



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA TRANSPORTATION COMMISSION**

Compliance Review Unit  
State Personnel Board  
November 19, 2020

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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 California Transportation Commission's (CTC) 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	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contract
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Out-of-Class Pay
Leave	Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Was Not Properly Documented
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Area	Finding
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Were Not Provided to All Employees <sup>1</sup>

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

- Red = Very Serious
- Orange = Serious
- Yellow = Technical
- Green = In Compliance

### **BACKGROUND**

The CTC is an independent public agency dedicated to ensuring a safe, financially sustainable, world-class multimodal transportation system that reduces congestion, improves the environment, and facilitates economic development through the efficient movement of people and goods. The CTC is responsible for the programming and allocating of funds for the construction of highway, passenger rail and transit improvements throughout California. The CTC also advises and assists the Secretary of the California State Transportation Agency and the Legislature in formulating and evaluating state policies and plans for California's transportation programs. The Commission employs 37 employees in the following teams: Engineer (4), Administration & Financial Management (6), Programming (16), Planning (5), and Legislation/Finance (3).

The California Department of Transportation (Caltrans) performs some human resources operations for the CTC.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CTC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave,

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<sup>1</sup> Repeat finding. The June 12, 2018, report identified performance appraisals were not provided to two employees reviewed at least once in each twelve calendar months after the completion of the employee's probationary period.

and policy and processes<sup>2</sup>. The primary objective of the review was to determine if the CTC's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

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

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

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

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

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

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

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

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

The CRU reviewed the CTC's Leave Activity and Correction Certification forms to verify that the CTC created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected the CTC's one unit in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the CTC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of the CTC's positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

During the compliance review period, the CTC did not have any employees with non-qualifying pay period transactions.

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

On October 8, 2020, an exit conference was held with the CTC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed

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

the CTC’s written response on October 21, 2020, 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 1, 2019, through April 30, 2020, the CTC conducted two examinations. The CRU reviewed the two examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) B, Deputy Director for Transportation Programming	CEA	Statement of Qualifications (SOQ) <sup>4</sup>	6/17/19	10

<sup>4</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
CEA C, Chief Deputy Director	CEA	SOQ	2/29/20	11

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

The CRU reviewed two CEA examinations, which the CTC administered in order to create eligible lists from which to make appointments. The CTC published and distributed examination bulletins containing the required information for all examinations. Applications received by the CTC 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 CTC conducted during the compliance review period.

**Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) 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, May 1, 2019, through April 30, 2020, the CTC made 21 appointments. The CRU reviewed six of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Principal Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	1
Supervising Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Staff Services Manager III	Transfer	Permanent	Full Time	1

**FINDING NO. 2 – Appointments Complied with Civil Service Laws and Board Rules**

The CTC 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 four list appointments reviewed, the CTC ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed four CTC 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 CTC verified the eligibility of each candidate to their appointed class.

The CRU found no deficiencies in the appointments that the CTC initiated during the compliance review period<sup>5</sup>. Accordingly, the CRU found that the CTC’s appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

<sup>5</sup> During the review, the CRU identified one probationary report which was missing and one probationary report which was late. Subsequently, the CTC conveyed that both reports of probation were provided to the employees, and the tardiness was due to COVID-19 restrictions. Therefore, due to the extraordinary circumstances created by COVID-19, the CRU finds the CTC to be in compliance in this area.

## **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 CTC, 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).)

### **FINDING NO. 3 – Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules**

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CTC'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 CTC. The CTC 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, May 1, 2019, through April 30, 2020, the CTC had 12 PSC's that were in effect. The CRU reviewed seven of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
AllSteel Inc.	Space Planning	2/1/20 - 6/30/20	\$7,917	Yes	No
Barrios & Associates, LLC DBA Communications Lab	Design Services	6/17/19 - 6/30/21	\$8,000	Yes	No
Cambria Solutions, Inc.	Policy and Research Consultant	6/17/19 - 6/30/21	\$98,000	Yes	No
Center for Executive Excellence	Leadership Evaluation and Training	6/17/19 - 6/30/20	\$28,924.50	Yes	No
Codemantra	ADA Remediation Services	9/30/19 - 9/30/22	\$200,000	Yes	No

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Mother Lode Van and Storage, Inc.	Relocation and Moving Services	6/17/19 - 6/30/21	\$8,000	Yes	No
PFM Financial Advisors LLC	Financial Analysis Consultant	6/1/19 - 6/30/21	\$49,999.99	Yes	No

**FINDING NO. 4 – Unions Were Not Notified of Personal Services Contract**

**Summary:** The CTC did not notify unions prior to entering into all seven of PSC’s reviewed.

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

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

**Cause:** The CTC states that they contract with Caltrans for services, including notification to organizations who perform the type of work typically performed by state agencies. The CTC has a contract checklist and peer review process to ensure all required documentation is retained. Unfortunately, the contract checklist did not include union notifications; therefore, no notification documents were retained.

