



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Compliance Review Unit
State Personnel Board
January 19, 2023

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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 Department of Alcoholic Beverage Control (ABC) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts ¹
Personal Services Contracts	Serious	Written Justification Was Not Provided for all Personal Services Contracts ²
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ³
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees ⁴
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ Repeat Finding. The October 4, 2019, ABC Compliance Review Report identified unions were not notified prior to entering into three out of five PSC's.

² Repeat Finding. The October 4, 2019, ABC Compliance Review Report identified a written justification was not provided for all five PSC's reviewed.

³ Repeat Finding. The October 4, 2019, ABC's Compliance Review Report identified 25 of 308 existing filers did not receive ethics training and 7 of 20 new filers did not receive the training within 6 months of their appointment.

⁴ Repeat Finding. The October 4, 2019, ABC's Compliance Review Report identified 19 of 24 new supervisors did not receive sexual harassment prevention training within six months of their appointment and 5 of 50 existing supervisors did not receive the training every two years.

Area	Severity	Finding
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay ⁵
Compensation and Pay	Very Serious	Incorrect Authorization of Pay Differentials
Compensation and Pay	In Compliance	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

⁵ Repeat Finding. The October 4, 2019, the ABC's Compliance Review Report found two errors in the ABC's authorization of Bilingual Pay.

BACKGROUND

The ABC regulates the manufacture, distribution, and sale of alcoholic beverages in California. The ABC's workload is divided into three elements: administration, licensing, and compliance.

The ABC's Headquarters in Sacramento consists of the Director's office and other offices performing licensing, fiscal management, legal, trade practices, training, personnel/labor relations and other administrative support functions for the ABC. Agents and/or Licensing Representatives investigate applications for licenses to sell alcoholic beverages and report on the moral character and fitness of applicants and the suitability of premises where sales are to be conducted. Less complex license applications are reviewed and processed by non-sworn Licensing Representatives.

The ABC's agents are peace officers under Section 830.2 of the California Penal Code and are empowered to investigate and make arrests for violations of the Business and Professions Code that occur on or about licensed premises. Agents are further empowered to enforce any penal provisions of the law any place in the State. Licensees who violate State laws or local ordinances are subject to disciplinary action and may have their licenses suspended or revoked. These licensees are entitled to a hearing before an Administrative Law Judge (ALJ) and an appellate process to the State Supreme Court.

ABC employs approximately 559 employees comprising of 216 peace officer positions, 94 licensing representatives, and 249 other various classifications to support the mission of the ABC.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the ABC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁶. The primary objective of the review was to determine if the ABC'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.

⁶ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

A cross-section of the ABC's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the ABC provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the ABC's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

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

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

The review of the ABC'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 ABC's PSC's were also reviewed.⁷ It was beyond the scope of the compliance review to make conclusions as to whether the ABC's justifications for the contracts were legally sufficient. The review was limited to whether the ABC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

⁷If 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 ABC's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the ABC's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRU selected a small cross-section of the ABC's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the ABC's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the ABC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of ABC positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

The ABC declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the ABC's written response on October 21, 2022, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, §

18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, April 1, 2021, through December 31, 2021, the ABC conducted 13 examinations. The CRU reviewed 10 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Agent	Open	Written ⁸	7/3/20	307
Agent	Open	Written	5/31/21	130
Agent	Open	Written	8/6/21	59
Agent	Open	Written	10/29/21	72
Agent Trainee	Open	Written	7/3/20	198
Agent Trainee	Open	Written	10/16/20	87
Agent Trainee	Open	Written	5/31/21	51
Agent Trainee	Open	Written	8/6/21	34
Agent Trainee	Open	Written	10/29/21	28
Licensing Representative I	Departmental Promotional	Qualification Appraisal Panel ⁹	3/26/21	15

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed one departmental promotional and nine open examinations which the ABC administered in order to create eligible lists from which to make appointments. The

⁸ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

⁹ The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

ABC published and distributed examination bulletins containing the required information for all examinations. Applications received by the ABC 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 ABC conducted during the compliance review period.

