



# **COMPLIANCE REVIEW REPORT**

**CALIFORNIA STATE CONTROLLER'S OFFICE**

Compliance Review Unit  
State Personnel Board  
April 10, 2019

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## **INTRODUCTION**

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

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies 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 State Controller’s Office (SCO)’s personnel practices in the areas of examinations, appointments, EEO, PSC’s, mandated training, compensation and pay, leave, and policy and processes<sup>1</sup>. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Appointments	Probationary Evaluations Were Not Timely
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	Ethics Training Was Not Provided for All Filers
Mandated Training	Supervisory Training Was Not Provided for All Supervisors
Compensation and Pay	Incorrect Application of Compensation Laws, Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Bilingual Pay
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Area	Finding
Compensation and Pay	Incorrect Authorization of Out-of-Class Pay
Leave	ATW Employee Exceeded the Nine Month in Any Twelve Consecutive Month Limitation
Leave	Administrative Time Off (ATO) Was Not Properly Documented
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Leave	Incorrect Application of 715 Transaction
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Were Not Provided to All Employees

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

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

### **BACKGROUND**

The State Controller is the Chief Fiscal Officer of California, the eighth largest economy in the world, and is principally responsible for accountability of the state's resources. The Controller ensures the appropriate expenditure of -- and accounting for -- every taxpayer dollar, advancing the long-term sustainability and responsible stewardship of California public resources. The Controller chairs or serves on 81 state boards and commissions, and is charged with duties ranging from overseeing the administration of the nation's two largest public pension funds, to protecting our coastline, helping to build hospitals and schools, and modernizing and maintaining California's vast infrastructure. The Controller provides sound fiscal control for, and independent oversight of, more than \$100 billion in

receipts and disbursements of public funds. In addition, the Controller offers fiscal guidance to local governments, and performs audit functions to uncover fraud and abuse of taxpayer dollars. The SCO employs approximately 1,393 staff.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the SCO's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup>. The primary objective of the review was to determine if SCO 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 SCO's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the SCO provided, which included examination plans, examination bulletins, job analyses, and scoring results. The SCO did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the SCO's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the SCO 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 SCO did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the SCO did not make any additional appointments during the compliance review period.

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

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

of-class assignments. During the compliance review period, the SCO did not issue or authorize red circle rate requests and arduous pay.

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

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

The SCO's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors were provided supervisory training and sexual harassment prevention training within statutory timelines.

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

The CRU reviewed the SCO's Leave Activity and Correction certification forms to verify that the SCO 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 SCO's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the SCO's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the SCO employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the CRU

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

reviewed a selection of SCO employees tracked by actual time worked (ATW) during the compliance review period in order to ensure that ATW was appropriately utilized.

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

On March 20, 2019 an exit conference was held with the SCO to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the SCO's written response on April 2, 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 August 31, 2018, the SCO conducted 27 examinations. The CRU reviewed 10 of those examinations, which are listed below:



Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Assistant Chief, Administration and Disbursements Division, CEA A	Open	Statement of Qualifications (SOQ) <sup>4</sup>	10/5/17	15
Associate Management Auditor	Departmental Promotional	Qualification Appraisal Panel (QAP) <sup>5</sup>	3/30/18	7
California State Payroll System Project Manager, CEA B	Open	SOQ	12/8/17	6
Claim Auditor	Departmental Promotional	Education and Experience (E&E) <sup>6</sup>	12/31/17	10
Office Services Supervisor II (General)	Departmental Promotional	E&E	11/15/17	7
Payroll Specialist	Departmental Open, Non-Promotional	E&E	3/30/18	59
Senior Claim Auditor	Departmental Promotional	E&E	12/31/17	2
Staff Management Auditor (Specialist), SCO	Departmental Promotional	QAP	2/21/18	51
Senior Payroll Specialist	Departmental Open	E&E & Written <sup>7</sup>	3/30/18	12

<sup>4</sup> In a Statement of Qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

<sup>5</sup> The Qualification Appraisal Panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

<sup>6</sup> In an education and experience examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

<sup>7</sup> A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Staff Services Analyst (Transfer Exam)**	Departmental Promotional	Written	2/6/18	2

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

The CRU reviewed six departmental promotional, one departmental open, one departmental open, non-promotional and two open examinations which the SCO administered in order to create eligible lists from which to make appointments. The SCO published and distributed examination bulletins containing the required information for all examinations. Applications received by the SCO were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the SCO conducted during the compliance review period.

**Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and 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, December 1, 2017 through August 31, 2018, the SCO made 292 appointments. The CRU reviewed 49 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	1
Accounting Administrator I (Specialist)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Administrator II	Certification List	Permanent	Full Time	2
Accounting Analyst	Certification List	Permanent	Full Time	2
Assistant Chief, Administration and Disbursements Division, CEA A	Certification List	CEA	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	1
Associate Management Auditor	Certification List	Permanent	Full Time	1
California State Payroll System Project Manager, CEA B	Certification List	CEA	Full Time	1
Claim Auditor	Certification List	Permanent	Full Time	1
Data Processing Manager I	Certification List	Permanent	Full Time	1
Financial Accountant I	Certification List	Permanent	Full Time	1
Financial Accountant II	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Limited Term	Full Time	1
Information Technology Manager I	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Limited Term	Full Time	1
Information Technology Supervisor I	Certification List	Permanent	Full Time	1
Key Data Supervisor II	Certification List	Permanent	Full Time	1
Mailing Machines Operator I	Certification List	Permanent	Full Time	2
Office Assistant (General)	Certification List	Permanent	Full Time	1
Office Assistant (General) LEAP	Certification List	Limited Term	Full Time	1
Office Technician (General) LEAP	Certification List	Limited Term	Full Time	1
Payroll Officer, SCO	Certification List	Permanent	Full Time	1
Payroll Specialist	Certification List	Permanent	Full Time	1
Program Technician II	Certification List	Permanent	Full Time	1
Property Controller I	Certification List	Permanent	Full Time	1
Senior Management Auditor	Certification List	Permanent	Full Time	2
Senior Payroll Specialist	Certification List	Permanent	Full Time	2
Staff Services Analyst (General)	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisor)	Certification List	Permanent	Full Time	1
Supervising Management Auditor	Certification List	Permanent	Full Time	1
Supervising Program Technician I	Certification List	Permanent	Full Time	1
Associate Info Systems Analyst (Specialist)	Training and Development	Permanent	Full Time	1
Information Technology Specialist I	Training and Development	Permanent	Full Time	1
Executive Assistant	Transfer	Permanent	Full Time	1
Office Services Supervisor II (General)	Transfer	Permanent	Full Time	1
Payroll Officer, SCO	Transfer	Permanent	Full Time	1
Payroll Specialist	Transfer	Permanent	Full Time	2
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2
Staff Services Manager II (Supervisory)	Transfer	Limited Term	Full Time	1

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

**Summary:** The SCO did not provide seven probationary reports of performance for five of the 49 appointments reviewed by the CRU as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Missing or Late Probation Reports
Data Processing Manager I	Certification List	1	1
Senior Claim Auditor	Certification List	1	2
Staff Information Systems Analyst (Specialist)	Certification List	1	3
Payroll Specialist	Transfer	2	1
<b>Total</b>		<b>5</b>	<b>7</b>

**Criteria:** The service of a probationary period is required when an employee enters in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as CalHR may require. (Gov. Code, § 19172.) CalHR’s regulatory scheme provides that “a report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job.” (Cal. Code Regs., tit. 2, § 599.795.) Specifically, a written appraisal of performance shall be made to the department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board’s record retention rules require that appointing powers retain all probationary reports. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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

**Cause:** The SCO states that they do not have an appropriate tracking mechanism to oversee probationary evaluation completions.

**Action:** It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the SCO submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19172.

**FINDING NO. 3 – Probationary Evaluations Were Not Timely**

**Summary:** The SCO did not complete 11 probationary reports of performance within 10 days of the due date for nine of the 49 appointments reviewed by the CRU.

**Criteria:** The service of a probationary period is required when an employee enters in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as CalHR may require. (Gov. Code § 19172.) CalHR’s regulatory scheme provides that “a report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job.” (Code Reg., tit. 2, § 599.795.) Specifically, a written appraisal of performance shall be made to the department within 10 days after the end of each one-third portion of the probationary period. (Ibid.) The Board’s record retention rules require that appointing powers retain all probationary reports. (Code Reg., titl. 2, § 26, subd. (a)(3).)

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

**Cause:** The SCO states that they do not have an appropriate tracking mechanism to oversee probationary evaluation completions.

**Action:** It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the SCO submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19172.

### **Equal Employment Opportunity**

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the 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 All Civil Service Laws and Board Rules**

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the SCO 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 SCO. In addition, the SCO has an established DAC which reports to the Director on issues affecting persons with disabilities. The SCO also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities. Accordingly, the SCO 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 August 31, 2018, the SCO had 41 PSC's that were in effect. The CRU reviewed 15 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Blue Sky Consulting, LLC	Instructional Training Services	2/1/18 - 1/31/19	\$18,300.00	Yes
CEC Print Solutions, Inc.	Printing/Delivery Envelopes	8/1/18 - 12/1/18	\$7,113.80	Yes
CNPA Services, Inc.	Newspaper Ads	5/15/17 - 5/14/19	\$85,550.00	Yes
Crowe LLP	Analysis, Preparation, Delivery and Acceptance of Project Planning	6/15/18 - 6/14/21	\$4,590,190.00	Yes
Data Clean Corporation	Specialized Data Center Cleaning Services	3/1/18 - 2/28/19	\$7,290.78	Yes
Eide Bailly LLP	Expert Accountancy Services	7/1/18 - 6/30/21	\$204,875.00	Yes
Iconic Business Solutions, LLC	Information Technology Consulting Implementation Services	6/29/18 - 6/28/19	\$266,856.84	Yes



Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Interactive Data Pricing and Reference Data, LLC	Securities Information Services	5/23/18 - 5/14/19	\$139,992.00	Yes
Law Offices of Amy Oppenheimer	Compliant Investigative Services	5/1/17 4/30/17	\$25,000.00	Yes
Loeb & Loeb, LLP	Outside Legal Counsel	02/16 - 01/19	\$8,500,000.00	Yes
National Association of State Auditors, Comptrollers, and Treasurers	Peer Review Services	7/1/18 - 6/30/19	\$25,000.00	Yes
Quality Installation and Furniture Service	Modular Systems Furniture Services	6/1/17 - 5/31/19	\$196,600.00	Yes
RELX Inc.	Accurant and Instant Verify Services	1/1/18 - 12/31/20	\$678,105.00	Yes
Umberg/Zipser, LLP	Outside Legal Counsel	1/22/16 - 1/21/19	\$345,000.00	Yes
Wind Dancer	Moving Services	1/1/17- 12/31/18	\$175,000.00	Yes

