

COMPLIANCE REVIEW REPORT

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Compliance Review Unit
State Personnel Board
May 19, 2025

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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 Division (CRD) 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." The SPB and the 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 the 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, the 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 CRD 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 the SPB's 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 CRD conducted a routine compliance review of the Department of Toxic Substances Control (DTSC) 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	Serious	Probationary Evaluations Were Not Provided for all Appointments Reviewed and Some That Were Provided Were Untimely ¹
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs

¹ Repeat finding. The DTSC's December 3, 2021, compliance review report identified that 15 probationary reports of performance were not provided for 10 of the 25 appointments reviewed. The DTSC's November 6, 2018, compliance review report identified that 9 probationary reports of performance were not provided for 38 of the 176 appointments reviewed.

Area	Severity	Finding
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees ²
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Substantial Compliance	Administrative Time Off Was Not Properly Documented
Leave	Serious	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input Is Keyed Accurately and Timely ³
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Policy	Very Serious	Department's Nepotism Policy Does Not Contain All Required Components

² Repeat finding. The DTSC's December 3, 2021, compliance review report identified that 17 of 25 new supervisors did not take SHP training within 6 months of appointment, and 135 existing supervisors did not take SHP training once every 2 years. The DTSC's November 6, 2018, compliance review report identified that 6 of 37 new supervisors did not take SHP training within 6 months of appointment, and 29 of 98 existing supervisors did not take SHP training once every 2 years.

³ The December 3, 2021, and November 6, 2018, DTSC reports found that the DTSC had failed to implement a monthly internal audit process to verify that all leave input is keyed accurately and timely.

Area	Severity	Finding
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

BACKGROUND

The DTSC is part of the California Environmental Protection Agency (CalEPA) and its mission is to restore, protect, and enhance the environment, to ensure public health and environmental quality.

The DTSC was established to protect California's people, communities, and environment from toxic substances, to enhance economic vitality by restoring contaminated land and to compel manufacturers to make safer consumer products. The DTSC has approximately 1,281 positions that consists of scientists, engineers, toxicologists, chemists, geologists, attorneys, criminal investigators, and other professional staff. The DTSC's headquarters is located in Sacramento; it also has 10 offices located throughout the state.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DTSC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁴. The primary objective of the review was to determine if the DTSC's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR's policies and guidelines, CalHR's Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the DTSC's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRD examined the documentation that the DTSC provided, which included examination

⁴ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

plans, examination bulletins, job analyses, and scoring results. The DTSC did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the DTSC's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRD examined the documentation that the DTSC provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The DTSC did not conduct any unlawful appointment investigations during the compliance review period.

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

The review of the DTSC'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 DTSC's PSC's were also reviewed.⁵ It was beyond the scope of the compliance review to make conclusions as to whether the DTSC's justifications for the contracts were legally sufficient. The review was limited to whether the DTSC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DTSC's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, that all supervisors, managers, and those serving in Career Executive Assignments (CEA) were provided

⁵If 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.

leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRD reviewed the DTSC'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 CRD selected a small cross-section of the DTSC's units to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the DTSC'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 CRD reviewed a selection of the DTSC's employees who used Administrative Time Off (ATO) to ensure that ATO was appropriately administered. Additionally, the DTSC did not track any temporary intermittent employees by actual time worked during the compliance review period.

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

The DTSC declined an exit conference to explain and discuss the CRD's initial findings and recommendations. The CRD received and carefully reviewed the DTSC's written response on May 1, 2025, 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, May 2, 2023, through January 30, 2024, the DTSC conducted two examinations. The CRD reviewed these two examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Deputy Chief Counsel	CEA	Statement of Qualifications (SOQ) ⁶	12/5/2023	8
CEA A, Division Chief	CEA	SOQ	5/9/2023	8

IN COMPLIANCE	FINDING No. 1	EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRD reviewed two open examinations which the DTSC administered to create eligible lists from which to make appointments. The DTSC published and distributed examination bulletins containing the required information for all examinations. Applications received by the DTSC 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 CRD found no deficiencies in the examinations that the DTSC conducted during the compliance review period.

