



COMPLIANCE REVIEW REPORT

CALIFORNIA STATE CONTROLLER'S OFFICE

Compliance Review Unit
State Personnel Board
April 14, 2022

TABLE OF CONTENTS

INTRODUCTION	1
EXECUTIVE SUMMARY	2
BACKGROUND	3
SCOPE AND METHODOLOGY	4
FINDINGS AND RECOMMENDATIONS	6
EXAMINATIONS.....	6
APPOINTMENTS.....	9
EQUAL EMPLOYMENT OPPORTUNITY	12
PERSONAL SERVICES CONTRACTS	13
MANDATED TRAINING	16
COMPENSATION AND PAY	19
LEAVE.....	24
POLICY AND PROCESSES	33
DEPARTMENTAL RESPONSE.....	36
SPB REPLY	36

INTRODUCTION

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

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

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

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

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

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

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well

as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California State Controller's Office (SCO) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely ¹
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ²
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment ³

¹ Repeat finding. The April 10, 2019, SCO Compliance Review Report identified 7 missing probation reports in 5 of the 49 appointment files reviewed, and 11 probation reports were not timely in 9 of the 49 appointment files reviewed.

² Repeat finding. The April 10, 2019, SCO Compliance Review Report identified 6 of 18 existing filers did not receive ethics training and 1 new filer did not receive ethics training within 6 months of appointment.

³ Repeat finding. The April 10, 2019, SCO Compliance Review Report identified 1 incorrect salary determination of the 24 reviewed.

Area	Severity	Finding
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Positive Paid Temporary Employees' Work Exceeded Time Limitations ⁴
Leave	Serious	Administrative Time Off Was Not Properly Documented ⁵
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Very Serious	Injured Employee Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ⁶

BACKGROUND

The State Controller is the Chief Fiscal Officer of California, the fifth largest economy in the world, and is principally responsible for accountability of the state's resources. The Controller ensures the appropriate expenditure and accounting for every taxpayer dollar,

⁴ Repeat finding. The April 10, 2019, SCO Compliance Review Report identified 1 positive paid employee exceeded the 189 day/1500 hour limitation of the 16 reviewed.

⁵ Repeat finding. The April 10, 2019, SCO Compliance Review Report identified that SCO did not obtain approval from CalHR prior to authorizing ATO in excess of 30 days for one of the five employees reviewed.

⁶ Repeat finding. The April 10, 2019, SCO Compliance Review Report identified 39 of 70 employees reviewed did not receive annual performance appraisals.

advancing the long-term sustainability and responsible stewardship of California public resources.

The Controller chairs or serves on dozens of state boards and commissions, and is charged with duties ranging from overseeing the administration of the nation's two largest public pension funds, 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 1,438 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 processes⁷. The primary objective of the review was to determine if the SCO's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the 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 CRU also reviewed the SCO's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

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 forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The SCO did not conduct any unlawful appointment investigations or make any additional appointments during the compliance review period.

⁷ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

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: bilingual pay and alternate range movements. During the compliance review period, the SCO did not issue or authorize hiring above minimum requests, red circle rate requests, monthly pay differentials, out-of-class assignments, or 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.

The SCO's PSC's were also reviewed.⁸ 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 employees were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the SCO's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. 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

⁸If 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.

administered. Further, the CRU reviewed a selection of SCO positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

Moreover, the CRU reviewed the 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 22, 2022, 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 March 29, 2022, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

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

During the period under review, January 1, 2021, through September 30, 2021, the SCO conducted 23 examinations. The CRU reviewed nine of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps.
CEA A, Assistant Chief, Disbursements Bureau, Administration and Disbursements Division	CEA	Training and Experience (T&E) ⁹	4/9/21	7
CEA C, Chief Legal Counsel	CEA	T&E	9/30/21	4
CEA C, Chief of Operations	CEA	T&E	8/18/21	10
Office Services Supervisor III	Promotional	Education and Experience (E&E) ¹⁰	9/3/21	7
Principal Claim Auditor	Promotional	E&E	6/30/21	0
Senior Claim Auditor	Promotional	E&E	6/30/21	2
Senior Payroll Specialist	Open	Supplemental Application ¹¹	8/31/21	7
Supervising Management Auditor	Promotional	Modified Qualification Appraisal Panel (Modified QAP) ¹²	8/2/21	16
Staff Management Auditor (Specialist), SCO	Promotional	Modified QAP	3/4/21	26

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
----------------------	--

The CRU reviewed five departmental promotional and four 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

⁹ The T&E examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

¹⁰ In an E&E 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.

