



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF

TECHNOLOGY

Compliance Review Unit
State Personnel Board
June 10, 2021

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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 Technology (CDT) 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	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed ¹
Equal Employment Opportunity	Very Serious	A Disability Advisory Committee Has Not been Established ²
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies

¹ Repeat finding. December 23, 2015, the CDT's compliance review report identified 8 missing probation reports of the 32 appointment files reviewed.

² Repeat finding. December 23, 2015, the CDT's compliance review report showed that the CDT does not have an active DAC.

Area	Severity	Finding
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and
Leave	In Compliance	Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR
Leave	Technical	Administrative Time Off (ATO) Was Not Properly Documented
Leave	Serious	Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies
Policy	Serious	Performance Appraisals Were Not Provided to All Employees

BACKGROUND

The mission of the California Department of Technology (CDT) is to support programs and departments in the delivery of state services and information to constituents and businesses through agile, cost-effective, innovative, reliable, and secure technology. The CDT guides policymakers and information technology (IT) leaders in transforming California’s public sector operations; and, impacts how Californians access and deliver government services.

The CDT maintains up-to-date policies for IT activities to ensure the state adopts and uses best practices in IT management. The CDT ensures project specific decisions are consistent with the state’s policies and direction for IT development, including project management, oversight, risk mitigation, and procurement solutions. The CDT’s Office of Information Security is the primary state government authority responsible for ensuring the protection of state information, as well as the confidentiality, integrity, and availability

of state systems and applications. The CDT has approximately 977 employees working in over 40 classifications.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CDT's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes³. The primary objective of the review was to determine if the CDT'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.

The CDT did not administer any examinations during the compliance review period. The CRU reviewed the CDT's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CDT'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 CDT provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CDT did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CDT did not make any additional appointments during the compliance review period.

The CDT's appointments were also selected for review to ensure the CDT applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CDT 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, and monthly pay differentials.

³ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

During the compliance review period, the CDT did not issue or authorize red circle rate requests, arduous pay, bilingual pay, or out-of-class assignments.

The review of the CDT'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).

The CDT's PSC's were also reviewed.⁴ It was beyond the scope of the compliance review to make conclusions as to whether the CDT's justifications for the contracts were legally sufficient. The review was limited to whether the CDT's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CDT'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 sexual harassment prevention training within statutory timelines.

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

⁴If 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 CDT declined to have an exit conference. The CDT was given until April 26, 2021, to submit a written response to the CRU's draft report. On April 26, 2021, the CRU received and carefully reviewed the response, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

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, November 1, 2017, through July 31, 2018, the CDT conducted 10 permanent withhold actions. The CRU reviewed all of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Information Technology Specialist I	7PB35	3/4/18	3/4/19	Failed to Meet Minimum Qualifications
Information Technology Specialist I	7PB35	2/23/18	2/23/19	Failed to Meet Minimum Qualifications
Information Technology Supervisor II	7PB39	3/6/18	3/6/19	Failed to Meet Minimum Qualifications
Information Technology Manager I	7PB40	4/22/18	4/22/19	Failed to Meet Minimum Qualifications
Information Technology Specialist I	7PB35	2/12/18	2/12/19	Failed to Meet Minimum Qualifications
Information Technology Associate	7PB33	3/9/18	3/9/19	Failed to Meet Minimum Qualifications
Information Technology Specialist I	7PB35	2/22/18	2/22/19	Failed to Meet Minimum Qualifications
Information Technology Manager I	7PB40	3/7/18	3/7/19	Failed to Meet Minimum Qualifications
Information Technology Manager I	7PB40	5/29/18	5/29/19	Failed to Meet Minimum Qualifications
Data Processing Manager II	9PB1402	8/14/17	8/14/18	Failed to Meet Minimum Qualifications

