



# **COMPLIANCE REVIEW REPORT**

## **DEPARTMENT OF FINANCE**

Compliance Review Unit  
State Personnel Board  
March 15, 2022

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## INTRODUCTION

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

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the Department of Finance (DOF) 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
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
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 Contract <sup>1</sup>
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors <sup>2</sup>
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
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	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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<sup>1</sup> Repeat finding. The August 26, 2019, Compliance Review Report identified unions were not notified prior to entering into two of the three PSC's reviewed.

<sup>2</sup> Repeat finding. The August 26, 2019, Compliance Review Report identified 2 of 26 existing supervisors did not receive sexual harassment prevention training, and three of six new supervisors did not receive sexual harassment prevention training within six months of their appointment.

Area	Severity	Finding
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Department Did Not Certify That All Leave Records Were Reviewed <sup>3</sup>
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	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees <sup>4</sup>

## **BACKGROUND**

The DOF is a fiscal control agency with approximately 475 employees. The Director of DOF is appointed by the Governor and functions as the Governor's chief fiscal policy advisor, with emphasis on the financial integrity of the state. The Director of DOF sits as a member of the Governor's cabinet and senior staff. The DOF employees work on issues and programs that are of concern to the Governor, the Legislature, and the people of California.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the DOF's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>5</sup>. The primary objective of the review was to determine if the DOF's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines,

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<sup>3</sup> Repeat finding. The August 26, 2019, Compliance Review Report identified Leave Activity and Correction Certification forms were not completed for nine out of nine units reviewed.

<sup>4</sup> Repeat finding. The August 26, 2019, Compliance Review Report identified 28 of 54 employees reviewed did not receive annual performance appraisals.

<sup>5</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the DOF'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 DOF provided, which included examination plans, examination bulletins, job analyses, and scoring results. The DOF did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the DOF'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 DOF 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 DOF did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the DOF did not make any additional appointments during the compliance review period.

The DOF's appointments were also selected for review to ensure the DOF applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DOF 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: monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the DOF did not issue or authorize hiring above minimum requests, red circle rate requests, arduous pay, or bilingual pay.

The review of the DOF'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 DOF's PSC's were also reviewed.<sup>6</sup> It was beyond the scope of the compliance review to make conclusions as to whether the DOF's justifications for the contracts were legally

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<sup>6</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.

sufficient. The review was limited to whether the DOF's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DOF'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 DOF'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 DOF'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 DOF'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 DOF employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of DOF 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 DOF's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the DOF's policies and processes adhered to procedural requirements.

On February 15, 2022, an exit conference was held with the DOF to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DOF's written response on March 4, 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 DOF 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
Career Executive Assignment (CEA) B, Assistant Program Budget Manager	CEA	Statement of Qualifications (SOQ) <sup>7</sup>	3/8/21	16
CEA B, Assistant Program Budget Manager	CEA	SOQ	8/2/21	7
CEA B, Chief, Administrative Services	CEA	SOQ	5/5/21	12
CEA C, Program Budget Manager	CEA	SOQ	12/28/20	12
CEA C, Program Budget Manager	CEA	SOQ	3/29/21	4

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<sup>7</sup> In a Statement of Qualifications 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.



Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Financial and Performance Evaluator I, Department of Finance	Open	Written <sup>8</sup>	7/23/21	13
Supervisor-Financial and Performance Evaluator, Department of Finance	Departmental Promotional	Qualification Appraisal Panel <sup>9</sup> and Written	1/15/21	10
Staff Finance Budget Analyst	Departmental Promotional	Supplemental Application <sup>10</sup>	9/1/21	29
Supervising Administrative Analyst (Accounting Systems)	Departmental Promotional	Supplemental Application	3/22/21	3

<b>IN COMPLIANCE</b>	<b>FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU reviewed three departmental promotional and six open examinations which the DOF administered in order to create eligible lists from which to make appointments. The DOF published and distributed examination bulletins containing the required information for all examinations. Applications received by the DOF 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 DOF conducted during the compliance review period.

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<sup>8</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.

<sup>9</sup> The Qualification Appraisal Panel 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>10</sup> The supplemental application is a third level management review and rating of the competitors' supplemental applications.