Permanent Withhold Actions

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

During the period under review, April 1, 2021, through December 31, 2021, the ABC conducted two permanent withhold actions. The CRU reviewed those two permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Licensing Representative II	17154	2/25/2021	4/29/2021	Failed to Meet Minimum Qualifications (MQs)

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Staff Services Manager I	705	4/7/2021	8/11/2021	Failed to MQs

IN COMPLIANCE	FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

Appointments

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

During the period under review, January 1, 2021, through September 30, 2021, the ABC made 93 appointments. The CRU reviewed 30 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Agent	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	2
District Administrator	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Legal Secretary	Certification List	Permanent	Full Time	1
Licensing Representative I	Certification List	Permanent	Full Time	2
Licensing Representative II	Certification List	Permanent	Full Time	1
Management Services Technician	Certification List	Permanent	Full Time	1
Personnel Specialist	Certification List	Permanent	Full Time	1
Program Technician II	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	5
Supervising Investigator	Certification List	Permanent	Full Time	5
Associate Accounting Analyst	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst (AGPA)	Transfer	Permanent	Full Time	1
Information Technology Specialist I	Transfer	Permanent	Full Time	1
Program Technician II	Transfer	Permanent	Full Time	3
Staff Services Analyst (SSA)	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The ABC did not provide 2 probationary reports of performance for 2 of the 30 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total # of Missing Probation Reports
Associate Personnel Analyst	Certification List	1	1
District Administrator	Certification List	1	1

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as

the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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

Cause: Despite being notified of the requirement to conduct probationary evaluations, not all supervisors and managers completed the required appraisals due to work demands and competing priorities.

Corrective Action: The ABC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the ABC must submit to the SPB documentation which demonstrates the actions it has taken to ensure conformity with Government Code section 19172.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the 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 CRU determined that the ABC’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 ABC. The ABC 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, April 1, 2021, through December 31, 2021, the ABC had five PSC's that were in effect. The CRU reviewed all five of those PSC's, which are listed below:

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
BM Associates, Inc.	IT Services	8/2/21 – 8/1/22	\$99,840	No	No
HHS Technology Group, LLC	IT Services	9/13/22 – 9/12/22	\$276,480	Yes	No
Shaw Law Group	Confidential Investigation	6/7/21 – 12/31/21	\$50,000	Yes	Yes
To the Point Polygraph	Pre-Employment Polygraph Examination	10/13/21 – 6/30/22	\$48,000	Yes	No
Wind Dancer Moving Company	Relocation Services	4/1/21 – 12/30/21	\$20,000	Yes	No

SEVERITY: SERIOUS	FINDING NO. 5 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The ABC did not notify unions prior to entering into four of the five PSC's reviewed. This is the second consecutive time this has been a finding for the ABC.

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

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

Cause: The Business Management Branch experienced significant staffing changes in 2021 and 2022 which resulted in four union notifications not being retained in contract files.

Corrective Action: It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the type of work to be contracted prior to executing a PSC. The PSC's reviewed during this compliance review involved information technology, confidential investigations, pre-employment polygraph examination, and relocation services, functions which various rank-and-file civil service classifications perform.

Within 90 days of the date of this report, the ABC 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.

SEVERITY: SERIOUS	FINDING NO. 6 WRITTEN JUSTIFICATION WAS NOT PROVIDED FOR ALL PERSONAL SERVICES CONTRACTS
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Summary: The ABC did not prepare or retain written justification showing how one of the five contracts satisfied Government Code section 19130, subdivision (b). This is the second consecutive time this has been a finding for the ABC.

Vendor	Services	Contract Dates	Contract Amount
BM Associates, Inc.	IT Services	8/2/21 – 8/1/22	\$99,840

Criteria: Whenever an agency executes a personal services contract under Government Code section 19130, subdivision (b), the agency shall document, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions specified in Government Code section 19130, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60, subd. (a).) The agency shall maintain the written justification for the duration of the contract and any extensions of the contract or in accordance with the

record retention requirements of section 26, whichever is longer. (Cal. Code Reg., tit. 2, § 547.60, subd. (b).)

Severity: Serious. Without specific written justification detailing why a PSC satisfies one or more conditions specified in Government Code section 19130, the CRU could not determine whether the department's PSC's complied with current procedural requirements.

Cause: While the contract contained a brief statement on the Agreement Summary, the form did not provide a complete and thorough explanation to sufficiently justify the contract requested under the applicable Government Code section 19130, subdivision (b)(2)(j)¹⁰.

