



COMPLIANCE REVIEW REPORT

CALIFORNIA HEALTH BENEFIT EXCHANGE (COVERED CALIFORNIA)

Compliance Review Unit
State Personnel Board
March 13, 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 Health Benefit Exchange (Exchange) 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	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time ¹
Equal Employment Opportunity	Very Serious	Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period ²
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ³
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs ⁴

¹ Repeat finding. August 10, 2020, Compliance Review Report identified that out of 49 appointment files reviewed, the appointment files were missing 10 Notices of Personnel Action (NOPA). Additionally, the November 30, 2016, Compliance Review Report identified that out of 103 appointment files reviewed, 6 appointment files were missing NOPA's.

² Repeat finding. The August 10, 2020, Compliance Review Report identified that two of the four complaint investigations exceeded 90 days.

³ Repeat finding. The August 10, 2020, Compliance Review Report identified 25 of 84 existing filers did not receive ethics training and 11 of 58 new filers did not receive ethics training within 6 months of appointment. Additionally, the November 30, 2016, Compliance Review Report identified 13 of 207 existing filers did not receive ethics training and 9 of 177 new filers did not receive ethics training within 6 months of appointment.

⁴ Repeat finding. The August 10, 2020, Compliance Review Report identified 11 of 23 employees did not receive basic supervisory training, 1 employee did not receive CEA training, and 19 of 125 employees did not receive biennial leadership training.

Area	Severity	Finding
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees ⁵
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above Minimum Request Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay ⁶
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Serious	Positive Paid Temporary Employee's Work Exceeded Time Limitations
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Department Did Not Certify That All Leave Records Were Reviewed ⁷
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 ⁸

⁵ Repeat finding. The August 10, 2020, Compliance Review Report identified 79 of 195 existing supervisors did not receive sexual harassment prevention training every 2 years, and 35 of 56 new supervisors within 6 months of appointment. Additionally, the November 30, 2016, Compliance Review Report identified 102 of 143 existing supervisors did not receive sexual harassment prevention training every 2 years, and 33 of 94 new supervisors did not receive the training within 6 months of appointment.

⁶ Repeat finding. The August 10, 2020, Compliance Review Report identified incorrect bilingual pay for 4 of the 13 employees reviewed.

⁷ Repeat finding. The August 10, 2020, Compliance Review Report identified all eight units reviewed were missing the Leave Activity and Correction Certification Form.

⁸ Repeat finding. The August 10, 2020, Compliance Review Report identified 66 of 76 employees reviewed did not receive annual performance appraisals.

BACKGROUND

Following the passage of the federal Patient Protection and Affordable Care Act in 2010, the Exchange, also known as Covered California, was established to improve the health of all Californians by assuring their access to affordable, high-quality care. The Exchange is an independent public entity within state government with a five-member board appointed by the Governor and the Legislature. The Exchange works to increase the number of insured Californians, improve health care quality, lower costs, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose the health plan and providers that give them the best value.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the Exchange's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁹. The primary objective of the review was to determine if the Exchange'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 Exchange'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 Exchange provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the Exchange's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

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

⁹ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

The Exchange did not conduct any unlawful appointment investigations or make any additional appointments during the compliance review period.

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

During the compliance review period, the Exchange did not issue or authorize red circle rate requests, arduous pay, alternate range movements, or out-of-class assignments.

The review of the Exchange'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 Exchange's PSC's were also reviewed.¹⁰ It was beyond the scope of the compliance review to make conclusions as to whether the Exchange's justifications for the contracts were legally sufficient. The review was limited to whether the Exchange's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

The CRU reviewed the Exchange'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 Exchange's units in order to

¹⁰If 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.

ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the Exchange'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 Exchange employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of Exchange 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 Exchange's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the Exchange's policies and processes adhered to procedural requirements.

On February 16, 2023, an exit conference was held with the Exchange to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the Exchange's written response on February 16, 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 September 30, 2022, the Exchange conducted five examinations. The CRU reviewed three of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) B, Deputy Chief Information Officer-Strategic Initiatives	CEA	Statement of Qualifications (SOQ) ¹¹	4/29/22	10
CEA B, Deputy Director, Covered California Small Business	CEA	SOQ	4/18/22	3
CEA B, Deputy Director, Marketing	CEA	SOQ	7/12/22	26

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed three open examinations which the Exchange administered in order to create eligible lists from which to make appointments. The Exchange published and distributed examination bulletins containing the required information for all examinations. Applications received by the Exchange were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the Exchange conducted during the compliance review period.