**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 \$15,264,873.42. It was beyond the scope of the review to make conclusions as to whether SCO justifications for the contract were legally sufficient. For all PSC’s reviewed, the SCO provided specific and detailed factual information in the written justifications as to how each of the 15 contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Additionally, SCO complied with proper notification to all organizations that represent

state employees who perform the type or work contracted. Accordingly, the SCO 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 SCO's mandated training program that was in effect during the compliance review period. The SCO's sexual harassment prevention training was found to be in compliance. However, the SCO's ethics and supervisory training were found to be out of compliance.

#### **FINDING NO. 6 – Ethics Training Was Not Provided for All Filers**

**Summary:** The SCO provided ethics training to six new filers within six months of their appointment and ethics training to 18 of its existing filers. However, the SCO did not provide ethics training to one new filer within six months of his/her appointment.

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

**Severity:** Very Serious. The department does not ensure that its filers are aware of prohibitions related to their official position and influence.

**Cause:** The SCO states that they do not have an appropriate tracking mechanism to oversee the training efforts of the department.

**Action:** The SCO must take appropriate steps to ensure that filers are provided ethics training within the time periods prescribed. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the SCO must establish a plan to ensure compliance with ethics training mandates and submit to the SPB a corrective action plan.

**FINDING NO. 7 – Supervisory Training Was Not Provided for All Supervisors**

- Summary:** The SCO did not provide basic supervisory training to one of 13 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. Upon completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biannually. (Gov. Code, § 19995.4, subds. (b) and (c).)
- Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biannually. (Gov. Code, § 19995.4, subd. (d).)
- Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biannually. (Gov. Code, § 19995.4, subd. (e).)
- Severity:** Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.
- Cause:** The SCO states that they do not have an appropriate tracking mechanism to oversee the training efforts of the department.
- Action:** It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the SCO submit to the CRU copies of any relevant documentation and specifics regarding how supervisory training will be monitored and tracked to ensure conformity with the requirements of Government Code section 19995.4, subdivisions (b) and (c).

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR (Cal. Code Regs., tit. 2, § 599.666). Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>8</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

During the period under review, December 1, 2017 through August 31, 2018, the SCO made 292 appointments. The CRU reviewed 24 of those appointments to determine if the SCO applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator I (Specialist)	Certification List	Permanent	Full Time	\$5,792
Accounting Analyst	Certification List	Permanent	Full Time	\$4,344
Associate Accounting Analyst	Certification List	Permanent	Full Time	\$4,811
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,125
Data Processing Manager I	Certification List	Permanent	Full Time	\$6,357
Financial Accountant II	Certification List	Permanent	Full Time	\$7,919
Information Technology Associate	Certification List	Limited Term	Full Time	\$4,660
Key Data Supervisor II	Certification List	Permanent	Full Time	\$3,749
Mailing Machines Operator I	Certification List	Permanent	Full Time	\$3,106
Payroll Officer, SCO	Certification List	Permanent	Full Time	\$5,360
Program Technician II	Certification List	Permanent	Full Time	\$3,042
Senior Claims Auditor	Certification List	Permanent	Full Time	\$3,530
Senior Management Auditor	Certification List	Permanent	Full Time	\$7,253

<sup>8</sup> "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Senior Management Auditor	Certification List	Permanent	Full Time	\$7,543
Senior Personnel Specialist	Certification List	Permanent	Full Time	\$4,902
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$3,335
Staff Services Manager I	Certification List	Permanent	Full Time	\$5,917
Staff Services Manager II (Supervisor)	Certification List	Permanent	Full Time	\$7,421
Claim Auditor	Transfer	Permanent	Full Time	\$3,202
Office Services Supervisor II (General)	Transfer	Permanent	Full Time	\$4,307
Payroll Specialist	Transfer	Permanent	Full Time	\$3,041
Payroll Specialist	Transfer	Permanent	Full Time	\$4,073
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$3,154
Staff Services Manager II (Supervisory)	Transfer	Limited Term	Full Time	\$7,760

The CRU found no deficiencies in 23 out of 24 salary determinations that the SCO made during the compliance review period. The SCO 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 SCO 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 the following error in the SCO's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Payroll Officer, SCO	The employee previously served as a Payroll Specialist. On January 8, 2018, the employee was appointed via certification list to a Payroll Officer. It was determined that the employee was entitled to receive a one-step increase, however the department improperly keyed the salary rate.	599.676

**Criteria:** When an employee moves to another class with a higher salary range, they shall receive a rate one-step above the rate last receive. (California Code of Regulations, title 2, section 599.676.)

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

**Cause:** The SCO states that the incorrect pay was the result of a keying error.

**Action:** It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the SCO submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.676. The SCO must correct the salary issue in order to ensure the employee is compensated correctly.