⁶ 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.

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, 2023, through September 30, 2023, the DTSC made 253 appointments. The CRD reviewed 50 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	1
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	1
Associate Environmental Planner	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Associate Safety Engineer	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Attorney IV	Certification List	Permanent	Full Time	1
Attorney, Assistant Chief Counsel	Certification List	Permanent	Full Time	1
Engineering Geologist	Certification List	Permanent	Full Time	1
Environmental Program Manager I (Supervisory)	Certification List	Permanent	Full Time	1
Environmental Scientist	Certification List	Permanent	Full Time	2
Executive Assistant	Certification List	Permanent	Full Time	1
Hazardous Substances Engineer	Certification List	Permanent	Full Time	1
Information Officer II	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Manager I	Certification List	Permanent	Full Time	1
Information Technology Manager II	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Information Technology Technician	Certification List	Permanent	Full Time	1
Office Assistant (General)	Certification List	Permanent	Full Time	1
Office Technician (General)	Certification List	Permanent	Full Time	1
Personnel Technician I	Certification List	Permanent	Full Time	1
Research Scientist I (Chemical Sciences)	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Senior Engineering Geologist	Certification List	Permanent	Full Time	1
Senior Environmental Planner	Certification List	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	1
Senior Hazardous Substances Engineer	Certification List	Permanent	Full Time	1
Senior Legal Analyst	Certification List	Permanent	Full Time	1
Senior Legal Typist	Certification List	Permanent	Full Time	1
Senior Toxicologist	Certification List	Permanent	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	2
Staff Services Manager I	Certification List	Permanent	Full Time	2
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	1
Staff Toxicologist (Specialist)	Certification List	Permanent	Full Time	1
Supervising Criminal Investigator I	Certification List	Permanent	Full Time	1
Supervising Hazardous Substances Engineer II	Certification list	Permanent	Full Time	1
Environmental Scientist	Permissive Reinstatement	Permanent	Full Time	1
Hazardous Substances Engineer	Permissive Reinstatement	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Investigator	Transfer	Permanent	Full Time	1
Legal Secretary	Transfer	Permanent	Full Time	1
Staff Services Analyst	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY
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Summary: The DTSC did not provide 29 probationary reports of performance for 13 of the 50 appointments reviewed by the CRD. In addition, the DTSC did not provide 31 probationary reports of performance in a timely manner, as reflected in the tables below. This is the third consecutive time this has been a finding for the DTSC.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Accountant Trainee	Certification List	1	1
Attorney IV	Certification List	1	1
Attorney, Assistant Chief Counsel	Certification List	1	2
Executive Assistant	Certification List	1	3
Information Officer II	Certification List	1	3
Information Technology Manager I	Certification List	1	2
Information Technology Manager II	Certification List	1	2
Personnel Technician I	Certification List	1	3
Staff Services Manager II (Supervisory)	Certification List	1	1
Staff Services Manager III	Certification List	1	3
Staff Toxicologist (Specialist)	Certification List	1	2
Hazardous Substances Engineer	Permissive Reinstatement	1	3
Legal Secretary	Transfer	1	3

Classification	Appointment Type	No. of Appointments	Total No. of Late Probation Reports
Accountant Trainee	Certification List	1	1
Associate Governmental Program Analyst	Certification List	2	5
Attorney	Certification List	1	1
Attorney, Assistant Chief Counsel	Certification List	1	1
Engineering Geologist	Certification List	1	2
Environmental Program Manager I (Supervisory)	Certification List	1	3
Information Technology Specialist II	Certification List	1	3
Office Technician (General)	Certification List	1	2
Senior Accounting Officer (Specialist)	Certification List	1	2
Senior Legal Analyst	Certification List	1	1
Staff Services Analyst	Certification List	1	2
Staff Services Manager I	Certification List	1	3
Supervising Criminal Investigator I	Certification List	1	2
Investigator	Transfer	1	3

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 DTSC experienced extreme and unprecedented growth and reorganization, which resulted in increased workload, higher than average vacancies, and limited resources for supervisors and managers.

Corrective Action: Within 90 days of the date of this report, the DTSC 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.

