



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

Compliance Review Unit
State Personnel Board
October 4, 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 Fish and Wildlife (CDFW)’s 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 ¹
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ²
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

¹ Repeat finding. The CDFW’s January 21, 2021, compliance review report identified that the CDFW did not provide 5 probationary reports for 4 of the 58 appointments reviewed. Additionally, the CDFW’s July 21, 2016, compliance review report identified that the CDFW did not provide 5 probationary reports for 4 of the 50 appointments reviewed.

² Repeat finding. The CDFW’s January 21, 2021, compliance review report identified that the CDFW did not provide ethics training to 81 of 339 new filers within 6 months of their appointment. Additionally, the CDFW did not provide ethics training to 95 of 1505 existing filers every 2 years.

Area	Severity	Finding
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay ³
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/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ⁴

³ Repeat Finding. The CDFW's January 21, 2021, compliance review report identified one error in the CDFW's authorization of OOC pay.

⁴ Repeat Finding. The CDFW's January 21, 2021, compliance review report identified that CDFW did not provide performance appraisals to any of the 104 employees that had been reviewed at least once in each 12 calendar months after the completion of the employee's probationary period.

BACKGROUND

The mission of the CDFW is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend for their ecological values and for their use and enjoyment by the public. This includes habitat protection and maintenance in a sufficient amount and quality to ensure the survival of all species and natural communities.

The CDFW is responsible for the diversified use of fish and wildlife including recreational, commercial, scientific, and educational uses. Throughout California, there are seven divisions, including administration, data and technology, wildlife and fisheries, ecosystem conservation, law enforcement, regional operations, and office of spill prevention and response. The CDFW employs law enforcement officers, environmental scientists, managers, analysts, and clerical staff.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CDFW's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁵. The primary objective of the review was to determine if the CDFW's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CDFW'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 CDFW provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CDFW's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CDFW'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 CDFW provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification

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

lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CDFW did not conduct any unlawful appointment investigations during the compliance review period.

Additionally, the CDFW did not make any additional appointments during the compliance review period.

The CDFW's appointments were also selected for review to ensure the CDFW applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CDFW 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 e.g., hire above minimum (HAM) requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments.

During the compliance review period, the CDFW did not issue or authorize red circle rate requests, or arduous pay.

The review of the CDFW'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 CDFW's PSC's were also reviewed.⁶ It was beyond the scope of the compliance review to make conclusions as to whether the CDFW's justifications for the contracts were legally sufficient. The review was limited to whether the CDFW's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

⁶If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

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

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

The CDFW declined to have an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CDFW's written response on September 7, 2023, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the

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

During the period under review, January 1, 2022, through June 30, 2022, the CDFW conducted 29 examinations. The CRU reviewed 13 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Cannabis Program Director	CEA	Statement of Qualifications (SOQ) ⁷	6/30/2022	20
CEA B, Deputy Director, Ecosystem Conservation Division	CEA	SOQ	6/3/2022	10
CEA B, Deputy Director, Wildlife and Fisheries Division	CEA	SOQ	1/2/2022	7
Fish and Game Assistant Chief	Promotional	Training and Experience (T&E) ⁸	Continuous	2
Fish and Game Captain	Promotional	T&E	Continuous	21
Fish and Game Lieutenant Supervisor	Promotional	T&E	Continuous	35
Fish Habitat Assistant	Open	T&E	Continuous	18
Fish Hatchery Manager I	Open	T&E	Continuous	19
Fish Hatchery Manager II	Open	T&E	Continuous	14
Wildlife Habitat Assistant	Open	T&E	Continuous	22

⁷ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

⁸ The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Wildlife Habitat Supervisor I	Open	T&E	Continuous	1
Wildlife Habitat Supervisor II	Open	T&E	Continuous	3
Fish and Game Warden	Open	Written ⁹	6/30/2022	21

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed six departmental promotional and seven open examinations which the CDFW administered to create eligible lists from which to make appointments. The CDFW published and distributed examination bulletins containing the required information for all examinations. Applications received by the CDFW 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 CDFW 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

⁹ 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.

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, January 1, 2022, through June 30, 2022, the CDFW conducted two 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
Associate Governmental Program Analyst	9PB04	1/5/2022	2/18/2022	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	2/25/2022	4/1/2022	Failed to Meet Minimum Qualifications

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).)

For the purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. (Cal. Code Regs., tit. 2, § 265.) In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1 (*ibid.*) A Temporary Authorization Utilization (TAU) appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.)

