



# **COMPLIANCE REVIEW REPORT**

**CALIFORNIA DEPARTMENT OF INSURANCE**

Compliance Review Unit  
State Personnel Board  
May 7, 2021

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## **INTRODUCTION**

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California Department of Insurance's (CDI's) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Those That Were Provided Were Untimely <sup>1</sup>
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Incorrect Application of Salary Determination Laws, Board Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Bilingual Pay

<sup>1</sup> Repeat finding. December 5, 2017, CDI's Compliance Review Report identified 12 probationary reports of performance for 7 of the 50 appointments reviewed were not prepared, completed, and/or retained.

Area	Finding
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Out-of-Class Pay
Leave	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Policy Was Not Provided to New Employees by the End of First Pay Period
Policy	Performance Appraisals Were Not Provided to All Employees
Policy	Administrative Hearing and Medical Interpreter Program Complied with Statutory Requirements

A color-coded system is used to identify the severity of the violations as follows:

- Red = Very Serious
- Orange = Serious
- Yellow = Technical
- Green = In Compliance

## **BACKGROUND**

The CDI was created in 1868 as part of a national system of state-based regulation. The insurance market place has changed dramatically over time, but consumer protection continues to be the core of CDI's mission.

Today, CDI is the largest consumer protection agency in the state. With annual direct premiums of \$340 billion, California is the largest insurance market in the United States and the fourth largest insurance market in the world.

Nearly 1,400 dedicated employees work at CDI to oversee more than 1,400 insurance companies and license more than 425,000 agents, brokers, adjusters, and business entities. In the normal course of business, CDI annually processes more than 8,000 rate applications, issues approximately 215,000 licenses (new and renewals) and performs hundreds of financial reviews and examinations of insurers doing business in California. CDI annually receives more than 170,000 consumer assistance calls, investigates more than 37,000 consumer complaints and, as a result, recovers more than \$84 million for consumers. CDI also annually receives and processes tens of thousands of referrals regarding suspected fraud against insurers and others and conducts criminal investigations resulting in thousands of arrests every year.

All of CDI's functions, including: overseeing insurer solvency, licensing agents and brokers, conducting market reviews, resolving consumer complaints, and investigating and prosecuting insurance fraud, exist to protect consumers.

## **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 processes<sup>2</sup>. 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.

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<sup>2</sup> 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 examinations were 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 CRU also reviewed the CDI's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CDI's appointments were 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 (NOPA) forms, Request for Personnel Actions (RPA's), 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: hiring 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 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.<sup>3</sup> 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.

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<sup>3</sup> If 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 CDI's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors, managers, and CEAs were provided sexual harassment prevention training within statutory timelines.

The CRU also identified the CDI's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the CDI to provide a copy of their leave reduction policy.

The CRU reviewed the CDI's Leave Activity and Correction Certification forms to verify that the CDI created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a small cross-section of the CDI's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the 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 employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CDI positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

On February 4, 2021, 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 February 19, 2021, 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, May 31, 2019, through February 29, 2020, the CDI conducted 11 examinations. The CRU reviewed eight of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Casualty Actuary	Open	Education and Experience (E&E) <sup>4</sup>	Continuous	1

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<sup>4</sup> In an Education and Experience examination, one or more raters reviews 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.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Insurance Rate Analyst	Open	Training and Experience (T&E) <sup>5</sup>	Continuous	21
Associate Life Actuary	Open	E&E	Continuous	2
Career Executive Assignment (CEA) B, Division Chief, Fraud Division	CEA	Statement of Qualifications (SOQ) <sup>6</sup>	8/5/2019	5
Senior Casualty Actuary	Open	E&E	Continuous	3
Senior Life Actuary	Open	E&E	Continuous	4
Supervising Fraud Investigator II	Departmental Promotional	T&E	Continuous	15
Supervising Insurance Rate Analyst	Departmental Promotional	T&E	Continuous	5

**FINDING NO. 1 – Examinations Complied with Civil Service Laws and Board Rules**

The CRU reviewed two departmental promotional, one CEA and five open examinations which the CDI administered in order 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

<sup>5</sup> 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.

<sup>6</sup> 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.

of the score received by rank. The CRU found no deficiencies in the examinations that the CDI conducted during the compliance review period.

