)	Certification List	Permanent	Full Time	2
Heavy Equipment Mechanic	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Limited Examination and Appointment Program (LEAP)	Certification List	Permanent	Temporary	1
Office Technician (Typing)	Certification List	Permanent	Full Time	2
Pipeline Safety Engineer	Certification List	Permanent	Full Time	1
Senior Personnel Specialist	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	3
Staff Services Manager I	Certification List	Permanent	Full Time	1
Stationary Engineer (Correctional Facility)	Certification List	Permanent	Full Time	1
Supervising Pipeline Safety Engineer	Certification List	Permanent	Full Time	1
Supervising Special Investigator II (Non-Peace Officer)	Certification List	Permanent	Full Time	1
Warehouse Worker	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Administrator I (Supervisor)	Transfer	Permanent	Full Time	1
Assistant Chief	Transfer	Permanent	Full Time	2
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Battalion Chief	Transfer	Permanent	Full Time	2
Communications Operator	Transfer	Permanent	Full Time	1
Engineer, Civil	Transfer	Permanent	Full Time	1
Fire Apparatus Engineer	Transfer	Permanent	Full Time	1
Fire Apparatus Engineer (Paramedic)	Transfer	Permanent	Full Time	1
Fire Captain	Transfer	Permanent	Full Time	1
Fire Captain (Paramedic)	Transfer	Permanent	Full Time	1
Forester I (Non-Supervisory)	Transfer	Permanent	Full Time	1
Forestry Assistant II	Transfer	Permanent	Full Time	3
Forestry Equipment Manager I	Transfer	Permanent	Full Time	1
Forestry Logistics Officer I	Transfer	Permanent	Full Time	1
Heavy Equipment Mechanic	Transfer	Permanent	Full Time	1
Heavy Fire Equipment Operator	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Personnel Technician I	Transfer	Permanent	Full Time	1
Special Investigator	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1
Fire Apparatus Engineer	Training and Development (T&D)	Permanent	Full Time	2
Fire Captain	T&D	Permanent	Full Time	1
Maintenance Mechanic	T&D	Permanent	Full Time	1

The CAL FIRE 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 75 list appointments reviewed, the CAL FIRE 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 25 CAL FIRE appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The CAL FIRE verified the eligibility of each candidate to their appointed class.

Eligibility for T&D assignments are limited to employees who (1) have permanent status in their class, or (2) who have probationary status and who previously have had permanent status and who, since such permanent status, have had no break in service due to a permanent separation. The CRU reviewed four T&D assignments, and determined them to be in compliance with applicable civil service laws and Board rules (Gov. Code, § 438, subd. (a)(b)).

However, in reviewing the CAL FIRE’s appointments that were made during the compliance review period, the CRU determined the following:

FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The CAL FIRE did not prepare, complete, and/or retain 23 probationary reports of performance for 13 of the 104 appointments reviewed by the CRU, as reflected in the table below. This is the second consecutive time this has been a finding for the CAL FIRE.

Classification	Appointment Type	No. of Appointments Missing Probation Reports	No. of Uncompleted Probation Reports
Fire Apparatus Engineer	Certification List	3	5
Fire Captain	Certification List	1	1
Fire Fighter II	Certification List	7	15
Office Technician (Typing)	Certification List	2	3
Total		13	23

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent

appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Severity:

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

Cause:

The CAL FIRE has implemented an automated statewide system to ensure program managers and supervisors are aware and notified of upcoming due dates for employee performance/probation evaluations. However, it is still incumbent upon managers and supervisors to provide employees with timely evaluations as required. Although CAL FIRE continues to reinforce employee evaluation expectations through standardized training statewide, managers and supervisors are not always providing timely evaluations or ensuring that those evaluation reports are provided to Human Resources for placement into an employee's Official Personnel File.

Additionally, it is often difficult for managers and supervisors to complete these documents within the probationary period timeframes due to the nature of emergency response. Often,

employees relocate to different stations at a moment's notice as a result of operational needs; thus, an employee could be under the supervision of several different supervisors. As such, supervisors may not be equipped to meet the probationary timeframes.

Corrective Action: Within 90 days of the date of this report, the CAL FIRE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19172. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 4 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: The CAL FIRE failed to retain personnel records such as NOPAs, Duty Statements, job announcements/bulletins, and applications. Of the 104 appointments reviewed, the CAL FIRE did not retain the following: 19 NOPAs and 1 signed Duty Statement.

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

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

Cause: CAL FIRE acknowledges the deficiency, and will issue directives for retention of important documents.