¹¹ The supplemental application is a third level management review and rating of the competitors' supplemental application questionnaires

¹² The Modified QAP interview is where a candidate uses a computer terminal to respond to examination questions. All questions are provided at the time of the examination and the candidate's responses will be scored against a set number of pre-determined responses by a panel.

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.

Permanent Withhold Actions

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

During the period under review, January 1, 2021, through September 30, 2021, the SCO conducted one permanent withhold action. The CRU reviewed the permanent withhold action, which is listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Accounting Analyst	5PB38	7/15/21	7/15/22	Failed to meet minimum qualifications

IN COMPLIANCE	FINDING NO. 2	PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
----------------------	----------------------	--

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

Appointments

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

During the period under review, January 1, 2021, through September 30, 2021, the SCO made 152 appointments. The CRU reviewed 46 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	2
Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Limited Term	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	3
Claim Auditor	Certification List	Permanent	Full Time	1
Digital Print Operator II	Certification List	Permanent	Full Time	1
Financial Accountant I	Certification List	Permanent	Full Time	2
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Limited Term	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	2
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Information Technology Supervisor I	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Information Technology Technician	Certification List	Limited Term	Full Time	1
Mailing Machines Operator II	Certification List	Permanent	Full Time	1
Office Assistant (General)	Certification List	Permanent	Full Time	1
Office Technician (General)	Certification List	Permanent	Full Time	2
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Personnel Specialist	Certification List	Permanent	Full Time	1
Program Technician	Certification List	Permanent	Full Time	1
Senior Claim Auditor	Certification List	Permanent	Full Time	1
Senior Personnel Specialist	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Management Auditor	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	2
Associate Accounting Analyst	Training & Development	Permanent	Full Time	1
Associate Administrative Analyst (Accounting System)	Training & Development	Permanent	Full Time	1
Staff Services Manager I	Training & Development	Permanent	Full Time	1
Accounting Administrator I (Specialist)	Transfer	Permanent	Full Time	1
Accounting Administrator II	Transfer	Permanent	Full Time	1
Associate Accounting Analyst	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Information Technology Specialist I	Transfer	Limited Term	Full Time	1
Program Technician	Transfer	Permanent	Full Time	1
Senior Personnel Specialist	Transfer	Limited Term	Full Time	1
Staff Management Auditor (Specialist), SCO	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2
Staff Services Manager I	Transfer	Limited Term	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY
------------------------------	---

Summary: The SCO did not provide 3 probationary reports of performance for 1 of the 46 appointments reviewed by the CRU. In addition, the SCO did not provide four probationary reports of performance in a timely manner, as reflected in the table below. This is the second consecutive time this has been a finding for the SCO.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Program Technician	Certification List	1	3

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Associate Governmental Program Analyst	Certification List	1	3
Mailing Machines Operator II	Certification List	1	1

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

from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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

Cause: The SCO states that although there is tracking mechanism and an established process for elevating non-completed probationary reports, it was not followed during the review period.

Corrective Action: Within 90 days of the date of this report, the SCO must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with the probationary requirements of Government Code section 19172 and California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

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

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the

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

IN COMPLIANCE	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’s 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 Executive Director of the SCO. The SCO also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

