



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Compliance Review Unit
State Personnel Board
March 14, 2024

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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 Housing and Community Development (HCD) 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 Timely ¹
Appointments	Very Serious	Unlawful Appointment
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
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs

¹ Repeat finding. The June 10, 2015, HCD compliance review report identified 9 missing probationary reports of performance were not provided for 8 the 43 appointment files reviewed. In addition, the March 22, 2021, compliance review report identified 3 missing and 4 late probationary reports of performance for 4 of the 37 appointment files reviewed.

Area	Severity	Finding
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Hire Above the Minimum Requests
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Administrative Time Off Was Not Properly Documented
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

Area	Severity	Finding
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 ²

BACKGROUND

The HCD’s mission is to promote safe, affordable homes and vibrant, inclusive, sustainable communities for all Californians. The HCD helps to provide stable, safe homes affordable to veterans, seniors, young families, farm workers, tribes, people with disabilities, and individuals and families experiencing homelessness. Its vision is that every California resident can live, work, and play in healthy communities of opportunity. As a basic human need, housing is one of the most important parts of any community, and how housing is planned has wide reaching impacts on the environment, education, health, and the economy.

The HCD plays a critical role in the housing-planning process, which was designed to ensure that communities plan housing that meets the needs of everyone in California's communities. The HCD works with each of California’s housing regions to determine housing needs, and then reviews every city and county’s housing plan (the housing element of the general plan) to determine whether or not the plan complies with state law. The HCD also develops policies that support housing and community development and conducts research and analysis of California's housing markets and needs.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the HCD’s examinations, appointments, EEO program, PSC’s, mandated training, compensation and pay, leave, and policy and processes³. The primary objective of the review was to determine if the HCD’s personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines,

² Repeat finding. The March 22, 2021, HCD compliance review report identified that annual performance appraisals were not provided to 7 of the 37 employees reviewed.

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

CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

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

A cross-section of the HCD'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 HCD provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CRU also reviewed the HCD's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations. The HCD did not conduct any unlawful appointment investigations or additional appointments during the compliance review period.

The HCD's appointments were also selected for review to ensure the HCD applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the HCD provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: hire above minimum (HAM) requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the HCD did not issue or authorize red circle rate requests or arduous pay.

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

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

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

The CRU received and carefully reviewed the HCD's written response on March 6, 2024, which is attached to this final compliance review report.

⁴If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

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, 2023, through September 30, 2023, the HCD conducted three examinations. The CRU reviewed all of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA B, Assistant Deputy Director, Multifamily Finance Loan Closing	CEA	Statement of Qualifications (SOQ) ⁵	9/21/22	5
CEA B, Assistant Deputy Director	CEA	SOQ	3/10/23	27
CEA B, Chief Information Officer	CEA	SOQ	1/17/23	19

⁵ 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.

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

Permanent Withhold Actions

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

During the period under review, January 1, 2023, through September 30, 2023, the HCD conducted 28 permanent withhold actions. The CRU reviewed 17 of these permanent withhold actions⁶ which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended
Associate Governmental Program Analyst	9PB04	8/23/2023	8/23/2024
Codes and Standards Administrator I	2PBDC	8/27/2023	8/27/2024
HCD Development Specialist II	2PBBB	11/10/2022	11/10/2023
HCD Representative I	0PBEJ	10/10/2023	10/10/2024
HCD Representative I	0PBEJ	10/5/2023	10/5/2024
HCD Representative I	0PBEJ	6/13/2023	6/13/2024
HCD Representative I	0PBEJ	10/25/2023	10/25/2024
HCD Representative I	0PBEJ	1/3/2023	1/3/2024
HCD Representative II	0PB EK	12/11/2022	12/11/2023
HCD Representative II	0PB EK	4/28/2023	4/28/2024
HCD Representative II	0PB EK	6/20/2023	6/20/2024
HCD Representative II	0PB EK	5/2/2023	5/2/2024
HCD Representative II	0PB EK	12/21/2022	12/21/2023
HCD Representative II	0PB EK	12/2/2022	12/2/2023
HCD Representative II	0PB EK	11/15/2022	11/15/2023
Program Technician II	0PB CS	5/3/2022	5/3/2023
Program Technician II	0PB CS	12/7/2022	12/7/2023

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

⁶ All withholds were due to candidates' failure to meet the minimum qualifications of the position.

and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, January 1, 2023, through September 30, 2023, the HCD made 249 appointments. The CRU reviewed 51 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Administrator II	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Budget Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
CEA, B	Certification List	CEA	Full Time	2
Codes and Standards Administrator I (Non-Peace Officer)	Certification List	Permanent	Full Time	1
District Representative I, Division of Codes and Standards (Non-Peace Officer)	Certification List	Permanent	Full Time	2
District Representative II, Division of Codes and Standards (Non-Peace Officer)	Certification List	Permanent	Full Time	1
HCD Representative I	Certification List	Permanent	Full Time	2
HCD Representative II	Certification List	Permanent	Full Time	3