¹¹ 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.

Permanent Withhold Actions

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

During the period under review, January 1, 2022, through September 30, 2022, the Exchange conducted six permanent withhold actions. The CRU reviewed five 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 Accounting Analyst	5PB39	2/22/21	2/22/22	Failed to Meet Minimum Qualifications (MQs)
Associate Governmental Program Analyst (AGPA)	9PB04	6/13/21	6/13/22	Failed to Meet MQs
AGPA	9PB04	9/11/21	9/11/22	Failed to Meet MQs
AGPA	9PB04	11/16/21	11/16/22	Failed to Meet MQs
Staff Services Analyst	7PB34	5/9/22	5/9/23	Failed to Meet MQs

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

Appointments

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

During the period under review, December 1, 2021, through August 31, 2022, the Exchange made 33 appointments. The CRU reviewed 14 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
CEA A	CEA	Permanent	Full Time	1
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	1
AGPA	Certification List	Permanent	Full Time	1
Associate Management Auditor	Certification List	Permanent	Full Time	1
Health Program Specialist II	Certification List	Permanent	Full Time	1
Program Technician III	Certification List	Permanent	Full Time	1
Program Technician III (LEAP)	Certification List	Limited Term	Full Time	1
Research Data Specialist II	Certification List	Permanent	Full Time	1
Research Data Supervisor II	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Research Scientist II (Social/Behavioral Sciences)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Reinstatement	Permanent	Full Time	1
Accounting Officer (Specialist)	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1

SEVERITY: TECHNICAL	FINDING NO. 3 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: The Exchange failed to retain personnel records. Of the 14 appointments reviewed, the Exchange did not retain 2 NOPA's. This is the third consecutive time this has been a finding for the Exchange.

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

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

Cause: The Exchange states that their hybrid remote working environment created challenges and impacted how their Human Resources Branch (HRB) received documents from employees. NOPAs were only available in paper format and scanning the NOPAs was ineffective when most of the employees were working remotely and required access to a printer to sign and mail the NOPAs back to the HRB.

Corrective Action: The Exchange asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Exchange must

submit to the SPB documentation which demonstrates the meaningful and systemic actions it has taken to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26.

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).)

SEVERITY: VERY SERIOUS	FINDING NO. 4 COMPLAINANTS WERE NOT NOTIFIED OF THE REASONS FOR DELAYS IN DECISIONS WITHIN THE PRESCRIBED TIME PERIOD
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Summary: The Exchange provided evidence that three discrimination complaints related to a disability, medical condition, or denial of reasonable accommodation were filed during the compliance review period. However, one of the three complaint investigations exceeded 90 days and the Exchange failed to provide written communication to the complainant regarding the status of the complaint. This is the second consecutive time this has been a finding for the Exchange.

Criteria: The appointing power must issue a written decision to the complainant within 90 days of the complaint being filed. (Cal. Code

Regs., tit. 2, § 64.4, subd. (a).) If the appointing power is unable to issue its decision within the prescribed time period, the appointing power must inform the complainant in writing of the reasons for the delay. (*Ibid.*)

Severity: Very Serious. Employees were not informed of the reasons for delays in decisions for discrimination complaints. Employees may feel their concerns are not being taken seriously, which can leave the agency open to liability and low employee morale.

Cause: The Exchange states that they did not notify the complainant timely due to understaffing, which negatively impacted the EEO Office's ability to track and issue the 90-day letter on time.

Corrective Action: The Exchange asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Exchange must submit to the SPB documentation which demonstrates the meaningful and systemic actions it has taken to ensure conformity with the requirements of California Code of Regulations, title 2, section 64.4, subdivision (a).