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

During the period under review, January 1, 2021, through September 30, 2021, the SCO had 58 PSC's that were in effect. The CRU reviewed 20 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Bell and Howell, LLC	Equipment maintenance services	3/25/21-3/24/22	\$227,168	Yes	Yes
Crowe LLP	Project management for CA state payroll system	6/15/18-6/14/21	\$4,650,757	Yes	No
Cummins Inc.	Generator maintenance and rental	2/1/21-1/31/24	\$42,759	Yes	Yes
Eaton Interpreting	Interpreter or sign language services	7/1/21-6/30/24	\$63,000	Yes	Yes
IBM	Automated travel expense system (CalATERS) maintenance services	7/1/20-6/30/26	\$4,722,000	Yes	Yes
ICE Data and Pricing	Online and downloadable securities	6/19/19-6/13/22	\$334,165	Yes	No
Independent Courier Services	Daily courier services	3/1/21-2/28/23	\$49,400	Yes	Yes
JM Environmental Inc.	Decontamination and cleaning services	2/1/20-11/30/21	\$750,000	Yes	No
Loeb & Loeb LLP	Outside legal counsel	6/15/20-6/14/22	\$950,000	Yes	Yes
MCorp	Executive management advisor	2/1/21-7/31/22	\$750,000	Yes	Yes
Mother Lode Van and Storage Inc.	Office furniture moving services	1/1/19-12/31/21	\$179,790	Yes	No

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
National Association of State Auditors, Comptrollers, and Treasurers	Peer review services	7/1/21-6/30/22	\$25,000	Yes	Yes
National Security Industries	Security guard services	4/1/21-3/31/23	\$181,413	Yes	Yes
Oak Technical Services, LLC.	Project management for CalATERS replacement project	2/5/21-2/04/23	\$279,300	Yes	Yes
Platinum Reporters and Interpreters Inc.	Court reporting and transcription services	9/1/21-8/31/23	\$32,982	Yes	Yes
Professional Telecommunications Services	Facility security systems maintenance	12/1/18-11/30/21	\$107,400	Yes	No
ProQuest	10 electronic licenses to the ancestry library edition database	9/1/21-8/31/24	\$8,974	Yes	Yes
RR Donnelley	Printing and delivery services for custom warrants	8/13/21-4/13/22	\$153,506	Yes	Yes
Southern California Shredding, Inc.	On-site secure paper shredding services	1/15/21-1/14/24	\$1,200	Yes	Yes
West Payment Center	Electronic library services	1/8/18-6/30/22	\$192,774	Yes	No

SEVERITY: SERIOUS	FINDING No. 5 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
------------------------------------	---

Summary: The SCO did not notify unions prior to entering into 6 of the 20 PSCs reviewed.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

Severity: Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for the type of work that their members could perform.

Cause: The SCO states that its interpretation of the State Contracting Manual, Vol. I, section 7.05 and Government Code section 19132 is that bargaining unit notifications do not apply to amendments. It has been SCO practice to only send bargaining unit notification during the development of the base contract and not the amendments.

SPB Response: Amendments to contracts are part of a contract. Therefore, appropriate union notification is required for all contracts and amendments prior to execution.

Corrective Action: It is the contracting department’s responsibility to identify and notify any unions whose members could potentially perform the type of work to be contracted prior to executing a PSC. Within 90 days of the date of this report, the SCO must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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.)

Additionally, new employees must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two hours of sexual harassment prevention training and non-supervisors one hour of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

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, October 1, 2019, through September 30, 2021.

SEVERITY: VERY SERIOUS	FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
-----------------------------------	--

Summary: The SCO did not provide ethics training to 3 of 54 existing filers. In addition, the SCO did not provide ethics training to 4 of 14 new filers within 6 months of their appointment. This is the second consecutive time this has been a finding for the SCO.

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 did not have an appropriate tracking mechanism to track training prior to April 2021. The SCO has instituted a Learning Management System (LMS) and is making provisions to configure the LMS to trigger repeat reminders regarding all critical training requirements.

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

SEVERITY: VERY SERIOUS	FINDING NO. 7 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
-----------------------------------	---

Summary: The SCO provided sexual harassment prevention training to all 60 non-supervisors reviewed. However, the SCO did not provide sexual harassment prevention training to 4 of 11 new supervisors within 6 months of their appointment. In addition, the SCO did not provide sexual harassment prevention training to 10 of 330 existing supervisors every 2 years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

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

Cause: The SCO states that due to employee error, its monthly audit procedures for sexual harassment prevention training compliance was not followed. The SCO anticipates that its LMS system will assist in achieving compliance in this area in the future.

