



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT**

Compliance Review Unit  
State Personnel Board  
April 19, 2019

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## **INTRODUCTION**

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

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

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

Pursuant to Government Code section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, by mutual agreement, expanded the scope of 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.

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California Department of Community Services and Development (CSD)’s personnel practices in the areas of examinations, appointments, EEO, PSC’s, mandated training, compensation and pay, leave, and policy and processes<sup>1</sup>. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for all Appointments Reviewed
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
Mandated Training	Ethics Training Was Not Provided for All Filers
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/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Application of Alternate Range Movements
Compensation and Pay	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Bilingual Pay
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Area	Finding
Leave	Temporary Authorization Employees' Time Worked Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Leave	715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Department Does Not Disseminate Nepotism Policy to Staff
Policy	Worker's Compensation Policy Was Not Provided to New Employees by the End of First Pay Period
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 = Non-serious or Technical
- Green = In Compliance

### **BACKGROUND**

The CSD partners with a network of Community Action Agencies (both public and private), American Indian tribes and tribal organizations, Migrant and Seasonal Farm Worker Agencies, other limited-purpose agencies, and home energy providers to address the needs of low-income families and individuals. Together, the CSD covers all 58 counties of the state to assist countless people build healthy and productive lives, independent of public resources and full of promise for achieving their highest potential. The CSD employs approximately 121 employees in the following four divisions: Executive Unit (9), Administrative Services (54), Community Services Division (16), Energy and Environmental Services (42).

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CSD's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup>. The primary objective of the review was to determine if the CSD 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.

The CSD did not administer any examinations during the compliance review period. The CRU reviewed the CSD's Permanent Withhold Actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and Withhold letters.

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

The CSD's appointments were also selected for review to ensure the CSD applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CSD provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: hiring above minimum (HAM) requests, bilingual pay, and out-of-class assignments.

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

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

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

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

The CRU reviewed the CSD's Leave Activity and Correction certification forms to verify that the CSD 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 CSD'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 CSD's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the CSD's employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the CRU reviewed a selection of the CSD's employees tracked by actual time worked (ATW) during the compliance review period in order to ensure that ATW was appropriately utilized.

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

The CSD declined to have an exit conference. On April 10, 2019, the CRU received and carefully reviewed the CSD's written response, which is attached to this final compliance review report.

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<sup>3</sup>If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

## FINDINGS AND RECOMMENDATIONS

### Examinations

#### Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria (Gov. Code, § 18935 and CalHR Withhold Delegation Memo.) Permanent appointments and promotions within the state civil service system are merit-based, ascertained by a competitive examination process. Once a candidate has obtained list eligibility, a department may discover information pertaining to that eligible which raises concerns regarding his/her eligibility or suitability for employment with the state. A permanent withhold action is valid for the duration of the eligible's list eligibility. As of February 12, 2013, departments are required to maintain a separate file for each withhold action and the file should include a copy of the withhold notification letter sent to the eligible, as well as all supporting documentation which form the basis of the withhold action (CalHR Withhold Delegation Memo).

During the review period, the CSD conducted four permanent withhold actions. The CRU reviewed the four permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Associate Information Systems Analyst (Specialist)	9PB3002	6/20/17	6/20/18	Failed to Meet Minimum Qualifications
Research Data Analyst II	4PB3302	4/17/17	4/17/18	Failed to Meet Minimum Qualifications
Research Data Analyst II	4PB3302	6/27/17	6/27/18	Failed to Meet Minimum Qualifications
Research Data Analyst II	4PB3302	11/1/17	11/1/18	Failed to Meet Minimum Qualifications

#### **FINDING NO. 1 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules**

The CRU reviewed four permanent withhold actions. 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.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the period under review, June 1, 2017 through February 28, 2018, the CSD made 39 appointments. The CRU reviewed 14 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Data Processing Manager II	Certification List	Permanent	Full Time	1
Personnel Specialist	Certification List	Permanent	Full Time	1
Research Analyst II	Certification List	Permanent	Full Time	1
Senior Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	1
Systems Software Specialist III (Technical)	Certification List	Limited Term	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Transfer	Limited Term	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1

**FINDING NO. 2 – Probationary Evaluations Were Not Provided for all Appointments Reviewed**

**Summary:** The CSD did not provide eight probationary reports of performance for six of the 14 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments Missing Probation Reports	Total Number of Missing Probation Reports
Associate Governmental Program Analyst	Certification List	1	1
Associate Personnel Analyst	Certification List	1	2
Attorney III	Certification List	1	1
Senior Information Systems Analyst (Specialist)	Certification List	1	2
Staff Services Manager I	Certification List	1	1
Staff Services Manager I	Transfer	1	1
Total		6	8

**Criteria:** The service of a probationary period is required when an employee enters in the state civil service by permanent appointment from an employment list. (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 CalHR may require. (Gov. Code, § 19172.) CalHR’s regulatory scheme provides that “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.) Specifically, 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. (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 CSD states that high staff turnover resulted in managers and supervisors inadvertently not being held accountable for completing probationary evaluations. Additionally, the CSD's tracking process to monitor the completion of probationary evaluations did not contain steps to ensure probationary evaluations were completed.