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

that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

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

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

FINDING NO. 5 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CAL FIRE 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 CAL FIRE. In addition, the CAL FIRE has an established DAC, which reports to the Director on issues affecting persons with disabilities. The CAL FIRE also provided evidence of its efforts to promote EEO in its hiring and employment practices, and to increase its hiring of persons with disabilities. Accordingly, the CAL FIRE 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 Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

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

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE had 44 PSC's that were in effect. The CRU reviewed 25 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Asbury Environmental Services dba World Oil Environmental Services	Hazardous Waste Oil Removal	7/18 - 6/20	\$9,999.99	No	No
C&A Portable Potties Service, LLC	Portable Toilet Rental and Cleaning Services	12/16 - 11/19	\$4,685.10	Yes	Yes
Campbell Contracting	Understory Thinning Services	6/18 - 6/20	\$287,768.00	Yes	Yes
Childers Contract Cutting	Log Removal Services	6/18 - 6/19	\$279,560.00	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Christopher Rowe	Water Supply	6/18 - 6/21	\$28,750.00	No	No
Clean Harbors Environmental Services, Inc.	Hazardous Materials Disposal (Fireworks)	7/15 - 6/19	\$4,361,401.40	Yes	Yes
Easun, Inc., dba Doubletree By Hilton Sacramento	Meeting/Conference Space and Lodging Accommodations	4/17 - 4/18	\$15,048.82	Yes	Yes
Exponent Inc. DBA Delaware Exponent, Inc.	Incident Investigation and Preliminary Analysis Services	7/18 - 12/18	\$60,000.00	Yes	Yes
Gabriela Gallegos DBA Deep Forest Services	Timber Harvesting	6/16 - 4/19	\$28,925.60	Yes	Yes
Lake Natoma Lodging, LP dba Lake Natoma Inn	CAL FIRE/CDCR Camps Conference	3/18 - 3/18	\$14,141.55	No	No
Matson Alarm Co., Inc.	Security Alarm Monitoring	5/18 - 4/21	\$900.00	No	No
McGrath's Catering	Catering Services	4/18 - 12/18	\$227,700.00	Yes	Yes
Mission Linen Supply	Uniform and Shop Supply Rental	4/18 - 4/21	\$22,002.48	Yes	Yes
Pinnacle Riverside Hospitality, LP dba Marriott Riverside at the Convention Center	Incident Management Training	4/18 - 4/18	\$15,347.36	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Pinnacle Riverside Hospitality, LP dba Marriott Riverside at the Convention Center	Incident Management Training	4/18 - 4/18	\$22,509.65	Yes	Yes
ProPose LLC dba Sagent	Multimedia Fire Prevention/ Education	7/18 - 6/21	\$6,949,200.00	Yes	Yes
Raincross Hospitality Corporation dba Riverside Convention Center	Incident Management Training	4/18 - 4/18	\$86,063.65	Yes	Yes
Sacramento Control Systems, Inc.	Security Alarm Monitoring	7/16 - 10/18	\$3,000.00	Yes	Yes
SOF Spoken, LLC	Incident Management Training	4/18 - 4/18	\$7,100.00	Yes	Yes
Spring Street Analytical	Water Testing	7/17 - 12/20	\$7,920.00	Yes	Yes
TAB Products Co., LLC	Fire Engineering High Density File Relocation	4/16 - 6/18	\$35,596.67	Yes	Yes
The Steinhilber Corporation dba JJJ Steinhilber	Security Alarm Monitoring	6/18 - 6/21	\$2,520.00	No	No
Universal Waste Systems dba White House Sanitation	Portable Toilet Rental and Septic Pumping Services	3/18 - 3/21	\$3,930.00	Yes	Yes
Valley Wide Pest Control	Pest Control	1/18 - 1/21	\$33,273.00	Yes	Yes
WC Tree Services, Inc.	Log Removal Services	6/18-1/19	\$49,050.00	Yes	Yes

FINDING NO. 6 – Unions Were Not Notified of Personal Services Contract

- Summary:** The CAL FIRE did not notify unions prior to entering into 5 of the 25 PSC's reviewed.
- Criteria:** The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)
- Severity:** Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for work that their members could perform.
- Cause:** Although the CAL FIRE Business Services Office worked with the CAL FIRE Labor Relations Office to develop processes for notifying the unions of personal services contracts, these internal processes were not followed consistently.
- Corrective Action:** It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the work to be contracted prior to executing the PSC. Within 90 days of the date of this report, the CAL FIRE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 7 – Written Justification Was Not Provided for All Personal Services Contracts

- Summary:** The CAL FIRE did not prepare or retain sufficient written justification why 5 contracts satisfied Government Code section 19130, subdivision (b).
- Criteria:** Whenever an agency executes a personal services contract under Government Code section 19130, subdivision (b), the agency shall document, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions

specified in Government Code section 19130, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60, subd. (a).) The agency shall maintain the written justification for the duration of the contract and any extensions of the contract or in accordance with the record retention requirements of section 26, whichever is longer. (Cal. Code Reg., tit. 2, § 547.60, subd. (b).)