## 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, December 1, 2020, through August 31, 2021, the DOF made 85 appointments. The CRU reviewed 30 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 Analyst	Certification List	Permanent	Full Time	1
Executive Assistant	Certification List	Permanent	Full Time	1
Finance Budget Analyst	Certification List	Permanent	Full Time	2
Financial and Performance Evaluator I, Department of Finance	Certification List	Permanent	Full Time	1
Financial and Performance Evaluator II, Department of Finance	Certification List	Permanent	Full Time	1
Financial and Performance Evaluator III, Department of Finance	Certification List	Permanent	Full Time	1
Information Technology Manager I	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Junior Staff Analyst (General)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Principal Program Budget Analyst I	Certification List	Permanent	Full Time	1
Principal Program Budget Analyst II	Certification List	Permanent	Full Time	2
Principal Program Budget Analyst III	Certification List	Permanent	Full Time	1
Research Data Analyst I	Certification List	Permanent	Full Time	1
Research Data Manager	Certification List	Permanent	Full Time	1
Senior Personnel Specialist	Certification List	Permanent	Full Time	1
Staff Finance Budget Analyst	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	1
Supervising Administrative Analyst (Accounting Systems)	Certification List	Permanent	Full Time	1
Accountant Trainee	Transfer	Permanent	Full Time	1
Associate Personnel Analyst	Transfer	Permanent	Full Time	1
Finance Budget Analyst	Transfer	Permanent	Full Time	2
Financial and Performance Evaluator III, Department of Finance	Transfer	Permanent	Full Time	1
Senior Administrative Analyst (Accounting Systems)	Transfer	Permanent	Full Time	1
Staff Finance Budget Analyst	Transfer	Permanent	Full Time	1
Staff Services Manager II (Managerial)	Transfer	Permanent	Full Time	1

<b>IN COMPLIANCE</b>	<b>FINDING NO. 2 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The DOF measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 22 list appointments reviewed, the DOF ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including State Restriction of Appointments, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed eight DOF appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with

substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The DOF verified the eligibility of each candidate to their appointed class.

The CRU found no deficiencies in the appointments that the DOF initiated during the compliance review period. Accordingly, the CRU found that the DOF’s appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

**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).)

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like the DOF, the EEO Officer may be the Personnel Officer.

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).)

<b>IN COMPLIANCE</b>	<b>FINDING NO. 3 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES</b>
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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 DOF’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 DOF. The DOF 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 DOF had one PSC that was in effect. The CRU reviewed the PSC, which is listed below:

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
The National Training Institute on Race and Equity	Implicit bias workshop	8/25/21 – 9/15/21	\$10,000	Yes	No

<b>SEVERITY:</b> <b>SERIOUS</b>	<b>FINDING No. 4 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACT</b>
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**Summary:** The DOF did not notify unions prior to entering into the one PSC reviewed. This is the second consecutive time this has been a finding for the DOF.

**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 DOF states that it did not notify the unions prior to entering into the PSC because the DOF had concluded that the nature and type of service contracted for was not available within civil service, could not be performed satisfactorily by civil service employees, or was of such a highly specialized technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system.

**SPB Reply:** Government Code section 19132, subdivision (b)(1), allows exemption from union notification only in cases where the contracted service is necessary due to a sudden and unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. The DOF did not provide evidence that the contracted service met this criteria.

**Corrective Action:** The DOF provides it has taken steps to achieve compliance in this area. Within 90 days of the date of this report, the DOF must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure conformity with the requirements of Government Code section 19132.

## **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 DOF’s mandated training program that was in effect during the compliance review period, October 1, 2019, through September 30, 2021. The DOF’s ethics training was found to be in compliance, while the DOF’s sexual harassment prevention training was found to be out of compliance.

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING No. 5 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS</b>
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**Summary:** The DOF provided sexual harassment prevention training to all 117 existing supervisors every two years. In addition, the DOF provided sexual harassment prevention training to all 76 non-supervisors reviewed. However, the DOF did not provide sexual harassment prevention training to three of nine new supervisors within six months

of their appointment. This is the second consecutive time this has been a finding for the DOF.