**Action:** The CSD has submitted a corrective action plan for ensuring compliance in meeting the probationary requirements of Government Code section 19172; therefore, no further action is required at this time.

### **Equal Employment Opportunity**

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the Director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

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

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

The CRU reviewed the CSD's EEO program that was in effect during the compliance review period.

**FINDING NO. 3 – Equal Employment Opportunity 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 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, July 1, 2017 through March 31, 2018, the CSD had 12 PSC's that were in effect and subject to the Department of General Services (DGS) approval. The CRU reviewed six of those PSCs, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
AgreeYa Solutions, Inc.	Website Redesign Services	7/15/17 – 7/14/18	\$178,000	Yes
Andrew Chang & Company, LLC	Low-income Weatherization Program Consultant Services	7/28/16 - 6/30/18	\$249,600	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
ConSol, Inc.	Weatherization Field Inspection Services	7/1/15 - 6/30/19	\$1,712,000	Yes
Copy Duplicating Systems, Inc.	Copier Maintenance	4/1/15 - 3/31/18	\$49,500	Yes
Estolano LeSar Perez Advisors	Workforce Development Consultant Services	8/22/16 - 6/30/18	\$200,000	Yes
Macias Consulting Group, Inc.	Audit Services	2/16/18 - 10/30/19	\$150,000	Yes

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

**Summary:** The CSD did not notify state employee unions prior to entering into six of the six PSC's the CRU reviewed.

**Criteria:** Government Code section 19132, subdivision (b)(1), mandates that "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."

**Severity:** Serious. Unions must be notified of impending PSC's in order to ensure they are aware contracts are being proposed for work that their members could perform.

**Cause:** The CSD states that current staff in their Budget and Contract Services Unit were unaware the unions were to be notified of PSC's.

**Action:** The CSD has submitted a corrective action plan to ensure conformity with the requirements of Government Code section 19132 and AB 906; therefore, no further action is required at this time.

#### **Mandated Training**

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a

semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), (c), & 19995.4, subd. (b).)

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

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

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

The CRU reviewed the CSD's mandated training program that was in effect during the compliance review period. The CSD had no first time supervisors appointed from April 1, 2016 to March 31, 2017; therefore, basic supervisory training was not reviewed. In

reviewing the CSD's ethics training and sexual harassment prevention training, the CRU has determined the following:

**FINDING NO. 5 – Ethics Training Was Not Provided for All Filers**

**Summary:** The CSD provided ethics training to 16 of 16 existing filers. However, the CSD did not provide ethics training to six of 11 new filers within six months of their appointment.

**Criteria:** New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)

**Severity:** Very Serious. The department does not ensure that its filers are aware of statutory and regulatory prohibitions related to the official conduct of state officials.

**Cause:** The CSD states that its conflict of interest filers are notified of their responsibility to complete ethics training. However, CSD did not have an effective tracking process in place outlining responsibilities to monitor the completion of the ethics training for filers.

**Action:** The CSD states that its Training Officer has been delegated responsibility to ensure CSD meets conformity with the requirements of GC section 11146.3, subd. (b). In addition, CSD has implemented a tracking system to monitor the completion of ethics training; therefore, no further action is required at this time.

**FINDING NO. 6 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

**Summary:** The CSD provided sexual harassment prevention training to 22 of 22 existing supervisors every two years. However, the CSD did not provide sexual harassment prevention training to three of four new supervisors within six months of their appointment.

**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 its new 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 CSD states that its high staff turnover resulted in the scheduling of sexual harassment prevention training being inadvertently overlooked. Additionally, there was not an effective tracking process in place to monitor the completion of sexual harassment prevention training as employees were hired.

**Action:** The CSD contracted with a vendor in 2018 to provide online sexual harassment prevention training to all CSD staff. Additionally, the CSD has implemented a tracking system to monitor the completion of sexual harassment training. The CSD submitted a corrective action plan to ensure compliance with Gov. Code, section 12950.1, subd. (a).

