



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF INSURANCE

Compliance Review Unit
State Personnel Board
June 10, 2024

TABLE OF CONTENTS

INTRODUCTION	1
EXECUTIVE SUMMARY	2
BACKGROUND	4
SCOPE AND METHODOLOGY	4
FINDINGS AND RECOMMENDATIONS	6
EXAMINATIONS	6
APPOINTMENTS	8
EQUAL EMPLOYMENT OPPORTUNITY	14
PERSONAL SERVICES CONTRACTS	15
MANDATED TRAINING	16
COMPENSATION AND PAY	18
LEAVE	32
POLICY AND PROCESSES	39
DEPARTMENTAL RESPONSE	42
SPB REPLY	42

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." The SPB and the 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 the 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, the 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 Insurance (CDI) 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
Appointments	Very Serious	Unlawful Appointments
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed ¹
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ Repeat finding. The May 7, 2020, CDI compliance review report identified that the CDI did not provide 5 probationary reports of performance for 3 of the 15 appointments reviewed. In addition, the December 5, 2017, CDI compliance review report identified that the CDI did not provide 12 probationary reports of performance for 7 of the 50 appointments reviewed.

Area	Severity	Finding
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	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay ²
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay ³
Leave	Serious	Positive Paid Temporary Employees' Work Exceeded Time Limitations
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

² Repeat finding. The May 7, 2021, CDI compliance review report identified six bilingual pay errors out of nine reviewed.

³ Repeat finding. The May 7, 2021, CDI compliance review report identified two OOC pay errors out of five reviewed.

Area	Severity	Finding
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ⁴

BACKGROUND

The CDI focuses on consumer protection through the regulation of California’s insurance market. The CDI’s core mission is to provide consumer protection for all Californians through ensuring a competitive and sustainable insurance market, investigating discriminatory and fraudulent practices, and advocating for change.

Led by a publicly elected Commissioner, the CDI is comprised of 3 Headquarters and 9 Regional offices and employs approximately 1,400 employees who perform a wide array of functions in support of its mission. These functions include overseeing insurance companies and licensing agents, brokers, adjusters, and business entities; processing rate applications; enforcing insurance laws; and performing financial reviews and conducting criminal investigations.

SCOPE AND METHODOLOGY

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

A cross-section of the CDI’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 CDI provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CDI did not conduct any permanent withhold actions during the compliance review period.

⁴ Repeat finding. The May 7, 2021, CDI compliance review report identified 12 of 21 employees reviewed who were not provided Performance Appraisals.

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

A cross-section of the CDI'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 CDI provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CDI did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CDI did not make any additional appointments during the compliance review period.

The CDI's appointments were also selected for review to ensure the CDI applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CDI 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 CDI did not issue or authorize any red circle rate requests or arduous pay.

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

The CDI'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.

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

The CRU reviewed the CDI'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 CDI's units to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CDI'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 CDI's employees who used Administrative Time Off (ATO) to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of the CDI's positive paid employees whose hours are tracked during the compliance review period to ensure that they adhered to procedural requirements.

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

On February 11, 2024, an exit conference was held with the CDI to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CDI's written response on March 12, 2024, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by

the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, August 2, 2022, through May 1, 2023, the CDI conducted 16 examinations. The CRU reviewed 13 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Insurance Examiner	Departmental Promotional	Education and Experience ⁷	Continuous	2
Associate Insurance Rate Analyst	Departmental Open	Training and Experience ⁸	Continuous	26
Bureau Chief, Insurance Compliance	Departmental Open	Training and Experience	Continuous	5
CEA B, Chief Human Resources Management Division	CEA	Statement of Qualifications ⁹	10/3/22	12
Chief, Fraud Bureau	Departmental Promotional	Training and Experience	Continuous	1
Insurance Rate Analyst	Departmental Open	Training and Experience	Continuous	68
Senior Insurance Compliance Officer (Specialist)	Departmental Open	Training and Experience	Continuous	9

⁷ In an Education and Experience examination, one or more raters review the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses, or certifications, and/or years of relevant work experience.

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

⁹ 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.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Senior Insurance Rate Analyst	Departmental Promotional	Training and Experience	Continuous	8
Senior Insurance Examiner (Supervisor)	Departmental Promotional	Training and Experience	Continuous	2
Supervising Fraud Investigator II	Departmental Promotional	Training and Experience	Continuous	8
Supervising Insurance Compliance Officer	Departmental Open	Training and Experience	Continuous	13
Supervising Insurance Examiner	Departmental Promotional	Training and Experience	Continuous	1
Supervising Insurance Rate Analyst	Departmental Promotional	Training and Experience	Continuous	9

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
----------------------	--

The CRU reviewed one CEA examination, seven departmental promotional examinations, and five open examinations, which the CDI administered to create eligible lists from which to make appointments. The CDI published and distributed examination bulletins containing the required information for all examinations. Applications received by the CDI 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 CDI conducted during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire

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

During the period under review, May 1, 2022, through January 31, 2023, the CDI made 177 appointments. The CRU reviewed 35 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Administrator III	Certification List	Permanent	Full Time	1
Actuary	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Insurance Compliance Officer	Certification List	Permanent	Full Time	1
Associate Insurance Rate Analyst	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Business Service Assistant (Specialist)	Certification List	Permanent	Full Time	1
CEA, Chief B, Financial Management Division	Certification List	CEA	Full Time	1
Chief Fraud Bureau	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Specialist III	Certification List	Permanent	Full Time	1
Insurance Examiner	Certification List	Permanent	Full Time	1
Insurance Rate Analyst	Certification List	Permanent	Full Time	1
Investigator	Certification List	Permanent	Full Time	1
Legal Analyst	Certification List	Permanent	Full Time	1
Legal Secretary	Certification List	Permanent	Full Time	1
Management Services Technician	Certification List	Permanent	Full Time	1
Office Technician (General)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Program Technician II	Certification List	Permanent	Full Time	1
Research Data Analyst II	Certification List	Permanent	Full Time	1
Senior Insurance Compliance Officer (Specialist)	Certification List	Permanent	Full Time	1
Senior Legal Analyst	Certification List	Permanent	Full Time	1
Special Investigator	Certification List	Permanent	Full Time	1
Staff Management Auditor	Certification List	Permanent	Full Time	1
Staff Service Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Management Auditor	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Supervising Fraud Investigator I	Certification List	Permanent	Full Time	1
Accounting Administrator I (Supervisor)	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Investigator	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 2 UNLAWFUL APPOINTMENTS
-----------------------------------	--

Summary:

The CRU found 2 unlawful appointments in 35 appointments reviewed. The CDI made one appointment utilizing the certification list for Legal Analyst. The hired candidate did not meet minimum qualifications for the classification at the time of the examination, however, they did meet the minimum qualifications by the time of appointment.

In addition, the CDI made one appointment utilizing the certification list for Staff Services Management Auditor. The hired candidate did not meet the minimum qualifications for the classification which requires six units of accounting.

One year has passed since both appointments. However, there is no evidence of bad faith; therefore, these appointments will be permitted to stand.

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.

According to Human Resources Manual Section 3002, during the examination process and before appointment, information submitted in the application process from all candidates, except those who are on reemployment lists or who have reinstatement rights, must be evaluated for verification of meeting the minimum qualifications of the classification established by the Board.

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. In this case, the appointments will stand as more than one year has elapsed and the candidates accepted the job offers in good faith.

Cause: The CDI states that for the first unlawful appointment, the Human Resources Management Division (HRMD) staff who reviewed the employee’s application calculated their qualifying experience as satisfying the requirement for early admittance to the Legal Analyst examination. HRMD has since re-reviewed this employee’s application, as well as re-calculated all relevant experience, and concurs with this finding. Additionally, the CDI states that for the second unlawful appointment, the HRMD staff who reviewed the employee’s application interpreted their education as meeting the minimum qualifications (MQ) for the Staff Services Management Auditor classification. HRMD has since re-reviewed this employee’s application, as well as all available transcripts, and concurs with this finding.

Corrective Action: The CDI asserts it has taken steps to ensure compliance with this requirement. Within 90 days of the date of this report, the CDI must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate that the department will improve its hiring practices in accordance with California Code of Regulations, title 2, section 249.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: SERIOUS	FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
------------------------------	---

Summary: The CDI did not provide 12 probationary reports of performance for 6 of the 35 appointments reviewed by the CRU, as reflected in the table below. This is the third consecutive time this has been a finding for the CDI.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Associate Governmental Program Analyst	Certification List	1	3
Associate Insurance Compliance Officer	Certification List	1	3

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Legal Analyst	Certification List	1	1
Management Services Technician	Certification List	1	2
Research Data Analyst II	Certification List	1	2
Senior Legal Analyst	Certification List	1	1

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board’s record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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

Cause: The CDI states that three automated notifications are sent to the supervisor, with the due date for the probationary evaluation 30-days, 15-days, and 7-days prior to the due date. Each reminder

notification adds the next level supervisor/manager to reinforce the importance of timely completion. Despite these notifications, the CDI recognizes these measures have not generated the desired results resulting in probationary reports not being completed in time.