During the period under review, July 1, 2021, through December 31, 2021, the CDFW made 470 appointments. The CRU reviewed 70 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
CEA A, Cannabis Program Director	CEA	Permanent	Full Time	1
CEA B, Deputy Director, Ecosystem Conservation Division	CEA	Permanent	Full Time	1
CEA B, Deputy Director, Wildlife and Fisheries Division	CEA	Permanent	Full Time	1
Accountant Trainee	Certification List	Permanent	Intermittent	1
Accountant Trainee	Certification List	Permanent	Full Time	1
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Attorney V	Certification List	Permanent	Full Time	1
Environmental Scientist	Certification List	Permanent	Full Time	3
Environmental Scientist	Certification List	Limited Term	Full Time	6
Fish and Game Warden	Certification List	Permanent	Full Time	4
Fish and Wildlife Technician	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Fish and Wildlife Technician	Certification List	Limited Term	Full Time	2
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Program Technician	Certification List	Limited Term	Full Time	1
Research Data Specialist I	Certification List	Permanent	Full Time	1
Research Scientist II (Microbiological Sciences)	Certification List	Permanent	Full Time	1
Senior Fish and Wildlife Habitat Supervisor	Certification List	Permanent	Full Time	1
Senior Hatchery Supervisor	Certification List	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	3
Senior Hydraulic Engineer	Certification List	Limited Term	Full Time	1
Senior Wildlife Forensic Specialist	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	3
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Wildlife Habitat Assistant	Certification List	Permanent	Full Time	1
Wildlife Habitat Supervisor I	Certification List	Permanent	Full Time	1
Environmental Scientist	Mandatory Reinstatement	Permanent	Full Time	2
Office Technician (Typing)	Mandatory Reinstatement	Permanent	Full Time	1
Senior Environmental Scientist (Supervisory)	Mandatory Reinstatement	Permanent	Full Time	1
Staff Services Manager I	Mandatory Reinstatement	Permanent	Full Time	1
Wildlife Habitat Assistant	Mandatory Reinstatement	Limited Term	Full Time	1
Fish and Wildlife Seasonal Aid	Temporary Authorization Utilization	Temporary	Intermittent	3
Fish and Wildlife Scientific Aid	Temporary Authorization Utilization	Temporary	Intermittent	10

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Maintenance Aid (Seasonal)	Temporary Authorization Utilization	Temporary	Intermittent	1
Fish and Game Warden	Transfer	Permanent	Full Time	3
Personnel Specialist	Transfer	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	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 CDFW did not provide 40 probationary reports of performance for 20 of the 70 appointments reviewed by the CRU, as reflected in the table below. This is the second consecutive time that the CDFW has had this finding.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Accountant Trainee	Certification List	1	2
Accounting Administrator I (Supervisor)	Certification List	1	2
Associate Accounting Analyst	Certification List	1	3
Attorney V	Certification List	1	2
Environmental Scientist	Certification List	1	2
Fish & Game Warden	Certification List	4	9
Fish & Wildlife Technician	Certification List	1	2
Information Technician Associate	Certification List	1	2
Office Technician (Typing)	Certification List	1	2
Research Data Specialist	Certification List	1	2
Research Scientist II	Certification List	1	1
Senior Fish & Wildlife Habit, Supervisor	Certification List	1	2
Senior Hatchery Supervisor	Certification List	1	1
Staff Services Manager I	Certification List	2	4
Staff Services Manager II	Certification List	1	2
Wildlife Habitat Assistant	Certification List	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; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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

Cause: The CDFW states that supervisors and managers are notified of the requirement and due dates to complete probationary evaluations for employees. However, the COVID-19 pandemic and significant turnover within the Human Resources division (HR) and department-wide posed significant challenges in consistently notifying supervisors and managers of the requirement and completing timely evaluations.