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 September 30, 2022, the Exchange had 162 PSC's that were in effect. The CRU reviewed 37 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
AllWorld Language Consultants, Inc.	American Sign Language Interpreter Services	7/1/22 - 6/30/25	\$9,996	Yes	Yes
AVI-SPL LLC	Video Conferencing Design	8/24/21 - 6/30/22	\$317,065	Yes	Yes
Bertko Actuarial Associates, LLC	Chief Actuary Services	7/1/22 - 7/31/23	\$20,500	Yes	Yes
Big Wave Systems, LLC	Help On-Demand Secure Web-Based Callback Tool	3/24/20 - 7/23/23	\$292,500	Yes	Yes
Brandy Sneed	Chief Actuary	4/1/22 - 12/31/22	\$240,000	Yes	Yes
CALFOL, Inc.	Interior Landscaping Services	3/1/22 - 2/29/24	\$4,200	Yes	Yes
Cambria Solutions	Project Management and Scrum Certified Services	7/1/19 - 6/30/24	\$3,232,819	Yes	Yes
CBRE, Inc.	Real Estate Broker Services	5/2/22 - 6/30/24	\$1,000,000	Yes	Yes
Crown Worldwide Moving and Storage	Moving Services and Modular Systems Furniture Maintenance	7/1/19 - 6/30/23	\$100,000	Yes	Yes
Culture Amp	Software Platform and Services	5/1/22 - 4/30/25	\$184,680	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Denton US, LLP	Legal Counsel	7/1/20 - 6/30/23	\$200,000	Yes	Yes
Guidehouse Inc.	Consumer Journey Roadmap	9/1/20 - 6/30/23	\$495,000	Yes	Yes
Independent Courier Service	Courier Services	7/1/22 - 6/30/24	\$7,500	Yes	Yes
Jennings Policy Strategies	Strategic Policy Consultation	6/1/20 - 6/30/23	\$150,000	Yes	Yes
Leading Resources, Inc.	Strategic Planning Development and Organizational Training	7/1/22 - 6/30/25	\$247,850	Yes	Yes
Leading Resources, Inc.	Executive Coaching and Mentoring	7/1/22 - 6/30/24	\$249,640	Yes	Yes
MOR Associates, Inc.	Leadership Consulting Services	9/1/22 - 8/30/23	\$148,500	Yes	Yes
National Security Industries	Unarmed Security Services	7/1/22 - 3/1/25	\$1,500,000	Yes	Yes
NetFile, Inc.	Form 700 Electronic Filing System	7/1/22 - 6/30/25	\$25,200	Yes	Yes
Public Consulting Group	Project Management Services	4/1/20 - 3/31/23	\$275,000	Yes	Yes
Public Consulting Group	Project Management Services	2/1/21 - 5/31/22	\$175,390	Yes	Yes
Public Consulting Group	Project Management Services	2/1/21 - 9/30/22	\$199,530	Yes	Yes
Quadient, Inc.	Mailing Operating System	7/1/19 - 6/30/25	\$57,856	Yes	Yes
Randle Communication	Strategic Counsel and Consultation Services	3/7/22 - 2/29/24	\$4,250,000	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Red River Technology LLC	Data and Analytics Services	6/1/22 - 5/31/23	\$330,800	Yes	Yes
Robert Half International, Inc.	Accounting Support Services	5/1/22 - 4/30/23	\$832,000	Yes	Yes
Shaw Law Group PC	Investigative Training	6/1/22 - 8/1/22	\$14,250	Yes	Yes
Shaw Law Group PC	Investigative Services	9/22/22 - 8/31/25	\$350,000	Yes	Yes
Sjoberg-Evashenk	Programmatic Audit and Special Ad-Hoc Audits	6/1/20 - 6/30/23	\$596,500	Yes	Yes
Slalom, LLC	Salesforce Service Cloud Customer Relationship Management System Implementation	8/1/18 - 6/30/23	\$1,000,000	Yes	Yes
Slalom, LLC	Salesforce Marketing Cloud Platform	3/2/20 - 3/1/23	\$249,990	Yes	Yes
Specialized Governmental Training Solutions	Audit Training Services	5/12/22 - 6/30/23	\$2,565	Yes	Yes
Squared Up, Inc.	Consulting Services for Covered California for Small Business	7/1/22 - 6/30/23	\$275,000	Yes	Yes
Valley Communication	Security and Badging System for Expo	7/1/22 - 6/30/23	\$45,559	Yes	Yes
Viking Shred, LLC	Shredding Services	7/1/22 - 6/30/23	\$9,999	Yes	Yes
VRC Companies LLC dba Vital Records Control	Secure Physical Document Storage	4/1/22 - 9/30/23	\$120,000	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
VRC Companies LLC dba Vital Records Control	Secure Physical Document Storage	4/1/22 - 9/30/22	\$85,000	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 \$17,294,889. It was beyond the scope of the review to make conclusions as to whether Exchange justifications for the contract were legally sufficient. For all PSC’s reviewed, the Exchange provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, the Exchange complied with proper notification to all organizations that represent state employees who perform or could perform the type or work contracted as required by California Code of Regulations section 547.60.2. Accordingly, the Exchange 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.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial basis. (*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 Exchange's mandated training program that was in effect during the compliance review period, October 1, 2020, through September 30, 2022.