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
HCD Specialist I	Certification List	Permanent	Full Time	3
HCD Specialist II	Certification List	Permanent	Full Time	4
Information Technology Manager I	Certification List	Permanent	Full Time	1
Information Technology Manager II	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Information Technology Specialist III	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Program Technician II (LEAP)	Certification List	Limited Term	Full Time	1
Program Technician III	Certification List	Permanent	Full Time	1
Research Data Analyst I	Certification List	Permanent	Full Time	1
Research Data Analyst II	Certification List	Permanent	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Staff Services Manager I (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	1
Supervising Program Technician III	Certification List	Permanent	Full Time	1
Training Officer I	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Training & Development	Permanent	Full Time	1
Associate Accounting Analyst	Transfer	Permanent	Full Time	1
Attorney III	Transfer	Permanent	Full Time	1
CEA	Transfer	CEA	Full Time	1
HCD Representative I	Transfer	Permanent	Full Time	1
HCD Representative II	Transfer	Permanent	Full Time	2
Information Technology Associate	Transfer	Permanent	Full Time	1
Program Technician II	Transfer	Permanent	Full Time	1
Senior Personnel Specialist	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT TIMELY
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Summary: The HCD did not provide in a timely manner 1 probationary report of performance for 1 of the 51 appointments reviewed by the CRU, as reflected in the table below. This is the third consecutive time this has been a finding for the HCD.

Classification	Appointment Type	No. of Appointments	Total No. of Late Probation Reports
HCD Representative II	Certification List	1	1

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (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 HCD states that their notification and tracking process did not include following up on missing reports; therefore, there was a lack

of accountability for leaders who did not complete probationary evaluations timely.

Corrective Action: Within 90 days of the date of this report, the HCD must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: VERY SERIOUS	FINDING NO. 4 UNLAWFUL APPOINTMENT
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Summary: The CRU uncovered a potential unlawful appointment during the course of its regular review. The HCD made one appointment utilizing the certification list for the Research Data Analyst II. The hired candidate did not meet the minimum qualifications for the classification. Specifically, the hired candidate did not have enough qualifying experience to meet Patterns I or II of the minimum qualifications at the time of exam or appointment.

The HCD is working with CalHR in conducting the unlawful appointment investigation process.

Criteria: Pursuant to Government Code section 18931, subdivision (a), the Board shall establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. In accordance with California Code of Regulations, title 2, section 249.4, appointing powers shall verify that the candidate satisfies the minimum qualifications of the classification before the candidate is appointed.

Severity: Very Serious. An unlawful appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Unlawful appointments which are not corrected also create appointment inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the unlawful appointment and may also be subject to disciplinary action.

Cause: The HCD states that they are in the process of investigating the unlawful hire and do not have an official outcome at this time. However, the preliminary review of the hire does indicate a good faith unlawful hire occurred based on minimum qualifications being inaccurately determined.

Corrective Action: The CRU referred this unlawful appointment to the CalHR Personnel Management Division. The HCD is currently conducting the unlawful appointment investigation under the direction of the Personnel Management Division. Within 90 days of the date of this report, the HCD must submit to the SPB a written corrective action response that addresses the results of the investigation and any corrective action taken. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response, if applicable.

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. 5 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 HCD'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 HCD. The HCD 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, 2023, through September 30, 2023, the HCD had eight PSC's that were in effect. The CRU reviewed seven of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Aurora Systems Consulting Inc.	Utilization of LinkedIn	\$499,545	Yes	Yes
Cooperative Personnel Services, dba CPS HR Consulting	Consulting Services and Projects	\$600,00	Yes	Yes
Cooperative Personnel Services, dba CPS HR Consulting	Coaching, Leadership Development and Project Management Services	\$600,000	Yes	Yes
IS, Inc.	Training	\$249,999	Yes	Yes
Magellan Health Services of California, Inc.	Employee Assistance Program	\$49,999	Yes	Yes
Rescue Training Institute, Inc.	Training	\$49,999	Yes	Yes
SEE Strategies, LLC	Executive Coaching	\$49,969	Yes	Yes

IN COMPLIANCE	FINDING NO. 6 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC's reviewed was 1,499,511. It was beyond the scope of the review to make conclusions as to whether HCD justifications for the contract were legally sufficient. For all PSC's reviewed, the HCD 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, HCD 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 HCD 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 HCD’s mandated training program that was in effect during the compliance review period, October 1, 2021, through September 30, 2023.