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, September 1, 2017 through May 31, 2018, the SCO made 32 alternate range movements within a classification<sup>9</sup>. The CRU reviewed 15 of those alternate range movements to determine if the SCO applied salary regulations accurately and correctly processed employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Information Systems Technician	Range L	Range M	Full Time	\$2,917
Information Technology Specialist I	Range M	Range N	Full Time	\$6,555
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Key Data Operator	Range A	Range B	Full Time	\$2,663
Office Assistant	Range A	Range B	Full Time	\$2,485
Payroll Specialist	Range A	Range B	Full Time	\$3,812
Payroll Specialist	Range B	Range C	Full Time	\$3,946
Payroll Specialist	Range B	Range C	Full Time	\$4,272
Payroll Specialist	Range C	Range D	Full Time	\$4,490
Staff Services Analyst	Range A	Range B	Full Time	\$3,398
Staff Services Analyst	Range B	Range C	Full Time	\$3,977
Staff Services Analyst	Range M	Range N	Full Time	\$4,097
Staff Services Management Auditor	Range B	Range C	Full Time	\$4,177
Student Assistant	Range A	Range D	Intermittent	\$2,319
Student Assistant	Range C	Range D	Intermittent	\$2,336

**FINDING NO. 9 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Summary:** The CRU found the following errors in the SCO's compensation determinations:

Classification	Description of Finding	Criteria
Key Data Operator	The employee had the required experience and should have been placed in range B, instead of range A, at time of appointment.	Alternate Range Criteria 81

<sup>9</sup> 335 transactions.



Classification	Description of Finding	Criteria
Payroll Specialist	The employee's anniversary date was incorrectly determined when keying employee's alternate range change resulting in the employee receiving a merit salary adjustment one month early.	Alternate Range Criteria 125, 599.683 & 599.674a

**Criteria:** Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification (Classification and Pay Guide Section 220).

**Severity:** Very Serious. The SCO 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 compensation.

**Cause:** The SCO states that they incorrectly placed one employee in Range A instead of Range B at the time of appointment because they overlooked the individual's work experience. The SCO further states that an error was made in determining another employee's anniversary date.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the SCO submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.683 and 599.674 (a). The SCO must correct the salary issues in order to ensure the employees are compensated correctly.

### Hiring Above Minimum Requests

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

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

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

During the period under review, December 1, 2017 through August 31, 2018, the SCO authorized two HAM requests. The CRU reviewed both authorized HAM requests to determine if the SCO correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates’ extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Mailing Machines Operator	Certification List	New to the State	Range B	\$3,106
Associate Management Auditor	Certification List	New to the State	No Range	\$6,275

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

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

## Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages ten percent or more of the total time worked. According to the 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, September 1, 2017 through May 31, 2018, the SCO issued Bilingual Pay to seven employees. The CRU reviewed all seven bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base
Associate Governmental Program Analyst	R01	Full Time
Associate Governmental Program Analyst	R01	Full Time
Associate Governmental Program Analyst	R01	Full Time
Office Assistant (Typing)	R04	Full Time
Office Technician (Typing)	R04	Full Time
Program Technician	R04	Full Time
Program Technician	R04	Full Time

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

### **FINDING NO. 11 – Incorrect Authorization of Bilingual Pay**

**Summary:** The CRU found the following errors in the SCO's authorization of bilingual pay:

Classification	Description of Finding(s)	Criteria
Associate Governmental Program Analyst	The department failed to supply supporting documentation (Bilingual Pay Authorization Form) to certify that the position requires the use of bilingual skills on a continuing basis averaging 10 percent of the time. Additionally the department failed to provide employee's oral fluency exam results to certify that employee is a qualified bilingual employee.	Differential 14 & Gov. Code, § 7296
Associate Governmental Program Analyst	Employee does not perform bilingual services in current position and therefore is not entitled to bilingual pay.	Differential 14
Associate Governmental Program Analyst	The department failed to certify that the position requires the use of bilingual skills prior to the employee receiving bilingual pay in this position.	Differential 14
Office Assistant (Typing)	Employee does not perform bilingual services in current position and therefore is not entitled to bilingual pay.	Differential 14
Office Technician (Typing)	Employee does not perform bilingual services in current position and therefore is not entitled to bilingual pay.	Differential 14
Program Technician	The department failed to certify that the position requires the use of bilingual skills prior to the employee receiving bilingual pay in this position.	Differential 14
Program Technician	The department failed to certify that the position requires the use of bilingual skills prior to the employee receiving bilingual pay in this position.	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. (Gov. Code, § 7296.) Furthermore, pursuant to Pay Differential 14, an individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions.

- Severity:** Very Serious. Failure to comply with state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay.
- Cause:** The SCO states that they failed to re-evaluate the need for the continuation of bilingual pay for the areas identified.
- Action:** The SCO must take appropriate steps to ensure that employees are compensated correctly. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the SCO must submit a written corrective action plan that addresses the corrections the department will implement to ensure conformity with Government Code section 7296. Copies of any relevant documentation should be included with the plan.

