



COMPLIANCE REVIEW REPORT

OFFICE OF ENERGY INFRASTRUCTURE SAFETY

Compliance Review Unit
State Personnel Board
July 3, 2024

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Office of Energy Infrastructure Safety (OEIS) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Appointments	Very Serious	Unlawful Appointment
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Area	Severity	Finding
Compensation and Pay	In Compliance	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees

BACKGROUND

The OEIS was established on July 1, 2021, to ensure electrical utilities are taking effective actions to reduce utility-related wildfire risk. Its mission expanded to underground safety with the addition of the Underground Facilities Safe Excavation Board. The OEIS operates under several guiding principles, one of which is delivering near-term results while promoting a long-term utility vision to reduce wildfire and underground risk and to build safety cultures. Furthermore, the OEIS receives and incorporates guidance from the Wildfire Safety Advisory Board.

The Department of General Services and the California Department of Parks and Recreation performed human resources operations for the OEIS during the compliance review periods.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the OEIS's appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the OEIS'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.

The OEIS did not conduct any examinations or permanent withhold actions during the compliance review period.

A cross-section of the OEIS's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the OEIS provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The OEIS did not make any additional appointments or conduct any unlawful appointment investigations during the compliance review period.

The OEIS's appointments were also selected for review to ensure the OEIS applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the OEIS 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: bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the OEIS did not issue or authorize hiring above minimum requests, red circle rate requests, or arduous pay.

The review of the OEIS'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.

¹ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

The OEIS's PSC's were also reviewed.² It was beyond the scope of the compliance review to make conclusions as to whether the OEIS's justifications for the contracts were legally sufficient. The review was limited to whether the OEIS's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The OEIS's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, that all supervisors, managers, and those serving in Career Executive Assignments (CEA) were provided leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the OEIS's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRU selected a small cross-section of the OEIS'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 OEIS'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 OEIS employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of OEIS 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 OEIS's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the OEIS's policies and processes adhered to procedural requirements.

The CRU received and carefully reviewed the OEIS's written response on June 19, 2024, which is attached to this final compliance review report.

²If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

FINDINGS AND RECOMMENDATIONS

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, March 1, 2023, through November 30, 2023, the OEIS made 50 appointments. The CRU reviewed 20 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Budget Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	1
Program Manager, Public Utilities Commission	Certification List	Limited Term	Full Time	1
Public Utilities Regulatory Analyst II	Certification List	Permanent	Full Time	1
Public Utilities Regulatory Analyst III	Certification List	Limited Term	Full Time	1
Research Data Specialist II	Certification List	Permanent	Full Time	1
Research Data Supervisor II	Certification List	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Certification List	Limited Term	Full Time	1
Senior Environmental Scientist (Supervisory)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Senior Utilities Engineer (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Analyst	Certification List	Limited Term	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Utilities Engineer	Certification List	Limited Term	Full Time	1
Associate Budget Analyst	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Limited Term	Full Time	1
Information Technology Manager I	Transfer	Permanent	Full Time	1
Information Technology Technician	Transfer	Limited Term	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Transfer	Permanent	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 1 UNLAWFUL APPOINTMENT
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Summary: The CRU found one unlawful appointment during the course of its regular review. The OEIS made an appointment utilizing the certification list for the Senior Environmental Scientist (Specialist) classification. The hired candidate did not meet the minimum qualifications for the classification at the time of examination or appointment. Upon completion of the unlawful appointment investigation, this appointment was voided within one year of the appointment. There was no evidence of bad faith by either the employee or the appointing authority when the appointment was made.

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

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

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

Cause: The OEIS states that their department’s human resources services were contracted with another agency during the review period. The staff member responsible for reviewing the minimum qualifications miscalculated the candidate’s experience when combining the minimum qualification patterns.

Corrective Action: The OEIS asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OEIS must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 249.4.

SEVERITY: SERIOUS	FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The OEIS did not provide 2 probationary reports of performance for 1 of the 20 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Staff Services Manager I	Certification List	1	2

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

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

Cause: The OEIS states that the manager was notified to complete the required probation reports but due to workload demands, the manager failed to complete them.

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

department has implemented to ensure conformity with Government Code section 19172.

Equal Employment Opportunity

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

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like the OEIS, the EEO Officer may be the Personnel Officer.

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

IN COMPLIANCE	FINDING NO. 3 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the OEIS'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 OEIS. The OEIS 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, June 1, 2023, through February 29, 2024, the OEIS had 22 PSC’s that were in effect. The CRU reviewed 12 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Abundance Strategies, LLC	Department Strategy	\$149,600	Yes	No
Albert R. Renteria Corporation	Graphic Design	\$105,000	Yes	Yes
California Coast Auto Repair	Auto Repair	\$6,325	Yes	Yes
H & Company	Video Production Services	\$82,500	Yes	Yes
H & Company	Recruitment Video	\$5,050	Yes	Yes
Hagerty Consulting Inc.	Business Continuity	\$187,443	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Jane Blue LLP.	Legal Consultant	\$1,897,213	Yes	Yes
Level 4 Ventures	Technical Editing	\$1,410,096	Yes	No
Robin O'Connel Design	Wildfire Safety Advisory Board Logo Design	\$4,000	Yes	Yes
Shade & Partners Technology Solutions	Learning Management System Configuration	\$10,750	Yes	Yes
Tek Yantra Inc.	Business Policy Development	\$96,000	Yes	Yes
Verse Learning LLC	Translation of Online Course	\$71,900	Yes	No

SEVERITY: SERIOUS	FINDING NO. 4 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The OEIS did not notify unions prior to entering into 3 of the 12 PSC's reviewed.