SEVERITY: VERY SERIOUS	FINDING NO. 7 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The HCD did not provide ethics training to 164 of 724 existing filers. In addition, the HCD did not provide ethics training to 84 of 405 new filers within 6 months of their appointment.

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 HCD states that the unfamiliarity with their new Learning Management System (LMS) resulted in a need to continue a manual tracking and notification process, which created a challenge in obtaining compliance. Additionally, staff failed to complete the training in a timely manner due to work demands, competing priorities, or a lack of awareness or notice.

Corrective Action: Within 90 days of this report, the HCD must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant

documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: VERY SERIOUS	FINDING NO. 8 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The HCD did not provide basic supervisory training to 4 of 49 new supervisors within 12 months of appointment and did not provide manager training to 3 of 9 new managers 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, subd. (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).)

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 HCD states that the unfamiliarity with their new LMS resulted in a need to continue a manual tracking and notification process, which created a challenge in obtaining compliance. Additionally, staff failed to complete the training timely due to work demands, competing priorities, or a lack of awareness or notice.

Corrective Action: Within 90 days of the date of this report, the HCD must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors are provided supervisory training within twelve months of appointment as required by Government Code section 19995.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: VERY SERIOUS	FINDING NO. 9 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The HCD did not provide sexual harassment prevention training to 16 of 63 new supervisors within 6 months of their appointment. In addition, the HCD did not provide sexual harassment prevention training to 4 of 176 existing supervisors every 2 years.

The HCD did not provide sexual harassment prevention training to 8 of 94 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 HCD states that the unfamiliarity with their new LMS resulted in a need to continue a manual tracking and notification process, which created a challenge in obtaining compliance. Additionally, staff failed to complete the training timely due to work demands, competing priorities, or a lack of awareness or notice.

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

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁷ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, January 1, 2023, through September 30, 2023, the HCD made 249 appointments. The CRU reviewed 23 of those appointments to determine if the HCD applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Budget Analyst	Certification List	Permanent	Full Time	\$5,684
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,744
Attorney III	Certification List	Permanent	Full Time	\$10,225
Codes and Standards Administrator I (Non-Peace Officer)	Certification List	Permanent	Full Time	\$7,039
District Representative I, Division of Codes and Standards (Non-Peace Officer)	Certification List	Permanent	Full Time	\$6,063

⁷ "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)
District Representative I, Division of Codes and Standards (Non-Peace Officer)	Certification List	Permanent	Full Time	\$6,063
District Representative II, Division of Codes and Standards (Non-Peace Officer)	Certification List	Permanent	Full Time	\$6,653
HCD Representative II	Certification List	Permanent	Full Time	\$5,793
HCD Specialist I	Certification List	Permanent	Full Time	\$6,363
HCD Specialist I	Certification List	Permanent	Full Time	\$6,061
HCD Specialist II	Certification List	Permanent	Full Time	\$7,396
HCD Specialist II	Certification List	Permanent	Full Time	\$7,043
Information Technology Manager I	Certification List	Permanent	Full Time	\$11,512
Information Technology Specialist I	Certification List	Permanent	Full Time	\$8,153
Research Data Analyst II	Certification List	Permanent	Full Time	\$5,793
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$7,236
Supervising Program Technician III	Certification List	Permanent	Full Time	\$4,742
Training Officer I	Certification List	Permanent	Full Time	\$5,518
Associate Accounting Analyst	Transfer	Permanent	Full Time	\$6,387
HCD Representative I	Transfer	Permanent	Full Time	\$5,968
HCD Representative II	Transfer	Permanent	Full Time	\$6,387
Information Technology Associate	Transfer	Permanent	Full Time	\$5,226
Program Technician II	Transfer	Permanent	Full Time	\$4,227

SEVERITY: VERY SERIOUS	FINDING NO. 10	INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT
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Summary: The CRU found 3 errors in the 23 salary determinations reviewed:

Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	Incorrect anniversary date determination which would have resulted in the employee being overcompensated.	Cal. Code Regs., tit.2 section 599.683, subd. (a)
HCD Specialist II (2 positions)	Incorrect salary and anniversary date determination resulting in the employee being overcompensated	Cal. Code Regs., tit.2 section 599.673 Cal. Code Regs., tit.2 section 599.683, subd. (a)

Criteria: Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. In three circumstances, the HCD failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with CalHR’s policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The HCD states that inexperienced staff failed to appropriately apply salary laws and rules, including the calculation of salary rates and anniversary dates resulting in employees being overcompensated.