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

corrections the department has implemented 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 CDFW'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 CDFW. The CDFW also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, January 1, 2022, through June 30, 2022, the CDFW had 220 PSC's that were in effect. The CRU reviewed 47 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Adam Lambert	Plant nursery purchasing and installation	\$9,999	Yes	Yes
Air Shasta Rotor & Wing, Inc.	Yellow-billed cuckoo surveys and data entry	\$300,000	Yes	Yes
Anderson Pump Company, Inc.	Transportation and inspection of recirculation pumps	\$55,000	Yes	Yes
Ascent Environmental, Inc.	Consulting services - California Environmental Quality Act	\$13,950	Yes	Yes
Atascadero Pet Center, Inc.	Veterinary services	\$9,999	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
AUS West Lockbox, DBA Aramark Uniform & Career Apparel	Rental, cleaning and delivery of Uniforms and Supplies	\$4,981	Yes	Yes
Bat Conservation International	Bat data analysis services	\$9,890	Yes	Yes
Bella Global, LLC	Public access	\$9,993	Yes	Yes
Bloodstone TRS, Inc. dba Westin San Diego	Conference facility rental and audio/video	\$88,096	Yes	Yes
California Trout, Inc.	Structural and marine engineering	\$750,000	Yes	Yes
California Truck School, Inc. DBA Western Truck School	Class A commercial driver training	\$38,465	Yes	Yes
California Waterfowl Association	Water delivery	\$900,000	Yes	Yes
Conservation Metrics, Inc.	Wildlife surveys	\$8,000	Yes	Yes
Dees Design and Engineering, LLC	Repair shop	\$19,900	Yes	Yes
Delta Pump, Inc.	Agricultural lift pump repair and motor	\$9,867	Yes	Yes
Desert Springs Trout Farm	Stocking of rainbow trout services	\$599,882	Yes	Yes
Environmental Science Associates	Wetland restoration, environmental design, engineering, permitting	\$1,692,360	Yes	Yes
Green Leaf Janitorial and Residential Services	Janitorial	\$21,840	Yes	Yes
GSGC, Inc.	Janitorial	\$6,000	Yes	Yes
Hue and Cry, Inc.	Security system monitoring	\$2,009	Yes	Yes
Integral Ecology Research Center	Risk analysis of unpermitted Cannabis cultivation on private lands	\$9,805	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Modern Waste Solutions, Inc.	Recycling	\$9,995	Yes	Yes
North Cal Garage Doors	Gate repair	\$998	Yes	Yes
North Valley Training Associates	Instructor-led chainsaw training program	\$78,400	Yes	Yes
Pacific States Marine Fisheries Commission	Fish tagging	\$463,809	Yes	Yes
Premier Property Preservation, LLC	Janitorial	\$33,900	Yes	Yes
Quality Cleaning Professionals, LLC	Janitorial	\$48,190	Yes	Yes
Sean E. McAllister, DBA North Coast Field Biologist	Fish hatchery inspections and repairs	\$66,790	Yes	Yes
Trout Unlimited	Professional services	\$127,948	Yes	Yes
United Site Services of California, Inc.	Janitorial	\$1,021	Yes	Yes
VCA Animal Hospitals, Inc. DBA VCA California Oaks Animal Hospital	Veterinary services	\$9,999	Yes	Yes
Wallner Plumbing Co.	HVAC diagnostic and repair	\$472	Yes	Yes

IN COMPLIANCE	FINDING NO. 5 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC's reviewed was \$5,401,558. It was beyond the scope of the review to make conclusions as to whether justifications for the contract CDFW were legally sufficient. For all PSC's reviewed, the CDFW provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, CDFW complied with proper notification to all organizations that represent

state employees who perform the type or work contracted. Accordingly, the CDFW PSC's complied with civil service laws and board rules.

Mandated Training

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

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

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

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 CDFW's mandated training program that was in effect during the compliance review period, July 1, 2020, through June 30, 2022.

SEVERITY: VERY SERIOUS	FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The CDFW did not provide ethics training to 12 of 1072 existing filers. In addition, the CDFW did not provide ethics training to 14 of 500 new filers within six months of their appointment. This is the second consecutive time that the CDFW has had this finding.

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 CDFW states that all filers are notified and reminded of the mandated ethics training. However, not all filers completed and submitted their ethics training certificates in a timely manner.

Corrective Action: The CDFW asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CDFW must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 11146.3.

SEVERITY: VERY SERIOUS	FINDING NO. 7 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The CDFW did not provide basic supervisory training to 2 of 30 new supervisors within 12 months of appointment. In addition, the CDFW did not provide CEA training to 3 of 3 new CEAs within 12 months of appointment.

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

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

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. (Gov. Code, § 19995.4, subd. (e).)

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

Cause: The CDFW states that all supervisors, managers, and CEAs were reminded of their supervisory training. However, not all supervisors, managers, and CEAs were able to complete the required supervisory training within 12 months due to the COVID-19 pandemic.

Corrective Action: The CDFW asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CDFW must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure that new supervisors are provided supervisory training within twelve months of appointment as required by Government Code section 19995.4.

SEVERITY: VERY SERIOUS	FINDING NO. 8 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The CDFW did not provide sexual harassment prevention training to 9 of 124 new supervisors within 6 months of their appointment. In addition, the CDFW did not provide sexual harassment prevention training to 13 of 103 existing supervisors every 2 years.

The CDFW did not provide sexual harassment prevention training to 5 of 185 existing non-supervisors every 2 years.

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

Severity: Very Serious. The department does not ensure that all new and existing employees are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department’s ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

Cause: The CDFW states that all employees are notified and reminded of the mandated sexual harassment prevention training by CDFW. However, not all employees completed their sexual harassment prevention training in a timely manner.