IN COMPLIANCE	FINDING No. 1 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed 10 permanent withhold actions. 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, December 1, 2017, through August 31, 2018, the CDT made 112 appointments. The CRU reviewed 32 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Apts.
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	1
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	2
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	2
Data Processing Manager II	Certification List	Permanent	Full Time	1
Data Processing Manager IV	Certification List	Permanent	Full Time	1
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Information Technology Supervisor I	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Information Technology Supervisor II	Certification List	Permanent	Full Time	4
Staff Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	2
System Software Specialist I (Technical)	Certification List	Permanent	Full Time	1
System Software Specialist II (Technical)	Certification List	Permanent	Full Time	3
System Software Specialist III (Supervisory)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Information Technology Specialist I	Transfer	Permanent	Full Time	3
Information Technology Specialist II	Transfer	Permanent	Full Time	1
Information Technology Technician	Transfer	Permanent	Full Time	1
Senior Information Systems Analyst (Specialist)	Transfer	Permanent	Full Time	1
Systems Software Specialist I (Technical)	Transfer	Permanent	Full Time	1

The CDT 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 24 list appointments reviewed, the CDT 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 eight CDT 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 CDT verified the eligibility of each candidate to their appointed class.

However, in reviewing the CDT's appointments that were made during the compliance review period, the CRU determined the following:

SERIOUS	FINDING No. 2 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The CDT did not provide 18 probationary reports of performance for 11 of the 32 appointments reviewed by the CRU, as reflected in the table below. This is the second consecutive time this has been a finding for the CDT.

Classification	Number of Appointments Missing Probation Reports	Total Number of Missing Probation Reports
Accounting Officer (Specialist)	1	1
Attorney III	1	1
Data Processing Manager IV	1	1
Senior Information Systems Analyst (Specialist)	1	3
Information Technology Specialist I	4	6
Information Technology Specialist II	1	1
Staff Information Systems Analyst (Spec)	1	3
Systems Software Specialist II (Technical)	1	2

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. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board’s record retention rules require that appointing powers retain all probationary reports for five years

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

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

Cause: The CDT acknowledges that not all supervisors and managers consistently meet this requirement. The CDT states that a good faith effort is made through its automated reminder system to inform supervisors and managers regarding the requirements of completing probationary evaluations.

Corrective Action: The CDT provides it has taken steps since the review to expand their internal processes to include more monitoring and follow up with supervisors and managers prior to probationary report due dates. Within 90 days of the date of this report, the CDT must submit to the SPB relevant documentation demonstrating that the corrective action has been implemented.

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).)

The CRU reviewed the CDT’s EEO program that was in effect during the compliance review period.

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 the following:

VERY SERIOUS	FINDING No. 3 A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN ESTABLISHED
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Summary: The CDT does not have an active DAC. This is the second consecutive time this has been a finding for the CDT.

Criteria: 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).)

Severity: Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency’s ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

Cause: The CDT states that recruitment efforts have been ongoing since 2018 to re-establish the DAC. In spite of continuous recruitment efforts, there continues to be minimal to no interest from staff to participate.

Corrective Action: CDT has taken steps to re-establish its DAC through email messages from the EEO Officer, department intranet, division meetings, senior managers meetings, flyers, and messages from the Director emphasizing the importance of the DAC. Within 90 days of the date of this report, the CDT must establish an active DAC in compliance with the law and submit to the SPB copies of relevant documentation demonstrating that the corrective action has been implemented, including the new DAC roster, agenda, and meeting minutes.

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, November 1, 2017, through July 31, 2018, the CDT had 32 PSC’s that were in effect. The CRU reviewed 16 of those, which are listed below:

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
ABF Data Systems, Inc. dba Direct	Bond Counsel Services	10/1/17-9/30/22	\$4,882,509.54	Yes	Yes