Corrective Action: Within 90 days of the date of this report, the HCD must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The HCD must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many

instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, January 1, 2023, through September 30, 2023, the HCD employees made 18 alternate range movements within a classification. The CRU reviewed 12 of those alternate range movements to determine if the HCD 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	A	B	Full Time	\$7,812
Information Technology Associate	B	C	Full Time	\$5,763
Information Technology Specialist I	A	B	Full Time	\$6,901
Information Technology Specialist I	A	B	Full Time	\$6,901
Information Technology Specialist I	B	C	Full Time	\$8,989
Information Technology Specialist I	A	B	Full Time	\$6,571
Personnel Specialist	B	C	Full Time	\$4,387
Staff Services Analyst	A	B	Full Time	\$4,522
Staff Services Analyst	B	C	Full Time	\$4,588
Staff Services Analyst	A	B	Full Time	\$4,218
Staff Services Analyst	B	C	Full Time	\$5,028
Staff Services Analyst	A	B	Full Time	\$4,300

SEVERITY: VERY SERIOUS	FINDING NO. 11	ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
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Summary: The CRU found 2 errors in the 12 alternate range movements reviewed:

Classification	Description of Findings	Criteria
Information Technology Specialist I	Employee should have been placed into Range B of the classification as they met the criteria.	ARC 484
Personnel Specialist	Incorrect anniversary date determination resulting in the employee being undercompensated.	Cal. Code Regs., tit.2 section 599.683, subd. (b)

Criteria: Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. In two circumstances, the HCD failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules not in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The HCD states that staff did not appropriately apply ARC 484 resulting in an inappropriate range placement. Furthermore, staff incorrectly applied an anniversary date determination resulting in an employee being undercompensated.

Corrective Action: Within 90 days of the date of this report, the HCD must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The HCD must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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.⁸ (Gov. Code, § 19836, subd. (b). Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

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

During the period under review, January 1, 2023, through September 30, 2023, the HCD authorized two HAM requests. The CRU reviewed all of those authorized HAM requests

⁸ 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 determine if the HCD 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)
HCD Specialist II ⁹	Certification List	New To State	\$6,658 - \$8,334	\$7,043
HCD Specialist II	Certification List	New To State	\$6,658 - \$8,334	\$7,314

SEVERITY: VERY SERIOUS	FINDING NO. 12	INCORRECT AUTHORIZATION OF HIRE ABOVE THE MINIMUM REQUESTS
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Summary: The CRU found one error in a HAM authorized by the HCD:

Classification	Description of Finding	Criteria
HCD Specialist II	The employee did not meet the criteria to receive a HAM rate. Specifically, the HCD did not demonstrate that the employee enhanced their qualifications above those they previously possessed in prior state employment to qualify for a higher rate of pay. As a result, the employee was overcompensated.	Human Resources Manual Section 1707

Criteria: CalHR may authorize payment at any step above the minimum salary limit to classes or positions in order to meet recruiting problems, to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.)

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

Cause: The HCD states that staff incorrectly authorized a HAM for one employee. This employee had left state service for less than one year and did not demonstrate that the employee had enhanced their qualifications above what they previously possessed.

⁹ The employee separated from state service for private sector employment and returned to state service after 9 months.

Corrective Action: Within 90 days of the date of this report, the HCD must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Gov. Code, § 19836 and Human Resources Manual Section 1707. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Bilingual Pay

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

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

During the period under review, January 1, 2023, through September 30, 2023, the HCD issued bilingual pay to 49 employees. The CRU reviewed 25 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.
Associate Governmental Program Analyst	R01	Full Time	3
Attorney III	R02	Full Time	1
District Representative I, Division of Codes and Standards (Non-Peace Officer)	R07	Full Time	3
District Representative II, Division of Codes And Standards (Non-Peace Officer)	R07	Full Time	3
HCD Representative II	R01	Full Time	6
HCD Specialist I	R01	Full Time	1
Program Technician II	R04	Full Time	3

Classification	Bargaining Unit	Time Base	No. of Appts.
Program Technician III	R04	Full Time	1
Staff Services Analyst	R01	Full Time	3
Supervising Program Technician III	S04	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 13	INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRU found 4 errors in the 25 bilingual pay authorizations reviewed:

Classification	Description of Finding(s)	Criteria
HCD Representative II	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Pay Differential 14
Program Technician II (3 positions)	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Pay Differential 14

Criteria: An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

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

Cause: The HCD states that the appropriate section failed to maintain supporting documentation demonstrating the need for bilingual services, including not having the bilingual pay authorization form or signed duty statement on file.