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

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee’s salary rate¹³ upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

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

During the period under review, January 1, 2021, through September 30, 2021, the SCO made 152 appointments. The CRU reviewed 25 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)
Accountant Trainee	Certification List	Permanent	Full Time	\$3,793

¹³ “Rate” is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Accounting Analyst	Certification List	Permanent	Full Time	\$5,406
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,149
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,884
Financial Accountant I	Certification List	Permanent	Full Time	\$6,870
Information Technology Associate	Certification List	Permanent	Full Time	\$4,214
Information Technology Supervisor I	Certification List	Permanent	Full Time	\$6,606
Information Technology Technician	Certification List	Limited Term	Full Time	\$4,405
Office Assistant (General)	Certification List	Permanent	Full Time	\$2,858
Office Technician (General)	Certification List	Permanent	Full Time	\$3,416
Office Technician (Typing)	Certification List	Permanent	Full Time	\$3,144
Personnel Specialist	Certification List	Permanent	Full Time	\$4,072
Program Technician	Certification List	Permanent	Full Time	\$2,722
Senior Claim Auditor	Certification List	Permanent	Full Time	\$3,621
Senior Personnel Specialist	Certification List	Permanent	Full Time	\$5,770
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,281
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,972
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,544
Associate Administrative Analyst (Accounting Systems)	Training and Development	Permanent	Full Time	\$6,516
Accounting Administrator II	Transfer	Permanent	Full Time	\$8,352
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,934
Program Technician	Transfer	Permanent	Full Time	\$3,658
Staff Management Auditor (Specialist), SCO	Transfer	Permanent	Full Time	\$8,162
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$3,625
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,008

SEVERITY: VERY SERIOUS	FINDING NO. 8 INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT
-----------------------------------	--

Summary: The CRU found the following errors in the SCO's determination of employee compensation. This is the second consecutive time this has been a finding for the SCO.

Classification	Description of Findings	Criteria
Personnel Specialist	Incorrect salary determination resulting in the employee being undercompensated.	Cal. Code Regs., tit.2, § 599.674, subd. (b)
Staff Services Analyst (General)	Incorrect anniversary date keyed resulting in the employee being overcompensated.	Cal. Code Regs., tit. 2, § 599.683

Criteria: Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. In two circumstances, the SCO failed to comply with the requirements outlined in 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 errors are due to computation errors when calculating calendar months used in determining the appropriate salary amounts.

Corrective Action: Within 90 days of the date of this report, the SCO submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The SCO shall establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, January 1, 2021, through September 30, 2021, the SCO made 41 alternate range movements within a classification. The CRU reviewed 16 of those alternate range movements to determine if the SCO applied salary regulations accurately and correctly processed each employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Accounting Analyst	B	C	Full Time	\$4,496
Information Technology Associate	N	O	Full Time	\$6,012
Office Assistant (General)	A	B	Full Time	\$2,867
Payroll Specialist	C	D	Full Time	\$4,720
Payroll Specialist	C	D	Full Time	\$4,536
Personnel Specialist	A	B	Full Time	\$3,768
Personnel Specialist	B	C	Full Time	\$4,094
Personnel Specialist	C	D	Full Time	\$4,720
Personnel Specialist	A	B	Full Time	\$3,768
Personnel Specialist	B	C	Full Time	\$4,094
Staff Services Analyst (General)	B	C	Full Time	\$4,417
Staff Services Analyst (General)	A	B	Full Time	\$4,400
Staff Services Analyst (General)	B	C	Full Time	\$4,281
Staff Services Management Auditor	B	C	Full Time	\$4,936
Staff Services Management Auditor	A	B	Full Time	\$4,191
Staff Services Management Auditor	B	C	Full Time	\$4,721

IN COMPLIANCE	FINDING NO. 9 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	---

The CRU determined that the alternate range movements 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 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

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

During the period under review, January 1, 2021, through September 30, 2021, the SCO issued bilingual pay to one employee. The CRU reviewed the bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Staff Services Analyst (General)	R01	Full Time	1

IN COMPLIANCE	FINDING NO. 10 BILINGUAL PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	---

The CRU found that the bilingual pay authorized to the employee during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Leave

Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days¹⁴ worked and paid absences¹⁵, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

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

¹⁴ For example, two hours or ten hours count as one day.

¹⁵ For example, vacation, sick leave, compensating time off, etc.