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

Cause: Although the CAL FIRE Business Services Office worked with the CAL FIRE Legal Office to develop template justification language to be used when documenting why Personal Services contracts satisfied Government Code section 19130, subdivision (b), this internal process was not followed consistently.

Corrective Action: Within 90 days of the date of this report, the CAL FIRE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19130, subdivision (b), and California Code of Regulations, title 2, section 547.60, subdivision (a). Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Mandated Training

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the

CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), and (b), & 19995.4, subd. (b).)

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

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

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

The CRU reviewed the CAL FIRE's mandated training program that was in effect during the compliance review period, August 1, 2016, through July 31, 2018. The CAL FIRE's ethics training was found to be in compliance, while the CAL FIRE's supervisory training and sexual harassment prevention training were found to be out of compliance.

FINDING NO. 8 – Supervisory Training Was Not Provided for All Supervisors

Summary: The CAL FIRE did not provide basic supervisory training to 8 of 53 new supervisors within 12 months of appointment.

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

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

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

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

Cause: The CAL FIRE employs managers and supervisors across the entire State, some of whom work in remote areas. These employees are not always available to physically dedicate a week or more outside of their work location, especially during fire season. Although CAL FIRE's Training Center offers supervisory courses during winter months, they are not always offered frequently enough for all employees to attend timely.

Corrective Action: Within 90 days of the date of this report, the CAL FIRE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors are provided supervisory training within twelve months of appointment as required by Government Code section 19995.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 9 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The CAL FIRE did not provide documentation that indicated there was sexual harassment prevention training to 50 of 116 new supervisors within 6 months of their appointment. However, the CAL FIRE did provide sexual harassment prevention training to its 61 existing supervisors every 2 years.

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

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

Cause: The CAL FIRE states that due to its decentralized nature with managers and supervisors located across the entire State, some in remote areas, the Department does not have a consistent method to deliver sexual harassment prevention training to new supervisors within six months of appointment.

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

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁹ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE made 1,640 appointments. The CRU reviewed 33 of those appointments to determine if the CAL FIRE applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Battalion Chief	Certification List	Permanent	Full Time	\$5,703
Battalion Chief	Certification List	Permanent	Full Time	\$5,842
Battalion Chief	Certification List	Permanent	Full Time	\$5,564
Battalion Chief	Certification List	Permanent	Full Time	\$5,564
Communications Operator	Certification List	Permanent	Full Time	\$3,529
Communications Operator	Certification List	Permanent	Full Time	\$3,529
Communications Operator	Certification List	Permanent	Full Time	\$3,529
Fire Apparatus Engineer	Certification List	Permanent	Full Time	\$4,021
Fire Apparatus Engineer	Certification List	Permanent	Full Time	\$4,021
Fire Apparatus Engineer	Certification List	Permanent	Full Time	\$4,021

⁹ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Fire Apparatus Engineer	Certification List	Permanent	Full Time	\$4,021
Fire Apparatus Engineer	Certification List	Permanent	Full Time	\$4,560
Fire Apparatus Engineer	Certification List	Permanent	Full Time	\$4,582
Fire Apparatus Engineer	Certification List	Permanent	Full Time	\$4,504
Fire Apparatus Engineer	Certification List	Permanent	Full Time	\$4,560
Fire Captain	Certification List	Permanent	Full Time	\$4,300
Fire Captain	Certification List	Permanent	Full Time	\$5,988
Fire Captain	Certification List	Permanent	Full Time	\$5,866
Fire Captain	Certification List	Permanent	Full Time	\$4,746
Fire Captain	Certification List	Permanent	Full Time	\$4,865
Fire Captain	Certification List	Permanent	Full Time	\$5,578
Fire Captain	Certification List	Permanent	Full Time	\$4,746
Fire Captain II	Certification List	Permanent	Full Time	\$4,935
Fire Captain (Paramedic)	Certification List	Permanent	Full Time	\$5,703
Fire Fighter II (Paramedic)	Certification List	Permanent	Full Time	\$3,696
Heavy Equipment Mechanic	Certification List	Permanent	Full Time	\$4,709
Office Technician (Typing)	Certification List	Permanent	Full Time	\$3,038
Senior Personnel Specialist	Certification List	Permanent	Full Time	\$5,099
Battalion Chief	Transfer	Permanent	Full Time	\$6,381
Communications Operator	Transfer	Permanent	Full Time	\$5,499
Fire Apparatus Engineer	Transfer	Permanent	Full Time	\$4,595
Fire Captain	Transfer	Permanent	Full Time	\$5,842
Forestry Equipment Manager I	Transfer	Permanent	Full Time	\$6,859

FINDING NO. 10 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the salary determinations that were reviewed. The CAL FIRE 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.

