



COMPLIANCE REVIEW REPORT

DEPARTMENT OF GENERAL SERVICES

Compliance Review Unit
State Personnel Board
July 12, 2019

TABLE OF CONTENTS

Introduction	1
Executive Summary	2
Background	3
Scope and Methodology.....	4
Findings and Recommendations	6
Examinations	6
Permanent Withhold Actions.....	8
Appointments	9
Equal Employment Opportunity	12
Personal Services Contracts.....	13
Mandated Training	16
Compensation and Pay.....	18
Leave	31
Policy and Processes.....	41
Departmental Response.....	45
SPB Reply	45

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.

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 Department of General Services' (DGS) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. 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	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	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors in the Required Timeframe
Mandated Training	Supervisory Training Was Not Provided for All Supervisors in the Required Timeframe
Compensation and Pay	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointments
Compensation and Pay	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for 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	Red Circle Rate Authorizations Complied with Civil Service Laws, Board Rules, and 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

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

Area	Finding
Compensation and Pay	Payroll Errors When Issuing of Out-of-Class Payments
Leave	Appointed Actual Time Worked (ATW) Employee Exceeded Nine Months in a Twelve Consecutive Month Period
Leave	Administrative Time Off (ATO) Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely
Leave	Leave Reduction Plans Were Not Provided for All Employees Whose Leave Balances Exceeded Established Limits
Leave	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR's Policies and Guidelines
Policy	Workers' Compensation Policy 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 = Non-serious or Technical
- Green = In Compliance

BACKGROUND

The DGS serves as business manager for the state of California. The DGS helps to better serve the public by providing a variety of services to state agencies, including: procurement and acquisition solutions; real estate management and design; environmentally friendly transportation; professional printing; design and web services; administrative hearings; legal services; building standards; oversight of structural safety; fire/life safety and accessibility for the design and construction of K-12 public schools and community colleges; and funding for school construction. The DGS has approximately 3,600 employees throughout California.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DGS' 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 DGS 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 DGS' 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 DGS provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the DGS' Permanent Withhold Actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and Withhold letters.

A cross-section of the DGS' 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 DGS 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 DGS did not conduct any unlawful appointment investigations during the compliance review period.

The DGS' appointments were also selected for review to ensure the DGS applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DGS 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, red circle rate requests, bilingual pay, monthly pay differentials, and out-of-class assignments.

The DGS did not issue or authorize any arduous pay 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 review of the DGS' EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

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

The DGS' 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 DGS' 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 DGS to provide a copy of their leave reduction policy.

The CRU reviewed the DGS' Leave Activity and Correction certification forms to verify that the DGS 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 DGS' units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of DGS 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 DGS employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the CRU reviewed a selection of DGS employees tracked by actual time worked (ATW) during the compliance review period in order to ensure that ATW was appropriately utilized.

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.

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

The DGS declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DGS' written response on June 7, 2019, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

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

During the period under review, December 1, 2017 through May 31, 2018, the DGS conducted 21 examinations. The CRU reviewed 10 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Administrative Law Judge II	Open	Training and Experience (T&E) ⁴	1/24/2018	18
Bookbinder IV	Open	Training and Experience (T&E)	2/21/2018	24
Career Executive Assignment (CEA) B, Assistant Deputy Director, Special Repairs	CEA	Statement of Qualifications (SOQ) ⁵	2/2/2018	8
CEA B, Chief Information Officer	CEA	Statement of Qualifications (SOQ)	3/1/2018	36
CEA C, Deputy Director, Administration Division	CEA	Statement of Qualifications (SOQ)	3/19/2018	26
Construction Inspector II	Open	Training and Experience (T&E)	12/31/2017	21
Construction Supervisor I	Open	Training and Experience (T&E)	12/31/2017	31
Direct Construction Supervisor II	Open	Training and Experience (T&E)	4/27/2018	20
Presiding Administrative Law Judge	Open	Training and Experience (T&E)	12/22/2017	5
Presiding Administrative Law Judge	Open	Training and Experience (T&E)	12/22/2017	5

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

The CRU reviewed three CEA and seven open examinations which the DGS administered in order to create eligible lists from which to make appointments. The DGS published and distributed examination bulletins containing the required information for all examinations. Applications received by the DGS were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all

⁴ 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.

⁵ 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.

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 DGS 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 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 DGS conducted 16 permanent withhold actions. The CRU reviewed 12 of those permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Information Specialist I	7PB35	4/12/2018	6/19/2018	Failed to Meet Minimum Qualifications
Associate Real Estate Officer	6PB22	11/9/2017	3/14/2018	Failed to Meet Minimum Qualifications
Information Technology Specialist I	7PB35	1/31/2018	5/25/2018	Failed to Meet Minimum Qualifications
Office Technician (Typing)	4PB2402	N/A	6/8/2018	Failed to Meet Minimum Qualifications
Office Technician (Typing)	4PB2402	N/A	4/2/2018	Failed to Meet Minimum Qualifications
Office Technician (Typing)	4PB2402	2/22/2017	4/6/2014	Failed to Meet Minimum Qualifications
Staff Services Manager I	9PB19	1/9/2018	6/28/2018	Failed to Meet Minimum Qualifications
Staff Services Manager II	9PB16	2/16/2018	6/8/2018	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Stationary Engineer	4PB16	3/13/2018	4/25/2018	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	5/25/2017	4/19/2018	Failed to Meet Minimum Qualifications
Associate Real Estate Officer	6PB22	3/12/2018	4/6/2018	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	N/A	3/8/2018	Failed to Meet Minimum Qualifications

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

The CRU reviewed and found no deficiencies in the permanent withhold actions the DGS made 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, October 1, 2017 through March 30, 2018, the DGS made 629 appointments. The CRU reviewed 43 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	List Appointment	Permanent	Full Time	2
Accounting Administrator II	List Appointment	Permanent	Full Time	1
Associate Governmental Program Analyst	List Appointment	Permanent	Full Time	4