SEVERITY: VERY SERIOUS	FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The Exchange did not provide ethics training to 1 of 58 existing filers. In addition, the Exchange did not provide ethics training to 2 of 20 new filers within six months of their appointment. This is the third consecutive time this has been a finding for the Exchange

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 Exchange acknowledges that three filers did not complete ethics training. Based on this finding, the Exchange is examining the methods by which employees can submit their certificates to the Covered California University (CCU) operations team and how this is communicated to employees.

Corrective Action: The Exchange asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Exchange must submit to the SPB documentation which demonstrates the meaningful and systemic actions it has taken to demonstrate 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 Exchange did not provide basic supervisory training to 3 of 19 new supervisors within 12 months of appointment; did not provide manager training to 1 of 2 new managers within 12 months of appointment; did not provide CEA training to 1 of 3 new CEAs within 12 months of appointment; and did not provide biennial leadership training to 116 of 151 existing supervisors, managers, and/or CEAs. This is the second consecutive time this has been a finding for the Exchange.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subds. (b) and (c).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a

minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a CEA position, each employee must receive 20 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (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 Exchange states that the supervisory training was not provided through the Exchange’s learning management system (LMS); therefore, it is incumbent on the employees to submit their certificates to the CCU Operations team for recording in the LMS upon completion.

Corrective Action: The Exchange asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Exchange must submit to the SPB documentation which demonstrates the meaningful and systemic actions it has taken to ensure that new supervisors, managers, and CEAs are provided leadership and development training within twelve months of appointment, and that thereafter, they receive a minimum of 20 hours of leadership training biennially, 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 Exchange provided sexual harassment prevention training to all 46 new supervisors within 6 months of their appointment. However, the Exchange did not provide sexual harassment prevention training to 10 of 215 existing supervisors every 2 years. This is the third consecutive time this has been a finding for the Exchange.

Additionally, the Exchange did not provide sexual harassment prevention training to 1 of 120 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 Exchange states that the sexual harassment prevention training was not provided through the Exchange's LMS; therefore, it is incumbent on the employees to submit their certificates to the CCU Operations team for recording in the LMS upon completion. Based on this finding, the Exchange is examining the methods by which employees can submit their certificates to the CCU Operations team and how this is communicated to employees.

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

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments

calculate and determine an employee’s salary rate¹² upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

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

During the period under review, December 2, 2021, through August 31, 2022, the Exchange made 33 appointments. The CRU reviewed six of those appointments to determine if the Exchange applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
AGPA	Certification List	Permanent	Full Time	\$5,793
Program Technician III	Certification List	Permanent	Full Time	\$3,774
Research Data Specialist II	Certification List	Permanent	Full Time	\$6,658
Research Scientist II (Social/Behavioral)	Certification List	Permanent	Full Time	\$8,539
Staff Services Manager I	Transfer	Permanent	Full Time	\$8,153
AGPA	Permissive Reinstatement	Permanent	Full Time	\$5,518

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 Exchange 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.

¹² “Rate” is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Hiring Above Minimum Requests

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

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

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

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a

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

higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

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

During the period under review, December 2, 2021, through August 31, 2022, the Exchange authorized one HAM request. The CRU reviewed one authorized HAM request to determine if the Exchange correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates’ extraordinary qualifications which is listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Information Technology Specialist II	Certification List	New to the state	\$7,700 - \$10,318	\$10,318

IN COMPLIANCE	FINDING NO. 10 HIRE ABOVE MINIMUM REQUEST COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM request the Exchange 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, December 2, 2021, through August 31, 2022, the Exchange issued bilingual pay to 18 employees. The CRU reviewed 14 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
AGPA	R01	Full Time	8
Information Officer I (Specialist)	R01	Full Time	1
Marketing Specialist, California State Lottery	R01	Full Time	1
Senior Marketing Specialist, California State Lottery	R01	Full Time	1
Staff Services Manager II (Supervisory)	S01	Full Time	1
Supervising Program Technician III	S01	Full Time	2

SEVERITY: VERY SERIOUS	FINDING NO. 11 INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRU found one error in the Exchange’s authorization of bilingual pay. This is the second consecutive time this has been a finding for the Exchange.

Classification	Description of Finding	Criteria
AGPA	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Pay Differential 14 and HR Manual Section 1003

Criteria: For any state agency, a “qualified” bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296, subd. (a)(3).)