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

At the time of the review, the SCO had 36 positive paid employees whose hours were tracked. The CRU reviewed 25 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Accounting Administrator I (Specialist)	Retired Annuitant	7/1/20-6/30/21	755 Hours
Associate Accounting Analyst	Retired Annuitant	7/1/20-6/30/21	392 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/20-6/30/21	316 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/20-6/30/21	692.50 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/20-6/30/21	322 Hours
Attorney V	Retired Annuitant	7/1/20-6/30/21	366.40 Hours
Financial Accountant I	Retired Annuitant	7/1/20-6/30/21	797 Hours
Information Technology Specialist I	Retired Annuitant	7/1/20-6/30/21	910 Hours
Information Technology Specialist I	Retired Annuitant	7/1/20-6/30/21	955 Hours
Information Technology Specialist I	Retired Annuitant	7/1/20-6/30/21	959.50 Hours
Information Technology Specialist I	Retired Annuitant	7/1/20-6/30/21	960 Hours
Information Technology Specialist I	Retired Annuitant	7/1/20-6/30/21	960 Hours
Information Technology Specialist I	Retired Annuitant	7/1/20-6/30/21	960 Hours
Information Technology Specialist II	Retired Annuitant	7/1/20-6/30/21	960 Hours
Information Technology Specialist II	Retired Annuitant	7/1/20-6/30/21	874.50 Hours
Nurse Evaluator II, Health Services	Retired Annuitant	7/1/20-6/30/21	164 Hours
Senior Management Auditor	Retired Annuitant	7/1/20-6/30/21	837.50 Hours
Staff Services Manager I	Retired Annuitant	7/1/20-6/30/21	488.50 Hours
Staff Services Manager I	Retired Annuitant	7/1/20-6/30/21	943.25 Hours
Staff Services Manager III	Retired Annuitant	7/1/20-6/30/21	603 Hours

Classification	Tenure	Time Frame	Time Worked
Staff Services Manager III	Retired Annuitant	7/1/20-6/30/21	540 Hours
Staff Services Manager III	Retired Annuitant	7/1/20-6/30/21	960 Hours
Supervising Special Investigator I	Retired Annuitant	7/1/20-6/30/21	317.55 Hours
Student Assistant	Temporary	7/1/20-6/30/21	1550.50 Hours

SEVERITY: SERIOUS	FINDING NO. 11 POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS
------------------------------	---

Summary: The SCO did not consistently monitor the actual number of days and/or hours worked in order to ensure that one positive paid employee, as identified below, did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period. This is the second consecutive time this has been a finding for the SCO.

Classification	Tenure	Time Frame	Time Worked	Time Over Limit
Student Assistant	Temporary	7/1/20-6/30/21	1550.5 Hours	50.5 hours

Criteria: If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art. VII, § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Severity: Serious. The number of days or hours an individual may work in a temporary appointment is limited in the state civil service. TAU appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list.

Cause: The SCO states that there was a failure to track the correct hours worked which resulted in the employee exceeding the number of hours allowed.

Corrective Action: Within 90 days of the date of this report, the SCO must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 265.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Administrative Time Off

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

During the period under review, July 1, 2020, through June 30, 2021, the SCO authorized 2,060 ATO transactions. The CRU reviewed 50 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Accounting Analyst	8/17/20-8/19/20	3 Hours
Accounting Technician	7/1/20-7/30/20	68 Hours
Associate Account Analyst	7/1/20-7/8/20	48 Hours
Associate Governmental Program Analyst	7/1/20-7/30/20	176 Hours
Associate Governmental Program Analyst	7/1/20-7/30/20	80 Hours
Associate Governmental Program Analyst	7/31/20, 8/17/20-8/19/20	7 Hours
Digital Print Operator II	5/17/21-5/18/21	16 Hours
Executive Assistant	7/27/20-7/30/20	32 Hours
Executive Assistant	8/17/20-8/18/20	4 Hours
Financial Accountant I	7/1/20-7/30/20	176 Hours
Financial Accountant III	5/11/21-5/12/21	16 Hours
Information Technology Specialist I	7/1/20-7/24/20	142 Hours
Information Technology Technician	5/21/21	8 Hours