Corrective Action: Within 90 days of the date of this report, the ABC 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 19130, subdivision (b), and California Code of Regulations, title 2, section 547.60, subdivision (a). 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

¹⁰ There is no subdivision (b)(2)(j) in Government Code section 19130. It is likely that the ABC meant to reference Government Code section 19130, subdivision (b)(10).

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).)

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

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

The CRU reviewed the ABC’s mandated training program that was in effect during the compliance review period, January 1, 2020, through December 31, 2021.

SEVERITY: VERY SERIOUS	FINDING NO. 7 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The ABC did not provide ethics training to 74 of 76 existing filers. In addition, the ABC did not provide ethics training to 7 of 14 new filers within 6 months of their appointment. This is the second consecutive time this has been a finding for the ABC.

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: While the ABC implemented a Learning Management System (LMS), the automatic notification option was not selected at the time of the rollout. Therefore, employees were not notified in a timely manner of their mandated training requirement. Additionally, Ethics Training is provided by the Department of Justice. During this audit period, the ABC did not have a tracking system to follow-up with employees to confirm that the training was completed.

Corrective Action: Within 90 days of this report, the ABC must submit to the SPB a written correction 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. 9¹¹	SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The ABC did not provide sexual harassment prevention training to 3 of 22 new supervisors within 6 months of their appointment. This is the second consecutive time this has been a finding for the ABC.

Criteria: 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 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.

¹¹ The draft report remitted to ABC for comment included Finding #8 relative to Supervisory Training. This finding has been removed from the final report due to training unavailability during calendar year 2020.

Cause: The ABC does not have an automated tracking system for this training; instead, the ABC assigns training via email to staff directing them to complete training through the Civil Rights Department. As a result, tracking of training completion and insufficient internal procedures resulted in the three employees completing their training after the required six-month timeframe had passed.

Corrective Action: The ABC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the ABC must submit to the SPB documentation which demonstrates the actions it has taken to ensure that all employees are provided sexual harassment prevention training in accordance with Government Code section 12950.1.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate¹² upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, January 1, 2021, through September 30, 2021, the ABC made 93 appointments. The CRU reviewed 13 of those appointments to determine if the ABC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

¹² "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)
Agent	Certification List	Permanent	Full Time	\$6,255
Associate Personnel Analyst	Certification List	Permanent	Full Time	\$5,304
Attorney III	Certification List	Permanent	Full Time	\$9,463
District Administrator	Certification List	Permanent	Full Time	\$10,226
Information Technology Specialist I	Certification List	Permanent	Full Time	\$8,999
Licensing Representative I	Certification List	Permanent	Full Time	\$4,272
Management Services Technician	Certification List	Permanent	Full Time	\$4,822
Personnel Specialist	Certification List	Permanent	Full Time	\$4,339
Program Technician II	Certification List	Permanent	Full Time	\$3,148
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$7,059
Supervising Investigator	Certification List	Permanent	Full Time	\$9,081
Associate Accounting Analyst	Transfer	Permanent	Full Time	\$6,771
SSA	Transfer	Permanent	Full Time	\$4,013

IN COMPLIANCE	FINDING NO. 10	SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determinations that were reviewed. The ABC appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria.

(CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, January 1, 2021, through September 30, 2021, the ABC employees made 16 alternate range movements within a classification. The CRU reviewed 13 of those alternate range movements to determine if the ABC 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)	No. of Employees
Agent	B	C	Full Time	\$6,588	1
Agent	B	C	Full Time	\$6,282	1
Agent	A	B	Full Time	\$5,427	2
Agent	A	B	Full Time	\$5,702	3
Agent	B	C	Full Time	\$7,457	1
Licensing Representative II	A	B	Full Time	\$5,149	1
Licensing Representative II	A	B	Full Time	\$5,486	1
Licensing Representative II	A	B	Full Time	\$5,020	1
Licensing Representative II	A	B	Full Time	\$5,122	1
Licensing Representative II	A	B	Full Time	\$4,975	1

IN COMPLIANCE	FINDING NO. 11	ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU determined that the alternate range movements the ABC made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.¹³ (Gov. Code, § 19836, subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee's salary in the exempt appointment. (*Ibid.*) For example, an employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (*Ibid.*)