An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on

a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

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

Cause: The Exchange states that the inability to locate the required documents was due to a filing error by staff.

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

Pay Differentials

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

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

During the period under review, December 2, 2021, through August 31, 2022, the Exchange authorized 14 pay differentials.¹⁴ The CRU reviewed 11 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Program Technician II	249	\$150
Program Technician II	249	\$150
Program Technician II	249	\$150
Program Technician II	249	\$150
Program Technician II	249	\$150
Program Technician II	249	\$150
Program Technician II	249	\$150
Program Technician II	249	\$150
Program Technician II	249	\$150
Program Technician III	249	\$150
Research Scientist III (Social/Behavioral Sciences)	434	3%
Supervising Program Technician III	249	\$150

IN COMPLIANCE	FINDING NO. 12 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differentials that the Exchange authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee’s time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting

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

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 of the working days of a month. When counting 189 days, every day worked, including partial days¹⁵ worked and paid absences¹⁶, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the Exchange had 26 positive paid employees whose hours were tracked. The CRU reviewed 18 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

¹⁵ For example, two hours or ten hours count as one day.

¹⁶ For example, vacation, sick leave, compensating time off, etc.

Classification	Tenure	Time Frame	Time Worked
Accounting Administrator I (Specialist)	Retired Annuitant (RA)	7/1/21 – 6/30/22	954 Hours
AGPA	RA	7/1/21 – 6/30/22	954 Hours
AGPA	RA	7/1/21 – 6/30/22	957 Hours
AGPA	RA	7/1/21 – 6/30/22	833 Hours
AGPA	RA	7/1/21 – 6/30/22	577.25 Hours
AGPA	RA	7/1/21 – 6/30/22	467 Hours
AGPA	RA	7/1/21 – 6/30/22	747.50 Hours
AGPA	RA	7/1/21 – 6/30/22	948.50 Hours
AGPA	RA	7/1/21 – 6/30/22	958 Hours
AGPA	RA	7/1/21 – 6/30/22	721.50 Hours
AGPA	RA	7/1/21 – 6/30/22	946 Hours
AGPA	RA	7/1/21 – 6/30/22	638 Hours
AGPA	RA	7/1/21 – 6/30/22	958 Hours
AGPA	RA	7/1/21 – 6/30/22	952 Hours
Information Technology Specialist I	RA	7/1/21 – 6/30/22	967 Hours
Staff Administrative Analyst (Accounting Systems)	RA	7/1/21 – 6/30/22	950.50 Hours
Staff Services Analyst (General)	RA	7/1/21 – 6/30/22	872 Hours
Staff Services Manager II (Supervisory)	RA	2/1/22 – 6/30/22	498 Hours

SEVERITY: SERIOUS	FINDING NO. 13 POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS
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Summary: The Exchange did not consistently track and monitor one retired annuitant total hours worked, allowing employees to work over the 960-hour limitation in any fiscal year.

Specifically, the following employee exceeded the 960-hour limitation:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit ¹⁷
Information Specialist I	RA	7/1/21-6/30/22	967	7

Criteria: According to Government Code Section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June) for all state employers without reinstatement or loss or interruption of benefits.

Severity: Serious. Existing law allows a person retired from state service to be rehired by the State as a retired annuitant. However, retired annuitants shall not work more than 960 hours each fiscal year without reinstatement, loss or interruption of benefits for all state employers.

Cause: The Exchange states that the error discovered was an oversight made by their staff.

Corrective Action: The Exchange asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Exchange must submit to the SPB documentation which demonstrates the meaningful and systemic actions it has taken to ensure conformity with California Code of Regulations, title 2, section 265.1.

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

¹⁷Executive Order N-25-20, signed by Governor Newsom on March 12, 2020, suspended work hour limitations on retired annuitants' hours due to the Covid-19 emergency. This expired on March 31, 2022. Appointing authorities whose employees exceeded the established work hour limitations were required to notify CalHR of such. If a positive paid employee's hours exceeded limitations, and there was no notification to CalHR, then that would result in a finding. In this case, the Exchange did not provide documentation to support that the RA whose hours exceeded limitations were over due to Covid-19 related work.