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

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate¹⁰ 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, July 1, 2021, through December 31, 2021, the CDFW made 470 appointments. The CRU reviewed 22 of those appointments to determine if the CDFW applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accountant Trainee	Certification List	Permanent	Intermittent	\$3,966
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	\$6,945
Associate Accounting Analyst	Certification List	Permanent	Full Time	\$5,652
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,383
Attorney V	Certification List	Permanent	Full Time	\$14,856
Environmental Scientist	Certification List	Limited Term	Full Time	\$6,375
Fish & Game Warden Cadet	Certification List	Permanent	Full Time	\$5,003
Fish & Game Warden Cadet	Certification List	Permanent	Full Time	\$5,003
Information Technology Specialist I	Certification List	Permanent	Full Time	\$6,394

¹⁰ "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)
Office Technician (Typing)	Certification List	Permanent	Full Time	\$3,287
Research Scientist II (Microbiological Sciences)	Certification List	Permanent	Full Time	\$7,895
Seasonal Clerk	Certification List	Limited Term	Full Time	\$2,997
Senior Hydraulic Engineer	Certification List	Limited Term	Full Time	\$11,504
Senior Fish & Wildlife Habitat Supervisor)	Certification List	Permanent	Full Time	\$6,937
Staff Services Manager I	Certification List	Permanent	Full Time	\$7,076
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,403
Staff Services Manager II (Supervisor)	Certification List	Permanent	Full Time	\$8,352
Environmental Scientist	Reinstatement	Permanent	Full time	\$6,694
Senior Environmental Scientist (Specialist)	Reinstatement	Permanent	Full time	\$11,329
Staff Services Manager I	Reinstatement	Permanent	Full Time	\$7,954
Environmental Scientist	Transfer	Permanent	Full time	\$7,926
Office Technician (Typing)	Transfer	Permanent	Full time	\$3,925

IN COMPLIANCE	FINDING NO. 9 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 CDFW 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, July 1, 2021, through December 31, 2021, the CDFW employees made 48 alternate range movements within a classification. The CRU reviewed 25 of those alternate range movements to determine if the CDFW applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Attorney	C	D	Full Time	\$8,477
Attorney	C	D	Full Time	\$8,794
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Fish & Game Warden	A	B	Full Time	\$5,792
Fish & Game Warden	A	B	Full Time	\$5,792
Fish & Game Warden	A	B	Full Time	\$5,792
Fish & Game Warden	A	B	Full Time	\$5,702
Fish & Wildlife Technician	A	B	Full Time	\$3,750
Fish & Wildlife Technician	A	B	Full Time	\$3,938
Fish & Wildlife Technician	A	B	Full Time	\$3,938
Personnel Specialist	B	C	Full Time	\$4,792
Personnel Specialist	B	C	Full Time	\$4,277
Staff Services Analyst (General)	B	C	Full Time	\$4,476
Staff Services Analyst (General)	B	C	Full Time	\$4,476
Staff Services Analyst (General)	B	C	Full Time	\$4,476
Staff Services Analyst (General)	B	C	Full Time	\$4,476
Staff Services Analyst (General)	B	C	Full Time	\$4,476
Transportation Engineer (Civil)	C	D	Full Time	\$8,756

IN COMPLIANCE	FINDING NO. 10 ALTERNATE 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 CDFW 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 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.¹¹ (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

¹¹ 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.

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, July 1, 2021, through December 31, 2021, the CDFW authorized two HAM requests. The CRU reviewed all of those authorized HAM requests to determine if the CDFW 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)
Research Data Specialist I	Certification List	Permanent	\$6,061 - \$7,587	\$6770
Senior Environmental Scientist (Specialist)	Certification List	Permanent	\$7,336-\$9,126	\$8231

IN COMPLIANCE	FINDING NO. 11 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 CDFW 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, July 1, 2021, through December 31, 2021, the CDFW issued bilingual pay to 10 employees. The CRU reviewed 9 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Time Base	No. of Appts.
Fish and Game Warden	R07	Full Time	5
Information Officer I (Specialist)	R01	Full Time	3
Oil Spill Prevention Specialist	R07	Full Time	1

IN COMPLIANCE	FINDING NO. 12 BILINGUAL PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the bilingual pay authorized to employees 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, July 1, 2021, through December 31, 2021, the CDFW authorized 101 pay differentials.¹² The CRU reviewed 29 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Fish and Game Lieutenant (Specialist)	Education	\$75 per pay period
Fish and Game Lieutenant (Supervisor)	Education	\$125 per pay period
Fish and Game Lieutenant (Supervisor)	Education	\$75 per pay period
Fish and Game Lieutenant (Supervisor)	Education	\$125 per pay period
Fish and Game Warden	Canine Differential	\$357 per pay period
Fish and Game Warden	Canine Differential	\$357 per pay period
Fish and Game Warden	Canine Differential	\$357 per pay period
Fish and Game Warden	Canine Differential	\$357 per pay period
Fish and Game Warden	Education	\$125 per pay period
Fish and Game Warden	Education	\$100 per pay period
Fish and Game Warden	Education	\$125 per pay period
Fish and Game Warden	Education	\$125 per pay period
Fish and Game Warden	Education	\$125 per pay period