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

## **Mandated Training**

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

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).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

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

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to

training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the CTC's mandated training program that was in effect during the compliance review period, May 1, 2018, through April 30, 2020. The CTC's ethics training and supervisory training was found to be in compliance, while the CTC's sexual harassment prevention training was found to be out of compliance.

**FINDING NO. 5 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

**Summary:** The CTC provided sexual harassment prevention training to all of its new supervisors (2) within 6 months of their appointment. However, the CTC did not provide sexual harassment prevention training to 7 of 13 existing supervisors every 2 years.

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

**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 CTC states that their interpretation of the training requirement was that as long as the training was provided within the two-calendar year timeframe (i.e. 2016, 2018), the requirement was met. The CTC would like to note that six out of the seven existing supervisors identified as noncompliant were provided training within the same calendar year it was due (2018).

**SPB Response:** Government Code section 12950.1, subdivision (a), prescribes that supervisors shall receive sexual harassment prevention training once every two years, not every two year cycle. Although six out of seven existing CTC supervisors did receive sexual harassment

prevention training in 2018, the training was taken several months after the two year anniversary.

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

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>6</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, May 1, 2019, through April 30, 2020, the CTC made 21 appointments. The CRU reviewed four of those appointments to determine if the CTC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Principal Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	\$14,150
Staff Services Manager III	Certification List	Permanent	Full Time	\$8,770

<sup>6</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 Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	\$12,834
Staff Services Manager III	Transfer	Permanent	Full Time	\$9,011

**FINDING NO. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the salary determinations that were reviewed. The CTC 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.

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, May 1, 2019, through April 30, 2020, the CTC issued pay differentials<sup>7</sup> to four employees. The CRU reviewed three of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Principal Transportation Engineer, Caltrans	Longevity	2%
Principal Transportation Engineer, Caltrans	Longevity	3%
Principal Transportation Engineer, Caltrans	Longevity	3%

**FINDING NO. 7 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the pay differentials that the CTC 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>8</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

<sup>7</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.  
<sup>8</sup> "Excluded employee" means an employee as defined in section 3527, subd. (b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

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 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, May 1, 2019, through April 30, 2020, the CTC issued OOC pay to one employee. The CRU reviewed the one OOC assignment to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. This is listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Senior Transportation Engineer, Caltrans	BU 9	Supervising Transportation Engineer, Caltrans	9/1/19 – 12/29/19

**FINDING NO. 8 – Incorrect Authorization of Out-of-Class Pay**

**Summary:** The CRU found one error in the CTC’s authorization of OOC pay. Specifically, the OOC pay was incorrectly calculated and the employee was overcompensated for the September, October, November, and December 2019 pay periods.

Classification	Out-of-Class Classification	Description of Finding	Criteria
Senior Transportation Engineer, Caltrans	Supervising Transportation Engineer, Caltrans	Incorrect calculation of out-of-class pay resulting in the employee being overcompensated.	Pay Differential 92

**Criteria:** If a department head or designee requires an employee in writing to work in a higher classification for more than 15 consecutive calendar days, the employee shall receive a pay differential of 5% over his/her normal daily rate of the class to which he/she is appointed for that period in excess of 15 calendar days. (Memorandum of Understanding Unit 9.) If a department head or designee requires an employee in writing to work in a higher classification for 30 consecutive calendar days or more, the employee shall receive a pay differential of 5% over his/her normal daily rate of the class to which he/she is appointed from the first day of the assignment. (*Ibid.*)

**Severity:** Very Serious. The CTC 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:** CTC provides that the incorrect OOC pay calculation was the result of human error.

**Corrective Action:** Within 90 days of the date of this report, the CTC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 92 and Memorandum of Understanding Unit 9. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## 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>9</sup> worked and paid absences,<sup>10</sup> is 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.*)

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<sup>9</sup> For example, two hours or ten hours counts as one day.

<sup>10</sup> For example, vacation, sick leave, compensating time off, etc.