However, the CSD must take appropriate steps to ensure that sexual harassment prevention training is provided within the time periods prescribed. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CSD submit a report of compliance with sexual harassment prevention training mandates. Copies of any relevant documentation should be included in the submission.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR (Cal. Code Regs., tit. 2, § 599.666). Several salary rules dictate how departments



calculate and determine an employee's salary rate<sup>4</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

During the period under review, June 1, 2017 through February 28, 2018 the CSD made 39 appointments. The CRU reviewed 14 of those appointments to determine if the CSD applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,077
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,229
Associate Personnel Analyst	Certification List	Permanent	Full Time	\$4,784
Attorney III	Certification List	Permanent	Full Time	\$11,361
Data Processing Manager II	Certification List	Permanent	Full Time	\$7,858
Personnel Specialist	Certification List	Permanent	Full Time	\$2,900
Research Data Analyst II	Certification List	Permanent	Full Time	\$5,538
Senior Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	\$6,360
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,107
Staff Services Manager III	Certification List	Permanent	Full Time	\$7,593
Systems Software Specialist III (Technical)	Certification List	Limited Term	Full Time	\$8,345
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,274
Senior Accounting Officer (Specialist)	Transfer	Limited Term	Full Time	\$5,988
Staff Services Manager I	Transfer	Permanent	Full Time	\$6,273

**FINDING NO. 7 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the 14 salary determinations that were reviewed. The CSD appropriately calculated and keyed the salaries for each appointment and correctly

<sup>4</sup> "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

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, CalHR provides salary rules departments must use when employees move between alternate ranges. They 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, June 1, 2017 through February 28, 2018, the CSD made eight alternate range movements within a classification<sup>5</sup>. The CRU reviewed seven of those alternate range movements to determine if the CSD applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Information Technology Associate	B	D	Full Time	\$5,492
Information Technology Specialist I	B	C	Full Time	\$5,941
Information Technology Specialist I	B	C	Full Time	\$6,385
Information Technology Specialist I	B	C	Full Time	\$6,386
Information Technology Specialist I	B	C	Full Time	\$6,743
Information Technology Specialist I	B	C	Full Time	\$7,253
Information Technology Specialist I	B	C	Full Time	\$7,253

**FINDING NO. 8 – Incorrect Application of Alternate Range Movements**

**Summary:** The CSD incorrectly applied compensation laws, rules, and/or CalHR policies and guidelines for four alternate range movements reviewed. The CRU found the following errors in the CSD's determination of employee compensation:

<sup>5</sup> 335 transactions.

Classification	Description of Finding(s)	Criteria
Information Technology Specialist I	Department retained employee's salary of \$6385 and anniversary date of 04/2018 in error instead of conducting a salary determination upon range change in which the employee shall receive a salary of \$6704 and new anniversary date of 02/2019. These errors resulted in the employee receiving inaccurate compensation for the range change transaction, and subsequent transactions, as well as an incorrect anniversary date.	CCR tit. 2, § 599.674(b); Pay Letter 1804; and Personnel Letter 18-007
Information Technology Specialist I	Department retained employee's salary of \$6386 in error instead of conducting a salary determination upon range change in which the employee shall receive a salary of \$6705. The error resulted in the employee receiving inaccurate compensation for the range change and subsequent transactions.	CCR tit. 2, § 599.674(b); Pay Letter 1804; and Personnel Letter 18-007
Information Technology Specialist I	Department retained employee's salary of \$7253 in error instead of conducting a salary determination upon range change in which the employee shall receive a salary of \$7616. The error resulted in the employee receiving inaccurate compensation for the range change and subsequent transactions.	CCR tit. 2, § 599.674(b); Pay Letter 1804; and Personnel Letter 18-007
Information Technology Specialist I	Department retained employee's salary of \$7253 in error instead of conducting a salary determination upon range change in which the employee shall receive a salary of \$7616. The error resulted in the employee receiving inaccurate compensation for the range change and subsequent transactions.	CCR tit. 2, § 599.674(b); Pay Letter 1804; and Personnel Letter 18-007

**Criteria:** Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.) Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

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

**Cause:** The CSD states that salaries were miscalculated for alternate range movements during the Information Technology (IT) consolidation.

**Action:** The CSD states it has reviewed all alternate range movements that occurred during the IT consolidation and has corrected all the alternate range movements calculated incorrectly. In addition, the CSD is implementing a second review process when determining alternate range movements.

It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CSD submit to the SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, sections 599.676, and 599.690.

### Hiring Above Minimum Requests

Government Code section 19836 authorizes CalHR to allow payments above-the minimum rate in the salary range in order to hire persons who have extraordinary qualifications. On April 1, 2005, CalHR granted delegated authority to all departments to approve HAM's for extraordinary qualifications, former legislative employees, and former exempt employees (PML, "Delegation of Personnel Management Functions," 2005-012). On September 25, 2007, CalHR also granted delegated authority for all departments to

approve exceptions to the HAM criteria for extraordinary qualifications for all new state employees without prior review or approval from CalHR. However, for existing state employees, departments should obtain approval from CalHR and delegated authority does not apply (PML, “Hiring Above Minimum Standards for Extraordinary Qualifications,” 2010-005).