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

Classification	Pay Differential	Monthly Amount
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish and Wildlife Technician	Commercial Driver's License	\$155 per pay period
Fish Habitat Assistant	Commercial Driver's License	\$155 per pay period
Fish Habitat Assistant	Commercial Driver's License	\$155 per pay period
Fish Habitat Assistant	Commercial Driver's License	\$155 per pay period
Tractor Operator - Laborer	Agricultural Pest Control Licenses	\$50 per pay period
Warden-Pilot Department of Fish and Game	Education	\$125 per pay period
Wildlife Habitat Assistant	Commercial Driver's License	\$155 per pay period

IN COMPLIANCE	FINDING NO. 13	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 pay differentials that the CDFW authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

For excluded¹³ and most rank-and-file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

During the period under review, July 1, 2021, through December 31, 2021, the CDFW issued OOC pay to 12 employees. The CRU reviewed 10 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Environmental Program Manager I (Managerial)	M10	CEA	10/01/2021-11/30/2021
Environmental Scientist	R10	Senior Environmental Scientist, Supervisory	11/15/2021-12/14/2021
Environmental Scientist	R10	Senior Environmental Scientist (Supervisory)	12/15/2021 – 01/13/2022
Environmental Scientist	R10	Senior Environmental Scientist (Supervisory)	08/01/2021-09/30/2021
Environmental Scientist	R10	Senior Environmental Scientist (Supervisory)	11/01/2021-12/31/2021

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

Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Information Technology Manager I	M01	CEA	10/01/2021-11/30/2021
Senior Environmental Scientist (Specialist)	R10	Environmental Program Manager I (Supervisory)	09/20/2021-10/29/2021
Senior Environmental Scientist (Specialist)	R10	Senior Environmental Scientist (Supervisory)	05/01/2021-07/31/2021
Senior Environmental Scientist (Supervisory)	S10	CEA	06/01/2021-08/01/2021
Staff Services Manager I	S01	Staff Services Manager II	12/15/2021-4/22/2021

SEVERITY: VERY SERIOUS	FINDING NO. 14 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRU found two errors in the CDFW’s authorization of OOC pay. This is the second consecutive time that the CDFW has had this finding.

Classification	Out-of-Class Classification	Description of Findings	Criteria
Senior Environmental Scientist (Specialist)	Environmental Program Manager I (Supervisory)	Salary calculation gross was incorrect; employee overcompensated	Pay Differential 94
Senior Environmental Scientist (Specialist)	Senior Environmental Scientist (Supervisory)	Salary calculation was incorrect; employee was undercompensated	Pay Differential 94

Criteria: If an appointing power, department head, or designee requires an employee to work “out of class” in a higher classification for more than two consecutive weeks, the employee shall receive the rate of pay, pursuant to Cal. Code Regs., tit. 2, § 599.673, 599.674, or 599.676 that the employee would have received if appointed to the higher class for the entire duration of the assignment. The out-of-class compensation shall not be considered as part of the base pay in computing the promotional step in the higher class.

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

Cause: The CDFW states that its HR division experienced significant turnover within the Classification and Recruitment and Transactions units. New hires were not trained or provided resources in determining out-of-class pay.

Corrective Action: The CDFW asserts that it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CDFW must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 599.673, 599.674, or 599.676 and Pay Differential 94.

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 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 the working days of a month. When counting 189 days, every day worked, including partial days¹⁴ worked and paid absences¹⁵, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are 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.*)

¹⁴ For example, two hours or ten hours count as one day.

¹⁵ For example, vacation, sick leave, compensating time off, etc.

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

For student assistants, graduate student assistants, youth Aids, 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.

At the time of the review, the CDFW had 114 positive paid employees whose hours were tracked. The CRU reviewed 35 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Associate Governmental Program Analyst	Retired Annuitant	7/2/2021-6/30/2022	173 hours
Associate Governmental Program Analyst	Retired Annuitant	7/2/2021-6/30/2022	552 hours
Associate Governmental Program Analyst	Retired Annuitant	7/2/2021-6/30/2022	960 hours
Fish and Wildlife Scientific Aid	Temporary	10/01/2020-9/30/2021	1233 hours
Fish and Wildlife Scientific Aid	Temporary	10/01/2020-9/30/2021	924.5 hours
Fish and Wildlife Scientific Aid	Temporary	4/1/2021-3/31/2022	692.5 hours
Fish and Wildlife Scientific Aid	Temporary	5/1/2021-4/30/2022	1423.5 hours
Fish and Wildlife Scientific Aid	Temporary	1/1/2021-12/31/2021	123 hours
Fish and Wildlife Scientific Aid	Temporary	10/31/2020-10/30/2021	1416 hours
Fish and Wildlife Scientific Aid	Temporary	12/1/2020-11/30/2021	1255.5 hours
Fish and Wildlife Scientific Aid	Temporary	9/1/2020-8/31/2021	1259.5 hours
Fish and Wildlife Scientific Aid	Temporary	5/1/2021-4/30/2022	1289 hours
Fish and Wildlife Scientific Aid	Temporary	2/1/2021-1/31/2022	1562 hours