Corrective Action: Within 90 days of the date of this report, the CDI 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 19172. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

IN COMPLIANCE	FINDING NO. 4 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
----------------------	--

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 CDI'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 CDI's Insurance Commissioner. The CDI 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 the 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, August 2, 2022, through May 1, 2023, the CDI had 14 PSC's that were in effect. The CRU reviewed eight of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
PaperThin, Inc.	Intranet Services	\$5,600	Yes	Yes
Imagine Reporting	Court Reporting Services	\$200,000	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
General Logistics Systems US Inc.	Overnight Shipping Services	\$150,000	Yes	Yes
Mother Lode Van & Storage	Moving Services	\$26,944	Yes	Yes
IS, Inc. DBA Innovative Solutions Inc.	Training Services	\$49,500	Yes	Yes
Taylor & Mulder INC	Actuarial Services	\$600,000	Yes	Yes
Phillips ADR Enterprises PC	Mediation Services	\$35,000	Yes	Yes
PaperThin, Inc.	Emergency Upgrade for Security Risk	\$9,800	Yes	Yes

IN COMPLIANCE	FINDING NO. 5 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
----------------------	--

The total dollar amount of all the PSC’s reviewed was \$1,076,844. It was beyond the scope of the review to make conclusions as to whether the CDI’s justifications for the contract were legally sufficient. For all PSC’s reviewed, the CDI provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, the CDI 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 CDI’s 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 as 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 the 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 CDI's mandated training program that was in effect during the compliance review period, May 1, 2021, through May 1, 2023. The CDI's supervisory training and sexual harassment prevention training were found to be in compliance, while the CDI's ethics training was found to be out of compliance.

SEVERITY: VERY SERIOUS	FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
---	--

Summary: The CDI provided ethics training to 690 of 690 existing filers. However, the CDI did not provide ethics training to 13 of 105 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 CDI states that all new filers receive automated notifications for ethics training with additional reminders sent at five months, three months, and one month before the training is due. Despite these efforts, these employees did not complete their ethics training on time.

Corrective Action: Within 90 days of this report, the CDI 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.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by the CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee’s salary rate¹⁰ upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

¹⁰ “Rate” is any one of the salary rates in the resolution by the CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

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, May 1, 2022, through January 31, 2023, the CDI made 177 appointments. The CRU reviewed 16 of those appointments to determine if the CDI applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator III	Certification List	Permanent	Full Time	\$8,759
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$5,714
Attorney III	Certification List	Permanent	Full Time	\$10,481
Business Service Assistant (Specialist)	Certification List	Permanent	Full Time	\$3,826
Information Technology Associate	Certification List	Permanent	Full Time	\$7,252
Information Technology Specialist III	Certification List	Permanent	Full Time	\$11,105
Insurance Rate Analyst	Certification List	Permanent	Full Time	\$4,092
Legal Analyst	Certification List	Permanent	Full Time	\$5,800
Management Services Technician	Certification List	Permanent	Full Time	\$4,482
Program Technician II	Certification List	Permanent	Full Time	\$3,373
Staff Management Auditor	Certification List	Permanent	Full Time	\$8,152
Staff Services Management Auditor	Certification List	Permanent	Full Time	\$6,651
Supervising Fraud Investigator I	Certification List	Permanent	Full Time	\$8,903
Accounting Administrator I (Supervisor)	Transfer	Permanent	Full Time	\$7,394
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,428
Staff Services Manager I	Transfer	Permanent	Full Time	\$6,891

IN COMPLIANCE	FINDING NO. 7 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	---

The CRU found no deficiencies in the salary determinations that were reviewed. The CDI appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, May 1, 2022, through January 31, 2023, the CDI employees made 29 alternate range movements within a classification. The CRU reviewed 17 of those alternate range movements to determine if the CDI 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)
Associate Personnel Analyst	A	L	Full Time	\$5,967
Attorney	C	D	Full Time	\$8,794
Business Service Assistant (Specialist)	B	C	Full Time	\$3,801
Insurance Rate Analyst	B	C	Full Time	\$5,059
Insurance Rate Analyst	A	B	Full Time	\$4,511
Insurance Rate Analyst	A	B	Full Time	\$4,511
Investigator	A	B	Full Time	\$6,682
Investigator	A	B	Full Time	\$5,792
Investigator	B	C	Full Time	\$6,849
Investigator	B	C	Full Time	\$7,736

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Personnel Specialist	B	C	Full Time	\$4,277
Personnel Specialist	C	D	Full Time	\$4,909
Special Investigator	B	C	Full Time	\$6,816
Special Investigator	B	C	Full Time	\$6,816
Staff Services Analyst (General)	B	C	Full Time	\$4,881
Staff Services Analyst (General)	A	B	Full Time	\$3,901
Staff Services Analyst (General)	B	C	Full Time	\$4,588

SEVERITY: VERY SERIOUS	FINDING NO. 8 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
-----------------------------------	---

Summary: The CRU found 6 errors in the 17 alternate range movements reviewed:

Classification	Description of Finding(s)	Criteria
Attorney	Employee was moved into Range D before meeting the criteria. The employee was overcompensated.	Cal. Code Regs., tit. 2, § 599.676
Personnel Specialist	Incorrect salary determination resulting in overcompensation. Incorrect anniversary date.	Cal. Code Regs., tit. 2, § 599.674a and 599.683a
Personnel Specialist	Incorrect anniversary date.	Cal. Code Regs., tit. 2, § 599.683a
Special Investigator	Incorrect salary determination resulting in overcompensation	Cal. Code Regs., tit. 2, § 599.674b
Staff Services Analyst (General)	Incorrect anniversary date.	Cal. Code Regs., tit. 2, § 599.683a
Staff Services Analyst (General)	Employee was moved into Range C before meeting the criteria. The employee was overcompensated.	Cal. Code Regs., tit. 2, § 599.676

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

Cause: The CDI states that HRMD staff did not correctly apply the alternate range movement and civil service laws regarding the determination of employee compensation due to human error during data entry, as well as the application of incorrect salary rule(s) resulting in compensation errors.