¹³ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

During the period under review, January 1, 2021, through September 30, 2021, the ABC authorized two HAM requests. The CRU reviewed those two authorized HAM requests to determine if the ABC correctly applied Government Code section 19836 and appropriately verified, approved, and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Information Technology Specialist I	Certification List	New to the State	\$7,021 – \$9,408	\$7,404
Information Technology Specialist II	Certification List	New to the State	\$7,365 – \$9,869	\$8,800

IN COMPLIANCE	FINDING NO. 12	HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM requests the ABC made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

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

During the period under review, January 1, 2021, through September 30, 2021, the ABC issued bilingual pay to 70 employees. The CRU reviewed 27 of those bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Agent	R07	Full Time	8
AGPA	R07	Full Time	1
Licensing Representative II	R07	Full Time	10
Program Technician II	R04	Full Time	2
Senior Legal Analyst	R01	Full Time	1
Staff Services Manager I	S01	Full Time	2
Supervising Investigator	S07	Full Time	2
Supervising Program Technician II	S04	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 13	INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRU found 6 errors in 27 of the ABC's authorizations of bilingual pay. This is the second consecutive time this has been a finding for the ABC.

Classification	Description of Findings	Criteria	No. of Appts
Agent	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Pay Differential 14	3
Licensing Representative II	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Pay Differential 14	2
Staff Services Manager I	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Pay Differential 14	1

Criteria: 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: The ABC does not have an automated tracking system for ensuring bilingual pay documentation meets the requirements in law and policy.

Corrective Action: The ABC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the ABC must submit to the SPB documentation which demonstrates the actions it has taken to ensure conformity with Government Code section 7296, and/or Pay Differential 14.

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, January 1, 2021, through September 30, 2021, the ABC authorized 206 pay differentials.¹⁴ The CRU reviewed 50 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

¹⁴ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	No. of Positions	Pay Differential	Monthly Amount
ALJ II (Specialist)	3	84	5%
Agent	1	244	\$50
Agent	3	244	\$75
Agent	5	244	\$100
Agent	23	244	\$125
Agent Trainee	1	244	\$75
District Administrator	1	244	\$125
District Administrator	2	245	4%
District Administrator	1	245	6%
District Administrator	1	245	7%
District Administrator	1	245	9%
Program Technician II	2	441	\$250
Supervising Investigator	6	244	\$125

SEVERITY: VERY SERIOUS	FINDING NO. 14	INCORRECT AUTHORIZATION OF PAY DIFFERENTIALS
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Summary: The CRU found 3 errors in the 50 pay differentials reviewed:

Classification	Area	Description of Findings	Criteria	No. of Positions
ALJ II (Specialist)	National Judicial College Differential Pay	The employee did not meet the pay differential criteria.	Pay Differential 84	2
Supervising Investigator	Educational Differential	The employee did not meet the pay differential criteria.	Pay Differential 244	1

Criteria: A pay differential may be appropriate 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. Pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or recruitment and retention. (CalHR Classification and Pay Manual Section 230.)

Severity: Very Serious. The ABC failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in

accordance with the CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

Cause: For both violations of the National Judicial College (NJC) Pay Differential, the employees attended their training while employed at a different agency; however, these training records were not included in their Official Personnel Files when they transferred to the ABC. After extensive review, a copy of the documentation required to verify that the educational pay differential was appropriate could not be located.

SPB Reply: Pay Differential 84 and the Memorandum of Understanding with California Attorneys, Administrative Law Judges and Hearing Officers in State Employment requires the possession of a certificate from the NJC or 20 hours of judicial education, as approved by CalHR. CRU recommends that the ABC contact the NJC for duplicate certificates to support the pay differential.

Corrective Action: Within 90 days of the date of this report, the ABC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 84 and 244 and ensure that employees are compensated correctly and that transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Out-of-Class Assignments and Pay

For excluded¹⁵ 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

¹⁵ "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.