Classification	Tenure	Time Frame	Time Worked
Fish and Wildlife Scientific Aid	Temporary	5/1/2021-4/30/2022	1420 hours
Fish and Wildlife Scientific Aid	Temporary	10/1/2020-9/30/2021	1849.75 hours
Fish and Wildlife Scientific Aid	Temporary	9/1/2020-8/31/2021	618 hours
Fish and Wildlife Scientific Aid	Temporary	6/1/2021-5/31/2022	1942.5 hours
Fish and Wildlife Scientific Aid	Temporary	3/2/2021-3/1/2022	1508 hours
Fish and Wildlife Scientific Aid	Temporary	2/1/2021-1/31/2022	580.35 hours
Fish and Wildlife Scientific Aid	Temporary	9/1/2020-8/31/2021	1804 hours
Fish and Wildlife Scientific Aid	Temporary	10/31/2020-10/30/2021	487.5 hours
Fish and Wildlife Scientific Aid	Temporary	7/1/2021-6/30-2022	1438.5 hours
Fish and Wildlife Scientific Aid	Temporary	5/1/2021-4/30/2022	1587.5 hours
Fish and Wildlife Scientific Aid	Temporary	8/2/2020-8/1/2021	697.75 hours
Fish and Wildlife Seasonal Aid	Temporary	5/1/2021-4/30/2022	1601.5 hours
Maintenance Aid (Seasonal)	Temporary	4/1/2021-3/31/2022	1303 hours
Seasonal Clerk	Permanent Intermittent	1/1/2021-12/31/2021	1500 hours
Seasonal Clerk	Permanent Intermittent	1/1/2021-12/31/2021	41 hours
Senior Civil Engineer	Retired Annuitant	7/2/2021-6/30/2022	956 hours
Senior Engineer Geologist	Retired Annuitant	7/2/2021-6/30/2022	119.5 hours
Senior Environmental Scientist (Specialist)	Retired Annuitant	7/2/2021-6/30/2022	959 hours
Senior Environmental Scientist (Specialist)	Retired Annuitant	7/2/2021-6/30/2022	2 hours
Senior Environmental Scientist (Specialist)	Retired Annuitant	7/2/2021-6/30/2022	245.5 hours
Senior Lab Assistant	Retired Annuitant	7/2/2021-6/30/2022	740 hours
Student Assistant	Temporary	6/1/2021-5/31/2022	1706 hours

IN COMPLIANCE	FINDING NO. 15 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 CDFW provided sufficient justification and adhered to applicable laws, regulations and CalHR policies 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, April 1, 2021, through March 31, 2022, the CDFW authorized 3,597 ATO transactions. The CRU reviewed 44 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	5/13/2021	2 hours
Associate Accounting Analyst	6/7/2021	2 hours
Associate Governmental Program Analyst	4/14/2021	2 hours
Associate Governmental Program Analyst	4/15/2021-4/19/2021	24 hours
Associate Governmental Program Analyst	1/10/2022	2 hours
Associate Governmental Program Analyst	1/12/2022-1/14/2022	24 hours
Environmental Scientist	5/21/2021	8 hours
Environmental Scientist	8/17/2021 - 8/20/2021	20 hours
Environmental Scientist	8/17/2021-8/31/2021	88 hours
Environmental Scientist	9/1/2021-9/3/2021	20 hours
Environmental Scientist	11/21/2021-11/22/2021	11 hours
Environmental Scientist	4/29/2021	2 hours
Fish and Game Lieutenant (Specialist)	9/1/2021-9/15/2021	80 hours
Fish and Game Lieutenant (Supervisor)	6/29/2021-7/30/2021	192 hours
Fish and Game Lieutenant (Supervisor)	9/7/2021-9/17/2021	37 hours
Fish and Game Vessel Mate	8/11/2021-8/20/2021	55 hours
Fish and Game Warden	1/10/2022-3/30/2022	448 hours
Fish and Game Warden	7/2/2021 - 7/13/2021	72 hours
Fish and Game Warden	7/27/2021-3/30/2022	1280 hours
Fish and Wildlife Scientific Aid	8/8/2021	10 hours
Fish and Wildlife Scientific Aid	8/7/2021-8/9/2021	30 hours
Fish and Wildlife Scientific Aid	4/12/2021	2 hours
Fish and Wildlife Scientific Aid	5/6/2021	2 hours
Fish and Wildlife Technician	1/5/2022-1/7/2022	24 hours