**Permanent Withhold Actions**

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

During the period under review, May 31, 2019, through February 29, 2020, the CDI conducted five permanent withhold actions. The CRU reviewed all five permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Attorney V	5PB02	8/9/2019	12/20/2019	Failed to Meet Minimum Qualifications
Investigator	1PB02	7/30/2018	7/26/2019	Failed to Meet Minimum Qualifications
Investigator	1PB02	3/14/2019	7/31/2019	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Office Technician (General)	4PB2401	4/25/2019	7/22/2019	Failed to Meet Minimum Qualifications
Special Investigator	1PB03	10/9/2018	7/26/2019	Failed to Meet Minimum Qualifications

**FINDING NO. 2 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules**

The CRU found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

**Appointments**

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

During the period under review, May 31, 2019, through February 29, 2020, the CDI made 168 appointments. The CRU reviewed 15 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Insurance Compliance Officer	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Insurance Rate Analyst	Certification List	Permanent	Full Time	1
Associate Life Actuary	Certification List	Permanent	Full Time	1
Attorney IV	Certification List	Permanent	Full Time	1
Attorney V	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Insurance Examiner	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
Supervising Insurance Compliance Officer	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Reinstatement	Permanent	Full Time	1
Associate Insurance Compliance Officer	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1
Supervising Fraud Investigator I	Transfer	Permanent	Full Time	1
Supervising Special Investigator II	Transfer	Permanent	Full Time	1

**FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed and Those That Were Provided Were Untimely**

**Summary:** The CDI did not provide 5 probationary reports of performance for 3 of the 15 appointments reviewed by the CRU. In addition, the CDI did not provide two probationary reports of performance in a timely manner, as reflected in the table below. This is the second consecutive time this has been a finding for the CDI.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Attorney V	Certification List	1	1
Associate Life Actuary	Certification List	1	1

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Associate Insurance Rate Analyst	Certification List	1	3

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Supervising Fraud Investigator I	Certification List	1	1
Associate Insurance Compliance Officer	Transfer	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:** Supervisors and managers are notified by CDI's Human Resources Management Division of the requirements to complete timely probationary reports. However, despite being notified in advance, some supervisors and managers failed to provide timely probationary reports.

**Corrective Action:** The CDI has identified remediations to achieve compliance in this area. However, within 90 days of the date of this report, the CDI must submit to the SPB the written policies or procedures which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 19172 and California Code of Regulations, title 2, section 599.795.

### **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).)

**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 Executive Director of the CDI. 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 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, May 31, 2019, through February 29, 2020, the CDI had 29 PSC’s that were in effect. The CRU reviewed 10 of those, which are listed below:

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
American Express Travel Related Services, Co. Inc.	Credit Card Processing	7/1/2017 – 6/30/2020	\$286,605	Yes	Yes
California Reporting, LLC	Court Reporting Services	7/1/2019 – 6/30/2021	\$200,000	Yes	Yes
Cooperative Personnel Services dba CPS HR Consulting	Emerging Leaders Training	6/10/2019 – 12/31/2021	\$123,550	Yes	Yes
Elavon Inc.	Electronic Payment Acceptance	7/1/2017 – 6/30/2020	\$1,148,600	Yes	No
Merlinos & Associates, Inc.	Actuarial Consulting Services-Model Reviews	9/5/2017 – 3/31/2020	\$200,000	Yes	Yes
Relx, Inc.	Electronic Library Services Online Access	3/1/2018 – 12/31/2020	\$60,944	Yes	Yes
Richard Heath and Associates Inc.	Outreach, Marketing and Adverting Services	7/1/2018 – 12/31/2020	\$3,118,830	Yes	Yes
Strumwasser & Woocher LLP	Legal Services	11/1/2014 - 3/31/2022	\$1,492,000	Yes	Yes
Taylor & Mulder, Inc.	Actuarial Consulting Services-Model Reviews	3/1/2019 – 2/28/2021	\$200,000	Yes	Yes
Waters Moving & Storage Inc.	Commercial Moving Services	12/1/2019 – 6/30/2020	\$156,980	Yes	No

## FINDING NO. 5 – Unions Were Not Notified of Personal Services Contracts

- Summary:** The CDI did not notify unions prior to entering into 2 of the 10 PSC's reviewed.
- Criteria:** The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)
- Severity:** Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for work that their members could perform.
- Cause:** The CDI has internal has internal processes wherein the Labor Relations Unit (LRU) is apprised of PSC's which require union notification before execution. Due to temporary staffing needs, there was a gap in the internal processes. Although, the CDI is confident the unions were properly noticed; they were unable to provide documentation to validate their assertion.
- Corrective Action:** It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the type of work to be contracted prior to executing the PSC. The PSC's reviewed during this compliance review involved electronic payment processing, leadership training, court reporting, consulting, online library, marketing and advertising, legal, actuarial and moving services; functions which various rank-and-file civil service classifications perform. The CDI has indicated it will document established internal procedures to ensure union notification. Within 90 days of the date of this report, the CDI must submit to the SPB the documented internal policies and procedures which demonstrates the corrections the department has implemented to ensure conformity with the requirements of Government Code section 19132.

## **Mandated Training**

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

Additionally, new supervisors must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two hours of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the CDI’s mandated training program that was in effect during the compliance review period, March 1, 2018, through February 29, 2020. The CDI’s ethics training was found to be in compliance, while the CDI’s sexual harassment prevention training was found to be out of compliance.

### **FINDING NO. 6 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

**Summary:** The CDI did not provide sexual harassment prevention training to 9 of 43 new supervisors within 6 months of their appointment.