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

During the period under review, June 1, 2017 through February 28, 2018, the CSD authorized one HAM request. The CRU reviewed the one authorized HAM request to determine if the CSD correctly applied Government Code section 19836 and appropriately verified, approved and documented the candidate’s extraordinary qualifications and subsequent salaries, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Attorney III	Certification List	Prior State Service	\$8,856 - \$11,361	\$11,361

**FINDING NO. 9 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found that the HAM request the CSD 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 ten percent or more of the total time worked. According to the Civil Service Pay Scales, specifically Pay Differential 14, the ten 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, June 1, 2017 through February 28, 2018, the CSD issued Bilingual Pay to one employee. The CRU reviewed the bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

Classification	Bargaining Unit	Time Base
Program Technician	R04	Full Time

In reviewing the CSD's bilingual pay practices that were in effect during the compliance review period, the CRU determined the following:

### **FINDING NO. 10 – Incorrect Authorization of Bilingual Pay**

**Summary:** The CRU found the following error in the CSD's authorization of bilingual pay:

Classification	Description of Finding(s)	Criteria
Program Technician	Department failed to supply supporting documentation justifying the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14

**Severity:** Very Serious. The CSD was unable to provide a justification demonstrating that the position meets the requirements of Pay Differential 14.

**Cause:** The CSD states that the bilingual pay authorization was an oversight.

**Action:** The CSD has submitted a corrective action plan for ensuring compliance with Government Code section 7296 and Pay Differential 14; therefore, no further action is required at this time.

### Out-of-Class Assignments (OOC) and Pay

For excluded<sup>6</sup> and most rank and file employees, out of class 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).

According to CalHR's 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 DPA Rule 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 provision or DPA regulation. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires (Section 375).

During the period under review, June 1, 2017 through February 28, 2018, the CSD issued out-of-class pay<sup>7</sup> to three employees. The CRU reviewed the three out-of-class assignments to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Personnel Analyst	R01	Staff Services Manager I	1/1/18 – 1/30/18
Associate Personnel Analyst	R01	Staff Services Manager I	1/31/18 – 5/15/18
Personnel Specialist	R01	Staff Services Analyst	1/31/18 – 3/20/18

<sup>6</sup> "Excluded employee" means an employee as defined in section 3572(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.

<sup>7</sup> Excluding bilingual and arduous pay.

**FINDING NO. 11 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the three out of class pay assignments that the CSD authorized during the compliance review period. Out of Class 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**

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 nine 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. Time is accrued by months so that the immediate prior 12-calendar months are the ones used to count the 194 working days (189 days for appointments after 7/1/17). ATW includes; any day on which the employee physically worked, regardless of the length of time worked on that day<sup>8</sup>, any day for which the employee is on paid absence<sup>9</sup>, any holiday for which the employee receives either full or partial pay. If the employee works on the holiday, the day is counted only once regardless of the rate of pay<sup>10</sup>.

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. Therefore, departments must monitor the actual number of days worked in order to ensure that they do not exceed 194 days (189 days for appointments after 7/1/17) in any 12-consecutive month period (Personnel Management Policy and Procedures Manual Sections 330.2-330.4). For seasonal classifications, a maximum

<sup>8</sup> For example, two hours or ten hours counts as one day.

<sup>9</sup> For example, vacation, sick leave, compensating time off, etc.

<sup>10</sup> For example, straight time, time and one-half, double time, etc.



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).)

For permanent intermittent employees, a maximum of 1,500 hours has been placed on the number of hours which a permanent intermittent employee may work in 12 months. Generally, permanent intermittent employees may work up to 1,500 hours in any calendar year (CalHR Online Manual Section 1202 and applicable Bargaining Unit Agreements), however Bargaining Unit 6 employees may work up to 2,000 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) without reinstatement, loss or interruption of benefits for all state employers.

At the time of the review, the CSD had two employees on ATW. The CRU reviewed both of those ATW appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Position #	Time Base	Time Frame	Time Worked
Seasonal Clerk	016-280-1120-910	Intermittent	4/25/17 – 4/25/18	189 days/ 1,668.5 hours
Staff Services Analyst	016-170-5157-910	Intermittent	1/1/17 – 12/31/17	1,303 hours

**FINDING NO. 12 – Temporary Authorization Employees’ Time Worked Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the two employees placed on ATW during the compliance review period. The CSD provided the proper documentation justifying the use of ATW and adhered to applicable laws, regulations, and CalHR policy and guidelines.