Classification	Time Frame	Amount of Time on ATO
Key Data Operator	7/1/20-7/3/20, 7/9/20-7/30/20	152 Hours
Key Data Operator	7/6/20-7/17/20	80 Hours
Key Data Operator	7/31/20-8/31/20	176 Hours
Key Data Operator	5/5/21-5/7/21	22 Hours
Limited Examination & Appointment Program Candidate	7/1/20-7/27/20	72 Hours
Limited Examination & Appointment Program Candidate	8/17/20-8/19/20	6 Hours
Mailing Machines Operator II	5/6/21-5/27/21	33 Hours
Office Services Supervisor II (General)	8/17/20-8/18/20	4 Hours
Office Technician (General)	7/1/20-7/30/20	136 Hours
Office Technician (General)	7/31/20-8/21/20	68 Hours
Office Technician (General)	8/6/20-8/6/20	4 Hours
Office Technician (General)	8/19/20-8/31/20	36 Hours
Office Technician (General)	5/11/21	2 Hours
Office Technician (Typing)	8/17/20-8/19/20	10 Hours
Payroll Specialist	5/7/21	2 Hours
Personnel Specialist	8/6/20-8/6/20	8 Hours
Personnel Specialist	5/13/21	2 Hours
Printing Trades Supervisor (General)	5/20/21	2 Hours
Program Technician	7/1/20-7/30/20	80 Hours
Program Technician	7/31/20, 8/17/20-8/19/20	7 Hours
Program Technician II	7/1/20-7/30/20	176 Hours
Program Technician II	7/1/20-7/30/20	84 Hours
Program Technician II	7/1/20-7/30/20	80 Hours
Property Controller I	7/1/20-7/30/20	88 Hours
Property Controller I	7/31/2020, 8/17/20-8/19/20	7 Hours
Seasonal Clerk	5/13/21-5/14/21	16 Hours
Senior Account Clerk	7/1/20-7/30/20	84 Hours
Senior Claim Auditor	5/12/21	4 Hours
Senior Management Auditor	4/13/21	2 Hours
Senior Payroll Specialist	5/3/21	2 Hours
Staff Management Auditor (Specialist), SCO	5/25/21	4 Hours
Staff Services Analyst (General)	8/3/20-8/31/20	80 Hours
Staff Services Analyst (General)	5/7/21	2 Hours
Staff Services Analyst (General)	6/11/21	4 Hours

Classification	Time Frame	Amount of Time on ATO
Supervising Program Technician I	7/1/20-7/30/20	68 Hours
Supervising Program Technician II	7/1/20-7/30/20	87 Hours
Supervising Program Technician II	7/31/20, 8/17/20-8/19/20	10 Hours

SEVERITY: SERIOUS	FINDING NO. 12 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED
------------------------------	---

Summary: The SCO did not grant ATO in conformity with the established policies and procedures. Of the 50 ATO authorizations reviewed by the CRU, the SCO did not obtain approval from CalHR prior to authorizing ATO in excess of 30 days for one employee. This is the second consecutive time this has been a finding for the SCO.

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

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

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

Severity: Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and

other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Cause: The SCO states that, during the Covid-19 pandemic, conditions under which its Human Resources Office operated was chaotic as the agency focused on the health and safety of the organization and employees. As a result, ATO approvals were not appropriately tracked.

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

Leave Auditing and Timekeeping

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

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

During the period under review, April 1, 2021, through June 30, 2021, the SCO reported 17 units comprised of 1,364 active employees for the April and May 2021 pay periods and 1,372 active employees for the June 2021 pay period. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2021	720	32	32	0
April 2021	721	9	9	0
April 2021	723	9	9	0
May 2021	150	26	26	0
May 2021	641	35	35	0
May 2021	726	56	56	0
June 2021	120	53	53	0
June 2021	221	11	11	0
June 2021	642	17	17	0

IN COMPLIANCE	FINDING NO. 13 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
----------------------	--

The CRU reviewed employee leave records from three different leave periods 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.