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, 2021, through September 30, 2021, the ABC issued OOC pay to one employee. The CRU reviewed that 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
Program Technician II	R04	Supervising Program Technician II	7/1/21 – 8/31/21

IN COMPLIANCE	FINDING NO. 15	OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the OOC pay assignment that the ABC authorized during the compliance review period. OOC pay was issued appropriately to the employee 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

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 days¹⁶ worked and paid absences¹⁷, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

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.¹⁸

At the time of the review, the ABC had 27 positive paid employees whose hours were tracked. The CRU reviewed 19 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies, and guidelines, which are listed below:

¹⁶ For example, two hours or ten hours count as one day.

¹⁷ For example, vacation, sick leave, compensating time off, etc.

¹⁸ However, Executive Order N-25-20, signed by Governor Newsom on March 12, 2020, suspended work hour limitations on retired annuitants' hours due to the Covid-19 emergency.

Classification	Tenure	Time Frame	Time Worked
AGPA	Retired Annuitant	7/1/20 – 6/30/21	28.25 hours
AGPA	Retired Annuitant	7/1/20 – 6/30/21	960 hours
AGPA	Retired Annuitant	7/1/20 – 6/30/21	28.25 hours
AGPA	Retired Annuitant	7/1/20 – 6/30/21	875.5 hours
AGPA	Retired Annuitant	7/1/20 – 6/30/21	394.5 hours
Associate Personnel Analyst	Retired Annuitant	7/1/20 – 6/30/21	1,113.5 hours
Information Technology Manager I	Retired Annuitant	7/1/20 – 6/30/21	954 hours
Licensing Representative II	Retired Annuitant	7/1/20 – 6/30/21	754 hours
Licensing Representative II	Retired Annuitant	7/1/20 – 6/30/21	131 hours
Licensing Representative II	Retired Annuitant	7/1/20 – 6/30/21	609 hours
Program Technician II	Retired Annuitant	7/1/20 – 6/30/21	799.5 hours
Staff Services Manager I	Retired Annuitant	7/1/20 – 6/30/21	618 hours
Staff Services Manager II	Retired Annuitant	7/1/20 – 6/30/21	545 hours
Staff Services Manager II	Retired Annuitant	7/1/20 – 6/30/21	1,601 hours
Staff Services Manager II	Retired Annuitant	7/1/20 – 6/30/21	473 hours
Student Assistant	Temporary	3/16/21 – 3/15/22	1,057.25 hours
Student Assistant	Temporary	6/2/20 – 6/1/21	1,440.6 hours
Student Assistant	Temporary	1/26/21 – 1/25/22	681.5 hours
Student Assistant	Temporary	7/19/21 – 7/18/22	760.5 hours

IN COMPLIANCE	FINDING NO. 16	POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The ABC 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, October 1, 2020, through September 30, 2021, the ABC authorized 98 ATO transactions. The CRU reviewed 45 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Accountant Trainee	12/15/20 – 12/18/20	17.5 hours
Accounting Officer (Specialist)	4/27/21 – 5/5/21	16 hours
Agent	3/9/21 – 3/23/21	12 hours
Agent	9/2/21 – 9/24/21	46.5 hours
Agent	11/13/20 – 11/19/20	40 hours
Agent	3/18/21 – 3/24/21	44 hours
Agent	3/24/21 – 3/24/21	2 hours
Agent	9/24/21 – 9/24/21	10 hours
Agent	4/9/21 – 4/9/21	2 hours
Assistant Chief Counsel	11/18/20 – 11/20/20	16 hours
AGPA	6/1/21 – 6/2/21	4.5 hours
AGPA	4/22/21 – 4/22/21	2 hours
Associate Personnel Analyst	4/20/21 – 4/20/21	2 hours
Information Technology Specialist I	4/13/21 – 4/14/21	16 hours
Information Technology Specialist I	4/6/21 – 4/6/21	1 hour
Information Technology Supervisor II	4/8/21 – 4/8/21	2 hours
Legal Analyst	5/6/21 – 5/27/21	2.5 hours
Legal Secretary	4/6/21 – 4/6/21	1.5 hours
Legal Secretary	3/15/21 – 3/15/21	2 hours
Licensing Representative I	3/22/21 – 3/22/21	2 hours
Licensing Representative II	4/30/21 – 4/30/21	2 hours
Licensing Representative II	4/8/21 – 4/9/21	13.5 hours
Licensing Representative II	4/28/21 – 4/29/21	3.5 hours
Licensing Representative II	4/29/21 – 4/29/21	2 hours
Licensing Representative II	4/20/21 – 4/20/21	2 hours
Licensing Representative II	10/1/20 – 10/2/20	16 hours
Licensing Representative II	3/3/21 – 3/3/21	1 hour
Office Technician (General)	6/10/21 – 6/10/21	2 hours
Program Technician II	9/24/21 – 9/24/21	2 hours
Program Technician II	1/5/21 – 1/13/21	54 hours
Program Technician II	3/26/21 – 3/26/21	1.5 hours
Program Technician II	4/23/21 – 4/23/21	2 hours
Program Technician II	1/4/21 – 1/5/21	16 hours
Program Technician II	4/2/21 – 4/26/21	4 hours
Program Technician II	4/13/21 – 4/13/21	1 hour