Corrective Action: The CDI asserts they have taken steps to ensure compliance with this requirement. Within 90 days of the date of this report, the CDI 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 CDI 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.¹¹ (Gov. Code, § 19836, subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant 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, May 1, 2022, through January 31, 2023, the CDI authorized 17 HAM requests. The CRU reviewed 14 of those authorized HAM requests to determine if the CDI correctly applied Government Code section 19836 and

¹¹ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

appropriately verified, approved, and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Actuary	Certification List	New to State	\$10,150 – \$12,711	\$12,711
Associate Insurance Rate Analyst	Certification List	New to State	\$5,934 – \$7,434	\$7,080
Associate Insurance Rate Analyst	Certification List	New to State	\$5,934 – \$7,434	\$7,080
Attorney III	Certification List	New to State	\$9,976 – \$12,798	\$11,200
Information Technology Specialist I	Certification List	New to State	\$7,197 – \$9,643	\$8,000
Insurance Examiner	Certification List	New to State	\$4,091 – \$4,877	\$4,509
Insurance Rate Analyst	Certification List	New to State	\$3,991 – \$4,534	\$4,534
Investigator	Certification List	New to State	\$6,818 – \$9,428	\$8,654
Investigator	Certification List	New to State	\$6,818 – \$9,428	\$7,988
Investigator	Certification List	New to State	\$6,818 – \$9,428	\$7,798
Research Data Specialist I	Certification List	New to State	\$6,061 – \$7,587	\$7,080
Special Investigator	Certification List	New to State	\$6,461 – \$8,031	\$7,649
Special Investigator	Certification List	New to State	\$6,319 – \$7,854	\$7,480
Special Investigator	Certification List	New to State	\$6,319 – \$7,854	\$7,124

IN COMPLIANCE	FINDING NO. 9 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	---

The CRU found that the HAM requests the CDI made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

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

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

During the period under review, May 1, 2022, through January 31, 2023, the CDI issued bilingual pay to 46 employees. The CRU reviewed 27 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	1
Associate Insurance Compliance Officer	R01	Full Time	4
Information Officer I (Specialist)	R01	Full Time	1
Investigator	R07	Full Time	6
Office Technician (Typing)	R04	Full Time	2
Senior Insurance Compliance Officer (Specialist)	R01	Full Time	3
Special Investigator	R07	Full Time	3
Supervising Fraud Investigator I	S07	Full Time	4
Supervising Special Investigator I (Non-Peace Officer)	S07	Full Time	2
Supervising Special Investigator II (Non-Peace Officer)	S07	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 10 INCORRECT AUTHORIZATION OF BILINGUAL PAY
-----------------------------------	--

Summary: The CRU found 15 errors in the 27 bilingual pay authorizations reviewed, as reflected in the table below. This is the second consecutive time this has been a finding for the CDI.

Classification	Description of Finding(s)	Criteria	No. of Findings
Associate Governmental Program Analyst	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296	1
Associate Insurance Compliance Officer	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296	2
Information Officer I (Specialist)	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296	1
Investigator	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296	1
Office Technician (Typing)	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296	1
Senior Insurance Compliance Officer (Specialist)	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296	3
Special Investigator	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296	3
Supervising Fraud Investigator I	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296	2

Classification	Description of Finding(s)	Criteria	No. of Findings
Supervising Special Investigator II (Non-Peace Officer)	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296	1

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

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

Cause: The CDI states this finding can be attributed to human error, staff turnover and inconsistent monitoring and/or quality checks resulting in bilingual pay errors. Additionally, the CDI does not have an effective and efficient tracking system as it relates to bilingual pay.