SEVERITY: TECHNICAL	FINDING No. 3 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: Of the 50 appointments reviewed, the DTSC did not retain 8 NOPAs.

Criteria: As specified in section 26 of the Board's Regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.)

Severity: Technical. Without documentation, the CRD could not verify if the appointments were properly conducted.

Cause: The DTSC experienced high turnover of personnel specialists and human resources' management, leading to a loss of institutional knowledge related to NOPA processing.

Corrective Action: Within 90 days of the date of this report, the DTSC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26. 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
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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 CRD determined that the DTSC'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 DTSC's Director. The DTSC 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 the 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, May 2, 2023, through January 30, 2025, the DTSC had 57 PSC's that were in effect. The CRD reviewed 23 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification
Northwest Metrology	Pipette calibration	\$6,620	Yes	Yes
RWS Corporation DBA Puroserve Water	Deionized water services	\$9,993	Yes	Yes
Tassin Scientific Services, LLC	Maintenance and repair services	\$9,800	Yes	Yes
Paper Cuts, Inc	Monthly recycling services	\$9,480	Yes	Yes
Thermo Electron North America LLC	Maintenance services	\$9,999	Yes	Yes
WorkCare, Inc.	Medical monitoring	\$380,000	Yes	Yes
Rebel Van Lines	Moving services	\$39,264	Yes	Yes
American Environmental Testing Laboratory, LLC	Laboratory analysis services	\$200,000	Yes	Yes
Northwest Metrology	Laboratory equipment services	\$65,955	Yes	Yes
Terradex, Inc.	Covenant monitoring	\$540,000	Yes	Yes
Focus Interpreting	Translation services	\$128,431	Yes	Yes
Mesa Laboratories, Inc.	Maintenance and tech support	\$28,395	Yes	Yes
Law Office of Julian Gross	Outside counsel services	\$119,500	Yes	Yes
Focus Interpreting	Interpretive services	\$141,600	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification
Biotage, LLC	Lab equipment services	\$66,752	Yes	Yes
Sher Edling, LLC	Legal services	\$3,000,000	Yes	Yes
Clean Sweep Janitorial	Janitorial services	\$55,140	Yes	Yes
Cal Interpreting & Translations	Interpretive Services	\$97,600	Yes	Yes
SEE Strategies	Coaching and facilitating services	\$45,000	Yes	Yes
University of Massachusetts Lowell	Assess environmental impact tools	\$134,334	Yes	Yes
Focus International	Interpreting services	\$249,999	Yes	Yes
BIOTAGE	Proprietary equipment maintenance services	\$80,264	Yes	Yes
Peak Scientific	Maintenance services	\$81,374	Yes	Yes

IN COMPLIANCE	FINDING No. 5 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC's reviewed was \$5,499,500. It was beyond the scope of the review to make conclusions as to whether the DTSC's justifications for the contract were legally sufficient. For all PSC's reviewed, the DTSC provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, the DTSC complied with proper notification to all organizations that represent state employees who perform or could perform the type or work contracted as required by California Code of Regulations section 547.60.2. Accordingly, the DTSC's PSC's complied with civil service laws and board rules.

Mandated Training

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) and (b), & 19995.4, subd. (b).) Additionally, the training must be successfully completed within the term of the employee’s probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).)

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

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 CRD reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

CRD reviewed the DTSC's mandated training program that was in effect during the compliance review period, February 1, 2022, through January 30, 2024.

SEVERITY: VERY SERIOUS	FINDING No. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The DTSC did not provide ethics training to 58 of 100 existing filers. In addition, the DTSC did not provide ethics training to 16 of 100 new filers within 6 months of their appointment.

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

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

Cause: The DTSC states that some individuals who were required to receive ethics training were not assigned the training due to a technical error.

Corrective Action: Within 90 days of this report, the DTSC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. 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 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The DTSC did not provide basic supervisory training to 7 of 47 new supervisors within 12 months of appointment; did not provide manager training to 8 of 12 new managers within 12 months of appointment. The DTSC did not have any CEAs who were due training during the review period.