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Materials Analyst	List Appointment	Limited Term	Full Time	1
Associate Personnel Analyst	List Appointment	Permanent	Full Time	1
Associate Procurement Engineer	List Appointment	Permanent	Full Time	1
Associate Risk Analyst	List Appointment	Permanent	Full Time	1
Custodian	List Appointment	Permanent	Full Time	1
Custodian—LEAP	List Appointment	Permanent	Full Time	1
Data Processing Manager II	List Appointment	Permanent	Full Time	1
Data Processing Manager III	List Appointment	Permanent	Full Time	1
Electrician I	List Appointment	Permanent	Full Time	1
Groundskeeper	List Appointment	Permanent	Full Time	1
Health Program Manager I	List Appointment	Permanent	Full Time	1
Office Building Manager I	List Appointment	Permanent	Full Time	1
Office Building Manager III	List Appointment	Permanent	Full Time	1
Office Technician (General)	List Appointment	Permanent	Full Time	1
Office Technician (Typing)	List Appointment	Permanent	Full Time	1
Project Director	List Appointment	Permanent	Full Time	1
Staff Services Analyst (General)	List Appointment	Permanent	Full Time	2
Staff Services Manager I	List Appointment	Permanent	Full Time	2
Staff Services Manager I (Specialist)	List Appointment	Permanent	Full Time	1
Staff Services Manager III	List Appointment	Permanent	Full Time	1
Stationary Engineer	List Appointment	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	2
Associate Personnel Analyst	Transfer	Permanent	Full Time	1
Custodian	Transfer	Limited Term	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Health Program Specialist I	Transfer	Permanent	Full Time	1
Maintenance Mechanic	Transfer	Permanent	Full Time	1
Office Technician (General)	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Limited Term	Full Time	2
Staff Services Analyst	Transfer	Permanent	Full Time	2
Staff Services Manager I	Transfer	Permanent	Full Time	1

The DGS 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 30 list appointments reviewed, the DGS 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 13 DGS 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 DGS verified the eligibility of each candidate to their appointed class.

However, in reviewing the DGS appointments made during the review period, the CRU determined the following:

FINDING NO. 3 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: DGS did not retain four NOPA’s in 43 appointment files.

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: The DGS acknowledges the finding and is aware of the necessary retention requirements for appointment documentation pertaining to Notice of Personnel Action (NOPA). DGS recognizes the importance of having employees receive and return signed NOPAs. The DGS' Transactions Specialists currently send out a NOPA to the specific Program area and place a copy in the Specialist's pending file. When the signed copy of the NOPA is returned, the Specialist clears the pending file and places the NOPA in the Official Personnel File (OPF). If a signed copy of the NOPA is not returned, the Specialist is to notate the NOPA and place it in the OPF. In these instances, DGS either did not follow up with the specific program area to get the NOPA returned, or did not follow internal procedures to document the copy of the NOPA and place it in the OPF.

Action: The DGS currently has procedures in place to have employees sign and then retain the signed NOPAs. Therefore, additional training for the Transactions staff on internal procedures is appropriate corrective action.

Equal Employment Opportunity

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

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

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

FINDING NO. 4 – Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the DGS 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 DGS. In addition, the DGS has an established DAC which reports to the Director on issues affecting persons with disabilities. The DGS also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the DGS' 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 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, December 1, 2017 through May 31, 2018, the DGS had 496 PSC's that were in effect and subject to the DGS approval. The CRU reviewed 20 of those PSC's, which are listed below:

Vendor	Services	Contract Dates	Contract Amount
BMH Equipment Inc.	Space Consolidation	12/01/17 02/28/18	\$600.00
Truck Trailer Mobile Services Inc.	Remove Old Scuff Plate	12/5/2017 - 12/5/18	\$673.83
Technic Business Solutions	Copier Maintenance Services	12/27/17 - 12/26/18	\$1,353.74
Mel Griffin, Inc. DBA Griffin Rental	Equipment Rental	12/01/17 - 05/31/18	\$9,542.00
Richard T. Conrad	FAIA Architect	12/22/17 - 12/22/19	\$4,200.00
C&C Express Delivery	C&C Freight Contract Extension	04/01/17 - 03/31/19	\$90,000.00
Document Fulfillment Services	HIPAA Printing & Mass Mailing of Tax Form 1095B	01/04/18 - 03/31/18	\$1,485,000.00
Glass West Inc.	LA Cafeteria Window Replacement	1/10/18 - 1/10/19	\$491.39
Fong & Fong Printer	Customer Survey Card	1/11/18 - 1/31/18	\$2,537.00
AGFA	Fingerprint calibration service	01/24/18 - 01/25/18	\$3,600.00
Pacific Copy	Laminating Flyers	5/22/18 - 06/30/18	\$8,072.74
Smile Business Products	Maintenance For An Existing Copier	01/01/2018 - 2/28/2018	\$550.00
Commerce Printing Services	Perfect Binding for Boating Book	02/26/18 - 04/06/18	25,807.00
Litho Flex Printing	Retail Cling	03/13/201 - 03/12/2019	\$422.37
Aramark	Revision for Uniform Jacket	02/21/201 - 12/31/2019	\$3,586,718.88
National Association of Fleet Administrators	Certified Automotive Fleet Manager Training	04/23/201 - 04/23/2021	\$700.00
GDS Moving & Installation	WRCB-Sacramento Quarters-Swing Space	12/13/201 - 12/12/2018	\$7,136.92

Vendor	Services	Contract Dates	Contract Amount
Graphic Roller Company	Roller Contract	6/1/18 - 5/31/19	\$263,983.00
Welsh, John J.	Pro Tem Administrative Law Judge Services	1/18 - 2/20	\$45,000.00
Goode, John W.	Arbitration Services	2/18 - 2/20	\$5,000.00

FINDING NO. 5 – Personal Services Contracts Complied with Procedural Requirements

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

The total dollar amount of all the PSC’s reviewed was \$5,541,388.87. It was beyond the scope of the review to make conclusions as to whether DGS justifications for the contract were legally sufficient. For all PSC’s reviewed, the DGS provided specific and detailed factual information in the written justifications as to how each of the 24 contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Additionally, DGS complied with proper notification to all organizations that represent state employees who perform the type of work contracted. Accordingly, the DGS’ PSC’s complied with civil service laws and board rules.