Exceptions to Salary

California Code of Regulations sections 599.674 and 599.676 allow employees to receive a salary rate up to one step (5%) above the salary rate they last received. In those instances when these rules do not provide employees with the equivalent rate last received (1) upon transfer to a deep class or (2) in their former class, then under the authority of Government Code section 19836, an exception to these salary rules can be made. Exceptions to these rules should be applied uniformly for all employees. (Classification and Pay Guide Section 285.)

For those affected employees incurring salary loss upon transfer to a deep class, CalHR recommends placing the employee on a T&D Assignment for a period of time sufficient to meet the higher alternate range criteria. Upon successful completion of the T&D assignment, the employee may be transferred to the transferable range, and then moved to the next higher alternate range effective the same day. If this does not provide the employee their current salary, departments may process an exception so the employee does not incur a salary loss. (*Ibid.*)

According to PML 2007-026, "All departments have delegated authority to approve an exception to the salary rules under the following circumstances: when there is a salary loss upon transfer to a deep class; when there is a reappointment or reinstatement without a break in service."

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE authorized 11 salary exception requests. The CRU reviewed five of those authorized salary exception requests, listed below, to determine if the CAL FIRE correctly verified, approved and documented the salary exception authorization process:

Classification	Prior Classification	T&D Assignment? (Y/N)	Approved Salary
Assistant Chief	Battalion Chief	Yes	\$11,860
Assistant Chief	Battalion Chief	Yes	\$11,961
Assistant Chief	Battalion Chief	Yes	\$11,829
Assistant Chief	Battalion Chief	Yes	\$11,964
Assistant Chief	Battalion Chief	Yes	\$11,894

FINDING NO. 11 – Exception to Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, February 2, 2018, through July 31, 2018, the CAL FIRE employees made 80 alternate range movements within a classification. The CRU reviewed 10 of those alternate range movements to determine if the CAL FIRE applied salary regulations accurately and correctly processed each employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Communications Operator	Range A	Range B	Full Time	\$4,086
Fire Captain	Range A	Range B	Full Time	\$5,842
Fire Captain	Range A	Range B	Full Time	\$5,441
Fire Captain	Range A	Range B	Full Time	\$5,988
Fire Captain	Range A	Range B	Full Time	\$5,842
Fire Captain	Range B	Range A	Full Time	\$5,431
Fire Captain	Range B	Range A	Full Time	\$5,431
Personnel Specialist	Range C	Range D	Full Time	\$4,721
Staff Services Analyst	Range B	Range C	Full Time	\$3,977
Staff Services Analyst	Range B	Range C	Full Time	\$3,977

FINDING NO. 12 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU determined that the alternate range movements the CAL FIRE made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

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

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

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE issued bilingual pay to 26 employees. The CRU reviewed 14 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base
Associate Governmental Program Analyst	R01	Full Time
Associate Governmental Program Analyst	R01	Full Time
Fire Apparatus Engineer	R08	Full Time
Fire Captain	R08	Full Time
Fire Captain	R08	Full Time
Fire Captain	R08	Full Time
Fire Captain	R08	Full Time
Fire Captain	R08	Full Time
Fire Captain	R08	Full Time
Fire Captain	R08	Full Time
Fire Captain	R08	Full Time
Fire Captain	R08	Full Time
Personnel Specialist	R01	Full Time
Senior Personnel Specialist	R01	Full Time

FINDING NO. 13 – Incorrect Authorization of Bilingual Pay

Summary: The CRU found the following errors in the CAL FIRE's authorization of bilingual pay:

Classification	Description of Finding(s)	Criteria
Associate Construction Analyst	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14
Associate Governmental Program Analyst	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14
Associate Governmental Program Analyst	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14
Fire Apparatus Engineer	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14
Fire Captain	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14
Fire Captain	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14

Classification	Description of Finding(s)	Criteria
Fire Captain	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14
Fire Captain	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14
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Fire Captain	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14
Personnel Specialist	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14
Senior Personnel Specialist	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14

Criteria: For any state agency, a “qualified” bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296 subd. (a) (3).) An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

Severity: Very Serious. Failure to comply with the state civil service pay plan by incorrectly applying compensation rules in accordance with

CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay.

Cause: CAL FIRE reports confusion and inefficiencies within the decentralized organization based on different methods of language testing and storage of testing results. In addition, frequent movement of bilingual employees without a consistent means of tracking them has led to continuance of the pay differential where it may not be warranted. Further, proof of language testing has also not been consistently placed into personnel files, nor have duty statements been consistently updated as required.