Criteria: Each department must provide its new supervisors with a minimum of 80 hours of supervisory training within the probationary period.(Gov. Code, § 19995.4, subd. (b).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. (Gov. Code, § 19995.4, subd. (d).)

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

Cause: The DTSC states that some individuals who were required to receive supervisory training were not assigned the training due to a technical error.

Corrective Action: Within 90 days of the date of this report, the DTSC 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 12 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. 8 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The DTSC did not provide sexual harassment prevention training to 9 of 73 new supervisors within 6 months of their appointment. In addition, the DTSC did not provide sexual harassment prevention training to 3 of 137 existing supervisors every 2 years. This is the third consecutive time this has been a finding for the DTSC.

The DTSC did not provide sexual harassment prevention training to 2 of 100 existing non-supervisors every 2 years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years and non-supervisory

employees one hour of sexual harassment prevention training every two years. New employees 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 DTSC states that some individuals who were required to receive the sexual harassment prevention training were not assigned the training due to a technical error.

Corrective Action: Within 90 days of the date of this report, the DTSC 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 the CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁷ 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

⁷ "Rate" is any one of the salary rates in the resolution by the CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

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, 2023, through September 30, 2023, the DTSC made 253 appointments. The CRD reviewed 23 of those appointments to determine if the DTSC 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	\$4,065
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	\$6,706
Associate Environmental Planner	Certification List	Permanent	Full Time	\$7,252
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$6,694
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,684
Associate Safety Engineer	Certification List	Permanent	Full Time	\$9,584
Attorney	Certification List	Permanent	Full Time	\$7,737
Attorney III	Certification List	Permanent	Full Time	\$10,225
Attorney IV	Certification List	Permanent	Full Time	\$12,816
Engineering Geologist	Certification List	Permanent	Full Time	\$8,449
Environmental Program Manager I (Supervisory)	Certification List	Permanent	Full Time	\$12,178
Environmental Scientist	Certification List	Permanent	Full Time	\$5,037
Environmental Scientist	Certification List	Permanent	Full Time	\$6,375
Executive Assistant	Certification List	Permanent	Full Time	\$4,125
Office Assistant (General)	Certification List	Permanent	Full Time	\$3,063
Senior Engineering Geologist	Certification List	Permanent	Full Time	\$11,851
Senior Environmental Planner	Certification List	Permanent	Full Time	\$7,563
Senior Legal Analyst	Certification List	Permanent	Full Time	\$5,793
Senior Legal Typist	Certification List	Permanent	Full Time	\$3,890
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$6,907
Investigator	Transfer	Permanent	Full Time	\$7,550
Legal Secretary	Transfer	Permanent	Full Time	\$4,001
Staff Services Analyst	Transfer	Permanent	Full Time	\$5,211

IN COMPLIANCE	FINDING No. 9 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the salary determinations that were reviewed. The DTSC 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 the CalHR's 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, January 1, 2023, through September 30, 2023, the DTSC employees made 9 alternate range movements within a classification. The CRD reviewed 8 of those alternate range movements to determine if the DTSC 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)
Attorney	A	B	Full Time	\$8,708
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	B	C	Full Time	\$6,375

SEVERITY: VERY SERIOUS	FINDING NO. 10	ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
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Summary: The CRD found one error in the eight alternate range movements reviewed:

Classification	Description of Finding	Criteria
Environmental Scientist	The employee should have been placed into Range C upon appointment. Therefore, the employee was underpaid.	Alternate Range Criteria 430

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

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 one circumstance, the DTSC failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules not in accordance with the CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The DTSC states that human error led to an employee being placed in an incorrect range at the time of appointment. The DTSC has since corrected the error.

Corrective Action: Within 90 days of the date of this report, the DTSC must 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 DTSC must 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.