Corrective Action: Within 90 days of the date of this report, the HCD must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 7296, and/or Pay Differential 14. Copies

of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Pay Differentials

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

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

During the period under review, January 1, 2023, through September 30, 2023, the HCD authorized six pay differentials.¹⁰ The CRU reviewed five of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
District Representative II, Division of Codes and Standards (3 positions)	244	\$125
Staff Services Analyst	441	\$250
Staff Services Manager I	441	\$250

¹⁰ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

IN COMPLIANCE	FINDING NO. 14	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 HCD 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 excluded¹¹ 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, January 1, 2023, through September 30, 2023, the HCD issued OOC pay to three employees. The CRU reviewed all three of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

¹¹ “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	Bargaining Unit	Out-of-Class Classification	Time Frame
Accounting Administrator I (Supervisor)	S01	Accounting Administrator II	4/20/23-5/1/23
Associate Governmental Program Analyst	R01	Staff Services Manager I	1/1/23-2/28/23
Staff Services Manager II (Supervisory)	S01	Staff Services Manager III	3/2/23-5/1/23

IN COMPLIANCE	FINDING NO. 15	OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the OOC pay assignments that the HCD authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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 days¹² worked and paid absences¹³, 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.*)

¹² For example, two hours or ten hours count as one day.

¹³ For example, vacation, sick leave, compensating time off, etc.

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

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

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 HCD had 15 positive paid employees whose hours were tracked. The CRU reviewed all of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Hours Worked
HCD Representative II	Retired Annuitant	Fiscal Year	960
HCD Representative II	Retired Annuitant	Fiscal Year	952.75
HCD Representative II	Retired Annuitant	Fiscal Year	959
HCD Representative II	Retired Annuitant	Fiscal Year	928
HCD Specialist I	Retired Annuitant	Fiscal Year	958.75
HCD Specialist I	Retired Annuitant	Fiscal Year	960
HCD Specialist II	Retired Annuitant	Fiscal Year	960
HCD Specialist II	Retired Annuitant	Fiscal Year	374
HCD Specialist II	Retired Annuitant	Fiscal Year	856
Information Officer I (Specialist)	Retired Annuitant	Fiscal Year	952.5
Information Technology Specialist I	Retired Annuitant	Fiscal Year	945
Personnel Technician I	Retired Annuitant	Fiscal Year	597
Research Data Specialist II	Retired Annuitant	Fiscal Year	318.5
Special Consultant	Temporary	Calendar Year	497
Staff Services Manager II	Retired Annuitant	Fiscal Year	600.5

IN COMPLIANCE	FINDING NO. 16	POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The HCD provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted when employees need time off for reasons such as blood or organ donation, extreme weather preventing safe travel to work, states of emergency, voting, and when employees need time off to attend special events. (*Ibid.*)

During the period under review, July 1, 2022, through June 30, 2023, the HCD authorized 272 ATO transactions. The CRU reviewed 25 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
Associate Accounting Analyst	10/3/2022	2 Hours
Associate Governmental Program Analyst	12/07/2022-12/19/2022	72 Hours
Associate Governmental Program Analyst	9/8/2022-9/21/2022	37.5 Hours
District Representative I	12/1/2022-3/30/2023	640 Hours
HCD Representative I	11/21/2022-12/05/2022	72 Hours
HCD Representative II	6/22/2023-6/30/2023	52 Hours
HCD Representative II	10/10/2022-10/14/2022	40 Hours
HCD Representative II	1/25/2023-1/27/2023	24 Hours
HCD Representative II	1/4/2023	3.5 Hours
HCD Representative II	3/06/2023-3/10/2023	40 Hours
HCD Representative II	1/03/2023-1/9/2023	40 Hours
HCD Representative II	7/5/2022-7/18/2022	72 Hours

Classification	Time Frame	Amount of Time on ATO
HCD Specialist II	3/13/2023-3/16/2023	36 Hours
HCD Specialist II	12/21/2022	0.5 Hours
Information Technology Specialist I	1/9/2023	3 Hours
Office Technician (Typing)	1/19/2023	8 Hours
Program Technician II	4/27/2023	2 Hours
Program Technician II	4/12/2023 4/19/2023	1 Hour 1.5 Hours
Program Technician II	12/12/2022- 12/30/2022	80 Hours
Staff Service Manager I	11/21/2022-12/6/2022	80 Hours
Staff Services Analyst	8/23/2022	2 Hours
Staff Services Analyst	8/10/2022-8/17/2022	48 Hours
Staff Services Manager I	1/30/2023-2/06/2023	48 Hours
Staff Services Manager I	5/31/2023-6/6/2023	40 Hours
Staff Services Manager II	2/13/2023	8 Hours

SEVERITY: SERIOUS	FINDING NO. 17 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED
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Summary: The HCD did not grant ATO in conformity with the established policies and procedures. Of the 25 ATO authorizations reviewed by the CRU, 1 was found to be out of compliance for failing to document justification for ATO and 1 was not properly documented in the Leave Accounting System.