Classification	Time Frame	Amount of Time on ATO
Program Technician II	4/1/21 – 4/1/21	2 hours
Program Technician III	4/26/21 – 4/27/21	10 hours
Student Assistant	4/29/21 – 4/29/21	6 hours
Student Assistant	1/20/21 – 1/20/21	2 hours
Student Assistant	1/20/21 – 1/20/21	5 hours
Student Assistant	12/16/20 – 12/18/20	13 hours
Student Assistant	6/17/21 – 6/17/21	2 hours
Supervising Program Technician I	4/5/21 – 4/5/21	2 hours
Supervising Program Technician II	4/26/21 – 4/26/21	2 hours
Supervising Program Technician II	12/16/20 – 12/18/20	20 hours

IN COMPLIANCE	FINDING NO. 17	ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The ABC provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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

During the period under review, July 1, 2021, through September 30, 2021, the ABC reported 37 units comprised of 497 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
July 2021	050	16	15	0
July 2021	059	17	17	0
July 2021	318	6	6	0
August 2021	060	4	4	0
August 2021	240	8	8	0
August 2021	302	15	15	0
August 2021	303	14	14	0
September 2021	053	35	35	0
September 2021	224	7	7	0

IN COMPLIANCE	FINDING NO. 18	LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The ABC kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous

service.¹⁹ (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 employees²⁰ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period, are not counted or accumulated towards leave credits.

During the period under review, January 1, 2021, through September 30, 2021, the ABC had three employees with qualifying and non-qualifying pay period transactions. The CRU reviewed four transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time Base	Number Reviewed
Non-Qualifying Pay Period	Full Time	3
Qualifying Pay Period	Full Time	1

¹⁹ 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.

²⁰ 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.18 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU determined that the ABC ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

Policy and Processes

Nepotism

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

IN COMPLIANCE	FINDING NO. 19 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the ABC’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the ABC’s nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers’ Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers’ compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that

the employee may use as an optional method for notifying the employer of the name of employee’s “personal physician,” as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work-related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

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

In this case, the ABC did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 20	WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the ABC provides notice to their employees to inform them of their rights and responsibilities under California’s Workers’ Compensation Law. Furthermore, the CRU verified that when the ABC 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 CRU selected 68 permanent ABC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies, and guidelines.

IN COMPLIANCE	FINDING NO. 21	PERFORMANCE APPRAISAL POLICY AND PROCESSES COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the 68 performance appraisals selected for review. Accordingly, the ABC performance appraisal policy and processes satisfied civil service laws, Board rules, policies, and guidelines.

DEPARTMENTAL RESPONSE

The ABC’s departmental response is attached as Attachment 1.

SPB REPLY

Based upon the ABC’s written response, the ABC 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.

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October 21, 2022

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

Dear Ms. Ambrose:

The Department of Alcoholic Beverage Control (ABC) would like to thank the State Personnel Board's Compliance Review Unit (CRU) for undertaking the 2022 ABC Compliance Review. The ABC has reviewed the report and provides the following response to the findings.

Specific Findings and Responses:

Finding #3: Probationary evaluations were not provided for all appointments reviewed. The report noted 2 probationary evaluations were not completed out of the 30 appointments reviewed.

Cause: The Human Resources Branch (HRB) notifies supervisors and managers of all their employees that are due probationary evaluations. The HRB tracks the submitted evaluations and sends managers and supervisors reminders. Despite reminders being sent, not all managers and supervisors completed the required appraisals due to work demands and competing priorities.