**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 supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

**Cause:** The DOF states that new supervisors complete the sexual harassment prevention training when they take the mandatory 80-hour supervisor training within one year of appointment. The three new supervisors identified in the finding completed the sexual harassment prevention training late because their supervisory training was not scheduled within six months of their appointment.

**Corrective Action:** The DOF provides it has taken steps to achieve compliance in this area. Within 90 days of the date of this report, the DOF must submit to the SPB written documentation which demonstrates the meaningful corrections the department has implemented to ensure that all employees are provided sexual harassment prevention training in accordance with Government Code section 12950.1.

## **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>11</sup> 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, December 1, 2020, through August 31, 2021, the DOF made 85 appointments. The CRU reviewed 20 of those appointments to determine if the DOF applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Financial and Performance Evaluator I, Department of Finance	Certification List	Permanent	Full Time	\$3,933
Financial and Performance Evaluator II, Department of Finance	Certification List	Permanent	Full Time	\$6,718
Financial and Performance Evaluator III, Department of Finance	Certification List	Permanent	Full Time	\$8,078
Finance Budget Analyst	Certification List	Permanent	Full Time	\$4,635
Finance Budget Analyst	Certification List	Permanent	Full Time	\$4,846
Information Technology Manager I	Certification List	Permanent	Full Time	\$10,683
Junior Staff Analyst (General)	Certification List	Permanent	Full Time	\$3,298
Principal Program Budget Analyst I	Certification List	Permanent	Full Time	\$8,387
Principal Program Budget Analyst II	Certification List	Permanent	Full Time	\$8,581
Principal Program Budget Analyst II	Certification List	Permanent	Full Time	\$8,581
Principal Program Budget Analyst III	Certification List	Permanent	Full Time	\$9,451
Staff Finance Budget Analyst	Certification List	Permanent	Full Time	\$7,052
Staff Services Manager III	Certification List	Permanent	Full Time	\$8,876

<sup>11</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 (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Supervising Administrative Analyst (Accounting Systems)	Certification List	Permanent	Full Time	\$8,314
Associate Personnel Analyst	Transfer	Permanent	Full Time	\$6,640
Financial and Performance Evaluator III, Department of Finance	Transfer	Permanent	Full Time	\$8,570
Finance Budget Analyst	Transfer	Permanent	Full Time	\$6,259
Senior Administrative Analyst (Accounting Systems)	Transfer	Permanent	Full Time	\$8,352
Staff Finance Budget Analyst	Transfer	Permanent	Full Time	\$7,774
Staff Services Manager II (Managerial)	Transfer	Permanent	Full Time	\$8,453

<b>IN COMPLIANCE</b>	<b>FINDING NO. 6 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the salary determinations that were reviewed. The DOF appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, December 1, 2020, through August 31, 2021, the DOF made 41 alternate range movements within a classification. The CRU reviewed 20 of those alternate range movements to determine if the DOF 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)
Accountant Trainee	A	L	Full Time	\$4,482
Accounting Analyst	C	N	Full Time	\$4,891
Associate Administrative Analyst (Accounting Systems)	A	L	Full Time	\$6,973
Associate Personnel Analyst	A	L	Full Time	\$6,640
Executive Assistant	A	L	Full Time	\$3,964
Executive Assistant	A	L	Full Time	\$3,964
Finance Budget Analyst	A	B	Full Time	\$6,368
Finance Budget Analyst	A	B	Full Time	\$6,901
Information Technology Specialist I	B	M	Full Time	\$8,694
Information Technology Specialist II	A	L	Full Time	\$9,305
Information Technology Specialist II	A	L	Full Time	\$9,732
Junior Staff Analyst (General)	A	L	Full Time	\$3,397
Junior Staff Analyst (General)	B	M	Full Time	\$4,409
Personnel Specialist	D	O	Full Time	\$4,650
Research Data Analyst I	C	N	Full Time	\$4,841
Research Data Specialist II	A	L	Full Time	\$7,657
Research Data Specialist III	A	L	Full Time	\$9,057
Senior Personnel Specialist	A	L	Full Time	\$5,127
Senior Personnel Specialist	A	L	Full Time	\$5,707
Staff Services Analyst (General)	C	N	Full Time	\$4,646