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 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, 2023, through September 30, 2023, the DTSC issued bilingual pay to 14 employees. The CRD reviewed 11 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Associate Governmental Program Analyst	R01	Full Time	2
Environmental Program Manager I (Supervisory)	S10	Full Time	1
Environmental Scientist	R10	Full Time	1
Hazardous Substances Engineer	R09	Full Time	1
Office Technician (Typing)	R04	Full Time	1
Public Participation Specialist, Department of Health Services	R01	Full Time	1
Staff Services Analyst	R01	Full Time	1
Supervising Criminal Investigator I	S07	Full Time	1
Supervising Criminal Investigator II	S07	Full Time	1
Supervising Hazardous Substances Engineer I	S09	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 11 INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRD found 8 errors in the 11 bilingual pay authorizations reviewed:

Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	The department failed to provide supporting documentation that their duties required bilingual skills for at least 10% of their time.	Pay Differential 14
Environmental Scientist	The department failed to provide supporting documentation verifying that the employee was tested and certified as bilingual, that their duties required bilingual skills for at least 10% of their time, and that there was a demonstrated need for bilingual services.	Government Code section 7296 and Pay Differential 14
Hazardous Substances Engineer	The department failed to provide supporting documentation demonstrating the need for bilingual services	Pay Differential 14
Office Technician (Typing)	The department failed to provide supporting documentation demonstrating the need for bilingual services	Pay Differential 14
Staff Services Analyst	The department failed to provide supporting documentation verifying that the employee was tested and certified as bilingual, that their duties required bilingual skills for at least 10% of their time, and that there was a demonstrated need for bilingual services.	Government Code section 7296 and Pay Differential 14
Supervising Criminal Investigator I	The department failed to provide supporting documentation demonstrating the need for bilingual services	Pay Differential 14
Supervising Criminal Investigator II	The department failed to provide supporting documentation that their duties required bilingual skills for at least 10% of their time, and that there was a demonstrated need for bilingual services.	Pay Differential 14
Supervising Hazardous Substances Engineer I	The department failed to provide supporting documentation verifying that the employee was tested and certified as bilingual, and that there was a demonstrated need for bilingual services.	Government Code section 7296 and Pay Differential 14

Criteria: For any state agency, a “qualified” bilingual employee, person, or interpreter is someone who the CalHR has tested and certified, someone who was tested and certified by a state agency or other

approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296, subd. (a)(3).)

An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

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

Cause: Several employees received bilingual pay without correct authorization because their pay was established prior to the appointment of current DTSC human resources staff, and documents related to their bilingual pay authorization were missing or incomplete.

Corrective Action: Within 90 days of the date of this report, the DTSC 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 7296, and/or Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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 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, January 1, 2023, through September 30, 2023, the DTSC authorized 163 pay differentials.⁸ The CRD reviewed 24 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Associate Governmental Program Analyst	441	\$250
Associate Governmental Program Analyst	441	\$250
Engineering Geologist	432	\$250
Hazardous Substances Engineer	433	3%
Hazardous Substances Engineer	432	\$250
Hazardous Substances Engineer	432	\$250
Hazardous Substances Engineer	432	\$250
Information Technology Specialist I	13	5%
Information Technology Specialist I	13	5%
Information Technology Specialist III	441	\$250
Investigator	244	5%
Investigator	244	5%
Office Assistant (General)	441	250
Office Technician (Typing)	441	\$250
Office Technician (Typing)	441	\$250
Research Scientist II (Chemical Sciences)	434	2%
Senior Hazardous Substances Engineer	433	5.5%
Senior Toxicologist	434	3%
Senior Toxicologist	434	3%
Staff Toxicologist (Specialist)	434	3%
Staff Toxicologist (Specialist)	434	3%
Supervising Criminal Investigator I	244	5%
Supervising Criminal Investigator I	245	2%

⁸ For the purposes of CRD's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Supervising Engineering Geologist	433	5.5%

IN COMPLIANCE	FINDING No. 12	PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the pay differentials that the DTSC 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 excluded⁹ 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, January 1, 2023, through September 30, 2023, the DTSC issued OOC pay to two employees. The CRD reviewed these two OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and the CalHR's policies and guidelines. These are listed below:

⁹ "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.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Personnel Analyst	R01	Staff Services Manager I	2/1/2023 – 4/28/2023
Senior Environmental Scientist (Supervisory)	S10	Environmental Program Manager I	2/1/2023 – 6/1/2023