Corrective Action: Within 90 days of the date of this report, the CAL FIRE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 7296, and Pay Differential 14. Additionally, the CAL FIRE must create accounts receivables to collect the overpayments. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Pay Differentials

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

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE issued pay differentials¹⁰ to 239 employees. The CRU reviewed 24 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Assistant Chief	54	15%
Assistant Chief	369	15%
Assistant Chief	369	15%
Assistant Chief	379	2%
Assistant Chief	369	\$1,851
Assistant Chief	369	\$1,851
Assistant Chief	369	\$1,234
Assistant Chief	369	\$1,234
Fire Apparatus Engineer	73	1%
Fire Captain	73	1%
Forestry and Fire Protection Administrator	54	15%
Forestry and Fire Protection Administrator	54	15%
Forestry and Fire Protection Administrator	369	\$647
Unit Chief	54	15%
Unit Chief	54	15%
Unit Chief	54	15%
Unit Chief	369	\$1,943

¹⁰ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

FINDING NO. 14 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Out-of-Class Assignments and Pay

For excluded¹¹ and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE issued OOC pay to six employees. The CRU reviewed six of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

¹¹ “Excluded employee” means an employee as defined in section 3527, subd. (b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	3/13/18 – 7/10/18
Associate Governmental Program Analyst	R01	Staff Services Manager I (Specialist)	4/9/18 – 8/7/18
Carpenter Supervisor	S12	Forestry Construction Maintenance Supervisor	3/1/18 – 2/18/19
Carpenter Supervisor	S12	Forestry Construction Maintenance Supervisor	3/1/18 – 12/31/18
Fire Captain	R08	Fire Captain (Paramedic)	4/26/18 – 4/22/19
Staff Services Manager II (Supervisory)	R01	Staff Services Manager III	2/26/18 – 6/25/18

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

The CRU found no deficiencies in the OOC pay assignments that the CAL FIRE authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

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

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial

days¹² worked and paid absences, ¹³ is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

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

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

At the time of the review, the CAL FIRE had 267 positive paid employees whose hours were tracked. The CRU reviewed 7 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Time Base	Time Frame	Time Worked
Skilled Trades Journeyman (Casual Employment)	Intermittent	2/5/18- 11/1/18	1390

¹² For example, two hours or ten hours counts as one day.

¹³ For example, vacation, sick leave, compensating time off, etc.

Classification	Time Base	Time Frame	Time Worked
Skilled Trades Journeyman (Casual Employment)	Intermittent	7/6/17 - 6/30/18	931
Skilled Trades Journeyman (Casual Employment)	Intermittent	7/6/17 – 7/21/17	10
Skilled Trades Journeyman (Casual Employment) (Laborer)	Intermittent	7/1/17 – 10/31/17	520
Skilled Trades Journeyman (Casual Employment) (Laborer)	Intermittent	2/5/18 – 2/28/18	130
Skilled Trades Journeyman (Casual Employment) (Laborer)	Intermittent	10/1/17 – 2/28/18	651
Skilled Trades Journeyman (Casual Employment) (Mason)	Intermittent	7/6/17 – 6/28/18	1324

FINDING NO. 16 – Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the employees reviewed whose hours were tracked during the compliance review period. The CAL FIRE provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

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

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE placed 160 employees on ATO. The CRU reviewed 20 of these ATO appointments to

ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Days on ATO
Accounting Technician	3/7/18 – 6/15/18	58
Assistant Chief	5/4/17 – 5/11/17	6
Communications Operator	6/23/17 - 6/30/17	6
Cook Specialist II	8/17/17 – 8/24/17	6
Fire Apparatus Engineer	4/24/18 – 5/4/18	4
Fire Apparatus Engineer	4/27/18 – 4/28/18	2
Fire Apparatus Engineer	4/26/18 – 5/3/18	3
Fire Apparatus Engineer	4/29/18 – 5/1/18	3
Fire Apparatus Engineer	12/20/17 – 12/29/17	7
Fire Apparatus Engineer	4/26/18 – 5/3/18	4
Fire Captain	5/4/17 – 5/11/17	4
Fire Captain	8/9/17 – 8/18/17	6
Fire Fighter I	10/4/17 – 11/2/17	8
Fire Fighter I	11/1/17 - 11/3/17	2
Fire Fighter II	7/16/17 – 8/21/18	17
Fire Fighter II (Paramedic)	4/28/18 – 4/30/18	3
Heavy Fire Equipment Operator	6/9/17 – 6/22/17	9
Office Assistant (Typing)	8/7/17 – 8/16/17	7
Staff Services Manager I	2/26/18 – 3/30/18	25
Unit Chief	1/20/18 – 3/4/18	20

FINDING NO. 17 – Administrative Time Off (ATO) Was Not Properly Documented

Summary: The CAL FIRE did not grant and document ATO in conformity with the established policies and procedures. Specifically, the CAL FIRE did not obtain approval from CalHR prior to authorizing ATO in excess of 30 days for 2 employees. In addition, nine timesheets did not match the timeframe when the ATO was granted.

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

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

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

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

Cause: CAL FIRE concurs that ATO needs to be more closely monitored.