Mandated Training

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by 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 DGS' mandated training program that was in effect during the compliance review period. The DGS' ethics training was found to be in compliance, while the DGS' supervisory training and sexual harassment prevention training were found to be out of compliance. Only a sample of the ethics, supervisory and sexual harassment training records were reviewed.

FINDING NO. 6 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors in the Required Timeframe

Summary: The DGS did not provide sexual harassment prevention training to 41 of 189 new supervisors within six months of their appointment. In addition, the DGS did not provide sexual harassment prevention training to 15 of 236 existing supervisors every two 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 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 DGS states that they require all supervisors to attend Sexual Harassment Prevention training, and, although DGS does have a tracking mechanism in place to monitor the completion of the Sexual Harassment Training to monitor the completion of the mandated training, not all new supervisors were aware of the requirement to complete the mandated course within six months of appointment.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the DGS submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure that all supervisors attend mandatory sexual harassment training in conformity with the requirements of Government Code section 12951 subdivision (a).

FINDING NO. 7 – Supervisory Training Was Not Provided for All Supervisors in the Required Timeframe

Summary: The DGS did not provide basic supervisory training to 29 of 111 new supervisors within twelve months of appointment.

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

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

Cause: The DGS states that they require all supervisors to attend the mandatory 80 hours of supervisory training, but although DGS does have a tracking system mechanism in place to monitor the completion of the mandated training, not all new supervisors were signed up for the course offerings in a timely manner.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the DGS submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure that supervisors attend mandatory training in a timely manner in conformity with the mandatory supervisory training requirements of Government Code section 19995.4 subdivisions (b). Copies of any relevant documentation should be included with the plan.

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 rate⁶ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

⁶ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

During the period under review, October 1, 2017 through March 30, 2018, the DGS made 1,055 appointments. The CRU reviewed 45 of those appointments to determine if the DGS applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator II	List Appointment	Permanent	Full Time	\$7,421
Accounting Officer (Specialist)	List Appointment	Permanent	Full Time	\$4,177
Accounting Officer (Specialist)	List Appointment	Permanent	Full Time	\$4,177
Associate Governmental Program Analyst	List Appointment	Permanent	Full Time	\$4,784
Associate Governmental Program Analyst	List Appointment	Limited Term	Full Time	\$4,784
Associate Governmental Program Analyst	List Appointment	Limited Term	Full Time	\$4,784
Associate Governmental Program Analyst	List Appointment	Permanent	Full Time	\$4,784
Associate Materials Analyst	List Appointment	Permanent	Full Time	\$4,784
Associate Personnel Analyst	List Appointment	Permanent	Full Time	\$5,043
Associate Procurement Engineer	List Appointment	Permanent	Full Time	\$7,632
Associate Risk Analyst	List Appointment	Permanent	Full Time	\$4,784
Custodian	List Appointment	Limited Term	Full Time	\$2,350
Data Processing Manager II	List Appointment	Permanent	Full Time	\$7,731
Groundskeeper	List Appointment	Permanent	Full Time	\$3,113
Groundskeeper	List Appointment	Permanent	Full Time	\$3,113
Health Program Manager I	List Appointment	Permanent	Full Time	\$6,907
Limited Examination and Appointment Program Candidate OT (Typing)	List Appointment	Temporary	Full Time	\$2,921
Office Building Manager I	List Appointment	Permanent	Full Time	\$5,390
Office Building Manager III	List Appointment	Permanent	Full Time	\$6,552
Office Technician (General)	List Appointment	Permanent	Full Time	\$2,868
Office Technician (Typing)	List Appointment	Permanent	Full Time	\$3,656
Project Director I	List Appointment	Permanent	Full Time	\$9,433
Staff Services Analyst	List Appointment	Permanent	Full Time	\$3,977
Staff Services Analyst	List Appointment	Permanent	Full Time	\$4,133
Staff Services Analyst (General)	List Appointment	Permanent	Full Time	\$3,977
Staff Services Manager I	List Appointment	Permanent	Full Time	\$5,689
Staff Services Manager I	List Appointment	Permanent	Full Time	\$5,689
Staff Services Manager I	List Appointment	Permanent	Full Time	\$6,051
Staff Services Manager III	List Appointment	Permanent	Full Time	\$7,792
Stationary Engineer	List Appointment	Permanent	Full Time	\$5,681

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,275
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$4,861
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,275
Associate Personnel Analyst	Transfer	Permanent	Full Time	\$5,174
Associate Personnel Analyst	Transfer	Permanent	Full Time	\$5,174
Custodian	Transfer	Permanent	Full Time	\$2,591
Custodian	Transfer	Permanent	Full Time	\$2,941
Custodian Supervisor II	Transfer	Permanent	Full Time	\$3,063
Health Program Specialist I	Transfer	Permanent	Full Time	\$6,393
Motor Vehicle Representative	Transfer	Limited Term	Full Time	\$3,240
Office Technician (Typing)	Transfer	Permanent	Full Time	\$3,220
Office Technician (Typing)	Transfer	Permanent	Full Time	\$3,164
Park Maintenance Worker I	Transfer	Permanent	Full Time	\$3,740
Staff Services Manager I	Transfer	Permanent	Full Time	\$6,603
Staff Services Analyst	Transfer	Permanent	Full Time	\$3,220

The CRU found no deficiencies in 44 out of 45 salary determinations that the DGS made during the compliance review period. The DGS appropriately calculated and processed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

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

FINDING NO. 8 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment

Summary: The CRU found one error in the DGS' determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Office Technician (Typing)	Employee was underpaid due to a keying error.	CCR tit. 2, § 599.675

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.)

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

Cause: The DGS states the Personnel Specialist who processed the salary calculation did not have their calculator set to the correct decimal setting resulting in the rounding up instead of appropriately rounding down.