IN COMPLIANCE	FINDING NO. 13 OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the OOC pay assignments that the DTSC authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

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, November 1, 2022, through October 31, 2023, the DTSC authorized 101 ATO transactions. The CRD reviewed 25 of these ATO transactions to ensure compliance with applicable laws, regulations, and the CalHR's policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	11/8/2022	2 Hours
Associate Governmental Program Analyst	1/9/2023	1.5 Hours
Associate Governmental Program Analyst	4/24/2023	2 Hours
Associate Industrial Hygienist	2/1/2023	4 Hours

Classification	Time Frame	Amount of Time on ATO
Engineering Geologist	10/23/2023	6 Hours
Environmental Scientist	1/5/2023	4 Hours
Environmental Scientist	11/16/2023	1 Hours
Environmental Scientist	1/9/2023	1.5 Hours
Executive Assistant	1/5/2023	8 Hours
Hazardous Substances Engineer	12/23/2022	3 Hours
Hazardous Substances Engineer	12/9/2022	8 Hours
Hazardous Substances Engineer	1/17/2023	2.5 Hours
Hazardous Substances Engineer	2/1/2023 – 2/3/2023	24 Hours
Office Technician (General)	11/15/2022	3 Hours
Office Technician (General)	1/4/2023	8 Hours
Program Technician II	7/28/2023	2 Hours
Program Technician II	1/30/2023	2 Hours
Senior Health Physicist	1/5/2023	2.5 hours
Senior Health Physicist	10/11/2023	3.5 Hours
Senior Accounting Officer Specialist	1/9/2023	8 Hours
Senior Environmental Scientist (Specialist)	12/2/2022	2.5 Hours
Senior Environmental Scientist (Specialist)	3/14/2023	1 Hour
Senior Librarian	1/3/2023 - 1/4/2023	16 Hours
Staff Services Analyst	1/9/2023	8 Hours
Staff Services Analyst	1/5/2023	8 Hours

SUBSTANTIAL COMPLIANCE	FINDING NO. 14 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED
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Summary: The DTSC did not grant ATO in conformity with the established policies and procedures. Of the 25 ATO authorizations reviewed by the CRD, 2 were not properly documented in the Leave Accounting System.

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 the 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 the CalHR denies a request to extend ATO, or the appointing authority fails to request approval from the 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: Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

Leave Accounting

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, August 2, 2023, through October 31, 2023, the DTSC reported 18 units. The CRD reviewed 18 units within 3 pay periods to ensure compliance with applicable laws, regulations and the CalHR's policy and guidelines.

SEVERITY: SERIOUS	FINDING NO. 15 DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY
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Summary: The DTSC failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely and to certify

that all leave records have been reviewed and corrected if necessary. This is the third consecutive time this has been a finding for the DTSC.

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 input 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 DTSC experienced unpredictable staff and limited resources resulting in inconsistent performance of monthly audits.

Corrective Action: Within 90 days of the date of this report, the DTSC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that their monthly internal audit process was documented and that all leave input is keyed accurately and timely. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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 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.¹⁰ (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 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 employees¹¹ 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, 2023, through September 30, 2023, the DTSC had 16 employees with qualifying and non-qualifying pay period transactions. The CRD reviewed 10 transactions to ensure compliance with applicable laws, regulations and the CalHR's policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Non-Qualifying Pay Periods	Full Time	8
Qualifying Pay Periods	Full Time	2

¹⁰ 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.

¹¹ 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.

IN COMPLIANCE	FINDING No. 16 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD determined that the DTSC ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRD found no deficiencies in this area.

Policy and Processes

Nepotism

It is the policy of the State of California to hire, transfer, and promote all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of "nepotism" as an employee's use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of "personal relationship" as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

SEVERITY: VERY SERIOUS	FINDING NO. 17 DEPARTMENT'S NEPOTISM POLICY DOES NOT CONTAIN ALL REQUIRED COMPONENTS
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Summary: The DTSC's nepotism policy does not contain all required components. Specifically, DTSC's nepotism policy does not include a statement that it is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system.