Corrective Action: Within 90 days of the date of this report, the CAL FIRE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19991.10 and Human Resources Manual Section 2121. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave Auditing and Timekeeping

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

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

During the period under review, February 1, 2018, through April 30, 2018, the CAL FIRE reported 348 units comprised of 19,251 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
February 2018	212	87	87	0
March 2018	010	77	77	0
April 2018	101	150	150	0

FINDING NO. 18 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The CAL FIRE failed to provide completed Leave Activity and Correction Certification forms for 2 out of 3 units reviewed during the April 2018 pay period.

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

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

Cause: CAL FIRE acknowledges that not all documents were completed as required.

Corrective Action: Within 90 days of the date of this report, the CAL FIRE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that their monthly internal audit process is documented and that all leave input is keyed accurately and timely. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.¹⁴ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs. tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs. tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁵ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, February 1, 2018, through July 31, 2018, the CAL FIRE had eight employees with non-qualifying pay period transactions. The CRU reviewed eight transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of 715 Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	6
Qualifying Pay Period	Full Time	2

¹⁴ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide additional clarification for calculating state time.

¹⁵ As identified in Government Code sections 19858.3, subd. (a), 19858.3, subd. (b), or 19858.3, subd. (c) or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subd. (c), or California Code of Regulations, title 2, section 599.752, subd. (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

FINDING NO. 19 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU determined that the CAL FIRE ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

Policy and Processes

Nepotism

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

FINDING NO. 20 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

Workers’ Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers’ compensation law. (Cal. Code Regs., tit. 8, § 9880 subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of

employee’s “personal physician,” as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401 subd. (a).)

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

FINDING NO. 21 – Workers’ Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the CAL FIRE 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 CAL FIRE received worker’s compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

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

The CRU selected 30 permanent CAL FIRE employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	2/15/17
Battalion Chief	1/29/17
Battalion Chief	6/7/17

Classification	Date Performance Appraisals Due
Battalion Chief	3/15/17
Battalion Chief	3/29/17
Battalion Chief	3/29/17
Battalion Chief	4/12/17
Battalion Chief	3/29/17
Battalion Chief	3/29/17
Battalion Chief	3/29/17
Fire Apparatus Engineer (Paramedic)	3/29/17
Fire Apparatus Engineer (Paramedic)	5/24/17
Fire Apparatus Engineer (Paramedic)	3/29/17
Fire Apparatus Engineer (Paramedic)	4/12/17
Fire Apparatus Engineer (Paramedic)	4/12/17
Fire Apparatus Engineer (Paramedic)	4/12/17
Fire Apparatus Engineer (Paramedic)	3/29/17
Fire Apparatus Engineer (Paramedic)	3/29/17
Fire Apparatus Engineer (Paramedic)	3/29/17
Fire Apparatus Engineer (Paramedic)	4/12/17
Fire Apparatus Engineer (Paramedic)	3/29/17
Forestry Fire Pilot	4/19/17
Heavy Equipment Mechanic	7/30/17
Information Technology Specialist I	7/31/17
Office Technician (Typing)	7/11/17
Office Technician (Typing)	1/19/17
Program Technician II	7/10/17
Research Analyst II (GIS)	6/27/17
Senior Personnel Specialist	1/29/17
Telecommunication System Analyst II	5/15/17

FINDING NO. 22 – Performance Appraisals Were Not Provided to All Employees

Summary: The CAL FIRE did not provide performance appraisals to 28 of 30 employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

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

Cause: CAL FIRE provides that it is often difficult for managers and supervisors to complete the required appraisals within established timeframes due to the State's emergency response needs and staffing requirements.

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

DEPARTMENTAL RESPONSE

The CAL FIRE's response is attached as Attachment 1.

SPB REPLY

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

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

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September 10, 2020

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

Dear Executive Director Ambrose,

The California Department of Forestry and Fire Protection (CAL FIRE) appreciates the State Personnel Board's (SPB's) efforts and insight during this compliance review, and we are grateful for the opportunity to provide this response. The Department remains committed to regularly evaluating its practices and procedures in order to ensure compliance with all applicable laws, rules, and regulations. These types of reviews are extremely valuable tools and only help us get better. The following information delineates corrections the Department has already taken or plans to take to improve practices related to items identified in this report.

Regarding probationary evaluations, CAL FIRE acknowledges the need to ensure that employees receive timely feedback on their performance. In June of 2017, CAL FIRE created and implemented an automatic tracking system that notifies supervisors of upcoming performance evaluation due dates. This electronic system notifies managers and supervisors via email at timed intervals of 30 days, 15 days, and again at 7 days prior to probationary report due dates. Should a manager or supervisor not complete the report timely and provide it to the Human Resources Office (HRO) for placement into the Official Personnel File (OPF), notification will be made utilizing chain of command.