Action: All Personnel Specialists have been directed to review their calculator settings prior to approval and processing salary determinations to ensure compliance with state civil service pay plans. However, the DGS must continue to monitor salary determinations to prevent rounding errors to ensure conformity with California Code of Regulations, title 2, section 599.666.

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, October 1, 2017 through March 30, 2018, the DGS made 11 alternate range movements within a classification which the CRU reviewed to determine if the DGS applied salary regulations accurately and correctly processed employee's compensation.

FINDING NO. 9 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Alternate Range Movement

Summary: The CRU found five errors in 11 alternate range movements the DGS made.

Classification	Description of Finding(s)	Criteria
Personnel Specialist	Employee was incorrectly moved from Range B to Range C and was overpaid.	CCR tit. 2, §599.674(a)
Stationary Engineer Apprentice (Four-Year Program)	Employee was incorrectly moved from Range F to Range G and was underpaid.	CCR tit. 2, §599.681
Stationary Engineer Apprentice (Four-Year Program)	Employee was incorrectly moved from Range A to Range B and was underpaid.	CCR tit. 2, § 599.681
Stationary Engineer Apprentice (Four-Year Program)	Employee was incorrectly moved from Range B to Range C and was underpaid.	CCR tit. 2, § 599.681
Stationary Engineer Apprentice (Four-Year Program)	Employee was incorrectly moved from Range E to Range F and was underpaid.	CCR tit. 2, § 599.681

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 DGS failed to comply with the state civil service pay plan, by incorrectly applying compensation laws and rules in accordance with CalHR’s policies and guidelines. This results in a civil service employee receiving incorrect and/or inappropriate compensation.

Cause: The DGS states that the Personnel Specialist who processed the salary determination applied the incorrect salary rule, resulting in an incorrect application of the Alternate Range Change for the Stationary Engineer Apprentices. The assigned Specialist who

moved the Personnel Specialist from Range B to Range C miscalculated the required amount of time in Range B.

Action: The DGS has corrected the employee's PIMS history to reflect the true salary and initiated appropriate pay adjustments. DGS strengthened their process; now a supervisor will review the salary determinations prior to approval and processing to ensure compliance with state civil service pay plans. Therefore, no further action is required at this time.

Hiring Above Minimum Requests

The department may authorize payment at any step above-the minimum limit to classes or positions to meet recruiting problems or to obtain a person who has extraordinary qualifications. (Gov. Code § 19836.) For all employees new to state service, departments are delegated to approve HAMS for extraordinary qualifications. (Human Resources Online Manual Section 1707.) Appointing authorities may request HAMS for state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Persons with extraordinary qualifications should contribute to the work of the department significantly beyond that which other applicants offer. (*Ibid.*) Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) When a number of candidates offer considerably more qualifications than the minimum, it may not be necessary to pay above the minimum to acquire unusually well-qualified people. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action.⁷ (Gov. Code § 19836 subd. (b).)

Appointing authorities may request/approve HAMS for former Legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Online Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

Appointing authorities may request/approve HAMS for former exempt employees appointed to a civil service class. (Human Resources Online Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee’s salary in the exempt appointment. (*Ibid.*) For example: An employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (*Ibid.*)

During the period under review, October 1, 2017 through March 30, 2018, the DGS authorized one HAM request which the CRU reviewed to determine if the DGS correctly applied Government Code section 19836 and appropriately verified, approved and documented the candidate’s extraordinary qualifications and subsequent salary, which is listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Information Technology Specialist I	Appointment List	Permanent	\$6,057-\$7,961	\$7,885

FINDING NO. 10 – Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

⁷ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

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

Red Circle Rates

A red circle rate is a rate of pay authorized for an individual above the maximum salary for his or her class. (Gov. Code, § 19837.) Departments may authorize a red circle rate in the following circumstances: management initiated change,⁸ lessening of abilities,⁹ downward reclassification,¹⁰ split-off,¹¹ allocation standard changes,¹² or changes in salary setting methods.¹³ (*Ibid.*)

If a salary reduction is the result of split-off, changes in allocation standards, changes in salary setting methods, or a downward reclassification initiated by SPB or CalHR staff determination, the affected employee may receive a red circle rate regardless of the employee's state service total. The employee may retain it until the maximum salary of his or her class equals or exceeds the red circle rate. (Classification and Pay Guide Section 260.)

If an employee is moved to a position in a lower class because of management-initiated changes, he or she may receive a red circle rate provided he or she has a minimum of ten years' state service¹⁴ and has performed the duties of the higher class satisfactorily¹⁵. The length of the red circle rate resulting from a management initiated change is based on the affected employee's length of state service. The red circle rate ends when the maximum salary of the class equals or exceeds the red circle rate or at the expiration of eligibility. (*Ibid.*)

⁸ Any major change in the type of classes, organizational structure, and/or staffing levels in a program.

⁹ Refers to an employee who, after many years of satisfactory service, no longer possess the ability to perform the duties and responsibilities of his/her position.

¹⁰ Downward reclassification is when, as a result of SPB action or a CalHR staff determination, an incumbent's position is moved to a lower class without the duties being changed.

¹¹ Split off is when one class is split into two or more classes, one of which is at a lower salary level than the original class.

¹² Allocation standards for two or more classes may change to the degree that a position originally allocated to one class may be reallocated to a class with a lower salary without a change in duties.

¹³ Revised valuation standards applied in setting the salary for a class may result in reducing the salary of a class.

¹⁴ As calculated by the State Service and Seniority Unit at CalHR. An employee with nine years' state service qualifies if the employee had been laid off or had been on a leave of absence for one or more years to reduce the effect of a layoff (CCR § 599.608).

¹⁵ The latter requirement is normally satisfied by the successful completion of a probationary period, unless there is compelling evidence to suggest otherwise.

An employee whose position is blanketed into the state civil service from another public jurisdiction may receive a red circle rate regardless of the length of service in the other jurisdiction. (Cal. Code Regs., tit. 2, § 275.) The employee may retain the red circle rate until the maximum salary of the class to which the employee’s position is allocated equals or exceeds the red circle rate.