Criteria: It is the policy of the State of California to hire, transfer, and promote all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204). All department nepotism policies shall include six specific components which emphasize that nepotism is antithetical to merit-based civil service and include definitions and prohibitions integral to upholding the merit system. (Cal. Code Regs., tit. 2, § 87.)

Severity: Very Serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. Departments must take proactive steps to ensure that the hiring, transferring, and promoting of all employees is done on the basis of merit and fitness in accordance with civil service statutes. Maintaining a current written nepotism policy that addresses all requirements outlined in civil service statutes, rules and regulations, and its dissemination to all staff, is the cornerstone for achieving these outcomes.

Cause: The content of DTSC's nepotism policy was last revised in 2015, which is six years prior to the government code requiring the missing component.

Corrective Action: Within 90 days of the date of this report, the DTSC must submit to the SPB a written corrective action response which includes an updated nepotism policy which contains requirements outlined in Human Resources Manual section 1204, and documentation demonstrating that it has been distributed to all staff.

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 COMPLIANCE	FINDING NO. 18	WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD verified that the DTSC provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRD verified that when the DTSC received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

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 CRD selected 49 permanent DTSC 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. 19 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The DTSC did not provide annual performance appraisals to 10 of 49 employees reviewed after the completion of the employee's probationary period.

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 employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The DTSC experienced unprecedented growth and reorganization which resulted in increased workload, higher than average vacancies, and limited resources for supervisors and managers.

Corrective Action: Within 90 days of the date of this report, the DTSC 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 departmental response is attached as Attachment 1.

SPB REPLY

Based upon the DTSC's written response, the DTSC 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 CRD.



Yana Garcia
Secretary for
Environmental Protection



Department of Toxic Substances Control

Katherine M. Butler, MPH, Director
1001 I Street
P.O. Box 806
Sacramento, California 95812-0806



Gavin Newsom
Governor

May 1, 2025

Suzanne M. Ambrose, Executive Director
State Personnel Board
801 Capitol Mall
Sacramento, CA 96814

RESPONSE TO COMPLIANCE REVIEW REPORT

Dear Ms. Ambrose,

The Department of Toxic Substances Control (DTSC) submits this letter in response to the most recent State Personnel Board's (SPB) Compliance Review Report of the DTSC personnel practices. The DTSC appreciates SPB's review and the opportunity to respond to its findings, which are included below.

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

Cause: None, in compliance.

Department's Response: No adverse findings were identified in the report.

FINDING NO. 2 – Probationary Evaluations Were Not Provided for all Appointments Reviewed and Some That Were Provided Were Untimely

Cause: The DTSC experienced extreme and unprecedented growth and reorganization, which resulted in increased workload, higher than average vacancies, and limited resources for supervisors and managers.

Department's Response: The DTSC recognizes the importance of probation reports for both the employee and the organization. We acknowledge that supervisors and managers have missed opportunities to provide feedback to their employees,

and we are actively exploring options to improve our processes and support systems for management to ensure all employees receive probation reports.

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

Cause: The DTSC experienced high turnover of personnel specialists and HR management, leading to a loss of institutional knowledge related to NOPA processing.

Department's Response: We are exploring options to develop a consistent process to ensure NOPAs are delivered to employees and returned to HR timely.

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

Cause: None, in compliance.

Department's Response: No adverse findings were identified in the report.

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

Cause: None, in compliance.

Department's Response: No adverse findings were identified in the report.

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

Cause: Some individuals who were required to receive Ethics Training were not assigned the training due to a technical error.

Department's Response: Automated assignments for Ethics Training were created in our Cornerstone Learning Management System (LMS) in October of 2022, and it took several months to stabilize dynamic groups driving the LMS assignments. As a result, initial automated assignments did not include some existing and new filers, resulting in late or missing training records for the compliance period.

FINDING NO. 7 – Supervisory training was not provided for all supervisors, managers, and CEAs.

Cause: Some individuals who were required to receive Supervisory Training were not assigned the training due to a technical error.