State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.¹⁶ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

¹⁶ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁷ 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, January 1, 2021, through September 30, 2021, the SCO had nine employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 17 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	8
Qualifying Pay Period	Full Time	8
Qualifying Pay Period	Part Time	1

IN COMPLIANCE	FINDING NO. 14 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
----------------------	--

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

¹⁷ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

Policy and Processes

Nepotism

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

IN COMPLIANCE	FINDING NO. 15 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
---------------	---

The CRU verified that the policy was disseminated to all staff and emphasized the 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.

Workers' Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

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

SEVERITY: VERY SERIOUS	FINDING No. 16 INJURED EMPLOYEE DID NOT RECEIVE CLAIM FORMS WITHIN ONE WORKING DAY OF NOTICE OR KNOWLEDGE OF INJURY
-----------------------------------	--

Summary: Of the five workers' compensation claim forms reviewed by the CRU, one of them was not provided to the employee within one working day of notice or knowledge of injury.

Criteria: An employer shall provide a claim form and notice of potential eligibility for workers' compensation benefits to its employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness. (Cal. Lab. Code, § 540.1, subd. (a).)

Severity: Very Serious. An injured employee was not provided the required form within the 24-hour time period. Providing the form within 24-hours of injury prevents any delay in treatment to which the employee is entitled. A work related injury can result in lost time beyond the employee's work shift at the time of injury and/or result in additional medical treatment beyond first aid.

Cause: The SCO states that the delay was in the exchange of information between the supervisor and the Human Resources Office.

Corrective Action: Within 90 days of the date of this report, the SCO must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Labor Code section 540.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Performance Appraisals

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

The CRU selected 86 permanent SCO employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 17 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
------------------------------	---

Summary: The SCO did not provide annual performance appraisals to 33 of 86 employees reviewed after the completion of the employee’s probationary period. This is the second consecutive time this has been a finding for the SCO.

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

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

Cause: The SCO states that, according to their procedures, notice is provided to the divisions for employees who are due performance evaluations. In these instances, the manual process was not consistently applied as required.

Corrective Action: Within 90 days of the date of this report, the SCO must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of

Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The SCO's response is attached as Attachment 1.

SPB REPLY

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



BETTY T. YEE
California State Controller

March 29, 2022

Suzanne Ambrose
Executive Director
State Personnel Board
801 Capitol Mall
Sacramento, CA 95818

Dear Ms. Ambrose:

The State Controller's Office would like to thank the State Personnel Board for the opportunity to provide feedback to the 2022 Compliance Review recently conducted by the Compliance Review Unit.

The responses that we have prepared serve to document steps being taken by the State Controller's Office to address current practices outlined in the 2022 review findings. It is our intent to implement measures to minimize, if not eliminate, any additional instances as identified in your review.

The following is our commitment to address findings outlined in the 2022 report:

Finding #3: Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely

Cause: The SCO has a tracking mechanism and an established process for elevating non-completed reports. However, for the period reviewed, the process for elevating non-compliance was not completed, as expected.

Department Response: Of the forty-six (46) appointments selected for review, the SCO did not provide probationary reports of performance for one (1) of the forty-six (46) appointments reviewed. Based on a secondary review of the files, it appears the documents were provided to the employee, however, there may have been a problem with retrieving the documents for review by the CRU. In addition, for two (2) of the other employees reviewed, their reports were presented to the employee days following the "report" date.

Finding #5: Unions Were not Notified of Personal Services Contracts

Cause: In recent years, and based on information from an oversight agency, the interpretation of the State Contracting Manual (SCM) Vol. 1 7.05, as well as Government Code section 19132, bargaining unit notifications do not apply to amendments. As a result, it has been SCO practice to only send bargaining unit notification during the development of the base contract, and not the amendments thereof.

Department Response: If this practice is inconsistent with the aforementioned regulatory citing, then the SCO is more than willing to correct its processes.

Finding #6: Ethics Training Was Not Provided for All Filers

Cause: Prior to April 2021, the SCO did not have an appropriate tracking mechanism to track and/or remind staff of the requirement to complete this training in a timely manner. On or around April 2021, the SCO completed configuration and implementation of its Learning Management System, identified a PATH (Performance and Training Hub). It was purchased and configured to assist in the scheduling, tracking, and monitoring of employee training and includes mandated training requirements. The use of PATH has assisted in the efforts to track and schedule training for all employees. Unfortunately, the mechanism used to implement repeated reminder has yet to be configured. Consequently, this delay has contributed to our inability to re-alert employees to their obligation related to training. Still, the Department agrees with the findings and understands the importance of this critical training need.