Administrative Time Off

Administrative Time Off (ATO) is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. 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. Additionally, ATO may be granted when employees need time off for any of the following: donating blood, extreme weather that makes getting to work impossible, and/or, when employees need time off to attend special events. Any

ATO requests lasting over 30 days must be submitted and approved by CalHR. Approval will generally be given in 30 calendar day increments and any extension must be approved prior to the expiration of the 30 calendar days. Departments must properly document and track ATO for any length of time (PML, “Administrative Time Off (ATO) – Policy, Procedure and Documentation Requirements”, 2012-008).

Employees may also be granted a paid leave of absence of up to five days by their appointing power when the employee works or resides in a county where a state of emergency has been proclaimed by the Governor (§ 599.785.5, Administrative Time Off - During State of Emergency).

During the period under review, January 1, 2017 through December 31, 2017, the CSD placed three employees on ATO. The CRU reviewed the three 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
Accountant Trainee	2/13/18 – 2/14/18	2
Attorney	2/14/18 – 2/14/18	1
Senior Accounting Officer (Specialist)	2/13/18 – 2/15/18	3

**FINDING NO. 13 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the three employees placed on ATO during the compliance review period. The CSD provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

Additionally, in accordance with CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. If an employee’s attendance record is determined

to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

During the period under review, October 1, 2017 through December 31, 2017, the CSD reported 19 units comprised of 116 active employees during the October 2017 pay period, 19 units comprised of 118 active employees during the November 2017 pay period, and 19 units comprised of 119 active employees during the December 2017 pay period. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
October 2017	010	10	10	0
October 2017	120	8	8	0
October 2017	150	13	13	0
October 2017	255	4	4	0
October 2017	260	7	7	0
October 2017	280	9	9	0
November 2017	010	11	11	0
November 2017	120	8	8	0
November 2017	150	13	13	0
November 2017	255	5	5	0
November 2017	260	8	8	0
November 2017	280	10	10	0

**FINDING NO. 14 – Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely**

**Summary:** The CSD failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely.

**Criteria:** In accordance with California Code of Regulations, title 2, section 599.665, departments are responsible for maintaining accurate and timely leave accounting records for their employees. In an effort to

ensure departmental compliance, “all departments shall create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. This includes all leave types accrued/earned or used by all employees on a monthly basis, regardless of whether leave records are system generated or manually keyed.” (CalHR Online Manual Section 2101). Departments may utilize one or more reports for auditing purposes such as Leave Activity Balance (LAB) report or equivalent, reports available on View Direct such as High CTO, Holiday Credit, or Excess Hours, and State Service Begin Balance. In addition, Departments utilizing Management Information Retrieval System (MIRS) in conjunction with CLAS may develop customized reports.

**Severity:** Serious. In order for Department leave accounting reports to reflect accurate data, the review of the leave accounting records and corrections, if necessary, are to be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. This process allows departments to make required corrections prior to the next monthly leave activity report being produced.

**Cause:** The CSD admits it does not currently have a process in place to verify all leave input is keyed accurately and timely.

**Action:** It is therefore recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the CSD submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure and verify all leave input into the leave accounting system is keyed accurately and timely. Copies of any relevant documentation should be included with the plan.

### Leave Reduction Efforts

Departments must comply with the regulations and CalHR policies that require a leave plan for every employee with vacation or annual leave hours over the maximum amount permitted (Cal. Code Regs., tit. 2, § 599.742.1 and applicable Bargaining Unit Agreements). Bargaining Unit Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, according to California Code of Regulations, title 2, section 599.737, if a represented employee does

not use all of the vacation to which he or she is entitled in a calendar year, “the employee may accumulate the unused portion, provided that on January 1st of a calendar year, the employee shall not have more than” the established limit as stipulated by the applicable bargaining unit agreement<sup>11</sup>. Likewise, if an excluded employee does not use all of the vacation to which he or she is entitled in a calendar year, the “employee may accumulate the unused portion of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days.” (Cal. Code Regs., tit. 2, § 599.738).

In accordance with CalHR Online Manual Section 2124, departments must create a leave reduction policy for their organization and monitor employees’ leave to ensure compliance with the departmental leave policy; and ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place.

As of December 2017, 14 CSD employees exceeded the established limits of vacation or annual leave. The CRU reviewed 10 of those employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Associate Governmental Program Analyst	R01	87	Yes
Career Executive Assignment	M01	83.5	Yes
Information Technology Specialist I	M01	89.75	No
Office Technician (General)	R04	67	Yes
Research Analyst (General) II	R01	509	Yes
Staff Management Auditor	S01	110	No
Staff Services Manager I	S01	422	Yes
Staff Services Manager I	S01	490.2	Yes
Staff Services Manager I	S01	795.75	No
Staff Services Manager III	M01	52.5	Yes
<b>Total</b>		<b>2,706.7</b>	

<sup>11</sup> For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.