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, July 1, 2021, through June 30, 2022, the Exchange authorized 506 ATO transactions. The CRU reviewed 43 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
AGPA	8/5/21	1 Day
AGPA	8/6/21	1 Day
AGPA	8/20/21	3 Hours
AGPA	9/14/21	2 Hours
AGPA	9/14/21	2 Hours
AGPA	11/10/21	2 Hours
AGPA	12/1/21	2 Hours
AGPA	2/16/22	1.50 Hours
AGPA	2/24/22	1 Hour
AGPA	6/7/22	1 Day
AGPA	6/7/22	2 Hours
Information Technology Specialist I	10/19/21	2 Hours
Information Technology Specialist I	11/23/21	1 Hour
Program Technician II	8/6/21	1 Day
Program Technician II	10/15/21	2 Hours
Program Technician II	11/23/21	2 Hours
Program Technician II	12/10/21	1.50 Hours
Program Technician II	12/27/21	1 Day
Program Technician II	12/28/21	1 Day
Program Technician II	12/29/21	1 Day
Program Technician II	12/30/21	1 Day
Program Technician II	12/31/21	1 Day
Program Technician II	2/2/22	1.50 Hours
Program Technician II	2/23/22	2 Hours
Program Technician II	4/15/22	1.50 Hours
Program Technician II	4/15/22	3 Hours
Program Technician II	4/26/22	3 Hours
Program Technician II	6/10/22	3.25 Hours
Program Technician II	6/13/22	3.50 Hours
Program Technician III	10/21/21	1.50 Hours
Program Technician III	11/23/21	2 Hours
Program Technician III	11/23/21	.50 Hour
Program Technician III	12/20/21	2 Hours

Classification	Time Frame	Amount of Time on ATO
Program Technician III	12/27/21	1 Day
Program Technician III	12/28/21	1 Day
Program Technician III	12/29/21	1 Day
Research Data Analyst II	1/18/22	2 Hours
Research Data Analyst II	1/31/22	1.50 Hours
Staff Services Analyst (General)	1/24/22	2 Hours
Supervising Program Technician III	8/3/21	1.50 Hours
Supervising Program Technician III	9/2/21	1.50 Hours
Supervising Program Technician III	9/9/21	1.50 Hours
Supervising Program Technician III	12/3/21	2 Hours

IN COMPLIANCE	FINDING NO. 14 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 Exchange 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, April 1, 2022, through June 30, 2022, the Exchange reported 21 units comprised of 3,972 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2022	122	7	7	0
April 2022	170	41	41	0
April 2022	350	20	20	0
May 2022	110	12	12	0
May 2022	140	42	42	0
May 2022	370	32	32	0
June 2022	112	14	14	0
June 2022	210	27	27	0

SEVERITY: SERIOUS	FINDING NO. 15 DEPARTMENT DID NOT CERTIFY THAT ALL LEAVE RECORDS WERE REVIEWED
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Summary: The Exchange failed to certify that all leave records have been reviewed and corrected if necessary for the eight units reviewed during the April 2022, May 2022, and June 2022 pay periods. This is the second consecutive time this has been a finding for the Exchange.

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

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

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

Cause: The Exchange acknowledges they did not manually certify that all leave records were reviewed. The Exchange states that they utilize a program called Workday, which offers real time and leave tracking, negating the need to key leave records into the system. The Workday system automatically computes based on the system calculations.

SPB Response: Human Resources Manual Section 2101 requires that for departments which utilize an electronic timekeeping system are required to audit for leave errors and certify that all leave records have been reviewed for accuracy.

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

State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.¹⁸ (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.

¹⁸ 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.

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 employees¹⁹ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, December 1, 2021, through August 31, 2022, the Exchange had 14 employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 28 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Ful Time	16
Qualifying Pay Period	Full Time	12

IN COMPLIANCE	FINDING NO. 16 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 Exchange 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.

¹⁹ 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.

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. 17 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 Exchange's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the Exchange's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers' Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving

notice or knowledge that the employee has suffered a work-related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

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

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

IN COMPLIANCE	FINDING NO. 18 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the Exchange 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 Exchange 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 85 permanent Exchange employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 19 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The Exchange did not provide annual performance appraisals to 77 of 85 employees reviewed after the completion of the employee’s probationary period. This is the second consecutive time this has been a finding for the Exchange.

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 Exchange acknowledges that performance appraisals were not provided to all employees. The Exchange has developed a standardized process to ensure supervisors and managers complete annual performance appraisals for their employees in their birth month. The Exchange will continue to review and explore new process improvements to ensure compliance.

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

DEPARTMENTAL RESPONSE

The Exchange’s response is attached as Attachment 1.

SPB REPLY

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