<b>IN COMPLIANCE</b>	<b>FINDING NO. 7 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the alternate range movements the DOF made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

### Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary

responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

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

During the period under review, December 1, 2020, through August 31, 2021, the DOF authorized 374 pay differentials.<sup>12</sup> The CRU reviewed 60 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Accountant Trainee	352	5%
Accounting Analyst	352	10%
Associate Administrative Analyst (Accounting Systems)	352	5%
Associate Administrative Analyst (Accounting Systems)	352	5%
CEA	352	10%
CEA	352	15%
CEA	352	15%
CEA	352	15%
CEA	352	15%
CEA	352	15%
CEA	352	15%
CEA	352	15%
CEA	352	15%
Finance Budget Analyst	352	10%
Finance Budget Analyst	352	15%
Finance Budget Analyst	352	10%
Finance Budget Analyst	352	15%
Finance Budget Analyst	352	15%
Finance Budget Analyst	352	15%
Finance Budget Analyst	352	15%
Finance Budget Analyst	352	5%
Finance Budget Analyst	352	15%
Finance Budget Analyst	352	5%

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<sup>12</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Financial And Performance Evaluator I, Department of Finance	352	5%
Financial And Performance Evaluator I, Department of Finance	352	5%
Financial and Performance Evaluator I, Department of Finance	352	5%
Financial and Performance Evaluator I, Department of Finance	352	5%
Financial and Performance Evaluator II, Department of Finance	352	10%
Financial and Performance Evaluator II, Department of Finance	352	10%
Financial and Performance Evaluator III, Department of Finance	352	10%
Information Technology Manager I	223	5%
Information Technology Manager I	223	5%
Information Technology Manager I	223	5%
Information Technology Manager II	223	5%
Junior Staff Analyst (General)	352	5%
Manager-Financial and Performance Evaluator, Department of Finance	352	10%
Manager-Financial and Performance Evaluator, Department of Finance	352	10%
Principal Program Budget Analyst II	352	15%
Principal Program Budget Analyst II	352	5%
Principal Program Budget Analyst II	352	15%
Principal Program Budget Analyst II	352	15%
Principal Program Budget Analyst II	352	15%
Principal Program Budget Analyst II	352	15%
Principal Program Budget Analyst III	352	15%
Principal Program Budget Analyst III	352	15%
Principal Program Budget Analyst III	352	15%
Principal Program Budget Analyst III	352	15%
Principal Program Budget Analyst III	352	15%
Senior Administrative Analyst (Accounting Systems)	352	15%
Senior Administrative Analyst (Accounting Systems)	352	15%
Staff Administrative Analyst (Accounting Systems)	352	15%
Staff Administrative Analyst (Accounting Systems)	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%

Classification	Pay Differential	Monthly Amount
Supervising Administrative Analyst (Accounting Systems)	352	15%

<b>IN COMPLIANCE</b>	<b>FINDING NO. 8 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the pay differentials that the DOF authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

For excluded<sup>13</sup> and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

During the period under review, December 1, 2020, through August 31, 2021, the DOF issued OOC pay to four employees. The CRU reviewed the four OOC assignments to

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<sup>13</sup> “Excluded employee” means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Business Service Assistant (Specialist)	E97	Staff Services Analyst (General)	2/23/21 – 5/26/21
Staff Finance Budget Analyst	E97	Principal Program Budget Analyst II	5/1/21 – 7/30/21
Staff Finance Budget Analyst	E97	Principal Program Budget Analyst II	6/1/21 – 9/23/21
Staff Finance Budget Analyst	E97	Principal Program Budget Analyst II	7/1/21 – 10/11/21