Additionally, a red circle rate may be authorized for a former CEA appointee who is reinstating to a civil service classification, a CEA with no prior civil service in a promotional exam and is being appointed from a list without a break in service, or a CEA appointee who is being reduced to a lower CEA salary rate. (CalHR Class and Pay Guide Section 440.) If an employee, with ten years of state service, has one or more years of state service under a CEA appointment, has been terminated from a CEA appointment, and the termination was not voluntary nor was it based on unsatisfactory performance, California Code of Regulations, title 2, section 599.993 mandates a red circle rate. In those cases where the employee’s CEA termination was voluntary, but all of the other criteria above are met, Rule 599.993 allows the employee to be permissively granted a red circle rate. This rate is based upon the CEA salary rate received at the time of the termination. Government Code section 13332.05 limits the duration of the red circle rate to no more than 90 calendar days following termination of a CEA appointment.

As of April 1, 2005, departments have delegated authority to approve red circle rates for general civil service employees and CEA positions for up to 90 days. (PML 2005-012, “Delegation of Personnel Management Functions.”) Current Bargaining Unit agreements also provide guidelines and rules on red circle rates that may supersede applicable laws, codes, rules and/or CalHR policies and guidelines.

During the period under review, October 1, 2017 through March 30, 2018, the DGS authorized one red circle request that the CRU reviewed to determine if the DGS correctly verified, approved, and documented the red circle authorization process, which is listed below:

Classification	Prior Classification	Red Circle Rate	Reason for Red Circle Rate
Administrative Law Judge III	CEA C	\$622	Downward Reclassification

FINDING NO. 11 – Red Circle Rate Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found that the one red circle rate request the DGS authorized 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 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, October 1, 2017 through March 30, 2018, the DGS authorized and issued bilingual pay to six employees, which the CRU reviewed to ensure compliance with applicable policies and guidelines.

FINDING NO. 12 – Incorrect Authorization of Bilingual Pay

Summary: Three of six employees authorized by the DGS did not qualify to receive bilingual pay.

Classification	Description of Finding(s)	Criteria
Associate Governmental Program Analyst	Employee was receiving bilingual pay from previous agency, and the earnings identification number (EID) was not removed when employee transferred to DGS.	Pay Differential 14
Senior Legal Typist	Duty statement does not mention necessity of bilingual skills. STD 897 not provided.	Pay Differential 14
Senior Legal Typist	Duty statement does not mention necessity of bilingual skills. STD 897 not provided.	Pay Differential 14

- Criteria:** For any state agency, a “qualified” bilingual employee is someone who CalHR has tested and certified as proficient in English and non-English languages.
- Severity:** Very Serious. The DGS failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR’s policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate pay amounts.
- Cause:** The DGS states the assigned Personnel Specialist did not properly review the PAR to see the necessity of removing the Bilingual Pay differential when entering the employee’s information. Please note when this issue was brought to our attention, the Bilingual Pay differential was immediately removed and DGS is working to collect the overpayment.
- Action:** The DGS immediately took correction action. Furthermore, both Classifications and Pay, and Transactions staff have received additional training to ensure bilingual pay is correctly applied. Therefore, no further action is required at this time.

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, October 1, 2017 through March 30, 2018, the DGS issued pay differentials¹⁶ to 109 employees. The CRU reviewed 29 of those pay differentials to ensure compliance with applicable policies and guidelines, which are listed below:

Classification	Pay Differential	Monthly Amount
Groundskeeper	6	\$50
Administrative Law Judge II (Specialist) OAH	84	400.75 (5%)
Administrative Law Judge III	84	622.40 (5%)
Custodian	67	\$190
Lead Groundkeeper	6	\$50
Associate Information Systems Analyst (Specialist)	13	5% of salary
Administrative Law Judge II (Specialist), OAH	84	5% of salary
Administrative Law Judge III	84	5% of salary
Administrative Law Judge III	84	5% of salary
Administrative Law Judge I	84	5% of salary
Legal Secretary	141	423.84 (2 Steps)
Plumber I	233	\$100
Legal Secretary	141	423.84 (2 Steps)
Office Technician (Typing)	67	\$190
Plumber I	233	\$100
Administrative Law Judge II (Specialist), OAH	84	5% of salary
Administrative Law Judge I	84	5% of salary
Senior Legal Typist	141	Up to 2 Steps above the MAX salary rate of the class
Administrative Law Judge II (Specialist)	84	5% of salary
Administrative Law Judge II (Specialist)	84	5% of salary
Administrative Law Judge II (Specialist)	84	5% of salary
Administrative Law Judge II (Specialist)	84	5% of salary
Administrative Law Judge I	84	5% of salary
Presiding Administrative Law Judge	84	5% of salary
Administrative Law Judge III	84	5% of salary

¹⁶ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Administrative Law Judge I	84	5% of salary
Administrative Law Judge II (Specialist)	84	5% of salary
Senior Legal Typist	141	Up to 2 Steps above the MAX salary rate of the class

FINDING NO. 13 – 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 DGS 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 (OOC) and Pay

For excluded¹⁷ 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 CalHR regulation. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires (CalHR Classification and Pay Guide Section 375.)

During the period under review, October 1, 2017 through March 30, 2018, the DGS issued OOC pay¹⁸ to 10 employees. The CRU reviewed five OOC assignments to ensure compliance with applicable policies and guidelines.

¹⁷ “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.

¹⁸ Excluding bilingual and arduous pay.

FINDING NO. 14 – Payroll Errors When Issuing Out-of-Class Payments

Summary: The CRU found one error in five OOC payments the DGS issued.

Classification	Description of Finding(s)	Criteria
Stationary Engineer	The original salary calculations could not be located, so the DGS completed a new salary determination and found that the employee was being overpaid.	Pay Differential 92

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

Cause: The DGS will correct the employee’s PIMS history to reflect the true salary and collect the inappropriate pay adjustments. Additional training will be provided to all Personnel Specialists and a supervisor will review the determinations prior to approval and processing to ensure compliance with state civil service pay plans.