### 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 (CalHR Classification and Pay Manual Section 230).

California State Civil Service Pay Scales (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, September 1, 2017 through May 31, 2018, the SCO issued pay differentials<sup>10</sup> to nine employees. The CRU reviewed all nine pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Computer Operator	85	\$69.33
Data Processing Manager I	85	\$78.00
Data Processing Manager I	85	\$78.00
Information System Technician	85	\$78.00
Information Technology Associate	85	\$69.33
Information Technology Associate	85	\$78.00
Information Technology Associate	85	\$78.00
Information Technology Specialist I	85	\$69.33
Information Technology Technician	85	\$71.33

**FINDING NO. 12 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the nine Pay Differentials that the SCO 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 excluded<sup>11</sup> and most rank and file employees, out of class work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment (Cal. Code Regs., tit. 2, § 599.810).

<sup>10</sup> For the purposes of CRU’s review, only monthly pay differentials were selected for review at this time.

<sup>11</sup> “Excluded employee” means an employee as defined in section 3572(b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

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

During the period under review, September 1, 2017 through May 31, 2018 , the SCO issued out-of-class pay<sup>12</sup> to five employees. The CRU reviewed all five out-of-class assignments to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Accounting Administrator I (Specialist)	R01	Accounting Administrator I (Supervisor)	3/7/18 – 4/3/18
Associate Governmental Program Analyst	R01	Staff Services Manager I	3/26/18 – 7/23/18
Mailing Machines Supervisor I	S04	Office Services Supervisor II	11/1/17 – 6/30/18
Staff Services Manager I	S01	Staff Services Manager II	11/16/17 – 3/27/18
Staff Services Manager II (Supervisor)	S01	Staff Services Manager III (Supervisor)	1/1/18 – 3/31/18

**FINDING NO. 13 – Incorrect Authorization of Out-of-Class Pay**

**Summary:** The CRU found the following error in the SCO’s authorization of the out-of-class pay:

<sup>12</sup> Excluding bilingual and arduous pay.

Classification	Out-of-Class Classification	Description of Finding(s)	Criteria
Mailing Machines Supervisor I	Office Services Supervisor II	The SCO incorrectly determined the OOC pay issued from November through June 2018. The employee was overpaid as a result of a miscalculation.	Pay Differential 91

**Criteria:** When an employee is assigned OOC work for two consecutive work weeks or more, they shall receive the rate of pay pursuant to Pay Differential 91.

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

**Cause:** The SCO states that the incorrect OOC pay was due to “human error.”

**Action:** The SCO must take appropriate steps to ensure that employees are compensated correctly. It is therefore recommended that no later than 60 days after the SPB’s Executive Officer’s approval of these findings and recommendations, the SCO must submit a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810. Copies of any relevant documentation 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-calendar 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 day<sup>13</sup>, any day for which the employee is on paid absence<sup>14</sup>, any holiday for which the employee receives either full or partial pay. If the employee works on the holiday, the day is counted only once regardless of the rate of pay<sup>15</sup>.

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. Therefore, departments must monitor the actual number of days worked in order to ensure that they do not exceed 189 days in any 12-consecutive month period (Cal. Code Regs., tit. 2, § 265.1, subd. (a).) For seasonal classifications, a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

For permanent intermittent employees, a maximum of 1,500 hours has been placed on the number of hours which a permanent intermittent employee may work in 12 months. Generally, permanent intermittent employees may work up to 1,500 hours in any calendar year (CalHR Online Manual Section 1202 and applicable Bargaining Unit Agreements), however Bargaining Unit 6 employees may work up to 2,000 hours in any calendar year.

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

At the time of the review, the SCO had 46 employees on ATW. The CRU reviewed 16 of those ATW appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Base	Time Frame	Hours Worked
Associate Accounting Analyst	Intermittent	7/1/17 - 6/30/18	960
Information Technology Specialist I	Intermittent	7/1/17 - 6/30/18	960

<sup>13</sup> For example, two hours or ten hours counts as one day.  
<sup>14</sup> For example, vacation, sick leave, compensating time off, etc.  
<sup>15</sup> For example, straight time, time and one-half, double time, etc.

Classification	Time Base	Time Frame	Hours Worked
Information Technology Specialist I	Intermittent	7/1/17 - 6/30/18	960
Information Technology Specialist I	Intermittent	7/1/17 - 6/30/18	960
Office Technician (General)	Intermittent	7/1/17 - 6/30/18	960
Personnel Specialist	Intermittent	7/1/17 - 6/30/18	926
Program Technician II	Intermittent	8/23/18 - 12/1/18	400
Seasonal Clerk	Intermittent	1/31/17 - 1/30/18	1251
Senior Payroll Specialist	Intermittent	7/1/17 - 6/30/18	960
Staff Services Manager III	Intermittent	7/1/17 - 6/30/18	960
Staff Services Manager III	Intermittent	7/1/17 - 6/30/18	960
Student Assistant	Intermittent	7/05/17 - 7/04/18	1267
Student Assistant	Intermittent	12/09/16 - 12/08/17	1528
Student Assistant	Intermittent	2/14/17 - 2/13/18	1227.50
Student Assistant	Intermittent	6/09/17 - 6/08/18	816.25
Student Assistant	Intermittent	5/02/17 - 5/01/18	1034.50

**FINDING NO. 14 – ATW Employee Exceeded the Nine Month in Any Twelve Consecutive Month Limitation**

**Summary:** The SCO did not monitor one ATW employee’s actual number of days worked in order to ensure the employee did not exceed the 189 days or 1,500 hours in any 12-consecutive month period.