Classification	Time Frame	Amount of Time on ATO
Fish and Wildlife Technician	6/9/2021	4 hours
Fish and Wildlife Technician	1/4/2022 - 1/7/2022	32 hours
Fish and Wildlife Technician	1/10/2022-1/14/2022	40 hours
Fish and Wildlife Technician	1/25/2022-1/27/2022	24 hours
Fish Habitat Specialist	8/11/2021-8/26/2021	100 hours
Fish Hatchery Manager I	5/27/2021	2 hours
Personnel Specialist	5/5/2021-5/12/2021	48 hours
Program Technician	9/1/2021	5.5 hours
Program Technician	1/21/2022	8 hours
Program Technician	2/1/2022-2/7/2022	40 hours
Program Technician	2/8/2022-2/9/2022	16 hours
Senior Environmental Scientist (Specialist)	7/29/2021 - 8/5/2021	48 hours
Senior Environmental Scientist (Specialist)	4/15/2021	2 hours
Senior Environmental Scientist (Specialist)	5/17/2021	2 hours
Senior Environmental Scientist (Specialist)	9/23/2021-9/28/2021	27 hours
Senior Environmental Scientist (Specialist)	4/19/2021-4/21/2021	4 hours
Senior Environmental Scientist (Specialist)	9/1/2021-9/3/2021	24 hours
Senior Environmental Scientist (Specialist)	8/17/2021-8/31/2021	88 hours
Senior Environmental Scientist (Specialist)	8/17/2021-9/1/2021	86 hours
Wildlife Habitat Supervisor I	8/12/2021 - 8/24/2021	72 hours

IN COMPLIANCE	FINDING NO. 16 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 CDFW 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, January 1, 2022, through March 31, 2022, the CDFW reported 74 units comprised of 3,024 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
January 2022	565-014	47	47	2
January 2022	565-010	46	46	3
February 2022	565-010	45	45	3
February 2022	565-011	59	58	0
March 2022	565-001	12	12	1

IN COMPLIANCE	FINDING NO. 17	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 CDFW 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 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.¹⁶ (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 employees¹⁷ 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, 2022, through June 30, 2022, the CDFW had 8 employees with qualifying and non-qualifying pay period transactions. The CRU

¹⁶ 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.

¹⁷ 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.

reviewed all of the transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Qualifying Pay Period	Full Time	3
Non-Qualifying Pay Period	Full Time	5

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

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 CDFW’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the CDFW’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 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 CDFW 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 CDFW 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 81 permanent CDFW employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 21 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CDFW did not provide annual performance appraisals to 23 of 81 employees reviewed after the completion of the employee’s probationary period. This is the second consecutive time that the CDFW has had this finding.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee’s probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

Severity: Serious. The department does not ensure that all employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The CDFW states that the department requires all performance appraisals to be completed in February of each year. However, the COVID-19 pandemic and significant turnover within the HR division and department-wide posed significant challenges in ensuring that supervisors and managers are meeting this requirement.

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

DEPARTMENTAL RESPONSE

The CDFW's departmental response is attached as Attachment 1.

SPB REPLY

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



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Director's Office
 P.O. Box 944209
 Sacramento, CA 94244-2090
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 7, 2023

Suzanne M. Ambrose
 Executive Officer
 State Personnel Board
 801 Capitol Mall
 Sacramento, CA 95818

Dear Ms. Suzanne Ambrose:

The California Department of Fish and Wildlife (CDFW) received the California State Personnel Board's (SPB) Compliance Review Draft Report (Draft Report) via email on August 22, 2023. The SPB conducted a routine compliance review of the CDFW's personnel practices in the areas of examinations, appointments, Equal Employment Opportunity (EEO), Personal Services Contracts (PSC), mandated training, compensation and pay, leave, and policy and processes. CDFW appreciates the opportunity to provide a response to SPB's Draft Report.

Please note responses were not required for findings No. 1, 2, 4, 5, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, and 20 as these findings were determined to be in compliance. The findings requiring corrective action are as follows:

Finding No. 3 **Probationary Evaluations were not provided for all appointments reviewed**

Cause: CDFW notifies supervisors and managers of the requirement and due dates to complete probationary evaluations for employees. However, the COVID-19 pandemic and significant turn over within Human Resources (HR) and department-wide managers and supervisors posed significant challenges in consistently notifying supervisors and managers of the requirement and completing timely evaluations back to HR.