Action: It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the DGS submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the out of class pay requirements of Pay Differential 92. Copies of any relevant documentation including the additional training which will be provided should be included with the plan.

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-consecutive months are the ones used to count the 189 working days. ATW includes; any day on which the employee physically worked, regardless of the length of time worked on that day¹⁹, any day for which the employee is on paid absence,²⁰ and 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 pay²¹.

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 189 days in any 12-consecutive month period. (Cal. Code Regs., tit. 2, § 265.1 (b).) For seasonal classifications, student assistants, graduate student assistants, and youth aides, 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 (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. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2,000 hours in any calendar year.

At the time of the review, October 1, 2017 through March 30, 2018, the DGS had three employees on ATW. The CRU reviewed all three ATW appointments to ensure compliance with applicable laws, regulations, policies and guidelines.

FINDING NO. 15 – Appointed Actual Time Worked (ATW) Employee Exceeded Nine Months in a Twelve Consecutive Month Period

Summary: The DGS did not monitor the actual number of ATW hours worked. One of three employees worked 404.5 hours over the 1,500 hour maximum.

Classification	Time Base	Time Frame	Time Worked
Mailing Machines Operator II	Intermittent	Consecutive Months	1904.5 hours

¹⁹ For example, two hours or ten hours counts as one day.
²⁰ For example, vacation, sick leave, compensating time off, etc.
²¹ For example, straight time, time and one-half, double time, etc.

Criteria: If any employee is appointed to an intermittent time-base position on a TAU basis, there is the constitutional limit of nine months or 189 days in 12 consecutive months for temporary assignments that cannot be extended for any reason. When computing time worked, 189 days equals nine months. (Cal. Code Regs., tit. 2, § 265.1 (b).)²² Intermittent employees are limited to 1500 hours in any calendar year. (Human Resources Online Manual section 1202.) For seasonal classifications, student and graduate assistants, and youth aides, 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).)

Severity: Very Serious. The amount of days or hours an individual may work in a temporary assignment is limited in the state civil service. TAU appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list. Intermittent appointments are not to be used to fill full-time or part-time positions. Such use would constitute illegal circumvention of these eligible lists.

Cause: The DGS agrees with this finding and states they failed to monitor the employee's "days worked," allowing the individual to exceed the 189-day/1500 hour limitation.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the DGS submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the monitoring of "days worked" requirements of California Code of Regulation, title 2, section 265.1 subdivisions (b) and (d). Copies of any relevant documentation should be included with the plan.

Administrative Time Off

²² California Code of Regulations section 265.1 became effective July 1, 2017, and did not apply at the time of one of these appointments. The current regulation sets forth the method for counting time for temporary appointments.

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Online 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.*)

Employees may also be granted a paid leave of absence (ATO) 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. (Cal. Code Regs., § 599.785.5.)

During the period under review, October 1, 2017 through March 30, 2018, the DGS placed 113 employees on ATO. The CRU reviewed 16 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
Bookbinder IV	9/13/2017 - 9/21/2017	7
Maintenance Mechanic	9/1/2017 - 9/16/2017	12
Custodian	6/19/2017 - 6/30/2017	10
Custodian	12/1/2017 - 12/15/2017	11
Custodian	9/11/2017 - 11/2/2017	39
Custodian	5/5/2018 - 5/12/2017	6
Custodian	3/8/2017 - 5/6/2017	44
Custodian Supervisor II	2/5/2018 - 2/20/2018	16
Staff Information Systems Analyst	9/27/2017 - 10/13/2017	17
Custodian Supervisor II	1/9/2018 - 2/7/2018	30
Office Building Manager III	3/16/2018 - 3/30/2018	15
Office Assistant Typing	6/6/2017 - 6/19/2017	13
Associate Budget Analyst	7/3/2017 - 7/26/2017	23

Classification	Time Frame	No. of Days on ATO
Office Technician	3/27/2017 - 10/31/2017	218
Warehouse Worker	5/2/17 - 6/27/17	40
Associate Budget Analyst	1/22/2018 - 2/16/18	20

FINDING NO. 16 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the employees placed on ATO during the compliance review period. The DGS 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 the Human Resources 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, December 1, 2017 through February 28, 2018, the CRU reviewed five units comprised of 121 and 122 active employees during the December 2017 and January 2018 pay periods respectively. 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
Dec-17	031	57	57
Dec-17	112	10	10

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed
Dec-17	138	18	18
Dec-17	300	17	17
Dec-17	657	19	19
Jan-18	031	57	57
Jan-18	112	9	9
Jan-18	138	18	18
Jan-18	300	18	18
Jan-18	657	20	20

FINDING NO. 17 – Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely

Summary: The DGS failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely. Also, the DGS did not provide completed Leave Activity and Correction Certification forms for five out of five units reviewed.

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. (Cal. Code Regs., tit. 2, § 599.665). 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.” (Human Resources Online Manual Section 2101.)

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 DGS agrees with this finding and admits it does not currently have a process in place to verify all leave input if keyed accurately and timely. DGS was not aware until recently of PML 2015-007.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the DGS submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirement to maintain accurate and timely leave accounting records pursuant to the California Code of Regulations, title 2, section 599.665. 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.) Applicable Bargaining Unit (BU) Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "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.²³ (Cal. Code Regs., tit. 2, § 599.737.) 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.)

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

²³ 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 has an established limit of 816 hours.

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.) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work life balance by granting reasonable employee vacation and annual leave requests when operationally feasible.