**Criteria:** Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided sexual harassment prevention training within six

months of appointment. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

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

**Cause:** During the review period, the CDI transitioned to a new training protocol and some supervisors did not attend their scheduled in-person training. Consequently, the CDI had to reschedule them for another date, which may have caused the training to be delivered outside of mandated timelines. Ultimately, all supervisors took the mandated sexual harassment prevention training.

**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 that supervisors are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>7</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special

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<sup>7</sup> "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan. (Cal. Code Regs., tit. 2, section 599.666.)

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 31, 2019, through February 29, 2020, the CDI made 168 appointments. The CRU reviewed 14 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)
Associate Insurance Compliance Officer	Certification List	Permanent	Full Time	\$5,406
Associate Insurance Rate Analyst	Certification List	Permanent	Full Time	\$6,771
Associate Life Actuary	Certification List	Permanent	Full Time	\$9,471
Attorney IV	Certification List	Permanent	Full Time	\$12,078
Attorney V	Certification List	Permanent	Full Time	\$13,715
Information Technology Associate	Certification List	Permanent	Full Time	\$4,500
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,259
Supervising Fraud Investigator I	Certification List	Permanent	Full Time	\$9,081
Supervising Insurance Compliance Officer	Certification List	Permanent	Full Time	\$6,596
Associate Accounting Analyst	Reinstatement	Permanent	Full Time	\$6,258
Associate Insurance Compliance Officer	Transfer	Permanent	Full Time	\$6,771
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$3,897
Supervising Fraud Investigator I	Transfer	Permanent	Full Time	\$9,267
Supervising Special Investigator II (Non-Peace Officer)	Transfer	Permanent	Full Time	\$9,407

**FINDING NO. 7 – Incorrect Application of Salary Determination Laws, Board Rules, and CalHR Policies and Guidelines for Appointment**

**Summary:** The CRU found the following error in the CDI's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Staff Services Analyst (General)	The CDI made multiple attempts to correct the initial error made at the time of appointment. However, each time they tried, they used outdated pay scale information resulting in the employee being underpaid.	Cal. Code Regs., 599.675

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

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

**Cause:** The CDI agrees with this finding. At the time the salary determination was made, the assigned classification analyst utilized the published Pay Scales. However, at the time of appointment, the Pay Scales had been revised and the personnel specialist failed to correct the salary determination prior to keying the employee’s salary.

**Corrective Action:** The CDI indicates it has current documented procedures and will continue to train and conduct periodic reviews to ensure that personnel specialists adhere to procedures for the accurate application of salary determination laws and rules upon appointment. Within 90 days of the date of this report, the CDI must submit to the SPB the documented internal policies and procedures which demonstrates the corrections the department has implemented to ensure that employees are compensated correctly. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective actions’ response.

### Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, March 1, 2019, through November 30, 2019, the CDI employees made 21 alternate range movements within a classification. The CRU reviewed seven 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)
Attorney	C	D	Full Time	\$7,818
Insurance Rate Analyst	B	C	Full Time	\$4,496
Investigator	B	C	Full Time	\$6,282
Investigator	B	C	Full Time	\$6,114
Legal Secretary	A	B	Full Time	\$4,674
Research Data Analyst I	B	C	Full Time	\$4,344
Staff Services Analyst (General)	B	C	Full Time	\$4,692

### **FINDING NO. 8 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU determined that the alternate range movements the CDI made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

### Hiring Above Minimum Requests

The CalHR may authorize payment at any step above-the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code § 19836.) For all employees new to state service, departments

are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

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

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.<sup>8</sup> (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

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<sup>8</sup> 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.

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 31, 2019, through February 29, 2020, the CDI authorized 13 HAM requests. The CRU reviewed five of those authorized HAM requests to determine if the CDI correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	New to State	\$5,149 – \$6,446	\$6,000
Associate Insurance Compliance Officer	Certification List	New to State	\$5,223 – \$6,542	\$6,542
Associate Insurance Rate Analyst	Certification List	New to State	\$5,406 – \$6,771	\$6,771
Information Technology Associate	Certification List	New to State	\$4,013 – \$5,378	\$4,500
Investigator	Certification List	New to State	\$4,635 – \$5,683	\$5,683

**FINDING NO. 9 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or 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, March 1, 2019, through November 30, 2019, the CDI issued bilingual pay to 36 employees. The CRU reviewed nine 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	1
Investigator	R07	Full Time	1
Office Technician (Typing)	R04	Full Time	1
Senior Insurance Compliance Officer (Specialist)	R01	Full Time	1
Special Investigator	R07	Full Time	1
Supervising Fraud Investigator I	S07	Full Time	2
Supervising Special Investigator II (Non-Peace Officer)	S07	Full Time	1

**FINDING NO. 10 – Incorrect Authorization of Bilingual Pay**

**Summary:** The CRU found six errors in the CDI’s authorization of bilingual pay:

Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14
Senior Insurance Compliance Officer (Specialist)	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14

Classification	Description of Findings	Criteria
Special Investigator	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14
Supervising Fraud Investigator I	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14
Supervising Fraud Investigator I	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14
Supervising Special Investigator II (Non-Peace Officer)	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code, section 7296 and Pay Differential 14

**Criteria:** For any state agency, a “qualified” bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296 subd. (a) (3).) An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

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

**Cause:** The CDI agrees with this finding. The assigned HRMD analyst failed to ensure supporting documentation was provided that demonstrated the need for bilingual services.