Corrective Action: Within 90 days of the date of this report, the CDI 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. 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, 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, May 1, 2022, through January 31, 2023, the CDI authorized 211 pay differentials.¹² The CRU reviewed 50 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount	No. of Pay Differentials
Information Technology Associate	Bay Area Recruitment and Retention	5%	1
Information Technology Specialist I	Bay Area Recruitment and Retention	5%	3
Investigator	Education Differential Pay	\$125	10
Supervising Fraud Investigator I	Education Differential Pay	\$125	5
Chief, Fraud Bureau	Educational/ Professional Differential	\$250	3
Associate Insurance Compliance Officer	Geographic Recruitment and Retention	\$250	1
Investigator	Longevity Pay Differential	2%	8
Supervising Fraud Investigator I	Longevity Pay Differential	2%	3
Supervising Fraud Investigator II	Longevity Pay Differential	9%	2
Administrative Law Judge	National Judicial College Differential	5%	3

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

Classification	Pay Differential	Monthly Amount	No. of Pay Differentials
Supervising Administrative Law Judge	National Judicial College Differential	5%	1
Legal Secretary	Recruitment and Retention Differential	2 Steps	4
Legal Support Supervisor I	Recruitment and Retention Differential	2 Steps	2
Senior Legal Typist	Recruitment and Retention Differential	2 Steps	4

IN COMPLIANCE	FINDING NO. 11 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	--

The CRU found no deficiencies in the pay differentials that the CDI authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

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

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

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

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, May 1, 2022, through January 31, 2023, the CDI issued OOC pay to 13 employees. The CRU reviewed 10 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	6/1/22 – 6/30/22 & 8/1/22 – 8/30/22
Associate Governmental Program Analyst	R01	Staff Services Manager I	7/1/22 – 7/30/22
Investigator	R07	Supervising Fraud Investigator I	5/1/22 – 6/21/22
Investigator	R07	Supervising Fraud Investigator I	11/11/22 – 12/31/22
Investigator	R07	Supervising Fraud Investigator I	9/12/22 – 11/9/22
Office Technician (Typing)	R04	Staff Services Analyst	5/2/22 – 5/31/22
Office Technician (Typing)	R04	Staff Services Analyst	6/1/22 – 6/30/22
Office Technician (Typing)	R04	Staff Services Analyst	5/1/22 – 6/10/22
Special Investigator	R07	Supervising Special Investigator I	9/23/22 – 11/21/22
Special Investigator	R07	Supervising Special Investigator I	7/25/22 – 9/22/22

SEVERITY: VERY SERIOUS	FINDING NO. 12 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
-----------------------------------	---

Summary: The CRU found 6 errors in the 10 OOC pay authorizations reviewed. This is the second consecutive time this has been a finding for the CDI.

Classification	Out-of-Class Classification	Description of Finding(s)	Criteria
Associate Governmental Program Analyst	Staff Services Manager I	Time off was deducted from the OOC pay resulting in the employee being undercompensated.	Pay Differential 91
Associate Governmental Program Analyst	Staff Services Manager I	Time off was deducted from the OOC pay resulting in the employee being undercompensated.	Pay Differential 91
Investigator	Supervising Fraud Investigator I	Time off was deducted from the OOC pay resulting in the employee being undercompensated.	Pay Differential 92
Investigator	Supervising Fraud Investigator I	OOO pay included Pay Differentials resulting in the employee being overcompensated.	Pay Differential 91
Special Investigator	Supervising Special Investigator I	Time off was deducted from the OOC pay resulting in the employee being undercompensated.	Pay Differential 92
Special Investigator	Supervising Special Investigator I	Time off was deducted from the OOC pay resulting in the employee being undercompensated.	Pay Differential 92

Criteria: An employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120) calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment is of unusual urgency, nature, volume, location, duration, or other special characteristics; and, cannot feasibly be met through use of other civil service or administrative alternatives. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid using existing eligibility lists created as the result of a civil service examination.

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

Cause: The CDI states that in one instance, human error was the cause of incorrectly applied compensation laws. The remaining five errors were the result of erroneous direction resulting in underpayment to employees who worked out-of-class.

Corrective Action: The CDI asserts it has taken steps to ensure compliance with this requirement. Within 90 days of the date of this report, the CDI 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 599.810 and Pay Differentials 91 and 92. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days¹⁴ worked and paid absences¹⁵, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

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

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

Classification	Tenure	Time Frame	Hours Worked
Student Assistant	Temporary	12/1/21 – 11/30/22	689.5
Student Assistant	Temporary	7/1/22 – 4/30/23	695
Student Assistant	Temporary	8/1/21 – 7/31/22	307
Student Assistant	Temporary	5/1/22 – 4/30/22	1,123
Student Assistant	Temporary	5/1/22 – 4/30/23	570.5
Student Assistant	Temporary	5/01/22 – 4/30/23	1,565.5
Associate Governmental Program Analyst	Retired Annuitant	7/1/21 – 6/30/22	847
Attorney III	Retired Annuitant	7/1/21 – 6/30/22	430
Information Technology Associate	Retired Annuitant	7/1/21 – 6/30/22	877
Information Technology Specialist I	Retired Annuitant	7/1/21 – 6/30/22	940
Information Technology Specialist I	Retired Annuitant	7/1/21 – 6/30/22	960
Information Technology Specialist I	Retired Annuitant	7/1/21 – 6/30/22	959
Legal Secretary	Retired Annuitant	7/1/21 – 6/30/22	712
Senior Insurance Compliance Officer (Specialist)	Retired Annuitant	7/1/21 – 6/30/22	864
Special Investigator	Retired Annuitant	7/1/21 – 6/30/22	736
Special Investigator	Retired Annuitant	7/1/21 – 6/30/22	528.5