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
Systems Support					
IBM Corporation	Bond Counsel Services	1/1/18-12/31/20	\$7,850,338.25	Yes	Yes
IBM Credit, LLC	Bond Counsel Services	7/1/18-6/30/21	\$2,467,848.96	Yes	Yes
Conservation Biology Institute	IT Services	6/25/18-6/24/19	\$1,000,000.00	Yes	Yes
Allied Network Solutions, Inc.	IT Services	9/1/15-8/31/19	\$1,500,000.00	Yes	Yes
Solutions Simplified	IT Services	6/29/18-6/28/19	\$1,488,855.03	Yes	Yes
System Solutions DVBE, Inc.	IT Services	4/1/16-3/31/18	\$980,000.00	Yes	Yes
Allsteel, Inc.	Design Services	11/16/17 - 11/15/18	\$9,098.16	Yes	Yes
Fortuna Business Management Consulting	IT Services	6/29/18-6/28/19	\$100,000.00	Yes	Yes
Castro International Consulting, Inc.	IT Services	8/27/18-8/26/19	\$246,100.00	Yes	Yes
Continuity Consulting, Inc.	Performance Measurements	5/1/18-4/30/19	\$250,000.00	Yes	Yes
Datashield, LLC dba Cybersecurity	IT Services	5/23/18-5/22/19	\$519,435.70	Yes	Yes
Deloitte Consulting, LLP	IT Services	5/23/18-11/23/18	\$332,851.00	Yes	Yes

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
Castro International Consulting, Inc.	IT Services	2/1/18-1/31/19	\$194,119.40	Yes	Yes
Aanko Technology	Risk Assessment	3/1/18-2/28/19	\$99,200.00	Yes	Yes
Kiefer Consulting, Inc.	Product Management Consultation	4/1/18-1/1/19	\$248,400.00	Yes	Yes

IN COMPLIANCE	FINDING NO. 4 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC's reviewed was \$22,168,756.04. It was beyond the scope of the review to make conclusions as to whether CDT justifications for the contract were legally sufficient. For all PSC's reviewed, the CDT provided specific and detailed factual information in the written justifications as to how each of the 16 contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, CDT complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CDT PSC's complied with civil service laws and board rules.

Mandated Training

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

Additionally, new supervisors 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 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 CDT's mandated training program that was in effect during the compliance review period, August 1, 2016, through July 31, 2018.

VERY SERIOUS	FINDING NO. 5 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The CDT did not provide ethics training to any of its 81 new filers within 6 months of their appointment. However, the CDT did provide ethics training to all of its 146 existing filers.

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

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

Cause: The CDT states there were gaps in its internal procedures that failed to ensure new filers were consistently notified of the ethics training requirement upon appointment to a designated position.

Corrective Action: The CDT has taken preliminary steps to revise its ethics training procedures, and implement additional monitoring with its automated system, to ensure filers receive ethics training in a timely manner. Within 90 days of this report, the CDT must submit to the SPB copies of relevant documentation demonstrating that the corrective action has been implemented.

VERY SERIOUS

FINDING No. 6 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS

Summary: The CDT did not provide sexual harassment prevention training to any of its 21 new supervisors within 6 months of their appointment. In addition, the CDT did not provide sexual harassment prevention training to 3 of 46 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 CDT states that its EEO Officer position was vacant during a portion of the audit period. Since the review, the current EEO Officer has initiated a program for supervisors to complete their sexual harassment prevention training within prescribed time limits.

Corrective Action: The CDT has taken steps to provide sexual harassment prevention training to supervisors, and reports a higher completion rate since the review. Within 90 days of the date of this report, the CDT must submit to the SPB a written corrective action response which addresses the corrections the department has implemented 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 rate⁵ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, December 1, 2017, through August 31, 2018, the CDT made 112 appointments. The CRU reviewed 6 of those appointments to determine if the CDT applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Data Processing Manager IV	Certification List	Permanent	Full Time	\$9,979
Information Technician Supervisor II	Certification List	Permanent	Full Time	\$8224
Information Technician Supervisor II	Certification List	Permanent	Full Time	\$8360
Systems Software Specialist I (Technical)	Certification List	Permanent	Full Time	\$5814
Information Technician Specialist I	Transfer	Permanent	Full Time	\$6115
Senior Information Systems Analyst (Specialist)	Transfer	Permanent	Full Time	\$7404

⁵ "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).