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 9 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY</b>
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**Summary:** The CRU found three errors in the DOF’s authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Finding(s)	Criteria
Business Service Assistant (Specialist)	Staff Services Analyst (General)	The 9.23% Personal Leave Program (PLP) reduction was not taken into consideration when determining the OOC pay rate, which resulted in the employee being overcompensated.	Pay Differential 101
Staff Finance Budget Analyst	Principal Program Budget Analyst II	The 9.23% PLP reduction was not taken into consideration when determining the OOC pay rate, which resulted in the employee being overcompensated.	Pay Differential 101
Staff Finance Budget Analyst	Principal Program Budget Analyst II	The 9.23% PLP reduction was not taken into consideration when determining the OOC pay rate, which resulted in the employee being overcompensated for the May and June pay periods. In addition, the DOF incorrectly calculated the employee’s OOC pay using the employee’s August base pay instead of their July base pay, which resulted in the employee being undercompensated for the July pay period.	Pay Differential 101

**Criteria:** Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in writing and the employee is given a copy of the assignment; and the duties performed by the employee are not described in a training and development assignment or by the specification for the class to which the excluded employee is appointed and, are fully consistent with the types of jobs described in the specification for the higher classification; and the employee does not perform such duties for more than 120 days in a fiscal year. (Cal. Code Regs., tit. 2, § 599.810, subd. (b)(1)(3)(4).)

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. (c).) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, § 599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, subd. (e).)

**Severity:** Very Serious. The DOF 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 DOF states that the OOC errors were a result of significant staff turnover in its Human Resources Office, as well as lack of staff's experience with regards to the rules for OOC calculations with the Personal Leave Program in effect.

**Corrective Action:** The DOF provides it has taken steps to achieve compliance in this area. Within 90 days of the date of this report, the DOF must submit to the SPB written documentation which demonstrates the



corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 101.

## 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 days<sup>14</sup> worked and paid absences<sup>15</sup>, 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).)

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<sup>14</sup> For example, two hours or ten hours count as one day.

<sup>15</sup> For example, vacation, sick leave, compensating time off, etc.

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. d

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 DOF had 13 positive paid employees whose hours were tracked. The CRU reviewed 10 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
Financial and Performance Evaluator III, Department of Finance	Retired Annuitant	7/1/20 – 6/30/21	151.5 hours
Information Technology Specialist II	Retired Annuitant	7/1/20 – 6/30/21	646 hours
Principal Program Budget Analyst III	Retired Annuitant	7/1/20 – 6/30/21	793 hours
Research Data Manager	Retired Annuitant	7/1/20 – 6/30/21	363 hours
Research Data Specialist II	Retired Annuitant	7/1/20 – 6/30/21	707.5 hours
Special Consultant	Retired Annuitant	7/1/20 – 6/30/21	959 hours
Senior Administrative Analyst (Accounting Systems)	Retired Annuitant	7/1/20 – 6/30/21	791.5 hours
Student Assistant	Temporary	9/1/21 – 11/1/21	16 days
Student Assistant	Temporary	6/1/21 – 11/1/21	71 days
Student Assistant	Temporary	6/1/21 – 11/1/21	69 days

<b>IN COMPLIANCE</b>	<b>FINDING NO. 10 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The DOF provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

### Administrative Time Off

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

During the period under review, July 1, 2020, through June 30, 2021, the DOF authorized 81 ATO transactions. The CRU reviewed 42 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
Associate Administrative Analyst (Accounting Systems)	4/12/21	9 hours
Associate Governmental Program Analyst	4/15/21 5/13/21 – 5/14/21	1.5 hours 9 hours
Business Services Officer I (Specialist)	4/26/21 5/17/21	2 hours 2 hours
CEA	5/6/21	8 hours
Executive Assistant	6/2/21	2 hours
Executive Assistant	5/3/21	1 hour
Finance Budget Analyst	4/28/21	2 hours
Finance Budget Analyst	4/16/21 5/14/21	2 hours 2 hours
Finance Budget Analyst	4/12/21 5/10/21	2 hours 0.5 hours
Financial and Performance Evaluator I, Department of Finance	4/5/21 – 4/6/21	12 hours
Financial and Performance Evaluator I,	4/18/21	8 hours