**FINDING NO. 15 – Leave Reduction Plans Were not Provided to Employees Whose Leave Balances Exceeded Established Limits**

**Summary:** The CSD did not provide leave reduction plans for three employees reviewed whose leave balances significantly exceeded established limits.

**Criteria:** It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation. (Cal. Code Regs., tit. 2, § 599.742.1), ensuring employees maintain the capacity to optimally perform their jobs. The employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, unless exempted, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (Cal. Code Regs., tit. 2, § 599.742.)

According to CalHR Online Manual Section 2124, “it is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the organization and monitor employees’ leave to ensure compliance with the departmental leave policy; and; ensure employees who have significant ‘over-the-cap’ leave balances have a leave reduction plan in place and are actively reducing hours”.

**Severity:** Non-serious or Technical. California state employees have accumulated significant leave hours creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

**Cause:** The CSD states, while most of its employees with significant leave balances over the established limits have leave reduction plans in place and are actively reducing hours, it does not currently have a process in place or a policy to enforce the leave reduction plans.

**Action:** The CSD has submitted a corrective action plan for implementation of an Excess Leave Reduction Plan policy to ensure that all employees over the maximum vacation or annual leave hours adhere to leave reduction plans; therefore, no further action is required at this time.

### State Service

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<sup>12</sup> (Cal. Code Regs., tit. 2, § 599.608).

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 additional qualifying monthly pay period as defined in section 599.608, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. 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. Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated (Cal. Code Regs., tit. 2, § 599.739). On the first day following a qualifying monthly pay period, excluded employees<sup>13</sup> shall be allowed credit for annual leave with pay (Cal. Code Regs., tit. 2, § 599.752).

Permanent Intermittent employees earn vacation according to the preceding schedule for each increment of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period are not counted or accumulated.

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<sup>12</sup> Except as provided in sections 599.609 and 599.776.1(b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

<sup>13</sup> As identified in Government Code sections 19858.3(a), 19858.3(b), or 19858.3(c) as it applies to employees excluded from the definition of state employee under section Government Code 3513(c), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

During the period under review, June 1, 2017 through February 28, 2018, the CSD had three employees with non-qualifying pay period 715 transactions<sup>14</sup>. The CRU reviewed the three 715 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	3

**FINDING NO. 16 – 715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU determined that the CSD 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. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies. Overall, departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning employees. Departments have the discretion, based on organizational structure and size, to develop nepotism policies as they see fit (CalHR Online Manual Section 1204).

**FINDING NO. 17 – Department Does Not Disseminate Nepotism Policy to Staff**

<sup>14</sup> 715 transaction code is used for: temporary leaves of 30 calendar days or less (per SPB Rule 361) resulting in a non-qualifying pay period; used for qualifying a pay period while on NDI; used for qualifying a pay period while employee is on dock and furlough.



- Summary:** Although the CSD does maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees, the policy is not disseminated to staff. Furthermore, The CSD nepotism policy does not provide adequate standards to prevent and correct nepotism should it occur. The CRU encourages the CSD to incorporate an internal process for employees to file complaints related to nepotism as well as a process for working assignments that conflict with the CSD nepotism policy.
- Criteria:** Departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning employees. Departments have the discretion, based on organizational structure and size, to develop nepotism policies as they see fit (PML, “Statewide Guidance on Nepotism Policies,” 2015-14).
- Severity:** Very Serious. Departments must take proactive steps to ensure that the recruitment, hiring, and assigning of all employees is done on the basis of merit and fitness in accordance with civil service statutes. The maintaining of a current written nepotism policy, and its dissemination to all staff, is the basis for achieving these ends.
- Cause:** The CSD states it has a nepotism policy, but the policy was not disseminated to staff.
- Action:** The CSD has submitted in draft a revised nepotism policy that will be disseminated to staff in compliance with CalHR Guidelines; therefore, no further action is required at this time.

### Workers’ Compensation

Pursuant to California Code of Regulations, title 8, section 9880, employers shall provide to every new employee at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under Workers’ Compensation Law. This notice shall also contain a form that the employee can use to pre-designate their personal physician or medical group as defined by Labor Code section 4600. Additionally, employers shall also provide a claim form and notice of potential eligibility to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness (Labor Code, § 5401).

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

In this case, the CSD did not employ volunteers during the compliance review period.

**FINDING NO. 18 – Worker's Compensation Policy Was Not Provided to New Employees by the End of First Pay Period**

- Summary:** The CSD does not provide specific notices to their employees to inform them of their rights and responsibilities under CA Workers' Compensation Law.
- Criteria:** Employers shall provide to every new employee at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under Workers' Compensation Law (Cal. Code Regs., tit. 8, § 9880).
- Severity:** Very Serious. The department does not ensure that its employees are aware of policies and procedures concerning workers' compensation.
- Cause:** The CSD admits it does not currently have a workers' compensation policy.
- Action:** The CSD has submitted a corrective action plan that addresses the corrections the department will take to ensure compliance with Cal. Code Regs., tit. 8, § 9880; therefore, no further action is required at this time.