In accordance with the Human Resources 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, 375 DGS employees exceeded the established limits of vacation or annual leave. The CRU reviewed 30 of those employees' leave reduction plans to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Supervising Management Auditor	M01	335	No
Associate Governmental Program Analyst	R01	314.5	Yes
Accounting Administrator I (Supervisor)	S01	160	No
Staff Services Manager II (Supervisor)	S01	209	No
CEA	M01	351	No
Accounting Administrator III	M01	158	No
Information Technology Specialist II	S01	166	Yes
Information Technology Manager I	M01	355	No
Associate Governmental Program Analyst	R01	294	No
Staff Management Auditor	S01	368	No
Information Technology Specialist II	R01	216.5	No
Senior Inspector of Auto Equipment	S12	259	No
Accounting Administrator I (Supervisor)	S01	232	No
Staff Services Manager I	E48	301	Yes
Staff Services Manager II (Supervisor)	S01	331.25	No
Administrative Law Judge II	R02	345	No
Warehouse Manager I	S12	192	No
Business Program Manager	E99	193.88	Yes

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Deputy Director	E99	235	Yes
Printing Process and Operations Supervisor	S14	308.15	No
Senior Inspector of Auto Equipment	S12	307	Yes
Administrative Law Judge III	R02	540	No
Staff Management Auditor	S01	203	No
CEA	M01	236	No
Senior Personnel Specialist	R01	193.25	No
Legal Support Supervisor I	S04	266.25	Yes
Information Technology Specialist I	R01	142	No
Associate Governmental Program Analyst	R01	254	No
Associate Chief Counsel	M02	260.5	No
Information Technology Associate	R01	341	Yes
Total		8067.28	

FINDING NO. 18 – Leave Reduction Plans Were Not Provided for All Employees Whose Leave Balances Exceeded Established Limits

Summary: The DGS did not provide leave reduction plans for 22 of 30 employees reviewed whose leave balances exceeded established limits. However, the DGS provided a leave reduction policy to all employees.

Criteria: "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. (Human Resources Online Manual Section 2124.) 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: Serious. 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 DGS agrees with this finding and states while most of its employees with significant leave balances over the established limits have leave reduction plans in place, DGS does not currently have a process or policy to enforce the following of leave reduction plans.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the DGS submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the execution of leave reduction plans requirements of California Code of Regulations, title 2, section 599.742. Copies of any relevant documentation should be included with the plan.

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.²⁴ (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

²⁴ 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.

employees²⁵ 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, October 1, 2017 through March 30, 2018, the DGS had 35 employees with non-qualifying pay period transactions. The CRU reviewed of 21 of those transactions to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Type Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	14
Qualifying Pay Period	Full Time	7

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

The CRU found no deficiencies in the transactions the DGS made. Employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals.

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

²⁵ 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 Government Code section 3513, subdivision (c), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

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. (Human Resources Online Manual Section 1204.)

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

After reviewing the DGS’ nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the DGS’ commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the DGS’ nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions as outlined in the Human Resources Online Manual Section 1204.

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.)

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

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

FINDING NO. 21 – Worker’s Compensation Policy Complied with Civil Services Laws, Board Rules and/or CalHR Policies and Guidelines

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

Performance Appraisals

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

The CRU selected 40 permanent DGS employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

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

Summary: The DGS did not provide performance appraisals to 29 of 40 employees reviewed at least once in each twelve calendar months after the completion of the employee's probationary period.

Classification	Date Performance Appraisal(s) due
Office Technician (General)	10/31/2017
Associate Governmental Program Analyst	9/30/2017
Attorney III	10/30/2017
Information Technology Specialist I	10/8/2017
Administrative Assistant II	7/7/2017
Staff Services Manager I	12/31/2017
Accounting Administrator I (Supervisor)	9/30/2017
Information Technology Specialist I	7/31/2017
Accountant I (Supervisor)	1/11/2017
Groundskeeper	12/13/2017

Classification	Date Performance Appraisal(s) due
Custodian	12/25/2017
Associate Governmental Program Analyst	1/1/2017
Associate Governmental Program Analyst	7/30/2017
Associate Governmental Program Analyst	10/31/2017
Associate Governmental Program Analyst	10/31/2017
Associate Governmental Program Analyst	11/28/2017
Associate Governmental Program Analyst	6/3/2017
Staff Services Manager I	11/27/2017
Inspector of Automotive Equipment	2/28/2017
Staff Services Manager I	12/15/2017
Accountant Trainee	1/14/2017
Accountant Trainee	7/18/2017
Personnel Supervisor I	4/1/2017
Staff Services Manager II (Supervisory)	2/27/2017
Custodian	1/18/2017
Stationary Engineer	2/7/2017
Printing Process and Operations Planner	5/1/2017
Program Technician II	4/8/2017
Office Technician (Typing)	2/18/2017

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 DGS agrees with this finding and states that, although an electronic reminder goes to supervisors when an annual performance appraisal is due, program supervisors are not

following through to provide the required annual performance appraisals to their employees.

Action:

It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the DGS submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure supervisors provide performance appraisals in a timely manner in conformity with the performance appraisal requirements of Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of any relevant documentation should be included with the plan.

DEPARTMENTAL RESPONSE

Departmental Response is attached as Attachment 1.

SPB REPLY

Based upon the DGS' written response and corrective action plans submitted, the DGS will comply with the CRU findings and recommendations.

June 7, 2019

Suzanne Ambrose
Executive Officer
State Personnel Board

SUBJECT: State Personnel Board (SPB) Compliance Review (CR) Response

Dear Ms. Ambrose, this letter is in response to the draft SPB CR Report submitted to the Department of General Services (DGS) by the State Personnel Board (SPB) for review. DGS has reviewed the CR report and does not dispute the findings.

DGS takes these compliance issues very seriously and have taken into account the findings identified in the CR report and begun the necessary corrective actions to bring the Department into compliance. Subsequent action beyond the responses to each finding below will be addressed and documented in a corrective action plan.

Finding #3: Appointment Documentation was not Kept for the Appropriate Amount of Time

Cause: DGS acknowledges the finding and is aware of the necessary retention requirements for appointment documentation pertaining to a Notice of Personnel Action (NOPA). DGS recognizes the importance of having employees receive and return signed NOPAs. DGS Transactions Specialists currently send out a NOPA to the specific Program area and places a copy in the Specialist's pending file. When the signed copy of the NOPA is returned, the Specialist clears the pending file and places the NOPA in the Official Personnel File (OPF). If a signed copy of the NOPA is not returned, the Specialist is to notate the NOPA and place it in the OPF. In these instances, DGS either did not follow up with the specific Program area to get the NOPA returned, or did not follow internal procedures to document the copy of the NOPA and place it in the OPF.