IN COMPLIANCE	FINDING No. 7 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 six salary determinations that were reviewed. The CDT 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.

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.⁶ (Gov. Code, § 19836 subd. (b).)

⁶ 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.

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.*)

During the period under review, December 1, 2017, through August 31, 2018, the CDT authorized four HAM requests. The CRU reviewed three of those authorized HAM requests to determine if the CDT 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 Manager I	Certification List	Approved	\$7092-\$9504	\$8999.00
Information Technology Specialist II	Certification List	Approved	\$6516-\$8732	\$8732.00
Systems Software Specialist III (Technical)	Certification List	Approved	\$6644-\$8732	\$8732.00

IN COMPLIANCE	FINDING NO. 8 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM requests the CDT made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

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

During the period under review, December 1, 2017, through August 31, 2018, the CDT issued pay differentials⁷ to 40 employees. The CRU reviewed 20 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Information Technology Supervisor II	8TIR	5%
Data Processing Manager III	8TIR	5%
Information Technology Manager I	8TIR	5%
Project Manager (Information Technology)	8ZN3	7.50%
Information Technology Manager I	8TIR	5%
Data Processing Manager II	8TIR	5%
Information Technology Manager I	8TIR	5%
Data Processing Manager IV	8TIR	5%
Information Technology	8TIR	5%

⁷ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Supervisor II		
Data Processing Manager IV	8TIR	5%
Information Technology Manager I	8TIR	5%
Associate Telecommunications Engineer	8K72	\$300
Information Technology Manager I	8TIR	5%
Data Processing Manager III	8TIR	5%
Information Technology Supervisor II	8TIR	5%
Information Technology Manager I	8TIR	5%
Information Technology Manager I	8TIR	5%
Information Technology Manager II	8TIR	5%
Data Processing Manager II	8TIR	5%
Information Technology Manager I	8TIR	5%

IN COMPLIANCE	FINDING NO. 9 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the 20 pay differentials that the CDT 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.

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

days⁸ worked and paid absences⁹, 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.*)

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. Further, exceptions, under certain circumstances, may be made to the 1500-hour limitation, as long as the appointing power follows the process outlined in the Personnel Management Policy and Procedures Manual, section 333.

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 CDT had 12 positive paid employees whose hours were tracked. The CRU reviewed 10 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

⁸ For example, two hours or ten hours count as one day.

⁹ For example, vacation, sick leave, compensating time off, etc.

Classification	Tenure	Time Frame	Time Worked
Information Technology Specialist I	Intermittent	11/2/17 – 6/30/18	953
Information Technology Specialist II	Intermittent	10/1/17 – 6/30/18	186.5
Information Technology Manager I	Intermittent	7/1/17 – 6/30/18	957
Information Technology Specialist II	Intermittent	7/1/17 – 6/30/18	358
Information Technology Specialist II	Intermittent	7/1/17 – 6/30/18	434
Information Technology Specialist II	Intermittent	7/1/17 – 6/30/18	449.5
Information Technology Manager I	Intermittent	7/1/17 – 6/30/18	928
Information Technology Specialist I	Intermittent	7/1/17 – 6/30/18	855.5
Information Technology Manager I	Intermittent	7/1/17 – 6/30/18	953.5
Information Technology Specialist I	Intermittent	7/1/17 – 6/30/18	859.5

IN COMPLIANCE	FINDING NO. 10 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 10 employees reviewed whose hours were tracked during the compliance review period. The CDT provided the proper documentation 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, May 1, 2017, through April 30, 2018, the CDT placed two employees on ATO. The CRU reviewed two of these 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
Staff Program Analyst (Specialist)	10/9/17-10/11/17	3
CEA	4/24/17-5/12/17	19

SERIOUS	FINDING NO. 11 ADMINISTRATIVE TIME OFF (ATO) WAS NOT PROPERLY DOCUMENTED
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Summary: The CDT did not grant ATO in conformity with the established policies and procedures. Of the two ATO authorizations reviewed by the CRU, one was found to be out of compliance for failing to document justification for ATO.