Classification	Tenure	Time Frame	Hours Worked
Special Investigator	Retired Annuitant	7/1/21 – 6/30/22	960
Special Investigator	Retired Annuitant	7/1/21 – 6/30/22	552.5
Special Investigator	Retired Annuitant	7/1/21 – 6/30/22	438.5

SEVERITY: SERIOUS	FINDING NO. 13 POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS
------------------------------	---

Summary: The CDI did not consistently monitor the actual number of days and/or hours worked to ensure that positive paid employees did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period.

Specifically, 1 of 19 employees reviewed exceeded the 1,500-hour, 960-hour, or 189-day, limitation:

Classification	Tenure	Time Frame	Hours Worked	Hours Worked Over Limit
Student Assistant	Temporary	5/1/22 – 4/30/23	1,565.5	65.5

Criteria: If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art. VII, § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Severity: Serious. The number of days or hours an individual may work in a temporary appointment is limited in the state civil service. TAU appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list.

Cause: The CDI inappropriately tracked TAU employees on a fiscal year basis instead of a 12 consecutive month period, which resulted in

one student assistant exceeding the 1500-hour limit. Additionally, despite the hours being reported, the CDI's HRMD did not have a process in place to proactively track and monitor the days and/or hours worked to ensure that positive paid TAU employees did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period.

Corrective Action: The CDI asserts it has taken steps to ensure compliance with this requirement. Within 90 days of the date of this report, the CDI 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 265.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, February 1, 2022, through January 31, 2023, the CDI authorized 254 ATO transactions. The CRU reviewed 45 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Hours on ATO
Accounting Administrator I (Supervisor)	3/4/22	2
Administrative Assistant I	1/17/23	8
Associate Accounting Analyst	12/7/22	2
Associate Administrative Analyst -Accounting Systems	9/8/22 – 9/16/22	56
Associate Governmental Program Analyst	8/8/22 – 8/12/22	21
Associate Governmental Program Analyst	7/29/22	2

Classification	Time Frame	No. of Hours on ATO
Associate Governmental Program Analyst	8/2/22 – 10/7/22	384
Associate Governmental Program Analyst	11/18/22 – 12/9/22	96
Associate Governmental Program Analyst	5/16/22 – 5/17/22	16
Associate Insurance Compliance Officer	2/4/22 – 2/15/22	64
Associate Insurance Compliance Officer	8/8/22 – 8/9/22	16
Associate Insurance Compliance Officer	7/13/22	2
Associate Insurance Examiner	7/22/22	1
Associate Insurance Rate Analyst	9/30/22	2
Associate Insurance Rate Analyst	4/18/22 – 4/19/22	11
Associate Personnel Analyst	8/8/22 – 8/11/22	13
Business Service Assistant (Specialist)	7/13/22 – 7/15/22	24
Information Technology Manager I	12/1/22 – 12/12/22	64
Information Technology Specialist I	7/18/22 – 7/22/22	40
Insurance Examiner	11/1/22 – 11/2/22	9
Investigator	1/9/23 – 1/10/23	16
Investigator	5/24/22 – 5/27/22	40
Investigator	12/15/22 – 12/16/22	20
Investigator	2/15/22 – 2/18/22	28
Legal Analyst	4/28/22 – 4/29/22	10
Legal Analyst	11/10/22	1
Legal Secretary	7/15/22	8
Office Technician (General)	1/9/23	8
Personnel Specialist	1/10/23	1
Property Controller I	2/18/22	2
Research Data Specialist I	3/7/22 – 3/18/22	68
Senior Insurance Compliance Officer (Specialist)	10/24/22 – 11/4/22	35
Senior Insurance Compliance Officer (Specialist)	1/4/23	2
Senior Insurance Compliance Officer (Specialist)	6/8/22	2
Senior Insurance Examiner (Specialist)	3/4/22	2
Senior Legal Analyst	8/10/22 – 8/12/22	24
Senior Legal Typist	6/13/22 – 6/24/22	80
Senior Legal Typist	5/19/22	1
Senior Personnel Specialist	7/25/22 – 7/27/22	5
Special Investigator	9/16/22	2
Staff Management Auditor Specialist	9/8/22 – 9/21/22	67
Staff Services Analyst (General)	7/25/22 – 7/29/22	44
Staff Services Analyst (General)	1/9/23	8
Staff Services Manager II (Supervisory)	8/29/22 – 8/31/22	24
Supervising Program Technician III	6/30/22 – 7/1/22	16

IN COMPLIANCE	FINDING NO. 14 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	---

The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CDI provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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