Performance Appraisals

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

The CRU selected 32 permanent CSD employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines.

In reviewing the CSD’s performance appraisals policies and processes, the CRU determined the following:

**FINDING NO. 19 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The CSD did not provide performance appraisals to 11 of 32 non-probationary employees.

Classification	Date Performance Appraisal(s) due
Associate Governmental Program Analyst	9/2/17
Associate Management Auditor	1/1/17
Program Technician	6/1/17
Research Program Specialist I	10/1/17
Staff Services Manager I	3/2/17
Staff Services Manager I	4/1/17
Staff Services Manager I	7/1/17
Staff Services Manager II (Supervisory)	6/1/17
Staff Services Manager II (Supervisory)	9/14/17
Staff Services Manager III	3/10/17
Staff Services Manager III	11/23/17

**Criteria:** Departments are required to “prepare performance reports and keep them on file as prescribed by department rule” (Gov. Code § 19992.2). Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent

employees at least once in each twelve calendar months after the completion of the employee's probationary period.

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

**Cause:** The CSD states that high staff turnover resulted in managers and supervisors inadvertently not being held accountable for completing performance appraisals. Additionally, the CSD's tracking process to monitor the completion of performance appraisals did not contain steps to ensure performance appraisals were completed.

**Action:** The CSD has submitted a corrective action plan for ensuring compliance in meeting the performance appraisal requirements of Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798; therefore, no further action is required at this time.

### **DEPARTMENTAL RESPONSE**

The CSD's departmental response is attached as Attachment 1.

### **SPB REPLY**

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



LINNÉ K. STOUT  
DIRECTOR

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GAVIN NEWSOM  
GOVERNOR

April 10, 2019

ATTACHMENT 1

Diana Campbell  
Compliance Review Manager  
State Personnel Board  
801 Capitol Mall, Suite 1200  
Sacramento, CA 95814

Dear Ms. Campbell,

The Department of Community Services and Development (CSD) submits this letter in response to the State Personnel Board's (SPB) compliance review of CSD's personnel practices in the areas of examinations from the period of July 1, 2017 to March 31, 2018, appointments from the period of June 1, 2017 to February 28, 2018, personal services contracts (PSC'S) from the period of July 1, 2017 to March 31, 2018, mandated trainings from the period of April 1, 2016 to March 31, 2017, compensation from the period of June 1, 2017 to February 28, 2018, equal employment opportunity (EEO), leave, policy and processes. CSD appreciates the review and the opportunity to respond to the findings.

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

**Finding 2: Probationary Evaluations Were Not Provided for all Appointments Reviewed**

**Cause:**

High staff turnover resulted in managers and supervisors inadvertently not being held accountable for completing probationary evaluations. In addition, the tracking process to monitor the completion of probationary evaluations did not contain steps to ensure probationary evaluations were completed.

**Action:**

CSD acknowledges that managers and supervisors are responsible for providing probationary evaluations for all probationary staff.

The importance of completing probationary evaluations is a topic that is and will continue to be emphasized during the mandatory 2-week California Health and Human



Services Supervisors' Training Academy. CSD has also contracted with Unleashing Leaders to provide managers and supervisors training which emphasizes the importance of completing probationary evaluations. In addition, CSD has reviewed the current process in place for tracking probationary evaluations and has made improvements in an effort, to ensure conformity with the probationary requirements of California Code of Regulations (CCR) section 599.795 (Attachment A).

#### **Finding 4: Unions Were Not Notified of Personal Services Contracts**

##### **Cause:**

Current staff in the Budget and Contract Services Unit were unaware the unions were to be notified of PSC's.

##### **Action:**

CSD acknowledges that to ensure compliance with Government Code (GC) section 19132 and AB 906, no state agency shall execute a personal services contract until the organizations that represent the state employees who perform the type of work being contracted out have been notified and provided a full copy of the proposed contract.

CSD has updated the current procedures to notify all 12 employee organizations (representing 21 bargaining units) of potential PSC's when CSD is unable to identify if a state classification is able to perform the type of work to be contracted (Attachment B).

#### **Finding 5: Ethics Training Was Not Provided for All Filers**

##### **Cause:**

Conflict of Interest (COI) filers are notified of their responsibility to complete ethics training. However, CSD did not have an effective tracking process in place outlining responsibilities to monitor the completion of the ethics training for filers.