Criteria: Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they “have delegated authority to approve up to 30 calendar days.” (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. (*Ibid.*) In most cases, if approved, the extension will be for an additional 30 calendar days. (*Ibid.*) The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. (*Ibid.*)

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. (*Ibid.*) ATO may not be used and will not be granted for an indefinite period. (*Ibid.*) If

CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. (*Ibid.*)

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

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

Cause: The HCD states that its new Human Capital Management System to process time and leave accounting for the department did not have necessary parameters in place to allow for appropriate oversight when team members used ATO on their timesheets.

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

Leave Auditing and Timekeeping

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

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

for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*Ibid.*)

During the period under review, April 1, 2023, through June 30, 2023, the HCD reported 56 units comprised of 1,128 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
April 2023	284	23	23	0
April 2023	293	6	6	0
May 2023	106	11	11	0
May 2023	855	4	4	0
June 2023	254	28	28	0
June 2023	802	34	34	0

IN COMPLIANCE	FINDING NO. 18	LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The HCD 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.¹⁴ (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 employees¹⁵ 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, 2023, through September 30, 2023, the HCD had seven employees with qualifying and non-qualifying pay period transactions. The CRU reviewed nine transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Non-Qualifying Pay Period	Full Time	6
Qualifying Pay Period	Full Time	3

¹⁴ 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.

¹⁵ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

IN COMPLIANCE	FINDING NO. 19	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 HCD 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. 20	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 HCD’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the HCD’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 HCD did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 21	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 HCD 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 HCD 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 79 permanent HCD 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. 22	PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The HCD did not provide annual performance appraisals to 16 of 79 employees reviewed after the completion of the employee’s probationary period. This is the second consecutive time this has been a finding for the HCD.

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 HCD states that their notification and tracking process did not include following up on missing performance appraisals; therefore, there was a lack of accountability for leaders who did not complete performance evaluations timely.

Corrective Action: Within 90 days of the date of this report, the HCD must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The HCD’s written response is attached as Attachment 1.

SPB REPLY

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

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**Human Resources Branch**

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March 6, 2024

MEMORANDUM FOR: State Personnel Board

FROM: Rebecca Herzog, Personnel Officer
Human Resources Branch

SUBJECT: SPB Compliance (Audit) Review Response

The Department of Housing and Community Development (HCD), Human Resources Branch is respectfully submitting the below response to the State Personnel Board (SPB) Compliance Review Unit.

On February 13, 2024, the Human Resources Branch (HRB) received the attached Compliance Review Report from the State Personnel Board (SPB) which outlines the departments audit findings related to the departments personnel practices in the areas of examinations, appointments, EEO, personnel service contracts, mandated training, compensation and pay, leave and policy and processes. SPB determined the department was out of compliance in several areas and requested a response to the audit findings by March 6, 2024.

In the year leading up to the compliance review period, HCD's HRB experienced a 75% turnover in staff and leadership creating gaps in knowledge of internal personnel processes and procedures and resulting in a high number of inexperienced staff. Additionally, the department experienced exponential growth during this time adding 122 PYs in 2022 and 79 in 2023. Lastly, HCD transferred all records from local drive storage to online web-based file storage that caused a loss in transferred documentation. The HRB also moved all training management and tracking into a new Learning Management System (LMS) which also caused a loss of data integrity in our tracking and noticing. Below is HCD's formal response to each of the SPB Compliance Review findings.

Finding No. 3 – Probationary Evaluations Were Not Timely**Cause:**

Some HCD leaders were unable to complete the required probationary evaluations timely due to work demands and competing priorities. Additionally, HRB's notification and tracking process did not include following up on missing reports and there was a lack of accountability for leaders who do not complete probationary evaluations timely.

Department Response:

The HCD understands the importance of providing timely feedback to its team members and is committed to becoming complaint in this area. HCD's Executive Leadership Team releases various communications to department managers and supervisors about the importance of timely feedback and completion of probationary evaluations. The HRB generates multiple email notifications through its PeopleSoft Human Capital Management system to notify and remind leaders of upcoming probation evaluation due dates and has developed additional on-demand system tools for leaders to help them monitor upcoming probationary evaluation due dates for their direct reports and/or their section's team member probation report evaluation due dates. Leaders also get notification once a hire is made of the need to serve a probation period and the due dates for the three reports. The HRB also continues to report department wide monthly statistics of probation evaluations received to provide transparency across the department and encourage compliance. HRB continues to provide training to educate leaders on the requirement and best practices for completing effective and timely evaluations. The department will continually monitor the measures put in place to ensure an increase in completion rate and will pursue additional strategies, if necessary, to be compliant.