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

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

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

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 CTC had seven positive paid employees whose hours were tracked. The CRU reviewed three 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
Staff Services Analyst (General)	Permanent	1/1/19 – 12/31/19	1,330.25 Hours
Staff Services Manager I	Retired Annuitant	10/30/18 – 6/30/19	138.5 Hours
Supervising Transportation Planner	Retired Annuitant	7/1/18 – 6/30/19	957 Hours

**FINDING NO. 9 – Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CTC 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, February 1, 2019, through January 31, 2020, the CTC placed two employees on ATO. The CRU reviewed these two ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Career Executive Assignment	6/3/19 – 6/28/19	26 days
Principal Transportation Engineer, Caltrans	8/30/19 – 9/11/19	13 days

### **FINDING NO. 10 – Administrative Time Off Was Not Properly Documented**

**Summary:** The CTC did not grant ATO in conformity with the established policies and procedures. Of the two ATO authorizations reviewed by the CRU, the CTC did not key the two employees' ATO hours correctly into 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 CalHR at least 5 working days prior to the expiration date of the approved leave. (*Ibid.*)

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

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

**Severity:** Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

**Cause:** The CTC states that the Caltrans' timekeeping system transfers leave data once a month and delays in submission of timesheets can cause inaccurate leave balances for employees, such as in these two cases.

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

### Leave Auditing and Timekeeping

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

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human

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

During the period under review, October 31, 2019, through January 30, 2020, the CTC reported one unit comprised of 32 active employees. 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
January 2020	004	32	32	0

**FINDING NO. 11 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

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

Leave Reduction Efforts

Departments must create a leave reduction policy for their organization and monitor employees’ leave to ensure compliance with the departmental leave policy; and ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place. (Human Resources Manual Section 2124.)

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. “If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a



calendar year, the employee may accumulate the unused portion.”<sup>11</sup> (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount<sup>12</sup> as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation, ensuring employees maintain the capacity to optimally perform their jobs. (Cal. Code Regs., tit. 2, § 599.742.1.) For excluded employees, the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work- life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2019, three CTC employees exceeded the established limits of vacation or annual leave. The CRU reviewed the three employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Executive Secretary	E99	536.65	Yes
Senior Transportation Planner	E48	542	Yes
Staff Services Manager II	E48	127.25	Yes
<b>Total</b>		1,205.90	

<sup>11</sup> For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 06 there is no established limit and for Bargaining Unit 05 the established limit is 816 hours.

<sup>12</sup> Excluded employees shall not accumulate more than 80 days.

**FINDING NO. 12 – Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU reviewed employee vacation and annual leave to ensure that those employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. In addition, the CRU reviewed the department’s leave reduction policy to verify its compliance with applicable rule and law, and to ensure its accessibility to employees. Based on our review, the CRU found no deficiencies in this area.

**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.*)

**FINDING NO. 13 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU verified that the policy was disseminated to all staff and emphasized the CTC’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CTC’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.*)

**FINDING NO. 14 – Workers’ Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU verified that the CTC provides notice to their employees to inform them of their rights and responsibilities under California’s Workers’ Compensation Law. Furthermore, the CTC did not receive any workers’ compensation claims during the review period.

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 six permanent CTC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Administrative Assistant I	5/1/19

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	5/1/19
Associate Governmental Program Analyst	8/26/19
Senior Transportation Planner	11/9/19
Supervising Transportation Planner	9/1/19
Supervising Transportation Planner	10/5/19

**FINDING NO. 15 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The CTC did not provide annual performance appraisals to two of six employees reviewed after the completion of the employee’s probationary period. Furthermore, the CTC did not provide performance appraisals in a timely manner to two of six employees reviewed. This is the second consecutive time this has been a finding for the CTC.

**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 CTC states that the two performance appraisals that were not completed were the responsibility of the Deputy Director of Programming. The CTC states that the Deputy’s responsibilities and workload have significantly increased, which affected the ability to complete the two performance appraisals. The CTC would like to note that the two performance appraisals which were completed late were prepared on August 1, 2019.

**Corrective Action:** Within 90 days of the date of this report, the CTC 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 CTC's response is attached as Attachment 1.

### **SPB REPLY**

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

HILARY NORTON, Chair  
BOB ALVARADO, Vice Chair  
YVONNE B. BURKE  
JON ROCCO DAVIS  
LEE ANN EAGER  
CARL GUARDINO  
FRAN INMAN  
CHRISTINE KEHOE  
JOSEPH K. LYOU, PH.D.  
MICHELE MARTINEZ  
JOSEPH TAVAGLIONE

STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

Attachment 1



SENATOR JIM BEALL, Ex Officio  
ASSEMBLY MEMBER JIM FRAZIER, Ex Officio

MITCH WEISS, Executive Director

## CALIFORNIA TRANSPORTATION COMMISSION

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October 21, 2020

Ms. Suzanne Ambrose, Executive Officer  
State Personnel Board  
801 Capitol Mall, Suite 1200  
Sacramento, CA 95814