Response: The ABC understands the importance of providing timely feedback to employees. Upon new appointments, the HRB provides a report to all supervisors and managers of probationary evaluation due dates as well as monthly reminders. The HRB tracks the completion of probationary evaluations and follows up each month. To address the continued level of non-compliance, the ABC will add an escalation process to the monthly reminder process that will institutionalize a higher level of visibility and accountability for division executives to ensure all probationary reports are completed as required.

Finding #5: Unions were not notified of personal services contracts. Unions were not notified prior to entering into four of the five contracts reviewed. This is the second consecutive time this has been a finding for ABC.

Cause: The Business Management Branch (BMB) experienced significant staffing changes during 2021 and 2022. The branch's dedicated Contract Analyst vacated the position leaving the Branch Chief responsible for processing all contracts for ABC. With the change in staffing, it appears the copies of the email notification to the unions were not retained with the contract file for the four contracts selected during the review.

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Response: To ensure all union notifications are sent, the Branch Chief has implemented a peer review processes that allows analysts to verify all contract steps have been completed and are in compliance with the State Contracting Manual. Additionally, a copy of the email that is sent to the unions is printed and retained in the hard copy contract folder and an electronic copy is retained in the electronic contract folder to guarantee evidence of the union notice is retained through staff attrition.

Finding #6: Written justification was not provided for all personal services contracts. Written justification was not prepared or retained showing how one of the five contracts satisfied Government Code section 19130, subdivision (b). This is the second consecutive time this has been a finding for ABC.

Cause: Contract 21-0115 BM Associates cited in the Compliance Review Report did have a brief statement identified on the STD. 215 citing the authority to contract out under GC 19130(b)(2)(j) which states an urgent, temporary, or occasional services when civil service delay would frustrate the purpose. However, the form did not provide a thorough explanation justifying the reason for the contract.

Response: The BMB will remind contract managers to provide the branch with a more detailed substantiated justification at the time the contract is being requested. Once the contract is received in BMB, the Contract Analyst will verify the justification and work with the program to ensure the justification sufficiently supports the contract request.

Finding #7: Ethics training was not provided for all filers. Ethics training was not provided to 74 of 76 existing filers. In addition, ethics training was not provided to 7 of 14 new filers within six-months of their appointment. This is the second consecutive time this has been a finding for ABC.

Cause: The ABC did create a Learning Management System (LMS) after the last audit. However, the system did not have the automatic notifications option selected at the time of rollout. As a result, employees were not notified timely of the training requirement. Additionally, LMS provides employees with a link to the ethics training through the Department of Justice (DOJ). Since this training is provided outside of ABC, employees are expected to complete the training and provide a completion certificate to the Professional Standards Unit (PSU) to retain in their training record. During this audit period, ABC did not have a tracking system to follow-up with employees to confirm the training was completed and DOJ does not retain records of employees that have completed the training. This has left ABC with an incomplete training record for employees.

Response: The ABC acknowledges and recognizes the importance of compliance with mandatory training requirements. The ABC executive leadership team is committed to ensuring all mandated trainings are completed within the required timeframes and will emphasize the importance of this in management meetings. The ABC has updated the LMS to turn on the employee notification function to ensure staff do receive timely notices of training. Additionally, PSU has trained internal staff on the manual tracking process to

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ensure new employees have completed training within six-months of appointment and existing filers are trained at least once during every two calendar years. Furthermore, a quarterly internal audit will be completed to ensure all designated filers have completed their training within the established periods outlined in Government Code § 11146-11146.3.

PSU has notified all ethics filers that their training is overdue. Since notification, PSU has confirmed 92 percent of employees have completed their training. PSU's goal is to have a 100 percent compliance rating by the end of the month.

Finding #8: Supervisory training was not provided for all supervisors, managers, and CEAs.

Basic supervisory training was not provided to 15 new supervisors within 12 months of appointment. Managerial training was not provided to all three new managers within 12 months of appointment. CEA training was not provided to the one new CEA within 12 months of appointment. Biennial leadership training was not provided to all 54 existing supervisors, managers, and/or CEAs. This is the second consecutive time this has been a finding for ABC.