Classification	Time Frame	Amount of Time on ATO
Department of Finance	5/13/21 – 5/14/21	10 hours
Financial and Performance Evaluator I, Department of Finance	4/26/21	8 hours
Financial and Performance Evaluator II, Department of Finance	5/13/21	1.5 hours
Financial and Performance Evaluator II, Department of Finance	4/19/21	10 hours
Financial and Performance Evaluator II, Department of Finance	10/5/20 – 10/15/20	80 hours
Financial and Performance Evaluator II, Department of Finance	4/15/21 5/13/21	1 hour 1 hour
Financial and Performance Evaluator II, Department of Finance	4/14/15 – 4/15/21	11 hours
Financial and Performance Evaluator II, Department of Finance	5/5/21	2 hours
Financial and Performance Evaluator II, Department of Finance	7/1/20 – 7/3/20 8/19/20 – 8/20/20	26 hours 16 hours
Financial and Performance Evaluator III, Department of Finance	8/19/20 – 8/20/20	16 hours
Financial and Performance Evaluator III, Department of Finance	4/15/21 5/13/21 – 5/14/21	2 hours 10 hours
Information Technology Associate	5/17/21	8 hours
Information Technology Specialist I	9/28/20 – 12/7/20	80 hours
Junior Staff Analyst (General)	4/14/21 5/5/21	2 hours 2 hours
Office Technician (General)	9/28/20 – 9/30/20	24 hours
Principal Program Budget Analyst III	9/1/20 – 9/15/20	80 hours
Principal Program Budget Analyst III	2/5/21 – 2/19/21	80 hours
Research Data Specialist III	5/14/21	3 hours
Senior Personnel Specialist	1/5/21 – 1/11/21 4/13/21	44 hours 9 hours
Senior Personnel Specialist	2/10/21 – 2/17/21	46 hours
Staff Administrative Analyst (Accounting Systems)	11/23/20 – 11/25/20 12/2/20 – 12/11/20	27 hours 53 hours
Staff Administrative Analyst (Accounting Systems)	7/1/20 – 7/7/20	40 hours
Staff Finance Budget Analyst	6/2/21 6/23/21	2 hours 2 hours
Staff Finance Budget Analyst	9/29/20	8 hours
Staff Finance Budget Analyst	4/12/21	2 hours
Staff Finance Budget Analyst	5/12/21	1 hour

Classification	Time Frame	Amount of Time on ATO
Staff Finance Budget Analyst	4/13/21	2 hours
Staff Finance Budget Analyst	3/12/21 4/9/21	2 hours 2 hours
Supervising Administrative Analyst (Accounting Systems)	8/19/20 4/19/21 – 4/21/21	24 hours 16 hours
Supervisor-Financial and Performance Evaluator, Department of Finance	4/29/21	2 hours
Supervisor-Financial and Performance Evaluator, Department of Finance	4/1/21	2 hours
Supervisor-Financial and Performance Evaluator, Department of Finance	4/16/21	2 hours

<b>IN COMPLIANCE</b>	<b>FINDING NO. 11</b>	<b>ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The DOF provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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 DOF reported 36 units comprised of 394 active employees for the April and May 2021 pay periods and

395 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	110	12	12	0
April 2021	115	5	5	0
April 2021	120	7	7	0
April 2021	220	22	22	0
April 2021	750	10	10	0
April 2021	912	6	6	0
April 2021	914	14	14	0
May 2021	315	6	6	0
May 2021	320	12	12	0
May 2021	330	17	17	0
May 2021	850	13	13	0

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 12 DEPARTMENT DID NOT CERTIFY THAT ALL LEAVE RECORDS WERE REVIEWED</b>
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**Summary:** The DOF failed to certify that all leave records have been reviewed and corrected if necessary for 10 out of the 11 units/pay periods reviewed. The DOF uses a Leave Activity Correction and Certification form only if errors have been identified for a unit/pay period; therefore, it was difficult to determine if all units and pay periods were reviewed by the DOF. This is the second consecutive time this has been a finding for the DOF.

**Criteria:** Each appointing power shall 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 an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall identify and record all errors found and shall certify that all leave records for the unit/pay period identified have been reviewed and all leave errors identified have been corrected. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

**Severity:** Serious. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. Failure to audit leave could put the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

**Cause:** The DOF states that they conduct a thorough audit of each timesheet and leave usage to ensure accuracy. After their audit is completed, the DOF employee who completed the audit initials the bottom of the timesheet to certify that the timesheet and leave usage are correct. The DOF acknowledges that they use a Leave Activity Correction and Certification form only when an error is identified in a unit/pay period.