RE: California Transportation Commission Compliance Review Report

Dear Ms. Ambrose:

The California Transportation Commission (Commission) submits this letter in response to the State Personnel Board's (Board) compliance review of the Commission's personnel practices related to: examinations; appointments; equal opportunity and personal services contracts; mandated training; compensation and pay; leave; and policy and processes for the period May 1, 2019 through April 30, 2020. The Commission appreciates the Board's review and the opportunity to respond to the findings. The Commission's responses to the Board's findings in the Draft Compliance Review Report are as follows:

### **Finding No. 2: Probationary Evaluations Were Not Provided for all Appointments Reviewed and Those That Were Reviewed Were Untimely**

**Summary:** The Commission did not provide one probationary report of performance for one of the six appointments reviewed by the Board. In addition, the Commission did not provide one probationary report of performance in a timely manner.

### **Response/Cause:**

The missing probation report was due March 21, 2020 just as the COVID-19 restrictions were implemented. It should be noted that the second report covered the timeframe for both the first and second probationary report.

Suzanne Ambrose

RE: California Transportation Commission Compliance Review Report

October 13, 2020

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The late probationary report was the responsibility of the Deputy Director of Programming. Senate Bill (SB) 1 has significantly increased the responsibilities for the Deputy Director of Programming, affecting the deputy's ability to effectively manage, supervise, and mentor staff while overseeing the development of new program guidelines and programming recommendations. The Commission has since submitted a Career Executive Appointment (CEA) Concept to the California Department of Human Resources (CalHR) for establishing a second Deputy Director to address the workload issue. The establishment of the second Deputy Director will allow the Deputy Director to fulfill her responsibilities timely.

The Commission will continue to utilize the established Probationary and Performance Appraisal tracking worksheet (Attachment A) to ensure the probationary reports are completed in a timely manner.

#### **Finding No. 4: Unions Were Not Notified of Personal Services Contract**

**Summary:** The Commission did not notify unions prior to entering into all seven of Personal Services Contracts reviewed.

#### **Response/Cause:**

The Commission contracts with the California Department of Transportation (Caltrans) for services, including notification to organizations who perform the type of work typically performed by state agencies. The Commission uses a Contract Checklist and peer review process to ensure all required documentation is retained. Unfortunately, the Contract Checklist did not include this item and these documents were not retained. Both the Commission's Procurement and Contract Manual and Checklist were updated in June 2020 and the notifications are now being retained. To illustrate, the Commission's Equity and Results Agreement 20-012, submitted to Caltrans Labor Relations on June 29, 2020, contained the required documentation (Attachment B).

The Commission will continue to use the Contract Checklist and peer review process to ensure the notification documents are retained.

#### **Finding No. 5: Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

**Summary:** The Commission provided sexual harassment prevention training to all of its new supervisors (2) within 6 months of their appointment. However, the Commission did not provide sexual harassment prevention training to 7 of 13 existing supervisors every 2 years.

#### **Response/Cause:**

In all but one case, the Commission did provide sexual harassment prevention training to its active supervisors within the same calendar year it was due, 2018. The

Suzanne Ambrose

RE: California Transportation Commission Compliance Review Report

October 13, 2020

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Commission's interpretation of the requirement was that as long as training was provided within the two-calendar year timeframe (i.e. 2016, 2018), the requirement was met.

The Commission has designated a staff to be the Training Coordinator responsible for tracking completion, in addition to the utilization of Caltrans' Learning Management System.

### **Finding No. 8: Incorrect Authorization of Out-of-Class Pay**

**Summary:** The Board found one error in the Commission's authorization of Out-of-Class pay. Specifically, the Out-of-Class pay was incorrectly calculated, and the employee was overcompensated for the September, October, November, and December 2019 pay periods.

#### **Response/Cause:**

The Commission's human resources and personnel services are provided by Caltrans. According to Caltrans HR staff, the incorrect calculation was a human error. It should be noted that the total overpayment was less than \$20 for the four-month period. Caltrans HR has updated its internal Out-of-Class Pay processing form to ensure that all employee's pay is accurately calculated (Attachment C).

### **Finding No. 10: Administrative Time Off Was Not Properly Documented**

**Summary:** The Commission did not grant Administrative Time Off in conformity with the established policies and procedures. Of the two Administrative Time Off authorizations reviewed by the Board, the Commission did not key the two employees' Administrative Time Off hours correctly into the Leave Accounting System.

#### **Response/Cause:**

Caltrans' Staff Central time keeping system transfers leave data once a month and delays in submission of timesheets can cause inaccurate leave balances for employees. The importance of timely approval of timesheets has been discussed to ensure that this does not happen in the future.