Based on these notifications, managers and supervisors are expected to complete the probation reports, discuss with the employee, and submit signed copies to the HRO for retention. Unfortunately, based on the State's emergency response needs and staffing requirements, it is often difficult for managers and supervisors to complete these documents within the probationary period timeframes. Often, employees relocate to different stations at a moment's notice as a result of operational need; thus, an employee could be under the supervision of several different managers or supervisors. As such, managers and supervisors may not be equipped to meet the probationary timeframes. To address this issue, CAL FIRE will continue to reinforce employee evaluation expectations through standardized training statewide.

Regarding appointments, CAL FIRE understands and acknowledges the importance of the State's retention policy and the preservation of appointment materials, such as signed duty statements and Notice of Personnel Action (NOPA) documents. The Department has long required that all appointment related documents be retained in an employee's OPF.

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However, it is clear that there are deficiencies Statewide, and to address this issue, CAL FIRE will issue additional regular directives to Human Resources staff regarding requirements for retention of hiring and appointment documentation to ensure compliance with control agency directives.

Regarding personal services contracts, CAL FIRE's Business Services Office (BSO) has had in place since the fall of 2017 an email template and process for notifying the unions of Personal Service contracts. BSO also created checklists used during peer review and management review to ensure that a copy of the union notification is included in the contract file. To ensure that these internal processes are followed consistently, BSO will provide additional training and direction.

In addition, BSO worked with the CAL FIRE Legal Office to develop template justification language to be used when documenting why Personal Services contracts satisfied California Government Code section 19130, subdivision (b). Again, this language has been in place since the fall of 2017. To ensure that that justification language includes sufficient detail and meets the Department's internal standards, BSO will provide additional training and direction.

Regarding supervisory training, CAL FIRE acknowledges that, due to the size and complexity of its workforce, the Department did not effectively provide every manager and supervisor the necessary training within the required timeframes. CAL FIRE employs managers and supervisors across the entire State; some of them working in very remote areas. Although the Department is aware of the California Department of Human Resources (CalHR's) course offerings in supervision, in many instances, employees are not always available to physically dedicate a week or more outside of their work location, especially during fire season. CAL FIRE's Training Center offers supervisory courses during winter months; however, they are not always offered frequently enough for all employees to attend timely.

Since the time of the audit, the Department's Professional Standards Program (PSP) has collaborated with its working group consisting of the Department's HRO, Equal Employment Opportunity (EEO), Labor, Department Training Program, and other subject matter experts to develop and implement four new modules of new employee orientation training. The working group has also revised the content of the Department's existing 40-hour Supervision training to align with the subject content prescribed in California Government Code sections 19995.4, et al.; supplemented the revised supervision courses with additional levels of 40-hour leadership training for executives, managers, and supervisors; and increased the frequency of the number of supervision/leadership courses in a given year in order to allow more employees to attend.

The leadership training is based on the Department's established leadership competencies, which are derived from portions of CalHR's Leadership Competency Model. While the revised supervision courses have been in place since 2018, the Department has used a phased-in approach to implement its leadership training, initially focusing on the Department's executive staff and other higher-ranking management to

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ensure they achieve their 20-hour biennial leadership training requirement. In mid-September 2020, the first level of leadership training will commence to other managers and supervisors, in order to complete their training requirements. In addition, CalHR now offers its Supervisor Development Program through a virtual platform. This can also be used to ensure that employees have additional opportunities to receive requisite training.

Employee Development Guides for all civil service classifications have been updated and posted within the CAL FIRE policies, procedures, and exhibits to assist employees and managers and supervisors at every level of the organization to ensure that every employee is obtaining necessary annual and recurring training. Finally, the Department has provided every employee an account within its learning management system (Target Solutions) to allow training staff, managers, and supervisors to issue and track training of employees.

Regarding Sexual Harassment Prevention training, CAL FIRE recognizes the importance of educating all managers and supervisors on their roles and responsibilities for ensuring a work environment free of discrimination and harassment and for maintaining compliance with State and federal laws. The Department also fully understands that it is critical for managers and supervisors to receive mandated sexual harassment prevention training within the first six months of appointment in order to ensure that harassing or discriminatory behavior (to include perceived behavior) is identified, swiftly reported to the CAL FIRE EEO and corrected immediately.

CAL FIRE is committed to achieving full compliance with State and Federal anti-discrimination laws and will engage with units, regions, and programs to identify the current gaps in the process of assigning Sexual Harassment Prevention Training when an employee is appointed to a supervisory role.

The Department will also explore ways to address Sexual Harassment Prevention Training within employee onboarding, expectations, and orientation efforts; create a consistent process to ensure the timely completion of Sexual Harassment Prevention Training, with proof of completion and certification captured within Target Solutions.

Since the time of the audit, CAL FIRE's EEO, PSP, and Training Program have developed new employee onboarding training as well as leadership level courses (as mentioned above). This training is currently being rolled out to managers and supervisors. It is important to note that, the Department's newly revised supervision courses include sexual harassment training modules.