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 Online Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the Department of Human Resources (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.*)

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. 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 CDT states it was unable to produce documentation to identify the precise circumstances under which the ATO was granted on one of the two ATO authorizations reviewed by the CRU.

Corrective Action: The CDT has taken steps to properly document justification for ATO usage. Within 90 days of the date of this report, the CDT must submit to the SPB a written corrective action response which documents the corrections the department has implemented 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, February 1, 2018, through April 30, 2018, the CDT reported 6 units comprised of 177 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
February 2018	241	24	24	0
February 2018	243	22	22	0
February 2018	244	27	27	0
February 2018	352	72	72	0
February 2018	362	30	30	0
February 2018	410	2	2	0

SERIOUS	FINDING No. 13¹⁰ DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY
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Summary: The CDT failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely; and to certify that all leave records have been reviewed and corrected if necessary.

Criteria: Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Departments are directed to create an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall identify and record all errors found and shall certify that all leave records for the unit/pay period identified have been reviewed and all leave errors identified have been corrected. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

Severity: Serious. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. Failure to audit leave could put the department at risk of incurring additional costs from the initiation of collection efforts from

¹⁰ Finding No. 12, Leave Activity and Correction Certification Forms Were Not Completed for All Leave Records Reviewed, was removed. The CDT's failure to verify all timesheets is noted in Finding No. 13.

overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Cause: The CDT states that it has a timesheet reporting system that requires employees to enter any leave usage taken. Employees do not always update their leave usage timely and/or supervisors do not approve the leave in a timely manner. Staffing shortages in the Transactions Unit and a large number of errors resulted in a backlog.

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

State Service

The state recognizes two different types of absences while an employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is 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.¹¹ (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.)

¹¹ 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.

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 employees¹² shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, December 1, 2017, through August 31, 2018, the CDT had 17 employees with non-qualifying pay period transactions. The CRU reviewed 13 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Qualifying Pay Period	Full Time	9
Non-Qualifying Pay Period	Full Time	4

IN COMPLIANCE	FINDING NO. 14 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 CDT 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.

¹² As identified in Government Code sections 19858.3, subdivision (a), 19858.3, subdivision (b), or 19858.3, subdivision (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

Policy and Processes

Nepotism

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

IN COMPLIANCE	FINDING NO. 15 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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After reviewing the CDT's nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the CDT's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CDT'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 as outlined in Human Resources Manual Section 1204.

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 CDT did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 16 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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After reviewing the CDT's workers' compensation process that was in effect during the compliance review period, the CRU verified that the CDT provides notice to their employees to inform them of their rights and responsibilities under CA Workers' Compensation Law. Furthermore, the CRU verified that when the CDT received worker's 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 nine permanent CDT 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
Associate Governmental Program Analyst	8/11/18

Classification	Date Performance Appraisals Due
Associate Personnel Analyst	4/22/18
Associate Personnel Analyst	12/4/17
Information Technician Manager I	1/31/18
Information Technician Manager II	1/24/18
Information Technician Manager II	10/16/18
Information Technician Supervisor II	12/29/17
Staff Services Analyst (General)	5/30/18
Staff Services Analyst (General)	10/1/18

In reviewing the CDT performance appraisals policies and processes, the CRU determined the following:

SERIOUS	FINDING NO. 17 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CDT did not provide annual performance appraisals, after the completion of the employee’s probationary period, to any of the nine employees reviewed.

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 CDT acknowledges that not all supervisors and managers consistently meet this requirement. The CDT states that a good faith effort is made through its automated reminder system to inform supervisors and managers regarding the requirements of completing annual performance appraisals.

Corrective Action: The CDT provides it has taken steps since the review to expand their internal processes to include more monitoring and follow up with supervisors and managers prior to annual performance report due dates. Within 90 days of the date of this report, the CDT must submit to the SPB relevant documentation demonstrating that the corrective action has been implemented.