During the period under review, November 1, 2022, through January 31, 2023, the CDI reported 135 units comprised of 1,233 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
November 2022	043	14	14	0
November 2022	107	2	2	0
November 2022	129	5	5	0
November 2022	148	16	16	0
December 2022	105	37	37	0
December 2022	321	10	10	0
December 2022	372	40	40	0
January 2023	145	47	47	0

Timesheet Leave Period	Unit Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
January 2023	304	10	10	0
January 2023	366	19	19	0

IN COMPLIANCE	FINDING NO. 15 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	---

The CRU reviewed employee leave records from two 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 CDI kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.¹⁶ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, §

¹⁶ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁷ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, May 1, 2022, through January 31, 2023, the CDI had five employees with qualifying and non-qualifying pay period transactions. The CRU reviewed five transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Qualifying Pay Period	Full Time	1
Non-Qualifying Pay Period	Full Time	4

IN COMPLIANCE	FINDING NO. 16	SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	-----------------------	--

The CRU determined that the CDI 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.*)

¹⁷ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

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

IN COMPLIANCE	FINDING NO. 17 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	--

The CRU verified that the policy was disseminated to all staff and emphasized the CDI’s commitment to the state policy of hiring, transferring, and promoting employees because of merit. Additionally, the CDI’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 CDI did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 18 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	--

The CRU verified that the CDI 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 CDI 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 82 permanent CDI employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 19 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
------------------------------	---

Summary: The CDI did not provide annual performance appraisals to 52 of 82 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time this has been a finding for the CDI.

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 CDI states that automated notifications are sent to the supervisors with the due date for the performance appraisal, and sends reminders 30-days, 15-days, and 7-days prior to the due date. Each reminder notification adds the next level supervisor/manager, to reinforce the importance of timely completion. Despite these notifications, the CDI recognizes these measures have not generated the desired outcome, resulting in performance appraisals not being completed in time.

Corrective Action: Within 90 days of the date of this report, the CDI 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 CDI's departmental response is attached as Attachment 1.

SPB REPLY

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



RICARDO LARA
CALIFORNIA INSURANCE COMMISSIONER

May 28, 2024

VIA ELECTRONIC MAIL LUISA.DOI@SPB.CA.GOV

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

Dear Ms. Ambrose,

The California Department of Insurance (CDI) has reviewed the State Personnel Board (SPB) draft Compliance Review Report issued on May 20, 2024. CDI appreciates SPB's efforts and diligence in reviewing our processes to ensure compliance with all applicable laws, rules, and regulations. We thank SPB for the opportunity to provide causes for the findings.

Please consider the following departmental responses to the specific findings requiring corrective action:

FINDING NO. 2	VERY SERIOUS	UNLAWFUL APPOINTMENT
----------------------	---------------------	-----------------------------

Cause(s)/Response: In the first unlawful appointment occurrence, CDI's Human Resources Management Division (HRMD) staff who reviewed the employee's application calculated the employee's qualifying experience as satisfying the requirement for early admittance to the examination. HRMD has since re-reviewed the employee's application, as well as re-calculated all relevant experience, and concur with this finding. With regard to the second unlawful appointment occurrence, CDI's HRMD staff who reviewed the employee's application interpreted the employee's education as meeting the minimum qualifications (MQ) for the classification. HRMD has since re-reviewed the employee's application, as well as all available transcripts, and concur with this finding.

As a result, in both instances, HRMD has initiated, and will follow through to completion, CalHR's established unlawful appointment process. Furthermore, HRMD management will implement additional controls (i.e, use of date calculation tool, and secondary review of MQ's) and provide training as needed to ensure staff are aware, in order to prevent this from occurring in the future.

FINDING NO. 3	SERIOUS	PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
----------------------	----------------	---

Cause(s)/Response: The CDI recognizes the importance of completing and retaining probationary evaluations for all new appointments, pursuant to the Board's record retention rules. In December 2021, CDI's HRMD implemented use of an electronic alert system (cdiHR) to notify supervisors/managers of their requirements to complete timely probationary evaluations. Automated notifications are sent to the supervisor, with the due date for the probationary evaluation, and sends reminders 30-days, 15-days, and 7-days prior to the due date. Each reminder notification adds the next level supervisor/manager, to reinforce the importance of timely completion. An additional automated notification is sent 3-days after the due date, and includes all levels up to, and including, the Deputy Commissioner. Despite these notifications, the CDI recognizes these measures have not generated the desired results and will begin evaluating additional measures to ensure future compliance. HRMD will send quarterly reports to CDI

executives to ensure managers that are consistently failing to provide timely probationary evaluations are counseled.

FINDING NO. 6	VERY SERIOUS	ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
----------------------	---------------------	--

Cause(s)/Response: The CDI agrees that 13 of the 105 new filers reviewed took the ethics training after the assigned due date. All new filers receive automated notifications with the due date for the Ethics Training. Additional reminders are sent five months, three months, and one month before the training is due. Employees receive an additional notification when the training is past due. Despite these efforts, employees did not complete the ethics training timely.