CDFW Response: CDFW-HR is working with CDFW-Data and Technology Division (DTD) to automate the probationary evaluation process. This will create a notification and tracking system that will be monitored by HR. The system will send reminders to supervisors and managers and will track submitted, due, and overdue reports. This new functionality is expected to be released prior to January 2024.

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Finding No. 6

Ethics training was not provided for all filers

Cause:

All filers are notified and reminded of the mandated ethics training by CDFW. However, not all filers completed and submitted their ethics training certificate in a timely manner.

CDFW Response:

Ethics training is now automatically assigned to each applicable classification as a new employee and is set to automatically assign thereafter on the mandated rotational timeframe to increase opportunity for aligned and timely assignment. If not completed by the deadline date, the individual is sent a past due email notification with their direct supervisor copied on the past due email. The past due status remains on the individual's training records/transcripts, visible in the Department's Learning Management System (LMS), until they have completed the training, uploaded the certificate of completion, and the certificate has been verified for a completed status in the LMS. Additional past due emails will also be sent to the individual and supervisor while in an incomplete status. Two weeks past the deadline dates, a list of non-compliers will be provided to executive leadership for additional assistance and follow-up to non-compliers and their leaders in an effort to increase completion rates.

Finding No. 7

Supervisory training was not provided for all supervisors, managers, and CEAs

Cause:

All supervisors, managers, and CEAs are reminded of their supervisory training. However, not all supervisors, managers, and CEAs were able to complete the required supervisory training within 12 months due to the COVID-19 pandemic.

CDFW Response:

All new supervisors and managers are now automatically assigned initial leadership training as their classification and CBID is updated through the Department's (Human Resources Management System (HRMS) and our LMS. The required completion date is set to match CalHR policy timeframes. If not completed by the deadline date, the individual is sent a past due email notification with their direct supervisor copied on the past due email. The past due status remains on the individual's training records/transcripts, visible in the LMS, until they have

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completed the training, uploaded the certificate of completion, and the certificate has been verified for a completed status in the LMS. Additional past due emails will also be sent to the individual and supervisor while in an incomplete status. Two weeks past the deadline dates, a list of non-compliers will be provided to executive leadership for additional assistance and follow-up to non-compliers and their leaders to increase completion rates. CEAs are currently tracked manually for completion in the LMS and in 2024 will be auto-assigned the initial training requirement, as identified by the CBID 7500, when hired into the CEA position. Non-compliers for CEA initial leadership training will also be reported through the CDFW chain-of-command for additional accountability.

Finding No. 8

Sexual harassment prevention training was not provided for all employees

Cause:

All employees are notified and reminded of the mandated sexual harassment prevention training by CDFW. However, not all employees completed their sexual harassment prevention training in a timely manner.

CDFW Response:

All CDFW staff and supervisors are automatically assigned the required sexual harassment prevention training as a new employee and on the mandated 2-year timeframe for increased opportunity for aligned and timely assignment. If not completed by the deadline date, the individual is sent a past due email notification, and their direct supervisor is copied on the past due email. The past due status remains on the individual's training records/transcripts, visible in the LMS, until they have completed the training, uploaded the certificate of completion, and the certificate has been verified for a completed status in the LMS. Additional past due emails will also be sent to the individual and supervisor while in an incomplete status. Two weeks past the deadline dates, a list of non-compliers will be provided to executive leadership for additional assistance and follow-up to non-compliers and their leaders to increase accountability and completion rates.

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Finding No. 14 Incorrect Authorization of Out of Class pay

Cause: CDFW-HR experienced significant turn over within the Classification & Recruitment and Transactions units. New hires were not trained or provided resources in determining out of class pay.

CDFW Response: CDFW-HR developed a new Salary Determination process in early 2023. This process includes training and guidance to determine all salaries of new appointments and out of class assignments. The salary determinations also require a manager review prior to being authorized.

Finding No. 21 Performance appraisals were not provided to all employees

Cause: CDFW requires that all performance appraisals are completed in February of each year. However, the COVID-19 pandemic and significant turn over within H HR and department-wide managers and supervisors posed significant challenges in ensuring that supervisors and managers are meeting this requirement.

CDFW Response: CDFW-HR is working with CDFW-DTD to automate the performance appraisal process. This will create a notification and tracking system that will be monitored by HR. The system will send reminders to supervisors and managers and will track submitted, due, and overdue reports. This new functionality is expected to be released prior to January 2024.

CDFW appreciates the review provided by SPB. If you have additional questions or concerns, please contact me at Haya.Johnson@wildlife.ca.gov or (916) 902-9016.

Sincerely,
DocuSigned by:


528BA018FBD946A
Haya Johnson

Assistant Deputy Director, Human Resources

Cc: Anthony Favro, Deputy Director, Administration
 Melinda Peacock, Assistant Deputy Director, Business Operations