**Corrective Action:** The CDI has identified remediations to achieve compliance in this area. However, within 90 days of the date of this report, the CDI must submit to the SPB the written policies or procedures which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 7296, and Pay Differential 14.

### Pay Differentials

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

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

During the period under review, March 1, 2019, through November 30, 2019, the CDI issued pay differentials<sup>9</sup> to 237 employees. The CRU reviewed 15 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Administrative Law Judge I	84	5%
Chief Fraud Bureau	245	7%
Information Technology Specialist I	13	5%
Investigator	173	\$200

<sup>9</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Investigator	244	\$125
Investigator	245	7%
Investigator	245	7%
Investigator	418	7.44%
Senior Casualty Actuary	318	10.99%
Senior Legal Typist	141	5%
Senior Legal Typist	141	5%
Senior Life Actuary	318	10.99%
Senior Life Actuary	318	10.99%
Supervising Fraud Investigator I	244	\$125
Supervising Fraud Investigator II	244	\$125

**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 excluded<sup>10</sup> 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-

<sup>10</sup> “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.

term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

During the period under review, March 1, 2019, through November 30, 2019, the CDI issued OOC pay to 14 employees. The CRU reviewed five 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
Senior Insurance Compliance Officer (Specialist)	BU1	Supervising Insurance Compliance Officer	3/15/2019 – 4/13/2019
Senior Insurance Examiner (Supervisor)	Excluded	Supervising Insurance Examiner	2/6/2019 – 3/7/2019
Senior Legal Typist	BU4	Legal Secretary	12/17/2018 – 4/2/2019
Investigator	BU7	Supervising Fraud Investigator I	2/11/2019 – 3/12/2019
Attorney IV	BU2	Assistant Chief Counsel	6/26/2019 – 8/25/2019

**FINDING NO. 12 – Incorrect Authorization of Out-of-Class Pay**

**Summary:** The CRU found two errors in the CDI’s authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Findings	Criteria
Attorney IV	Assistant Chief Counsel	Employee was not compensated for two months of OOC pay while performing the duties at the higher-level classification, resulting in the employee being underpaid.	Pay Differential 91
Senior Legal Typist	Legal Secretary	Employee received an additional 5% increase without serving 12 months in the OOC class, in addition to the 10% increase he/she received after serving 12 months in their current class, resulting in the employee being overpaid.	Pay Differential 91

**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's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

**Cause:** The CDI follows established processes to ensure employees are paid appropriately and timely. When calculating the OOC compensation for both classifications, the Personnel Specialist inaccurately applied both pay differentials to the calculations which resulted in both employees being overpaid.

**Corrective Action:** The CDI has identified remediations to achieve compliance in this area. However, within 90 days of the date of this report, the CDI must submit to the SPB the written policies or procedures which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 91.

## Leave

### Positive Paid Employees

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

completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days<sup>11</sup> worked and paid absences<sup>12</sup>, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

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

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<sup>11</sup> For example, two hours or ten hours count as one day.

<sup>12</sup> For example, vacation, sick leave, compensating time off, etc.

Classification	Tenure	Time Frame	Time Worked
Associate Governmental Program Analyst	Retired Annuitant	7/1/2018 – 6/30/2019	950.5 hours
Information Technology Specialist I	Retired Annuitant	7/1/2018 – 6/30/2019	893.5 hours
Office Technician (Typing)	Retired Annuitant	7/1/2018 – 6/30/2019	761.75 hours
Senior Insurance Compliance Officer (Specialist), Department of Insurance	Retired Annuitant	7/1/2018 – 6/30/2019	852 hours
Special Investigator	Retired Annuitant	7/1/2018 – 6/30/2019	853.5 hours
Special Investigator	Retired Annuitant	7/1/2018 – 6/30/2019	960 hours
Special Investigator	Retired Annuitant	7/1/2018 – 6/30/2019	885 hours
Student Assistant	Temporary	5/2/2018 – 5/1/2019	1,447.5 hours
Student Assistant	Temporary	10/03/2018 – 10/02/2019	132.5 hours

**FINDING NO. 13 – Positive Paid Employees’ Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CDI provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

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

During the period under review, November 30, 2018, through November 30, 2019, the CDI placed 37 employees on ATO. The CRU reviewed nine of those ATO appointments

to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Insurance Compliance Officer	10/11/2019	9 hours
Investigator	10/29/2019 – 10/30/2019	20 hours
Office Assistant (Typing)	10/1/2019 – 10/4/2019	32 hours
Office Technician (Typing)	4/5/2019 – 4/8/2019	12.5 hours
Research Data Analyst II	10/11/2019	6 hours
Special Investigator	9/23/2019 – 9/30/2019	48 hours
Special Investigator	10/11/2019	10 hours
Special Investigator	11/22/2019	3 hours
Staff Services Analyst	2/25/2019 – 3/11/2019	88 hours

**FINDING NO. 14 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or 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, August 30, 2019, through November 30, 2019, the CDI reported 138 units comprised of 11,416 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
September 2019	115	5	5	0
September 2019	143	9	9	0
September 2019	184	3	3	0
October 2019	230	4	4	0
October 2019	256	3	3	0
October 2019	346	2	2	0
November 2019	368	2	2	0
November 2019	370	5	5	0
November 2019	393	4	4	0

**FINDING NO. 15 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The 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.