**Criteria:** Temporary employee means an employee holding a position under temporary appointment. Employees appointed under a temporary authorization (TAU) may be appointed on the basis of ATW. ATW is a method that can be used to keep track of a TAU employee’s time to ensure that the constitutional limit of nine months in any twelve

consecutive months is not exceeded. (Cal. Const., art. VII, § 5.) Typically, the ATW is 189 working days in 12 consecutive months, regardless of the classification or the department the temporary appointment was served under, unless they have had a three-month break in service. (Cal. Code Regs., tit. 2, § 265.1, subd. (a).) For student, youth, and seasonal classifications, a maximum work-time limit of 1500 hours within 12 consecutive months may be used. (Cal. Code Regs., tit. 2, § 265.1, subd. (c).)

**Severity:** Very Serious. The department failed to comply with Article VII, section 5 of the Constitution which limits the amount of time an individual may work in a temporary appointment for the state civil service. The limitation cannot be extended or exceeded for any reason. The appointing power must maintain the records and control the time worked so as not to exceed the constitutional 9-month limitation in 12 consecutive months. (*Ibid.*)

**Cause:** The SCO states that 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 Executive Officer's approval of these findings and recommendations, the SCO submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of Article VII, section 5 of the Constitution.

### Administrative Time Off

Administrative Time Off (ATO) is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. Additionally, ATO may be granted when employees need time off for any of the following: donating blood, extreme weather that makes getting to work impossible, and/or, when employees need time off to attend special events. Any ATO requests lasting over 30 days must be submitted and approved by CalHR. Approval will generally be given in 30 calendar day increments and any extension must be approved prior to the expiration of the 30 calendar days. Departments must properly document and track ATO for any length of time (PML, "Administrative Time Off (ATO) – Policy, Procedure and Documentation Requirements", 2012-008).

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

During the period under review, June 1, 2017 through May 31, 2018, the SCO placed 191 employees on ATO. The CRU reviewed five 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 or Hours on ATO
Accounting Administrator I (Supervisor)	9/22/17 – 9/22/17	1 Day
Associate Governmental Program Analyst	5/16/18 – 5/18/18	3 Days
Payroll Specialist	2/2/18 – 2/20/18	19 Days
Program Technician II	11/17/17 – 1/4/18	49 Days
Staff Services Analyst	7/17/17 – 7/17/17	5 Hours

**FINDING NO. 15 – Administrative Time Off (ATO) Was Not Properly Documented**

**Summary:** The SCO did not grant and document ATO in conformity with the established policies and procedures. Specifically, the SCO did not obtain approval from CalHR prior to authorizing ATO in excess of 30 days for one employee.

**Criteria:** Appointing authorities are authorized to approve ATO for up to five (5) working days under GC 19991.10 and have delegated authority to approve up to 30 calendar days. (GC 19991.10 and CalHR Online Manual Section 2121). Any ATO in excess of 30 calendar days must be approved in advance by CalHR. In most cases, if approved, the approval will be for an additional 30 calendar days only. The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. When an appointing authority requests initial

approval for ATO, or an extension of a previously approved grant of ATO, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. ATO may not be used and will not be granted for an indefinite period. If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend ATO, the employee must be returned to work in some capacity. Regardless of the length of the ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (CalHR Online Manual Section 2121).

**Severity:** Serious. Use of ATO is subject to audit and review by CalHR and by other control agencies to ensure it is being utilized appropriately. Failure to grant ATO in conformity with the procedures in this policy may result in CalHR revoking the appointing authority's delegation to utilize ATO without first obtaining approval from CalHR.

**Cause:** The SCO states that the circumstances dictated a Fitness of Duty Evaluation, and SCO could not gauge the amount of time necessary to appropriately request approval in excess of 30 days because of the scheduling of the appointment, along with the anticipatory date of receipt for the evaluation before returning the individual.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the SCO submits to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of GC 19991.10 and CalHR Online Manual Section 2121.

### Leave Auditing and Timekeeping

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

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

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

During the period under review, March 1, 2018 through May 31, 2018, the SCO reported 19 units comprised of 1,436 active employees during the March 2018 pay period, 19 units comprised of 1,440 active employees during the April 2018 pay period, and 19 units comprised of 1,446 active employees during the May 2018 pay period. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
March 2018	150	26	26	0
March 2018	420	100	99	0
March 2018	424	27	27	0
March 2018	721	12	12	0

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

The CRU reviewed employee leave records from four units over one leave period to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The SCO kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

Leave Reduction Efforts

Departments must comply with the regulations and CalHR policies that require a leave plan for every employee with vacation or annual leave hours over the maximum amount permitted (Cal. Code Regs., tit. 2, § 599.742.1 and applicable Bargaining Unit Agreements). Bargaining Unit Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, according to California Code of Regulations, title 2, section 599.737, if a represented employee does not use all of the vacation to which he or she is entitled in a calendar year, “the employee

may accumulate the unused portion, provided that on January 1st of a calendar year, the employee shall not have more than” the established limit as stipulated by the applicable bargaining unit agreement<sup>16</sup>. Likewise, if an excluded employee does not use all of the vacation to which he or she is entitled in a calendar year, the “employee may accumulate the unused portion of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days.” (Cal. Code Regs., tit. 2, § 599.738).