##### **Action:**

Effective June 2018, the Training Officer was delegated the responsibility to ensure CSD meets conformity with the requirements of GC section 11146.3, subdivision (b). In addition, CSD has implemented a tracking system to monitor the completion of ethics training (Attachment C).

#### **Finding 6: Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

##### **Cause:**

High staff turnover resulted in the scheduling of sexual harassment prevention training being inadvertently overlooked. In addition, there was not an effective tracking process in place to monitor the completion of sexual harassment prevention training as employees were hired.

**Action:**

CSD contracted with Shaw Law Group to provide on-site sexual harassment prevention training to all staff on May 22, 2017 and June 6, 2017.

Furthermore, in 2018, CSD entered into an agreement with Everfi to provide online sexual harassment prevention training to all CSD staff. The online training provides more flexibility and a more efficient way to track compliance. In addition, CSD has implemented a tracking system to monitor the completion of sexual harassment training (Attachment D).

**Finding 8: Incorrect Application of Alternate Range Movements**

**Cause:**

Salaries were miscalculated for alternate range movements during the Information Technology (IT) consolidation.

**Action:**

CSD has reviewed all alternate range movements that occurred during the IT consolidation and has corrected all the alternate range movements calculated incorrectly. In addition, CSD is implementing a second review process when determining alternate range movements.

**Finding 10: Incorrect Authorization of Bilingual Pay**

**Cause:**

The one bilingual pay authorization approved was an oversight.

**Action:**

CSD will complete the Bilingual Pay Authorization Form Std. 897 and use the most recent Language Survey results for documentation to justify this identified position is using the bilingual skill 10% or more of the time. In addition, CSD is also developing a process to ensure the laws and rules governing bilingual pay appointments are properly adhered to.

**Finding 14: Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely**

**Cause:**

Admittedly, CSD does not currently have a process in place to verify all leave input is keyed accurately and timely.



**Action:**

CSD will create an audit process to monthly review and correct leave input errors. The process will compare what has been recorded in the leave accounting system as accrued/earned or used by each employee to their attendance record for the pay period, by using the Leave Activity Balance (LAB) reports.

**Finding 15: Leave Reduction Plans Were not Provided to Employees Whose Leave Balances Exceeded Established Limits**

**Cause:**

Although most employees with significant leave balances over the established limits have leave reduction plans in place and are actively reducing hours, CSD does not have a process in place or a policy to enforce the leave reduction plans.

**Action:**

CSD has prepared an Excess Leave Reduction Plan policy which will be published and disseminated to all staff. The policy addresses excess vacation and annual leave reduction. In addition, CSD will continue to run reports to identify employees who have vacation/annual leave balances that exceed the cap. The employees identified on the reports will be required to prepare a Leave Reduction Plan that will address reducing their leave balances (Attachment E).

**Finding 17: Department Does Not Disseminate Nepotism Policy to Staff**

**Cause:**

CSD has a nepotism policy, but it was not disseminated to staff.

**Action:**

The nepotism policy was revised and will be published and disseminated to all staff. In addition, the nepotism policy will be added to the new hire packet and staff will be required to sign an acknowledgment form when hired and annually thereafter (Attachment F).

**Finding 18: Worker's Compensation Policy Was Not Provided to New Employees by the End of First Pay Period**

**Cause:**

CSD does not have a workers' compensation policy.

**Action:**

CSD will provide every new employee at the time of hire or by the end of the first pay period, written notice concerning their rights, benefits, and obligations under workers' compensation law.



The following will be added to the new hire packet:

- State Fund DWC 7 Notice to Employees
- State Fund E13547 Guide to Workers' Compensation for New State of California Employees
- State Fund E3851 Employee's Guide to State Fund MPN by Harbor Health
- Pre-designate Form

In addition, CSD has developed a Workers' Compensation Department Memorandum which will be published and disseminated to all staff (Attachment G).

### **Finding 19: Performance Appraisals Were Not Provided to All Employees**

#### **Cause:**

High staff turnover resulted in managers and supervisors inadvertently not being held accountable for completing performance appraisals. In addition, the tracking process to monitor the completion of performance appraisals did not contain steps to ensure performance appraisals were completed.

#### **Action:**

The importance of completing performance appraisals is a topic that is and will continue to be emphasized during the mandatory 2-week California Health and Human Services Supervisors' Training Academy. CSD has also contracted with Unleashing Leaders to provide managers and supervisors training which emphasizes the importance of completing performance appraisals. In addition, CSD has reviewed the current process in place for tracking performance appraisals and has made improvements in an effort, to ensure performance appraisals are provided to all employees annually (Attachment A).

If you have any further questions, please contact Norma Alvarado at (916) 576-5299.

Sincerely,



BRIAN DOUGHERTY  
Deputy Director of Administrative Services

Attachments