Criteria: Before a state agency executes a contract or amendment to a contract for personal services conditions specified within Government Code section 19130, subdivision (b), the agency shall notify all organizations that represent state employees who perform or could perform the type of work that is called for within the contract, unless exempted under Government Code section 19132, subdivision (b)(1). (Cal. Code Regs., tit. 2, § 547.60.2.)

Severity: Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for the type of work that their members could perform.

Cause: The OEIS states the unions were not notified of the PSC's due to human error.

Corrective Action: Departments are responsible for notifying all organizations that represent state employees who perform or could perform the type of work to be contracted prior to executing a PSC. The PSC's reviewed

during this compliance review involved several services and functions which various rank-and-file civil service classifications perform. The OEIS asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OEIS must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with the requirements of California Code of Regulations section 547.60.2.

Mandated Training

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

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

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

New employees must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two

hours of sexual harassment prevention training and non-supervisors one hour of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

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

The CRU reviewed the OEIS's mandated training program that was in effect during the compliance review period, March 1, 2022, through February 29, 2024. The OEIS's supervisory training was found to be in compliance, while the OEIS's ethics training and sexual harassment prevention training were found to be out of compliance.

SEVERITY: VERY SERIOUS	FINDING NO. 5 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The OEIS did not provide ethics training to 1 of 8 existing filers. In addition, the OEIS did not provide ethics training to 3 of 32 new filers within 6 months of their appointment.

Criteria: New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)

Severity: Very Serious. The department does not ensure that its filers are aware of prohibitions related to their official position and influence.

Cause: The OEIS states that staff were notified to take the training but failed to complete it timely due to workload demands.

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

department has implemented to ensure conformity with Government Code section 11146.3.

SEVERITY: VERY SERIOUS	FINDING NO. 6 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
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Summary: The OEIS provided sexual harassment prevention training to all 16 existing supervisors and all 52 non-supervisors every 2 years. However, the OEIS did not provide sexual harassment prevention training to 2 of 5 new supervisors within 6 months of 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 and existing 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: The OEIS states that staff were notified to take the training but failed to complete it timely due to workload demands.

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

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate³ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, March 1, 2023, through November 30, 2023, the OEIS made 50 appointments. The CRU reviewed 9 of those appointments to determine if the OEIS applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Program Manager, Public Utilities Commission	Certification List	Limited Term	Full Time	\$14,527
Research Data Specialist II	Certification List	Permanent	Full Time	\$6,858
Research Data Supervisor II	Certification List	Permanent	Full Time	\$7,616
Senior Environmental Scientist (Specialist)	Certification List	Limited Term	Full Time	\$7,393
Senior Environmental Scientist (Supervisory)	Certification List	Permanent	Full Time	\$10,331
Staff Services Analyst	Certification List	Limited Term	Full Time	\$5,547
Information Technology Manager I	Transfer	Permanent	Full Time	\$11,857
Staff Services Manager I	Transfer	Permanent	Full Time	\$7,190
Staff Services Manager II (Supervisory)	Transfer	Permanent	Full Time	\$9,219

³ "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).

SEVERITY: VERY SERIOUS	FINDING NO. 7 INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT
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Summary: The CRU found 2 errors in the 9 salary determinations reviewed:

Classification	Description of Findings	Criteria
Research Data Specialist II	Incorrect salary determination resulting in the employee being undercompensated.	Cal. Code Regs., tit.2 section 599.673
Research Data Supervisor II	Incorrect salary determination resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, section 599.673

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 two circumstances, the OEIS 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 OEIS states that due to human error, its contracted human resources provider overlooked a special salary adjustment that should have been processed during the State Controller’s Office general salary increase mass update.

Corrective Action: The OEIS must establish an audit system to correct current compensation transactions as well as future transactions. The OEIS asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OEIS must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that employees are compensated correctly.

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, 2023, through November 30, 2023, the OEIS employees made three alternate range movements within a classification. The CRU reviewed the three alternate range movements to determine if the OEIS 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)
Information Technology Technician	A	B	Full Time	\$4,296
Staff Services Analyst	A	B	Full Time	\$4,017
Utilities Engineer	B	C	Full Time	\$7,947

IN COMPLIANCE	FINDING NO. 8 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU determined that the alternate range movements the OEIS 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, 2023, through November 30, 2023, the OEIS issued bilingual pay to one employee. The CRU reviewed the bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Utilities Engineer	R09	Full Time	1

IN COMPLIANCE	FINDING NO. 9	BILINGUAL PAY AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the bilingual pay authorized to the employee during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Pay Differentials

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

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to

the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, March 1, 2023, through November 30, 2023, the OEIS authorized five pay differentials.⁴ The CRU reviewed the five pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Program and Project Supervisor, Public Utilities Commission	432	\$250
Program and Project Supervisor, Public Utilities Commission	433	3%
Program Manager, Public Utilities Commission	432	\$250
Utilities Engineer	432	\$250
Utilities Engineer	433	5.5%

IN COMPLIANCE	FINDING NO. 10 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differentials that the OEIS 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 excluded⁵ 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

⁴ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

⁵ "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.