**Corrective Action:** The DOF provides it has taken steps to achieve compliance in this area. Within 90 days of the date of this report, the DOF must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure that their monthly internal audit process is documented and that all leave input is 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.<sup>16</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or

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<sup>16</sup> 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.

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 employees<sup>17</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, December 1, 2020, through August 31, 2021, the DOF had four employees with non-qualifying pay period transactions. The CRU reviewed the four 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	4

<b>IN COMPLIANCE</b>	<b>FINDING NO. 13 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the DOF 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.

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<sup>17</sup> 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.*)

<b>IN COMPLIANCE</b>	<b>FINDING NO. 14 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the policy was disseminated to all staff and emphasized the DOF's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the DOF'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.*)

The DOF did not receive any workers' compensation claims during the review period. In addition, the DOF did not employ volunteers during the compliance review period.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 15 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the DOF provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law.

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 54 permanent DOF employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 16 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES</b>
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**Summary:** The DOF did not provide annual performance appraisals to 15 of 54 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time this has been a finding for the DOF.

**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 DOF states that, since it is the Governor's chief fiscal and policy advisor, it is heavily involved in all emergency response efforts which occur. Therefore, during the COVID-19 pandemic, the DOF's workload was exceptionally heavy, handling complex and high-profile assignments and, combined with transitioning its workforce to emergency telework, resulted in some performance appraisals being delayed or not completed.

**Corrective Action:** The DOF provides it has taken steps to achieve compliance in this area. Within 90 days of the date of this report, the DOF must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798.

### **DEPARTMENTAL RESPONSE**

The DOF's response is attached as Attachment 1.

### **SPB REPLY**

Based upon the DOF's written response, the DOF 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.



GAVIN NEWSOM - GOVERNOR

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March 4, 2022

Suzanne M. Ambrose, Executive Officer  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

Dear Suzanne:

On behalf of the Department of Finance (Finance), thank you for the opportunity to review the draft Compliance Review Report and to participate in an Exit Conference on February 15, 2022. The following are Finance's responses to the findings.

#### **Finding No. 4 – Unions Were Not Notified Of Personal Services Contracts**

Finance did not notify unions prior to entering into one of the personal services contracts reviewed. This is the second consecutive time this has been a finding.

Cause:

Finance entered into a contract with The National Training Institute on Race and Equity in order for Dr. Bryant Marks to provide department-wide training on implicit bias. Raising awareness of racial disparities and implicit bias is a high priority of the Governor and as the Governor's Chief fiscal policy advisor, it is critical that Finance employees are adequately trained in this area.

As a diversity and implicit bias expert, Dr. Marks has provided implicit bias training to over 2,000 Police Chiefs and executives via a series of briefings at the White House in 2016, and several thousand patrol officers in local police departments including the entire Los Angeles Police Department. He has also provided training related to diversity and implicit bias to individuals in education (K-12 and higher education), philanthropy, non-profits, local and federal government, and several other sectors. He serves on several national boards and is a highly sought after speaker and trainer. Dr. Marks holds a B.A. in psychology and a minor in economics from Morehouse College, and an M.A. and Ph.D. in Social Psychology from the University of Michigan. He was an Assistant Professor of psychology and African American Studies at the University of Illinois-Chicago prior to returning to Morehouse. Dr. Marks conducts research and professional development in the areas of diversity and implicit bias, Black male psychology and development, the academic achievement of minority college students, innovations in STEM education, and personal passion and productivity.

Given Dr. Marks' experience and the very specific nature of the training that was contracted for, Finance used the exemption from notifying the unions that is stated in Government Code 19130(b)(3). It says, the services contracted for are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or

technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system.

The type of training Dr. Marks produced and that Finance contracted for is not a function that is currently performed by civil service employees that the unions represent, as such, Finance did not notify the unions of the contract.

Action Plan:

Finance will update its contracting processes to include notification to unions prior to contract execution, regardless of whether the services contracted for can be provided by civil service employees represented by the unions or not.