## Leave Reduction Efforts

Departments must create a leave reduction policy for their organization and monitor employees' leave to ensure compliance with the departmental leave policy; and ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. (Human Resources Manual Section 2124.)

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion."<sup>13</sup> (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount<sup>14</sup> as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation, ensuring employees maintain the capacity to optimally perform their jobs. (Cal. Code Regs., tit. 2, § 599.742.1.) For excluded employees, the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work-life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2018, 176 CDI employees exceeded the established limits of vacation or annual leave. The CRU reviewed 25 of those employees' leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

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<sup>13</sup> For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 06 there is no established limit and for Bargaining Unit 05 the established limit is 816 hours.

<sup>14</sup> Excluded employees shall not accumulate more than 80 days.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Associate Insurance Rate Analyst	R01	863	Yes
Attorney III	R02	549	Yes
Attorney III	E99	484	Yes
Attorney IV	R02	636.98	Yes
Attorney IV	R02	632	Yes
Attorney IV	R02	568.98	Yes
Attorney V	R02	511	Yes
Bureau Chief	S01	543	Yes
CEA	M01	1,192	Yes
CEA	M01	1,166.25	Yes
CEA	M01	1,054	Yes
CEA	M01	658	Yes
CEA	M07	623	Yes
Deputy Commissioner, Health Policy and Reform	E99	612	Yes
Information Officer II	E99	620	Yes
Information Technology Manager I	M01	820	Yes
Information Technology Specialist III	R01	1,280.25	Yes
Senior Insurance Compliance Officer (Specialist)	R01	487.5	Yes
Senior Insurance Rate Analyst	R01	651	Yes
Senior Insurance Rate Analyst	R01	625.5	Yes
Staff Services Analyst	R01	482.75	Yes
Supervising Fraud Investigator I	S07	751	Yes
Supervising Fraud Investigator I	S07	451	Yes
Supervising Insurance Examiner	S01	1,551	Yes
Supervising Insurance Examiner	S01	513	Yes
<b>Total</b>		18,326.21	

**FINDING NO. 16 – Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU reviewed employee vacation and annual leave to ensure that those employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. In addition, the CRU reviewed the department’s leave reduction policy to verify its compliance with applicable rule and law, and to ensure its accessibility to employees. Based on our review, the CRU found no deficiencies in this area.

## State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.<sup>15</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>16</sup> 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, March 1, 2019, through November 30, 2019, the CDI had seven employees with non-qualifying pay period transactions. The CRU reviewed nine

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<sup>15</sup> Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 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.

<sup>16</sup> 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.

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

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	3
Qualifying Pay Period	Full Time	6

**FINDING NO. 17 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or 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 recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

**FINDING NO. 18 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or 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 recruiting, hiring and assigning employees on the basis 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.

### **FINDING NO. 19 – Workers' Compensation Policy Was Not Provided to New Employees by the End of First Pay Period**

**Summary:** The CDI does not provide specific notices to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law.

**Criteria:** Employers shall provide to every new employee 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 of Regs., tit. 8, § 9880.)

**Severity:** Very Serious. The department does not ensure that its employees are aware of policies and procedures concerning worker’s compensation.

**Cause:** Although, the CDI provides new employees with a copy of the Workers’ Compensation policy during their New Employee Orientation (NEO) session; these sessions may not be conducted by the end of each employee’s first pay period. Additionally, the CDI does inform all employees of their rights and responsibilities under California’s Workers’ Compensation Law and provides this information via several platforms including: the aforementioned NEO sessions, the CDI’s Health & Safety intranet pages, and the U.S. Department of Labor posters placed throughout the CDI’s headquarters and regional offices.

**Corrective Action:** The CDI has identified remediations to achieve compliance in this area. However, within 90 days of the date of this report, the CDI must submit to the SPB the written policies or procedures which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 8, section 9880.