In response to the finding, CDI will revise its process to send an additional notification seven days before the due date and include the direct supervisor on the notification to reinforce the importance of timely completion. Another notification will be sent to the direct supervisor and their upper level management when an employee fails to take the training on time.

FINDING NO. 8	VERY SERIOUS	ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	---------------------	---

Cause(s)/Response: HRMD staff did not correctly apply the alternate range movement and civil service laws regarding the determination of employee compensation due to human error during data entry, as well as the application of incorrect salary rule(s). HRMD, however, has since corrected the errors and established accounts receivables, as appropriate. To ensure awareness and compliance with applicable civil service laws, rules, and CalHR policies and guidelines, HRMD management will implement additional controls (i.e, secondary review of alternate range movements and salary determinations), provide training, develop job aids, and provide one-on-one consultation and training to new and existing team members, as needed.

FINDING NO. 10	VERY SERIOUS	INCORRECT AUTHORIZATION OF BILINGUAL PAY
-----------------------	---------------------	---

Cause(s)/Response: This finding can be attributed to human error, staff turnover and inconsistent monitoring and/or quality checks. CDI does not have an effective and efficient tracking system as it relates to bilingual pay. In addition, the Department's bilingual pay policy and procedures needs to be updated to implement an effective process to ensure all documentation is updated and maintained on record. The policy and procedures are currently under review. Once updated, HRMD management will provide training as needed to ensure key stakeholders are aware, in order to prevent this from occurring in the future.

FINDING NO. 12	VERY SERIOUS	INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
-----------------------	---------------------	--

Cause(s)/Response: Of the six (6) errors identified, HRMD staff did not correctly apply compensation laws and rules in accordance with the CalHR's policies and guidelines due to human error in one (1) instance. HRMD has since corrected this error and established an accounts receivable, as appropriate. The remaining five (5) errors identified, however, were the result of erroneous direction. These errors resulted in underpayment to the employees, which has since been corrected and the employees appropriately compensated. Upon learning of these 5 errors, HRMD management immediately provided clarifying direction to prevent this from occurring in the future. To ensure awareness and compliance with applicable civil service laws, rules, and CalHR policies and guidelines, HRMD management will further implement additional controls (i.e, secondary review of out-of-class packages and salary determinations), provide training, develop job aids, and provide one-on-one consultation and training to new and existing team members, as needed.

Ms, Suzanne Ambrose
Executive Director
California State Personnel Board
Page 3 of 3
May 28, 2024

FINDING NO. 13	SERIOUS	POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS
-----------------------	----------------	--

Cause(s)/Response: Retired Annuitants' and intermittent employees' actual hours worked are captured electronically within cdiHR's HR Timecard; however, the hours are calculated on a fiscal year basis which was the cause for this one (1) error related to the Temporary Authorization Utilization (TAU) student assistant appointment. HRMD has since corrected the error. Despite the hours being reported, CDI's HRMD did not have a process in place to proactively track and monitor the days and/or hours worked to ensure that positive paid TAU employees did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period. The policy and procedures are currently under review. Once updated, HRMD management will provide training as needed to ensure key stakeholders are aware, in order to prevent this from occurring in the future.

FINDING NO. 19	SERIOUS	PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
-----------------------	----------------	--

Cause(s)/Response: The CDI recognizes the importance of completing and retaining annual performance appraisals for all employees. In December 2021, CDI's HRMD implemented use of an electronic alert system (cdiHR) to notify supervisors/managers of their requirements to complete timely performance appraisals. Automated notifications are sent to the supervisor, with the due date for the performance appraisal, and sends reminders 30-days, 15-days, and 7-days prior to the due date. Each reminder notification adds the next level supervisor/manager, to reinforce the importance of timely completion. An additional automated notification is sent 3-days after the due date, and includes all levels up to, and including, the Deputy Commissioner. Despite these notifications, the CDI recognizes these measures have not generated the desired results and will begin evaluating additional measures to ensure future compliance. HRMD will send quarterly reports to CDI executives to ensure managers that are consistently failing to provide timely performance appraisals are counseled.

Thank you again for your time. The implementation of improved internal controls, processes, and procedures is of utmost importance to the Insurance Commissioner and the California Department of Insurance. If you have any questions or need additional information, please contact Jenny Ruth, Division Chief, HRMD, at (916) 492-3354.

Sincerely,

Laurie Menchaca

Laurie Menchaca

Deputy Commissioner, Administration and Licensing Services Branch

Attachments

cc: Michael R. O. Martinez, Chief Deputy Commissioner
Jenny Ruth, Division Chief, HRMD
Erin Agricola, Assistant Division Chief/Personnel Officer, HRMD
Sofia Lim, Chief, Organizational Accountability Office
Shannon Flynn, Equal Employment Opportunity Officer, Office of Civil Rights
CDI Internal Audits
CDI Audit Committee