### **Finding No. 5 – Sexual Harassment Prevention Training Was Not Provided For All Supervisors**

Finance provided sexual harassment prevention training to all 117 existing supervisors every two years. In addition Finance provided sexual harassment prevention training to all 76 non-supervisors. However, Finance did not provide sexual harassment prevention training to three of nine new supervisors within six months of their appointment. This is the second consecutive time this has been a finding.

Cause:

Sexual Harassment training is included in the mandatory 80-hour supervisor training that occurs within one-year of appointment to a supervisory position. If the supervisor training does not get scheduled within six months of appointment, the sexual harassment training is completed late.

Action Plan:

Finance will attempt to schedule the 80-hour supervisor training within six months of appointment. If that is not possible, then the individual will be asked to complete a sexual harassment class online to ensure compliance within six months of appointment.

### **Finding No. 9 – Incorrect Authorization of Out-of-Class Pay**

The Compliance Review Unit found three errors in Finance's authorization of Out-of-Class Pay.

Cause:

Finance's Human Resources Office (HRO) has experienced significant staff turnover during the past eighteen months. Current HRO team members did not have previous experience with the rules regarding the calculation of out-of-class compensation, including calculations with the Personal Leave Program in effect, which resulted in these errors.

Action Plan:

Finance's HR team members will be provided on-the-job training using resource information provided by the State Personnel Board. The examples noted in the audit report will be shared with HRO team members as sample scenarios, will be included in Finance's HRO processes

and procedures, and will be used when calculating future out-of-class assignments involving Personal Leave Reduction Programs.

### **Finding No. 12 – Department Did Not Certify That All Leave Records Were Reviewed**

Finance failed to certify that all leave records have been reviewed and corrected if necessary for 10 out of the 11 units/pay periods reviewed. Finance uses a Leave Activity Correction and Certification form only if errors have been identified for a unit/pay period; therefore, it was difficult to determine if all units and pay periods were reviewed by Finance. This is the second consecutive time this has been a finding.

#### **Cause:**

Though Finance currently uses a Leave Activity Correction and Certification form only when an error is identified in a unit/pay period, Finance does conduct a thorough audit/review of each timesheet and leave usage to ensure accuracy. After the audit/review is completed, the employee who completed the audit/review initials the bottom of the timesheet to certify that the timesheet and leave usage are correct. Therefore, Finance believes it is in compliance with this requirement.

#### **Action Plan:**

Finance has updated the timesheet review process to include the completion of a Leave Activity Correction and Certification form for each unit/pay period regardless of whether an error is identified or not.

### **Finding No. 16 – Performance Appraisals Were Not Provided To All Employees**

Finance did not provide annual performance appraisals to 15 of 54 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time this has been a finding.

#### **Cause:**

As the Governor's chief fiscal and policy advisor, Finance is heavily involved in all emergency response efforts that occur. During the COVID-19 Pandemic, the workload was exceptionally heavy. Finance employees and managers put in countless hours of overtime, handle extremely complex and high profile assignments, and are faced with competing priorities with nearly unachievable deadlines. This pressure elevated immensely during the height of the pandemic. That, in addition to transitioning the workforce to an emergency telework posture resulted in some performance evaluations being delayed or not completed. The nature of Finance's work requires it to be prioritized based on the Administration's initiatives and sometimes important administrative functions are difficult to complete.

#### **Action Plan:**

Finance currently has an annual evaluation workgroup that is reviewing Finance's evaluation form and processes. The workgroup anticipates having a new form and instructions in place for the July 2021 through June 2022 evaluation period. The HRO will conduct a training for supervisors and managers on how to complete the form and will reiterate the importance of timely completion. The new form and processes should result in greater, if not full, compliance.

Finance is committed to complying with all related statutorily and regulatory requirements and continues to enhance internal procedures to ensure compliance. Finance will work towards full compliance by executing the action plans outlined above.

If you have any questions, please feel free to contact me at (916) 445-3274.

Sincerely,



JENNIFER WHITAKER  
Program Budget Manager

cc: Larissa Stockton, Chief, Administrative Services