The Department is also working to update policies and procedures relative to retired annuitants appointed to supervisory roles to ensure completion of Sexual Harassment Prevention Training within the first six months of their return, as well as establishing retention and/or immediate account reactivation processes within Target Solutions to ensure appropriate documentation of proof of completion.

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Relative to certification, EEO is working with the CAL FIRE Training Center on a solution to ensure on Sexual Harassment Prevention Training certification for each supervision class where mandated sexual harassment training is included as part of course curriculum, and to upload proof of such training into an employee's Target Solutions account.

Finally, EEO is currently working on building two new Sexual Harassment Prevention Training courses: one for rank-and-file employees, and the other for managers and supervisors. Using Target Solutions will allow additional administrator properties including assignment of training, built-in reminders for staff who have not completed assigned training, reports that allow for uniform reconciliation to locate and monitor those who have not completed training, and easily generated certificates to verify proof of completion.

Regarding incorrect authorization of bilingual pay, CAL FIRE does not have a centralized method for Statewide language testing and has utilized more than one language testing vendor within our Northern and Southern Regions, which has led to confusion and inefficiencies relative to methods of testing and the storage of language testing results. In addition, frequent movement of Bilingual Certified Employees (BCEs) has historically resulted in inconsistent tracking, which has led to employees continuing to receive the pay differential in a geographic area where a BCE may not be needed (according to language survey results) or outside of the language survey period. Proof of language testing has also not been consistently documented in BCEs' OPFs, and duty statements have not been consistently updated reflecting the percentage of language support as a BCE.

To address these issues, EEO is currently implementing a centralized language testing procedure through a new vendor (Language Testing International (LTI)). LTI offers the most recognized and accepted language credentials remotely, through its online platform. Language testing results and certificates are stored within and available from the LTI system, which enables a more uniformed approach to reconciling language testing results.

EEO will monitor the bilingual testing process and will assign a staff member to liaise with region, unit, and headquarters programs, and the HRO to facilitate the testing, review BCE justifications, and work directly with LTI to support the Department.

In addition, EEO will maintain an electronically shared file system to preserve proper supporting documentation (e.g., Bilingual Pay Authorization (STD 897), testing certificates), validate the need for bilingual services, prompt duty statement updates (following language testing), and communicate on current BCEs to allow regions, units, and headquarters programs to update BCE movement, validate the need for continued bilingual pay if relocated, and communicate to EEO the need to update BCE listings and locations.

In addition, EEO and HRO will work to update policies and procedures to ensure a streamlined process for efficient tracking and reporting of BCEs and affiliated pay differentials.

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Regarding improper documentation of Administrative Time Off (ATO), CAL FIRE agrees that ATO needs to be closely monitored to ensure that the use of the leave is being applied appropriately. In the two findings identified, one employee had a stipulated agreement from the SPB, and the other employee was approved by CalHR to be off work beyond the 30 day period (although the extension approval was received three days prior to the last date of ATO, rather than five days). CAL FIRE will continue to monitor ATO use closely and request extensions when appropriate.

Regarding leave activity and correction certification, CAL FIRE acknowledges that the completion of Leave Activity and Correction Certification forms demonstrates compliance with CalHR policies and guidelines and will continue to work with attendance clerks on training and reconciliation efforts. In the meantime, HRO is working with the CAL FIRE Information Technology Services program to develop, test, and implement an automated attendance and leave system that will perform monthly reconciliations of employee leave use and will ultimately eliminate delays with recordkeeping.

Regarding performance appraisals, CAL FIRE understands the importance of providing employees with annual performance appraisals and will continue to provide guidance to managers and supervisors. As previously stated, based on the State's emergency response needs and staffing requirements, it is often difficult for managers and supervisors to complete these documents within the established timeframes. The majority of the Department's workforce constantly responds to emergency incidents in support of CAL FIRE's mission, given the year-round nature of "fire season" in the State and that CAL FIRE is a year-round all-hazard risk emergency response Department. Having said that, CAL FIRE is currently exploring options to reinforce and streamline performance evaluation requirements and processes to ensure managers and supervisors complete employee performance appraisals on an annual basis.

Again, CAL FIRE appreciates the opportunity to review and respond to the findings of SPB's compliance review. The assistance and guidance offered by SPB staff during the review is invaluable, and CAL FIRE will use that assistance and guidance to continue to work towards ensuring consistent application of the State's laws, rules, and regulations in regard to personnel practices.

Sincerely,



ANTHONY P. FAVRO

Deputy Director for Management Services

cc: JOE TYLER, Deputy Director for Fire Protection
KERRY GARCIA, Deputy Director for Fiscal Services
MONTE MANSON, Chief, Professional Standards Program
SERENA ORTEGA, Chief, Equal Employment Opportunity
WINDY C. BOULDIN, Chief, Office of Program Accountability