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 21 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. These are listed below:

Classification	Date Performance Appraisals Due
Administrative Law Judge	8/9/2019

Classification	Date Performance Appraisals Due
Associate Insurance Compliance Officer	8/1/2019
Associate Insurance Examiner	4/16/2019
Associate Insurance Rate Analyst	6/30/2019
Associate Insurance Rate Analyst	9/30/2019
Attorney III	3/31/2019
Information Technology Specialist I	5/31/2019
Investigator	3/18/2019
Investigator	11/1/2019
Office Technician (Typing)	5/22/2019
Office Technician (Typing)	1/29/2019
Research Data Analyst II	10/1/2019
Research Data Specialist I	11/14/2019
Senior Insurance Compliance Officer (Specialist)	1/29/2019
Senior Insurance Compliance Officer (Specialist)	8/29/2019
Senior Insurance Examiner (Specialist)	7/12/2019
Senior Insurance Examiner (Specialist)	12/31/2019
Senior Insurance Rate Analyst	5/13/2019
Senior Insurance Rate Analyst	3/29/2019
Special Investigator	12/31/2019
Staff Services Analyst (General)	4/12/2019

**FINDING NO. 20 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The CDI did not provide annual performance appraisals to 12 of 21 employees reviewed after the completion of the employee’s probationary period.

**Criteria:** Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the

employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

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

**Cause:** CDI has a notification system in place to notify supervisors and managers of the requirement to completely timely performance appraisals. Despite these efforts, some supervisors and managers failed to provide timely performance appraisals.

**Corrective Action:** The CDI has identified remediations to achieve compliance in this area. However, within 90 days of the date of this report, the CDI must submit to the SPB the written policies or procedures which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798.

#### Administrative Hearing and Medical Interpreter Program

According to Government Code section 11435.15, specific state agencies shall provide language assistance in adjudicative proceedings. "Language assistance" means oral interpretation or written translation into English of a language other than English or of English into another language for a party or witness who cannot speak or understand English or who can do so only with difficulty. (Gov. Code, § 11435.05.)

The hearing, or any medical examination conducted for the purpose of determining compensation or monetary award, shall be conducted in English. (Gov. Code, § 11435.20, subd. (a).) If a party or the party's witness does not proficiently speak or understand English and before commencement of the hearing or medical examination requests language assistance, an agency subject to the language assistance requirement of this article shall provide the party or witness an interpreter. (Gov. Code, § 11435.20, subd. (b).)

An interpreter used in a hearing shall be certified pursuant to Government Code section 11435.30. However, if an interpreter certified pursuant to section 11435.30 cannot be

present at the hearing, the hearing agency shall have discretionary authority to provisionally qualify and use another interpreter. (Gov. Code, § 11435.55, subd. (a).)

An interpreter used in a medical examination shall be certified pursuant to Government Code section 11435.35. However, if an interpreter certified pursuant to section 11435.35 cannot be present at the medical examination, the physician provisionally may use another interpreter if that fact is noted in the record of the medical evaluation. (Gov. Code, § 11435.55, subd. (b).)

**FINDING NO. 21 – Administrative Hearing and Medical Interpreter Program Complied with Statutory Requirements**

The CRU found no deficiencies in the Administrative Hearing and Medical Interpreter Program. Accordingly, the CDI's Administrative Hearing and Medical Interpreter Program complied with statutory requirements.

**DEPARTMENTAL RESPONSE**

The CDI's 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

February 19, 2021

**VIA ELECTRONIC MAIL [LUISA.DOI@SPB.CA.GOV](mailto: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) Compliance Review Report issued on February 3, 2021. 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 #3: Probationary Evaluations Were Not Provided for All Appointments Reviewed and Those That Were Provided Were Untimely**

Cause: CDI's Human Resources Management Division (HRMD) notifies supervisors/managers of their requirements to complete timely probationary reports using an electronic alert system (cdiHR). HRMD's system notifies supervisors/managers of all due dates in advance. Despite these efforts, some supervisors/managers failed to provide timely probationary reports.

In response to the audit findings, the HRMD will continue to monitor, track, and follow-up on the timely completion of probationary reports. Supervisors/managers will continue to receive alerts and the HRMD will continue to log probationary reports into cdiHR upon receipt. Furthermore, notifications will now be elevated to Executive management to ensure full compliance.

**Finding #5: Unions Were Not Notified of Personal Services Contracts**

Cause: CDI has internal processes in place wherein the appropriate internal entities advise the Department's Labor Relations Unit (LRU) of personal services contracts requiring union notification and the LRU provides the necessary union notifications pursuant to GC 19132.

During part of the period under review, the person assigned to notifications in the LRU was on leave and a temporary appointment was made to address the workload. The

transition of workload for this assignment likely caused a gap in the internal processes resulting in the inability to locate the documentation for the two personal services contracts in question out of ten reviewed. CDI is confident that the unions were properly noticed; however, due to the staffing adjustments, we are unable to produce the appropriate documentation.

CDI will document the established internal processes to ensure any staff preparing the union notifications are aware of the internal controls and maintain proper documentation retention.

#### **Finding #6: Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

Cause: At the time, CDI had recently transitioned to a new training protocol and some staff had not attended when they were scheduled for in-person training. Consequently, CDI had to reschedule them for another date which, unfortunately, may have made them a few days late. While some people were late taking the Sexual Harassment Prevention Training, ultimately, all supervisors reviewed by SPB took the training within two months of the deadline.