Corrective Action: DGS will be re-issuing desk procedures to all Personnel Specialists to set a reminder for two times in a 60 day period after sending a NOPA for an employee to sign. If the signed NOPA has not been returned, the Personnel Specialist is to notate the information on their copy and send the notated NOPA to the OPF.

Finding #6: Sexual Harassment Prevention Training Was Not Provided for all Supervisors in the Required Timeframe

Cause: DGS states that they require all supervisors to attend mandatory Sexual Harassment Prevention training, and although DGS does have a tracking mechanism in place to monitor the completion of Sexual Harassment Training to monitor the

completion of the mandated training, not all new supervisors were aware of the requirement to complete the mandated course within six months of appointment.

Corrective Action: DGS recognizes the importance of compliance with mandatory training requirements. It has been the responsibility of an employee's direct supervisor or manager in conjunction with the office or program Training Coordinator to ensure compliance and track completion of training. DGS will begin implementing a department-wide Learning Management System (Blackboard), which will automate and centralize mandatory training for all employees.

Finding #7: Supervisory Training was not Provided for all Supervisors in the Required Timeframe

Cause: DGS states that they require all supervisors to attend mandatory 80 hours of Supervisory training, but although DGS does have a tracking mechanism in place to monitor the completion of the mandated training, not all new supervisors were signed up for the course offerings in a timely manner.

Corrective Action: DGS recognizes the importance of compliance with mandatory training requirements. It has been the responsibility of an employee's direct supervisor or manager in conjunction with the office or program Training Coordinator to ensure compliance and track completion of training. DGS will begin implementing a department-wide Learning Management System (Blackboard), which will automate and centralize mandatory training for all employees.

Finding #8: Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointments

Cause: DGS states the Personnel Specialist who processed the salary calculation did not have their calculator set to the correct decimal setting resulting in the rounding up instead of appropriately rounding down.

Corrective Action: DGS agrees with this finding. DGS corrected the employee's PIMS history in December 2018 to reflect the correct salary and issue appropriate pay adjustments. All Personnel Specialists and supervisors will review the calculator settings and determinations prior to approval and processing to ensure compliance with state civil service pay plans.

Finding #9: Incorrect Application of Salary Determination Laws, Rules, and CalHR Guidelines for Alternate Range Movements

Cause: DGS states the Personnel Specialist who processed the salary determination was applied the incorrect salary rule which only provided the difference in ranges, which resulted in incorrectly interpreting the Alternate Range Change for the Stationary Engineer Apprentices. The assigned Specialist who moved the Personnel Specialist from Range B to Range C miscalculated the required amount of time in Range B.

Corrective Action: DGS agrees with this finding. DGS corrected the employee's PIMS history to reflect the true salary and issued appropriate pay adjustments. Salary Determination classes are provided to all Personnel Specialists and a supervisor will be reviewing the determinations prior to approval and processing to ensure compliance with state civil service pay plans.

Finding #12: Incorrect Authorization of Bilingual Pay

Cause: DGS states the assigned Personnel Specialist did not properly review the PAR to see the necessity of removing the Bilingual Pay differential when entering the employee's information. Please note when this issue was brought to our attention, the Bilingual Pay differential was immediately removed and DGS is working to collect the overpayment.

Corrective Action: DGS agrees with this finding and is providing additional training to both Classification and Pay and Transactions staff to ensure Bilingual Pay is applied correctly to individual positions. This item was corrected in December 2018 and a pay adjustment letter was sent to the employee.

Finding #14: Payroll Errors When Issuing Out of Class Payments

Cause: DGS agrees with this finding and states the incorrect Out of Class pay was due to human error.

Corrective Action: DGS will correct the employee's PIMS history to reflect the true salary and collect the inappropriate pay adjustments. Additional training will be provided to all Personnel Specialists and a supervisor will review the determinations prior to approval and processing to ensure compliance with state civil service pay plans.

Finding #15: Appointed Actual Time Worked (ATW) Employee Exceeded Nine Months in a Twelve Consecutive Month Period

Cause: DGS agrees with this finding and states they failed to monitor the employee's "days worked," allowing the individual to exceed the 189-day/1500-hour limitation.

Corrective Action: DGS will be revising desk procedures to provide a more pro-active approach to managing the monitoring and tracking of ATW employees.

Finding #17: Department has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely

Cause: DGS agrees with this finding and admits it does not currently have a process in place to verify all leave input is keyed accurately and timely. DGS was not aware until recently of PML 2015-007.

Corrective Action: DGS is creating a workgroup who will prepare appropriate procedures and begin implementation to ensure compliance with PML 2015-007.

Finding #18: Leave Reduction Plans Were Not Provided for All Employees Whose Leave Balances Exceeded Established Limits

Cause: DGS agrees with this finding states while most of its employees with significant leave balances over the established limits have leave reductions plans in place, DGS does not currently have a process or policy to enforce the following of the leave reduction plans.

Corrective Action: DGS will continue to issue HR Memos for distribution to staff who have leave balances above the maximum accrual limit and set a requirement for a Leave Reduction plan to be on file.

Finding #22: Performance Appraisals Were Not Provided to All Employees

Cause: DGS agrees with this finding and states that although an electronic reminder goes to supervisors when an annual performance appraisal is due, program supervisors are not following through to provide the required annual performance appraisals to their employees.

Corrective Action: DGS' supervisors currently receive electronic notification of the annual performance appraisal during the month of the employee's birth date. DGS will be implementing a new process to designate specific months in which supervisors will be required to prepare and present employees with an annual performance appraisal. DGS will be tracking the completion of the annual performance appraisals, and utilizing the data to track compliance.

DGS thanks you and the CRU Team for the opportunity to respond to the draft Compliance Review Report. If you have any questions, please contact Amy E. Applegate, Personnel Officer, at (916) 376-5428 or via e-mail at Amy.Applegate@dgs.ca.gov

Sincerely,



ESTELA GONZALES, Chief
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