Finding No. 4 – Appointments – Unlawful Appointment**Cause:**

The HCD is in the process of investigating the unlawful hire and does not have an official outcome at this time. Our preliminary review of the hire does indicate a good faith unlawful hire occurred based on minimum qualifications being inaccurately determined due to credit being given for experience that was not "progressively responsible" as required by the minimum qualifications of the classification.

Department Response:

The HCD takes reviewing and interpreting minimum qualifications very seriously and understands the reporting requirements, responsibilities, obligations, and expectations of our delegated authority and is committed to becoming complaint in this area. The HCD is committed to ensuring all staff and managers are properly trained and that the appropriate checks and reviews are put into place to prevent unlawful appointments from occurring to ensure compliance in this area.

Finding No. 7 Ethics Training Was Not Provided for all Filers**Cause:**

In implementing a new LMS, the integrity of HCD's tracking of current filers required to complete the training was compromised and a lot of tracking data was lost. The unfamiliarity with the LMS resulted in a need to continue a manual tracking and notification process creating inconsistencies and a challenge with obtaining 100% compliance. Additionally, there are a few leaders who failed to complete the trainings timely due to work demands, competing priorities, or a lack of awareness or notice.

Department Response:

The HCD understands the importance of providing training to educate filers on the ethical standards required of individuals who work in state government and is committed

to obtaining full compliance in this area. The HCD is establishing a mandatory training policy to ensure all HCD team members are aware of and trained in the necessary disciplines to ensure a safe and ethical workplace and to ensure the department is compliant with all legal mandates. A separate mandatory training email address has been established to help highlight and differentiate mandatory training notices from non-required training offerings. Notification and tracking of ethics training requirements and completion will be integrated into the LMS to increase accurate notifications and tracking, including consistently escalating non-compliance. A monthly compliance report will be provided to executive leadership to direct compliance and ensure accountability.

Finding No. 8 Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs

Cause:

In implementing a new LMS, the integrity of HCD's tracking of leaders required to complete the training was compromised and a lot of tracking data was lost. The unfamiliarity with the LMS resulted in a need to continue a manual tracking and notification process creating inconsistencies and a challenge with obtaining 100% compliance. Additionally, there are a few leaders who failed to complete the trainings timely due to work demands, competing priorities, or a lack of awareness or notice.

Department Response:

The HCD recognizes the importance of the foundational mandated trainings for Supervisors, Managers, and Executives and is committed to being compliant. The HCD is establishing a mandatory training policy to ensure all HCD team members are aware of and trained in the necessary disciplines to ensure a safe and ethical workplace and to ensure the department is compliant with all legal mandates. A separate mandatory training email address has been established to help highlight and differentiate mandatory training notices from non-required training offerings. Notification and tracking of ethics training requirements and completion will be integrated into the LMS to increase accurate notifications and tracking, including consistently escalating non-compliance. A monthly compliance report will be provided to executive leadership to direct compliance and ensure accountability.

Finding No. 9 Sexual Harassment Prevention Training Was Not Provided for All Employees

Cause:

In implementing a new LMS, the integrity of HCD's tracking of employees required to complete the training was compromised and a lot of tracking data was lost. The unfamiliarity with the LMS resulted in a need to continue a manual tracking and notification process creating inconsistencies and a challenge with obtaining 100% compliance. Additionally, there are a few employees who failed to complete the trainings timely due to work demands, competing priorities, or a lack of awareness or notice.

Department Response:

The HCD takes sexual harassment prevention very seriously and is committed to getting all employees trained and into compliance. The HCD is establishing a

mandatory training policy to ensure all HCD team members are aware of and trained in the necessary disciplines to ensure a safe and ethical workplace and to ensure the department is compliant with all legal mandates. A separate mandatory training email address has been established to help highlight and differentiate mandatory training notices from non-required training offerings. Notification and tracking of ethics training requirements and completion will be integrated into the LMS to increase accurate notifications and tracking, including consistently escalating non-compliance. A monthly compliance report will be provided to executive leadership to direct compliance and ensure accountability.

Finding No. 10 – Incorrect Application of Salary Determination laws, rules, and CalHR policies and guidelines for appointment.

Cause:

Inexperienced staff failed to appropriately apply salary laws and rules, including the calculation of salary rates and anniversary dates resulting in resulting in employees being overcompensated.

Department Response:

HRB takes salary determination very seriously and will ensure staff are properly trained to calculate and apply salary rules accurately for each employee based on the pay plan for state civil service and that appropriate review is out into place to ensure compliance in this area.

Findings No. 11 – Alternate Range Movements did not comply with civil service laws, board rules, and/or CalHR policies and guidelines.