Department Response: The SCO agrees with the finding and understands the severity. The SCO is also making provisions to configure its Learning Management System to trigger repeat reminders regarding all critical training requirements.

Finding #7: Sexual Harassment Prevention Training Was Not Provided for all Supervisors

Cause: The monthly audit for compliance was not followed up by the analyst responsible for ensuring completion and updating of the tracker spreadsheet.

Department Response: The SCO agrees with the finding and understands the severity. To date, the SCO used a separate training vendor for SHP training. However, with the roll out of our PATH Learning Management System, we will be transitioning to the SHP training offered through that platform. Similar to Ethics training, the SCO is also making provisions to configure its Learning Management System to trigger repeat reminders regarding all critical training requirements.

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

Cause: The Department agrees with the findings and attributes the error to an incorrect computation of calendar months used in determining the appropriate salary amounts. Both

findings have been appropriately corrected, and the resulting differences accounted for respectively.

Department Response: The SCO agrees with the finding and understands the severity. Moreover, we are revisiting training opportunities and investigating the procedures to confirm all calculations.

Finding #11: Positive Paid Temporary Employees' Work Exceeded Time Limitations

Cause: Upon preparing for the audit review, it was discovered while retrieving attendance records, and comparing said records against the corresponding payroll history, that all time reporting was not captured in the California Leave Accounting System (CLAS); which resulted in a failure to capture hours worked accordingly. Because of this error, we failed to timely notify the employee of their hours, which resulted in the employee exceeding the number of hours allowed.

Department Response: The SCO agrees with the finding and understands the severity. This will require revisiting procedures and establishing a "check list" for TAU employees to minimize or eliminate this from happening in the future.

Finding #12: Administrative Time Off Was Not Properly Documented

Cause: Due to the COVID-19 ATO direction from CalHR, the SCO failed to appropriately communicate and/or track all approvals being granted to staff who were considered "high risk." As a result, the employee exceeded department approval by 2 days (16 hours).

Department Response: Unfortunately, during this period of time, conditions under which this office operated were no less than chaotic. While making every provision to honor the requirements of the use of ATO, our focus was on the health and safety of this organization, its employees, and meticulously trying to stay abreast of the ever changing requirements of CDPH, CDC, CalOSHA, and CalHR. We do not offer this as an excuse, but instead recognize our limitation in addressing the nature of an understaffed Human Resources Office and its inherent problems.

Finding #16: Injured Employee Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury.

Cause: The supervisor became aware of injury as a result of communication shared during a workstation evaluation. The delay was in the exchange of information between the supervisor and the Human Resources Office. Needless to say, once Human Resources Office was provided the information, the supervisor was instructed to provide the employee with the appropriate documentation; albeit late.

Department Response: While it is clear that we understand the responsibility to provide the necessary documentation to employees, this particular claim was determined to be the result of a cumulative injury, which made it difficult to determine the exact date of injury until after the fact.

Because of this unique situation, the SCO will revisit its procedures and prepare to schedule additional training modules for its managers and supervisors.

Finding #17: Performance Appraisals were Not Provided to All Employees

Cause: According to our procedures, notice is provided to the divisions for employees who are due performance evaluations. In this particular instance, our manual process was not consistently applied as required. Still, the department is in the process of procuring a Performance Management System (PMS), which will be used to automate notice repeatedly until the evaluation is completed, and allow staff members to monitor the progress moving forward. (The proposed PMS is being procured from the same vendor we used for our LMS).

Response: The SCO agrees with the findings and understands the severity. Moreover, we have requested priority in the purchase of the above-cited PMS, to eliminate instances of non-compliance.

Again, thank you for allowing the SCO to provide further details to the above findings and to outline a department action plan to ensure compliance. Should you have further questions regarding our responses, please feel free to contact either Christopher Norwood at CNorwood@sco.ca.gov or via telephone at (916) 324-6750; or myself directly at GAnderson@sco.ca.gov or via telephone at (916) 445-5712.

Sincerely,



Gerard Anderson
Chief, Human Resources
California State Controller's Office