Cause: The ABC did create a Learning Management System (LMS) after the last audit. However, the system did not have the automatic notifications option selected at the time of rollout. As a result, employees were not notified timely of the training requirement. Additionally, during the reporting period a number of trainings were cancelled due to COVID. ABC staff would often be enrolled in a training course that would eventually be cancelled since in-person training options were not available and virtual training had not been developed yet through CalHR. Due to the lack of automated reminders, insufficient internal procedures and trainings being cancelled due to COVID, the training was not completed.

Response: The ABC acknowledges and recognizes the importance of compliance with mandatory training requirements. The ABC executive leadership team is committed to ensuring all mandated trainings are completed within the required timeframes and will emphasize the importance of this in management meetings. The ABC is developing an internal tracking system and notification procedures to ensure all mandated training is tracked and completed within in the required timeframes. Additionally, a quarterly internal audit will be completed to ensure all supervisory position have completed their training within the established periods outlined in Government Code § 19995.4.

All supervisors and managers are now in compliance.

Finding #9: Sexual harassment prevention training was not provided for all employees.

Sexual harassment prevention training was not provided to 3 of 22 new supervisors within six-months of their appointment. This is the second consecutive time this has been a finding for ABC.

Cause: The ABC does not have an automated tracking system for sexual harassment prevention training. Although LMS was implemented after the prior audit, it was not a cost-effective tool to use for training. Instead, ABC assigns training via email to staff directing

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them to complete the training through the Civil Rights Department. As a result, the EEO Officer manually tracks training completion. Due to manual process and insufficient internal procedures, the training for these three employees was completed, but it was after the six-month timeframe that is required.

Response: The ABC recognizes the importance of compliance with mandatory training requirements. The ABC executive leadership team is committed to ensuring all mandated trainings are completed within the required timeframes and will emphasize the importance of this in management meetings. The EEO Officer has created an internal tracking system and notification procedures to ensure all mandated training is tracked and completed within in the required timeframes. To address the continued level of non-compliance, the ABC will add an escalation process to the monthly reminder process that will institutionalize a higher level of visibility and accountability for division executives to ensure all training is completed timely.

Finding #13: Incorrect authorization of bilingual pay. The report noted there were six errors identified in the 27 authorizations for bilingual pay reviewed. This is the second consecutive time this has been a finding for ABC.

Cause: ABC does not have an automated tracking system for processing bilingual pay differential requests. It has been the responsibility of the EEO Officer to process any requests for bilingual pay since 2017. Prior to establishment of the ABC's EEO Officer position, the function was handled by the HRB. An audit was performed in 2017 to ensure compliance for all employees receiving bilingual pay and the EEO Officer documented that all necessary forms and/or certifications had been received. Unfortunately, ABC has been unable to locate the documents and/or certifications for four of the findings and the prior EEO Officer has retired. One of the findings did not include a duty statement and another finding is in compliance, but the documentation was not submitted during the time of the audit.

Response: ABC recognizes the importance of compliance with bilingual pay differential requests. The ABC has created an internal tracking system and will work in coordination with the HRB to ensure that all bilingual pay requests within the employee's official personnel file, have all necessary documentation attached. The EEO Officer will also conduct an annual audit to ensure that all employees who are receiving bilingual pay are in compliance.

Finding #14: Incorrect authorization of pay differentials. The report noted three errors in the 50 pay differentials reviewed.

Cause: In both cases of the National Judicial College Differential Pay, the employees attended the training while employed at a different agency. They both submitted proof of completion of the training to that prior agency. When they transferred to ABC, those records were not included in their Official Personnel Files (OPF). ABC contacted the employees who were unable to locate copies of their training completion to submit with the audit documents.

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An extensive review of documents was conducted during the audit and HRB was unable to locate a copy of the documents needed to verify the educational differential.

Response: The ABC understands the importance of appropriate pay authorization both for the State and the employee. New pay authorizations are documented by the Personnel Specialist and then sent to the Transactions Unit manager for review prior to keying. A yearly audit of all pay differentials will be conducted to ensure ABC is retaining the required documentation for substantiation of the pay differentials in the OPF.

Thank you for the opportunity to respond to SPB's findings. Should you have any questions please contact me at (916) 419-2557.

Sincerely,

Eric Hirata

Eric Hirata
Director