### **Finding No. 15: Performance Appraisals Were Not Provided to All Employees**

**Summary:** The Commission did not provide annual performance appraisals to two of six employees reviewed after the completion of the employee's probationary period. Furthermore, the Commission did not provide performance appraisals in a timely manner to two of six employees reviewed. This is the second consecutive time this has been a finding for the Commission.



Suzanne Ambrose  
RE: California Transportation Commission Compliance Review Report  
October 13, 2020  
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**Response/Cause:**

As noted in the response to finding 2, the Deputy Director had increased responsibilities due to SB 1. The Commission has since submitted a CEA Concept to CalHR for establishing a second Deputy Director to address the workload issue.

In response to the 2018 Board review, the Commission responded that all employee performance evaluations would be prepared annually at the beginning of the new fiscal year. Since 2018, the Commission has implemented a procedure requiring supervisors and managers to perform a performance evaluation of employees during July and/or August. Both of the evaluations identified as late were prepared on August 1, 2019, at the beginning of the new fiscal year.

The Commission will continue to utilize the established tracking worksheet (Attachment A) to ensure the performance appraisals are completed timely. The manager and supervisor expectation memorandums have been updated to require employee performance appraisals be performed annually in July and/or August (Attachment D).

CTC would like to thank the Board for their work and recommendations to improve personnel practices moving forward. If you have any further questions or concerns, please do not hesitate to contact me at (916) 654-4245 or via email at [Mitch.Weiss@catc.ca.gov](mailto:Mitch.Weiss@catc.ca.gov).

Sincerely,



MITCHELL WEISS  
Director

Attachments: A. Probationary and Performance Appraisal Tracking Worksheet  
B. Email to Caltrans LR  
C. Updated Calculation Worksheet  
D. Manager and Supervisor Expectation Memorandums

The Corrective Action Response (CAR) is an opportunity for departments to demonstrate necessary steps have been implemented to correct the non-compliant Findings (deficiency) found as a result of the Compliance Review.

For each non-compliant Finding, refer to the Corrective Action section of that Finding in the review report. Copies of relevant documentation demonstrating that the Corrective Action has been or is in the process of being corrected must be included with the CAR. Examples include, but are not limited to, updated internal policies or procedures (should be included for most findings), a training log for mandated training, and/or any new or updated forms, plans, or documents that have been implemented.

## CORRECTIVE ACTION RESPONSE

DEPARTMENT: California Transportation Commission	BRANCH/DIVISION/PROGRAM:
CONTACT PERSON (NAME AND TITLE): Zilan Chen, Deputy Director	CORRECTIVE ACTION RESPONSE DATE: 2/14/21

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)	POLICY/PROCEDURE
Finding as stated in the report, by number	Description of 1) completed or planned corrective action(s) and 2) of supporting documentation	Actual or Estimated Completion Date	Is a copy of the updated Policy or Procedure Included?
FINDING NO. 4 – Unions Were Not Notified of Personal Services Contract	Both the Commission’s Procurement and Contract Manual and Checklist have been updated to include notification to organizations who perform the type of work typically performed by state agencies and the notifications are now being retained.	June 2020	Yes. See Attachment A
FINDING NO. 5 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors	In addition to the use of the Caltrans’ Learning Management System, the Commission has designated a staff person to be the Training Coordinator responsible for tracking the completion of training. In September 2020, an all staff Sexual Harassment Prevention Training session was held and by October 22, all staff met their training requirement.	October 2020	A copy of the training tracking sheet is included as Attachment B.

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)	POLICY/PROCEDURE
FINDING NO. 8 – Incorrect Authorization of Out-of-Class Pay	The Commission’s human resources and personnel services are provided by Caltrans. Caltrans HR has updated its internal Out-of-Class Pay processing form to ensure that all employee’s pay is accurately calculated.	October 2020	See Attachment C Updated Calculation Worksheet
FINDING NO. 10 – Administrative Time Off Was Not Properly Documented	The importance of timely approval of timesheets has been discussed to ensure that this does not happen in the future.	December 14, 2020	See Attachment D Deputies Meeting Agenda
FINDING NO. 15 – Performance Appraisals Were Not Provided to All Employees	The Commission received approval from CalHR and has hired a second Deputy Director to address the workload issues. The Commission will continue to utilize the established tracking worksheet to ensure the performance appraisals are completed timely. The manager and supervisor expectation memorandums have been updated to require employee performance appraisals be performed annually in July and/or August.	January 6, 2021	See Attachment E