DEPARTMENTAL RESPONSE

The CDT's response is attached as Attachment 1.

SPB REPLY

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

**CALIFORNIA DEPARTMENT OF TECHNOLOGY**

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Amy Tong, Director
Russell Nichols, Chief Deputy Director

ATTACHMENT 1

April 26, 2021

Ms. Suzanne Ambrose
Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, California 95814

RE: RESPONSE TO STATE PERSONNEL BOARD DRAFT COMPLIANCE REVIEW REPORT

Dear Ms. Ambrose:

Thank you for providing the opportunity to respond to the draft State Personnel Board (SPB) Compliance Review Report, received on April 12, 2021. The Department of Technology (CDT) values the time and feedback provided by the Compliance Review Unit (CRU) during the audit process and we are committed to ensuring compliance with all civil service laws and Board regulations related to personnel services. The CDT Human Resources Office (HRO) takes these findings very seriously and will continue to enhance our processes and procedures to ensure we correct the deficiencies identified in this report. We agree with the findings as outlined in the draft Compliance Review Report and respectfully submit the following information for your consideration:

Finding No. 2: Probationary Evaluations Were Not Provided for All Appointments Reviewed AND Finding No. 17: Performance Appraisals Were Not Provided to All Employees

Cause: CDT utilizes an automated reminder system through our Human Resource System (PeopleSoft) that sends an email notification to supervisors 30 days prior to the due date of each probationary report and performance appraisal. The system also sends a follow-up email 30 days after each probationary report or performance appraisal due date has passed. The HRO has one Personnel Management Consultant assigned to track all probationary reports and performance appraisals received in our office. All completed probationary reports and performance appraisals are scanned into an electronic folder and

the originals are filed in the employee's Official Personnel File. Some supervisors did not complete these reports, even with the departmental tracking and automated reminder system in place.

Response: The CDT acknowledges the importance of providing employees with timely probationary reports and performance appraisals and will expand our internal HRO processes to include more monitoring and follow up with supervisors prior to probationary report due dates. These process improvements include 1) adding probationary report and performance appraisal due dates to supervisors' Outlook calendars one week before each report is due, 2) following up with the supervisors via email one week after a missed probationary report or performance appraisal due date, and 3) providing written communication to all managers and supervisors on the importance of completing probationary reports and performance appraisals. We will also explore establishing an Employee Engagement Analyst within the HRO, who will be dedicated to onboarding new employees and working closely with supervisors and managers to ensure training, probationary reports, and annual performance appraisals are completed to support employee success.

Finding No. 3: A Disability Advisory Committee Has Not Been Established

The Disability Advisory Committee (DAC) is part of the CDT Equal Employment Opportunity Office and is the responsibility of the Equal Employment Opportunity Officer (EEO). The EEO Officer has responded separately to SPB on this finding and a copy of the response is provided below:

Cause: CDT hired a full-time EEO Officer in October 2018. As one of several priorities, recruitment efforts have been ongoing with intentions to re-establish the DAC. In spite of continuous recruitment efforts, there continues to be minimal to no interest from staff to seat a Disability Advisory Committee (DAC).

Response: Recruitment efforts will continue via email messages from the EEO Officer, department intranet, division meetings, senior managers meetings, flyers, and messages from the Director emphasizing the importance of the DAC. Attached are two DAC webpages located on our intranet (iCentral).

Finding No. 5: Ethics Training Was Not Provided for All Filers

Cause: The HRO has identified gaps in our internal procedures that fail to ensure new filers are consistently notified of the ethics training requirement upon appointment to a designated position.

Response: The HRO's Health and Safety Unit has revised the ethics training procedures based on the audit finding. Additional monitoring will include 1) a monthly review of PeopleSoft reports on new employees to identify filers within 30 days of appointment, 2) an email notification process to ensure these employees receive the link to the training, and 3) monthly follow up via email until the training certificate is received by the HRO (and saved in CDT's Learning Request System).

Finding No. 6: Sexual Harassment Prevention Training Was Not Provided for All Supervisors

The CDT EEO Officer has responded separately to SPB on this finding.