Cause:

The Classification and Selections Unit did not appropriately apply Alternate Range Criteria (ARC) 484 resulting in an inappropriate range placement and incorrectly applied an anniversary date determination resulting in employees being undercompensated.

Department Response:

The HCD recognizes that alternate ranges are designed to recognize increase competencies and to calculate the compensation correctly requires applying the salary rules and ARCs appropriately. The HRB will ensure staff are properly trained and placements are appropriately reviewed ensure compliance in this area.

Findings No. 12 – Incorrect Authorization of Hire Above Minimum requests.

Cause:

The HCD incorrectly authorized a HAM for an employee who left state service for less than one year. The HCD inappropriately approved the HAM as the employee did not meet the criteria to receive a HAM rate as they did not demonstrate they had enhanced their qualifications above what they previously possessed upon returning to the state.

Department Response:

The HCD recognizes that the HAM determination did not comply with state civil service pay plan by incorrectly applying compensation laws and rules resulting in civil service

employees receiving incorrect pay. The HCD will ensure staff are properly trained to apply the HAM criteria correctly and that appropriate approvals are put into place to become complaint in this area.

Findings No. 13 – Incorrect authorizations of Bilingual Pay.

Cause:

The HRB's Examinations Section Department failed to supply appropriate supporting documentation demonstrating the need for bilingual services, including not having the bilingual pay authorization form or signed duty statement on file.

Department Response:

HCD recognizes 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. The HRB is working closely with the department's Language Access and Bilingual Coordinators to ensure accurate completion and maintenance off all documents and surveys related to the certification of bilingual positions within the department.

Finding No. 17 – Administrative Time Off Was Not Properly Documented

Cause:

The HCD implemented a new Human Capital Management System to process time and leave accounting for the department. In doing so, the department did not put the necessary parameters in place to allow for appropriate oversight when team members used Administrative Time Off (ATO) on their timesheets. As a result, when a team member posted ATO to their current or previous timesheets, HRB was not being made aware that the ATO time reporting code was being used without HRB's prior approval/substantiation. The HRB did not have an audit mechanism in place preventing correction and compliance being obtained.

Department Response:

The HCD understands the importance of providing oversight of the use of the ATO time reporting code and recognized this is an area that needed improving. In December 2023, the HRB implemented a process that will send an email notification to HRB's Personnel Transactions Unit resource mailbox when an HCD team member saves or submits the ATO time reporting code on their electronic timesheet. This notification allows for HRB to be proactive and immediately reach out to the team member to obtain additional details and the reason for the ATO usage. Since the implementation of this new process, it has allowed HRB to more proactive in monitoring ATO usage and has already been proven successful. This notification has allowed HRB to immediately reach out to the team member and leader when the notification is received and have the discussion of the ATO's purpose. If deemed inappropriate, we work with the team member to correct their timesheet immediately, rather than waiting until after the pay period. If deemed appropriate, we are able review the details, substantiation, and provide our approval or denial. HRB will also continue to take steps to educate the department on the appropriate use of ATO and what the process is to request approval

prior to posting and/or approving timesheets.

Finding No. 22 – Performance Appraisals Were Not Provided to All Employees

Cause:

Some HCD leaders were unable to complete the required probationary evaluations timely due to work demands and competing priorities. HRB's current notification and tracking processes do not include following up on missing reports and there is a lack of accountability for leaders who do not complete probationary evaluations timely.

Department Response:

The HCD understands the importance of providing timely feedback to its team members and is committed to becoming complaint in this area. HCD's Executive Leadership Team releases various communications to department managers and supervisors about the importance of timely feedback and completion of probationary evaluations. The HRB generates multiple email notifications through its PeopleSoft Human Capital Management system to notify and remind leaders of upcoming probation evaluation due dates and has developed additional on-demand system tools for leaders to help them monitor upcoming probationary evaluation due dates for their direct reports and/or their section's team member probation report evaluation due dates. Leaders also get notification once a hire is made of the need to serve a probation period and the due dates for the three reports. The HRB also continues to report department wide monthly statistics of probation evaluations received to provide transparency across the department and encourage compliance. HRB continues to provide training to educate leaders on the requirement and best practices for completing effective and timely evaluations. The department will continually monitor the measures put in place to ensure an increase in completion rate and will pursue additional strategies, if necessary, to be compliant.

Summary Response

Though the HCD and HRB faced challenges with turnover, department growth, and loss of documentation and data integrity with changes to platforms and systems, the HCD agrees with and understands the severity of the findings and will take immediate corrective action to get into compliance in all areas.

If you have any questions, please feel free to contact me at (916) 776-7636.

Sincerely,



Rebecca Herzog, Personnel Officer
Human Resources Branch
Administration and Management Division