Also, for at least a decade, all CDI staff have been mandated by policy to attend two hours of Sexual Harassment Prevention training within six months of being hired and every two years thereafter regardless of whether staff hold a supervisor position or not. When staff are promoted into a supervision role, they are switched to a supervisor training list even though they may have attended the needed training within the scheduled two-year timeframe for many years.

#### **Finding #7: Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment**

Cause: CDI agrees with this finding. At the time that the salary determination was made, the assigned classification analyst utilized the published Pay Scales; however, at the time of appointment, the Pay Scales had been revised and the personnel specialist failed to correct the salary determination prior to keying the salary. CDI has corrected the salary effective on the date of the appointment and will issue the corrected pay upon release by the State Controller's Office (SCO).

CDI will continue to train employees on the current documented procedures and conduct periodic reviews to ensure that personnel specialists are adhering to the procedures for the accurate application of salary determination laws and rules upon appointment.

#### **Finding #10: Incorrect Authorization of Bilingual Pay**

Cause: CDI agrees with this finding. The assigned HRMD analyst failed to ensure supporting documentation was provided demonstrating the need for bilingual services was received.

CDI will establish a bilingual pay process to ensure all bilingual pay documentation is provided by the Bilingual Coordinator and included in each hiring package upon appointment. Additionally, the HRMD analyst will verify supporting documentation provided to ensure the bilingual pay is warranted.

### **Finding #12: Incorrect Authorization of Out-of-Class Pay**

Cause: CDI has established processes to ensure appropriate and timely pay.

Attorney IV to Assistant Chief Counsel - The Out-of-Class (OOC) pay was processed by a newly appointed HRMD Personnel Specialist (PS) whose work was routinely reviewed prior to processing, including this instance. The PS properly documented the four months of OOC pay and the reviewer approved the documentation; however, the PS unfortunately only keyed two of the four months of pay and failed to key the remaining months timely. CDI has already submitted a request to the SCO to process the remaining pay. Additionally, CDI will continue to ensure that the PS staff are properly trained, probationary staff's work is reviewed, and documented processes are followed.

Senior Legal Typist to Legal Secretary - Just as with the Attorney IV to Assistant Chief Counsel, CDI follows established processes to ensure appropriate and timely pay. In this case, both classifications are eligible for pay differentials. When calculating the OOC compensation, the PS inaccurately applied both pay differentials to the calculation resulting in the overpayment.

CDI will submit the required documentation to the SCO to establish an Accounts Receivable and issue the appropriate notice to the employee. Additionally, CDI will continue to train employees on the current documented procedures and conduct periodic reviews to ensure that personnel specialists are adhering to the procedures for issuing accurate OOC compensation payments.

### **Finding #19: Workers' Compensation Policy Was Not Provided to New Employees by the End of First Pay Period**

Cause: CDI does inform all employees of their rights and responsibilities under California's Workers' Compensation Law and provides this information in a variety of platforms; New Employee Orientation sessions, the Department's Health & Safety intranet pages, and U.S. Department of Labor posters are placed throughout CDI's headquarters and regional offices. However, the policy is provided during new employee orientation and the orientation is not always conducted by the end of each employee's first pay period.

CDI will communicate rights and responsibilities under California's Workers' Compensation Law to all employees through the Human Resources Management Policies and Procedures Manual and will ensure that new employees receive the appropriate notice during the onboarding process and by the end of their first pay period.

### **Finding #20: Performance Appraisals Were Not Provided to All Employees**

Cause: HRMD notifies supervisors/managers of their requirements to complete timely performance appraisals using an electronic alert system (cdiHR). HRMD's system notifies supervisors/managers of all due dates in advance. Despite these efforts, some supervisors/managers failed to provide timely performance appraisals.

In response to the audit findings, the HRMD will continue to monitor, track, and follow-up on the timely completion of performance appraisals. Supervisors/managers will continue to receive

Ms. Suzanne Ambrose, SPB  
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February 19, 2021

alerts and the HRMD will continue to log performance appraisals into cdiHR upon receipt. Furthermore, routine reporting will now be provided to Executive management to ensure full compliance.

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 Laurie Menchaca, Chief, HRMD, at (916) 200-5362.

Sincerely,



**JULIA B. CROSS**  
Deputy Commissioner  
Administration and Licensing Services Branch

Attachments

cc: Laurie Menchaca, Chief, HRMD  
Jill Ellwood, Assistant Chief, HRMD  
Cindy McConnell, Personnel Operations Manager, HRMD  
Vongayi Chitambira, Chief, Enterprise Planning, Risk, and Compliance  
Sharon Victor, Equal Employment Opportunity Officer, Office of Civil Rights  
CDI Internal Audits  
CDI Audit Committee



**RICARDO LARA**  
CALIFORNIA INSURANCE COMMISSIONER

August 4, 2021

**VIA ELECTRONIC MAIL [LUISA.DOI@SPB.CA.GOV](mailto: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 completed its Corrective Action Plan for each of the findings identified in the State Personnel Board (SPB) Compliance Review Report issued on May 7, 2021. CDI continues its commitment to correct the deficiencies noted in the report and strives to ensure compliance with applicable laws, rules, and regulations. We thank SPB for the opportunity to improve our processes and increase compliance.