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

As of December 2017, 183 SCO employees exceeded the established limits of vacation or annual leave. The CRU reviewed 50 of those employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Accounting Administrator II	S01	641.75	No
Accounting Administrator III	M01	670.00	No
CEA	M01	1913.50	No
CEA	M01	4022.00	No
CEA	M01	1002.00	No
CEA	M01	1134.00	No
CEA	M01	1325.00	No
CEA	M01	682.00	No
CEA	M01	1581.00	No
Chief	M01	924.00	No
Chief	M01	549.25	No
Chief	M01	853.00	No
Executive Assistant	R04	645.50	No
Financial Accountant III	S01	700.50	No
Financial Accountant IV	M01	884.50	No
Information Technology Associate	E97	686.15	No

<sup>16</sup> For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Information Technology Manager I	M01	1629.00	No
Information Technology Manager I	M01	951.00	No
Information Technology Manager II	M01	1204.50	No
Information Technology Specialist I	R01	504.00	No
Information Technology Specialist I	R01	821.50	No
Information Technology Specialist I	R01	609.00	No
Information Technology Specialist I	R01	1432.00	No
Information Technology Specialist I	R01	648.50	No
Information Technology Specialist II	R01	658.00	No
Information Technology Specialist II	R01	643.50	No
Information Technology Supervisor II	S01	722.00	No
Information Technology Supervisor II	S01	1092.00	No
Payroll Officer, SCO	S01	1229.75	No
Senior Management Auditor	S01	784.00	No
Senior Management Auditor	S01	1272.50	No
Senior Management Auditor	S01	811.00	No
Senior Management Auditor	S01	1181.00	No
Senior Management Auditor	S01	766.25	No
Senior Management Auditor	S01	505.50	No
Senior Management Auditor	S01	1416.50	No
Staff Management Auditor (Specialist)	R01	1467.00	No
Staff Management Auditor (Specialist)	R01	603.00	No
Staff Services Manager I	S01	527.10	No
Staff Services Manager II (Supervisor)	S01	570.00	No
Staff Services Manager II (Supervisor)	S01	1050.25	No
Staff Services Manager II (Supervisor)	S01	612.50	No



Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Staff Services Manager III	M01	648.00	No
Staff Services Manager III	M01	743.50	No
Staff Services Manager III	M01	805.50	No
Staff Services Manger I	S01	774.50	No
Supervisor Management Auditor	M01	782.50	No
Supervisor Management Auditor	M01	1639.50	No
Supervisor Management Auditor	M01	1121.00	No
Supervisor Management Auditor	M01	747.70	No
<b>Total</b>		49187.70	

**FINDING NO. 17 – Leave Reduction Plans Were not Provided to Employees Whose Leave Balances Exceeded Established Limits**

**Summary:** The SCO provided a leave reduction policy to all employees. However, the SCO did not provide leave reduction plans for 50 of 50 employees reviewed whose leave balances significantly exceeded established limits.

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

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

balances have a leave reduction plan in place and are actively reducing hours”.

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

**Cause:** The SCO states that unfortunately there are individuals for which their services oftentimes preclude their use of leave credits. This has been exacerbated by BCP denials over the years in which additional positions have been requested to help mitigate the dependency on these individuals.

**Action:** The SCO must take appropriate steps to ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. It is therefore recommended that no later than 60 days after the SPB’s Executive Officer’s approval of these findings and recommendations, the SCO must establish a plan to address leave reduction efforts.

### State Service

An employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service<sup>17</sup> (Cal. Code Regs., tit. 2, § 599.608).

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

For each additional qualifying monthly pay period as defined in section 599.608, the employee shall be allowed credit for vacation with pay on the first day of the following

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<sup>17</sup> Except as provided in sections 599.609 and 599.776.1(b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

monthly pay period. When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated (Cal. Code Regs., tit. 2, § 599.739). On the first day following a qualifying monthly pay period, excluded employees<sup>18</sup> 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, September 1, 2017 through May 31, 2018, the SCO had 32 employees with non-qualifying pay period 715 transactions<sup>19</sup>. The CRU reviewed 28 715 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of 715 Transaction	Time base	Number Reviewed
Qualifying Pay Period	Full Time	12
Qualifying Pay Period	003/004	2
Non-Qualifying Pay Period	Full Time	14

**FINDING NO. 18 – Incorrect Application of 715 Transaction**

**Summary:** During the period under review, two employees received state service and/or leave accruals for a non-qualifying pay period. Additionally, one employee was not given state service and leave accruals for a qualifying pay period.

**Criteria:** The state recognizes two different types of absences while an employee is on pay status: paid and unpaid. Unpaid absences can

<sup>18</sup> As identified in Government Code sections 19858.3(a), 19858.3(b), or 19858.3(c) as it applies to employees excluded from the definition of state employee under section Government Code 3513(c), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

<sup>19</sup> 715 transaction code is used for: temporary leaves of 30 calendar days or less (per SPB Rule 361) resulting in a non-qualifying pay period; used for qualifying a pay period while on NDI; used for qualifying a pay period while employee is on dock and furlough.

affect whether a pay period is considered be a qualifying or non-qualifying pay period for state service and leave accruals. In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: (1) has had 11 or more working days of service in a monthly pay period; or (2) would have had 11 or more working days of service in a monthly pay period but was laid off or on a leave of absence for the purpose of lessening the impact of an impending layoff. Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month. (California Code of Regulations, title 2, section 599.608.) Hourly or daily rate employees working in a state agency 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. Hourly or daily rate employees who work less than 160 hours in a pay period will have a non-qualifying month and not be eligible to receive state service or leave accruals for that month. (California Code of Regulations, title 2, section 599.609.)