Department's Response: Automated assignments for the Supervisor Development Program and Manager Development Program were created in our Cornerstone Learning Management System (LMS) in September of 2023, and it took several months to stabilize dynamic groups driving the LMS assignments. As a result, initial automated assignments did not include some new supervisors and managers, resulting in late or missing training records for the compliance period.

FINDING NO. 8 – Sexual Harassment Prevention Training Was Not Provided for All Employees.

Cause: Some individuals who were required to receive the Sexual Harassment Prevention Training were not assigned the training due to a technical error.

Department's Response: Automated assignments for the Sexual Harassment Prevention Training were created in our Cornerstone Learning Management System (LMS) in September of 2022 and it took several months to stabilize dynamic groups driving the LMS assignments. As a result, initial automated assignments did not include some existing and new employees, resulting in late or missing training records for the compliance period.

FINDING NO. 9 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Cause: None, in compliance.

Department's Response: No adverse findings were identified in the report.

FINDING NO. 10 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Cause: Human error led to an employee being placed in an incorrect range at the time of appointment. The DTSC has since corrected the error.

Department's Response: We believe this to be a one-off error. However, to be proactive, we have adjusted the program and procedures to include conducting additional staff training, creating and implementing a hiring check list, and confirmatory review and approval (e.g. management, or senior team member). We are committed to operating under best personnel practices and all elements related to good faith appointments within the state's laws and rules.

FINDING NO. 11 – Incorrect Authorization of Bilingual Pay

Cause: Several employees received bilingual pay without correct authorization because their pay was established prior to the appointment of current DTSC HR staff, and documents related to their bilingual pay authorization were missing or incomplete.

Department's Response: DTSC has corrected the duty statements that were inadvertently missing the 10% bilingual duties. Findings indicate that two employees were found to have no oral fluency exam on file, however, their oral fluency exams have been found since the report was drafted. DTSC acknowledges the importance of completing and certifying the STD. 897 form prior to the employee receiving bilingual pay and is committed to ensuring compliance.

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

Cause: None, in compliance.

Department's Response: No adverse findings were identified in the report.

FINDING NO. 13 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Cause: None, in compliance.

Department's Response: No adverse findings were identified in the report.

FINDING NO. 14 – Administrative Time Off was not Properly Documented

Cause: None, substantial compliance.

Department's Response: No significant adverse findings were identified in the report.

FINDING NO. 15 - Department has not implemented a monthly internal audit process to verify all leave input is keyed accurately and timely.

Cause: The DTSC experienced unpredictable staff and limited resources resulting in inconsistent performance of monthly audits.

Department's Response: We addressed significant performance issues that were identified to be the primary cause of errors and inconsistencies. The employee at issue is no longer with the department.

FINDING NO. 16 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Cause: None, in compliance.

Department's Response: No adverse findings were identified in the report.

FINDING NO. 17 – Department's nepotism policy does not contain all required components.

Cause: The intent of the last policy update process in 2023 was to move existing DTSC policies to an updated template. The content of DTSC's nepotism policy was last revised in 2015, which is six years prior to the government code requiring the missing component.

Department's Response: We have updated the nepotism policy to include statement that DTSC is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service (per subdivision (1) from CCR section 87). The updated nepotism policy is under review and approval by the department's Director.

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May 13, 2025

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FINDING NO. 18 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Cause: None, in compliance.

Department's Response: No adverse findings were identified in the report.

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

Cause: The DTSC experienced unprecedented extreme growth and reorganization which resulted in increased workload, higher than average vacancies, and limited resources for supervisors and managers.

Department's Response: We recognize the importance of performance appraisals for both the employee and the organization. We acknowledge that supervisors and managers have missed opportunities to provide feedback to their employees, and we are actively exploring options to improve our processes and support systems for management to ensure all employees receive performance appraisals.

Thank you for the opportunity to respond to your report. If you have any questions, or require additional information, please do not hesitate to contact me at (916) 322-0276, or by email at gina.forman@dtsc.ca.gov.

Sincerely,



Gina Forman
Chief of Human Resources
Department of Toxic Substances Control

Enclosure

cc: Charla Holmes, Administrative Services Division Deputy Director, DTSC
Craig Scholer, Chief Deputy Director, DTSC