As of July 2021, CDI has implemented the following corrective actions and has attached the supporting documentation.

**Finding #3: Probationary Evaluations Were Not Provided for All Appointments Reviewed and Those That Were Provided Were Untimely**

Corrective Action: CDI added an additional measure to increase compliance by elevating probationary notifications to Executive management. CDI has and will continue to monitor, track, and follow up with the appropriate CDI personnel on the timely completion of probationary reports. Supervisors/managers will continue to receive reminder email notifications and, upon receipt, CDI will continue to record probationary reports into its database.

**Finding #5: Unions Were Not Notified of Personal Services Contracts**

Corrective Action: CDI Labor Relations Unit has updated its internal processes to ensure Labor Relations staff provide timely union notifications prior to execution of CDI's personal services contracts, and related documentation is appropriately retained.

### **Finding #6: Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

Corrective Action: During the review period, CDI relied on the learning management system to send automated reminders to staff. To ensure all employees are trained on time, a manual process to double-check compliance was added. The Office of Civil Rights (OCR) now inputs all employee training data when completed and generates in-house monthly reports. The OCR then compares the training data with CDI's Training Unit to ensure every employee is accounted for and is in timely compliance. In addition, CDI's largest Bureau tracks employee training records and compares them with OCR and the Department's Training Unit records to ensure timely compliance. CDI employees will continue to receive automated training reminders from the learning management system six months in advance, three months, and every month with a carbon copy to their supervisor. If training is not completed during this time, the OCR will personally contact the employee and the immediate supervisor.

### **Finding #7: Incorrect Application of Salary Determination Laws, Board Rules, and CalHR Policies and Guidelines for Appointment**

Corrective Action: To comply with control agency laws, rules, and regulations, CDI now requires that each recruitment package contains a Salary Determination Worksheet to ensure the Classification & Examinations (C&E) Unit staff determine appropriate range placement, and the Personnel Transactions Unit (PTU) staff complete and verify the salary determinations. CDI has and will continue to train Personnel Operations staff (C&E and PTU) on the documented procedures and conduct periodic reviews to ensure that Personnel Specialists are applying the procedures for accurate salary determination application.

### **Finding #10: Incorrect Authorization of Bilingual Pay**

Corrective Action: CDI has established a bilingual pay process to ensure all bilingual pay documentation is included in the hiring package upon appointment. Additionally, the Human Resources Management Division (HRMD) analyst will verify that the supporting documentation provided is accurate to ensure pay is warranted.

### **Finding #12: Incorrect Authorization of Out-of-Class Pay**

Corrective Action: CDI's HRMD probationary staff are routinely evaluated to ensure their understanding and proper application of the process. CDI also has documented internal processes to assist with training new staff and will conduct periodic reviews to ensure that the Personnel Specialists are adhering to procedures.

**Finding #19: Workers' Compensation Policy Was Not Provided to New Employees by the End of First Pay Period**

Corrective Action: New employees will receive the following information during employee onboarding but no later than the end of their first pay period:

- CDI's Workers' Compensation Program
- SCIF's Employee's Guide to State Fund MPN pamphlet
- SCIF's Employee's Guide to Workers' Compensation pamphlet
- CDI's Predesignation of Personal Physicians (HRM-103)

This information will advise employees of the policy, their rights, and responsibilities pursuant to workers' compensation law.

**Finding #20: Performance Appraisals Were Not Provided to All Employees**

Corrective Action: CDI has added additional controls to ensure performance appraisals are provided to all employees. Specifically, the supervisor's chain-of-command will be notified of late or incomplete performance appraisals allowing for coaching and guidance on timely completion of future performance appraisals. Furthermore, a report of compliance will be distributed quarterly to Executive management to communicate program management compliance.

CDI has and will continue to monitor, track, and follow up on the timely completion of performance appraisals. Supervisors/managers currently receive an email notification on the last day of each month listing the employees who are due performance appraisals in the upcoming month. As CDI receives performance appraisals, they are logged into the Department's database.

Implementing 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 Laurie Menchaca, Chief, HRMD, at (916) 200-5362.

Sincerely,



**JULIA B. ARCE**

Deputy Commissioner  
Administration and Licensing Services Branch

Attachments

cc: Laurie Menchaca, Chief, HRMD  
Jill Ellwood, Assistant Chief, HRMD  
Cindy McConnell, Personnel Operations Manager, HRMD  
Matthew Alves, Program Operations Manager, HRMD  
Vongayi Chitambira, Chief, Enterprise Planning, Risk, and Compliance

Ms. Suzanne Ambrose, SPB

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August 4, 2021

Sharon Victor, Equal Employment Opportunity Officer, Office of Civil Rights  
CDI Internal Audits  
CDI Audit Committee