Response: The Sexual Harassment Prevention Training is the responsibility of the CDT EEO Officer. The HRO would like to note that the EEO Officer position was vacant during a portion of the audit period November 1, 2017, through July 31, 2018. Our previous EEO Officer, Victoria Chavez, was appointed as EEO Officer on November 1, 2017, and vacated the position on March 30, 2018. Our current EEO Officer, Tom Willis, was appointed on October 1, 2018.

Finding No. 11: Administrative Time Off (ATO) Was Not Properly Documented

Cause: The HRO was unable to produce documentation to identify the precise circumstances under which the ATO was granted on one of the two ATO authorizations reviewed by the CRU,

Response: The HRO maintains a detailed spreadsheet of all ATO requests that includes the duration, justification, and status of the ATO request (approved or denied). The HRO has enhanced its process for monitoring timesheets to ensure all ATO usage is correct and recorded in our Human Resource System. Further, the HRO will review the ATO spreadsheet quarterly to ensure data is accurate and that proper documentation is maintained in our electronic ATO folder.

Finding No. 12: Leave Activity and Correction Certification Forms Were Not Completed for All Leave Records Reviewed

Cause: CDT uses an automated timesheet system with the PeopleSoft application. The application is set up for negative time reporting, meaning that the current month is automatically populated to record full days worked and any State holidays. Employees must go into the system prior to the end of the month to make any changes to their timesheet (e.g., to change actual hours

worked to sick leave, vacation, FMLA, and other leave types). Supervisors must approve all leave prior to the end of the month. CDT managers receive an automated email reminder prior to the end of the month to approve any outstanding items on an employee's timesheet. At the end of the month, employees acknowledge their timesheet in the Human Resource System by certifying the information is correct.

When CalHR issued PML 2015-007 on Accurate and Timely Leave Accounting, CDT's Time and Labor Unit became the self-appointed keeper of records. This unit resides in our Internal IT Services Branch under the Office of Administrative Services.

The HRO process to correct leave records begins when the Time and Labor Unit sends an "After CLAS/Closing Log" to the HRO each month for the Personnel Specialists to review and make necessary corrections to employees' timesheets after the close of the previous month. The Personnel Specialists take screenshots of the corrections and provide an "After Closing Corrections" document to the Time and Labor Unit. The HRO uses these documents rather than the CalHR-139 form. This information was shared with the CRU during our audit.

Response: The HRO has an established audit process to ensure after-closing corrections are completed. The Personnel Specialists use the "SCO Error Msg" and the "After CLAS/Closing Log" to log and audit these records one to three times per month, depending on the frequency of timesheet changes after the close of the prior month. Any timesheet changes entered by an employee triggers a notice to the Time and Labor Unit, which in turn notifies the HRO.

Finding No. 13: Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets Are Keyed Accurately and Timely

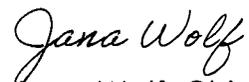
Cause: The CDT timesheet reporting system that automatically populates the monthly timesheet to reflect actual hours worked and holidays requires that employees revise their timesheet to enter any leave usage taken. Sometimes employees do not update their leave usage timely and/or supervisors do not approve the leave in a timely manner. Staffing shortages in our Transactions Unit and a large number of errors to correct resulted in a backlog. The HRO has an established audit process outlined above to verify that timesheets are corrected in a timely manner. The HRO has eliminated the backlog.

Ms. Suzanne Ambrose
April 26, 2021
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Response: The Transactions manager assigned one employee to work on the backlog and bring it current. All Personnel Specialists have remained current in verifying the timesheets on their roster.

Please contact me at 916-431-5466 if you have questions regarding any of the information provided in this response.

Sincerely,



Jana Wolf, Chief
Human Resources Office
California Department of Technology

Attachments

cc: Miles Burnett, CDT Chief Administrative Officer
Tom Willis, CDT EEO Officer
Russ Nichols, CDT Chief Deputy Director
Amy Tong, CDT Director