**Severity:** Very Serious. For audit purposes, accurate and timely attendance reporting is required of all departments. If the length of an informal leave results in a non-qualifying pay period, a Transaction 715 must be processed. By not processing a 715, the SCO inappropriately authorized state service and accruals to employees who did not earn them which results in budgetary loss for the department. Additionally, the SCO did not authorize state service and accruals to employees who worked a qualifying pay period. This is a disadvantage to the employees who are entitled to their accruals and will cause issues with their state service.

**Cause:** The SCO states that this oversight is attributable to “human error.”

**Action:** It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the SCO submits to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the California Code of Regulation, title 2, section 599.608.

## **Policy and Processes**

### **Nepotism**

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

<b>FINDING NO. 19 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines</b>
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After reviewing the SCO's nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the SCO's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the SCO's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions as outlined in CalHR's Online Manual Section 1204.

### **Workers' Compensation**

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

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

**FINDING NO. 20 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

After reviewing the SCO's workers' compensation process that was in effect during the compliance review period, the CRU verified that when the SCO provides notice to their employees to inform them of their rights and responsibilities under CA Workers' Compensation Law. Furthermore, the CRU verified that when the SCO received worker's compensation claims, the SCO 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 70 permanent SCO employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Accountant Trainee	10/10/2017
Accounting Administrator I (Supervisor)	12/1/2017
Accounting Administrator II	9/30/2017

Classification	Date Performance Appraisals Due
Accounting Analyst	1/13/2017
Accounting Analyst	8/31/2017
Administrative Assistant I	5/29/2017
Associate Accounting Analyst	10/30/2017
Associate Governmental Program Analyst	11/2/2017
Associate Governmental Program Analyst	1/1/2017
Associate Governmental Program Analyst	6/1/2017
Associate Management Auditor	6/30/2017
Associate Management Auditor	9/1/2017
Associate Management Auditor	1/1/2017
Attorney	12/15/2017
Attorney III	12/31/2017
Attorney V	6/30/2017
Computer Operator Supervisor I	8/31/2017
Computer Operator Supervisor II	1/1/2017
Executive Assistant	3/31/2017
Information Officer II	4/14/2017
Information Technology Associate	3/31/2017
Information Technology Associate	10/27/2017
Information Technology Specialist I	10/30/2017
Information Technology Specialist I	12/15/2017
Information Technology Specialist II	3/31/2017
Information Technology Supervisor II	8/31/2017
Information Technology Technician	2/28/2017
Information Technology Technician	5/30/2017
Key Data Operator	1/21/2017
Labor Relations Specialist	6/30/2017
Legislative Coordinator, SCO	2/24/2017
Mailing Machines Operator II	11/30/2017
Mailing Machines Operator II	2/1/2017
Mailing Machines Supervisor I	1/31/2017
Management Services Technician	3/1/2017
Office Technician (General)	5/29/2017
Office Technician (Typing)	4/30/2017

Classification	Date Performance Appraisals Due
Office Technician (Typing)	6/30/2017
Office Technician (Typing)	2/28/2017
Payroll Specialist	12/16/2017
Payroll Specialist	12/7/2017
Payroll Specialist	8/9/2017
Payroll Specialist	2/16/2017
Personnel Specialist	6/30/2017
Personnel Specialist	7/15/2017
Principal Claim Auditor	6/15/2017
Principal Claim Auditor	10/31/2017
Program Technician	6/1/2017
Program Technician	6/13/2017
Program Technician II	4/30/2017
Senior Claim Auditor	1/30/2017
Senior Management Auditor	1/31/2017
Senior Management Auditor	7/30/2017
Senior Management Auditor	6/30/2017
Senior Management Auditor	3/11/2017
Senior Payroll Specialist	8/10/2017
Senior Payroll Specialist	10/22/2017
Senior Personnel Specialist	5/18/2017
Staff Management Auditor (Specialist), SCO	2/1/2017
Staff Management Auditor (Specialist), SCO	7/14/2017
Staff Services Analyst (General)	8/31/2017
Staff Services Analyst (General)	3/17/2017
Staff Services Management Auditor	11/16/2017
Staff Services Manager I	8/3/2017
Staff Services Manager II (Supervisor)	12/31/2017
Staff Services Manager III	6/22/2017
Staff Services Manager III	9/30/2017
Staff Services Manager III	12/15/2017
Supervising Management Auditor	8/31/2017
Supervising Program Technician III	1/24/2017



In reviewing the SCO's performance appraisals policies and processes, the CRU determined the following:

**FINDING NO. 21 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The SCO did not provide performance appraisals to 39 of 70 employees reviewed at least once in each twelve calendar months after the completion of the employee's probationary period.

**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 SCO states that they do not have an appropriate tracking mechanism to oversee performance appraisal completions.

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

**DEPARTMENTAL RESPONSE**

The SCO's response is attached as Attachment 1.

### **SPB REPLY**

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

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