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

During the period under review, March 1, 2023, through November 30, 2023, the OEIS issued OOC pay to five employees. The CRU reviewed four of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	03/1/23-3/31/23
Office Technician (Typing)	R04	Staff Services Analyst	03/1/23-4/18/23
Program And Project Supervisor, Public Utilities Commission	S09	Program Manager	4/24/23-8/1/23
Staff Services Analyst	R01	Associate Governmental Program Analyst	10/2/23-11/30/23

IN COMPLIANCE	FINDING NO. 11 OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the OOC pay assignments that the OEIS authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days⁶ worked and paid absences⁷, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

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

⁶ For example, two hours or ten hours count as one day.

⁷ For example, vacation, sick leave, compensating time off, etc.

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

Classification	Tenure	Time Frame	Time Worked
Staff Services Manager I	Retired Annuitant	7/1/22-6/30/23	959.5 Hours
Staff Services Manager I	Retired Annuitant	7/1/22-6/30/23	951 Hours

IN COMPLIANCE	FINDING NO. 12 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The OEIS 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, December 1, 2022, through November 30, 2023, the OEIS authorized five ATO transactions. The CRU reviewed the five ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Budget Analyst	9/1/23-9/12/23	7 Days
Public Utilities Regulatory Analyst IV	12/6/22-12/19/22	10 Days
Research Data Specialist II	12/9/22	1 Day
Senior Utilities Engineer (Specialist)	5/30/23-6/2/23	4 days
Staff Services Analyst	12/20/22 1/20/23-1/30/23	1 Hour 51 Hours

IN COMPLIANCE	FINDING NO. 13 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The OEIS 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, September 1, 2023, through November 30, 2023, the OEIS reported 10 units comprised of 86 active employees for the September 2023 pay period, 88 active employees for the October 2023 pay period, and 91 active employees for the November 2023 pay period. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
September 2023	300	11	11	0
October 2023	500	8	8	0
November 2023	700	7	7	0

IN COMPLIANCE	FINDING NO. 14 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The OEIS kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.⁸ (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.

⁸ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

(*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees⁹ 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, 2023, through November 30, 2023, the OEIS had one employee with non-qualifying pay period transactions. The CRU reviewed two transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Non-qualifying Pay Period	Full Time	2

IN COMPLIANCE	FINDING NO. 15 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU determined that the OEIS ensured the employee with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

Policy and Processes

Nepotism

It is the policy of the State of California to hire, transfer, and promote all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of “nepotism” as an employee’s use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of “personal

⁹ 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.

relationship” as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

IN COMPLIANCE	FINDING NO. 16 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the OEIS’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the OEIS’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 OEIS did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 17 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the OEIS provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. The OEIS did not receive any workers' compensation claims during the compliance review period.

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 two permanent OEIS employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 18 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The OEIS did not provide annual performance appraisals to the two 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 employees are appraised of work performance issues and/or goals in a systematic manner.

Cause: The OEIS states that due to workload demands, the supervisors did not complete the performance appraisals timely.

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

DEPARTMENTAL RESPONSE

The OEIS's written response is attached as Attachment 1.

SPB REPLY

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



June 19, 2024

VIA ELECTRONIC MAIL JAMIE.DUKE@SPB.CA.GOV

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

Dear Ms. Ambrose,

The Office of Energy Infrastructure Safety (Energy Safety) has reviewed the State Personnel Board (SPB) draft Compliance Review Report issued on June 5, 2024. Energy Safety appreciates SPB’s efforts and diligence in reviewing our processes to ensure compliance with all applicable laws, rules, and regulations.

Energy Safety is committed to continuous improvement of its operations and has prepared a cause statement to the specific findings requiring corrective action. The department will establish corrective action plans towards implementing the recommendations.

FINDING No. 1	VERY SERIOUS	UNLAWFUL APPOINTMENT
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The CRU [Compliance Review Unit] found one unlawful appointment during the course of its regular review. The OEIS [Office of Energy Infrastructure Safety] made an appointment utilizing the certification list for the Senior Environmental Scientist (Specialist) classification. The hired candidate did not meet the minimum qualifications for the classification at the time of examination or appointment. Upon completion of the unlawful appointment investigation, this appointment was voided within one year of the appointment. There was no evidence of bad faith on either the employee or the appointing authority when the appointment was made.

Cause(s)/Response:

Energy Safety agrees with this finding. During the period audited for this finding, the department contracted out its human resources services to another state agency. The contractor’s Human Resources (HR) staff member miscalculated experience when combining patterns.

As a result, Energy Safety has followed and completed CalHR’s established unlawful appointment process and the appointment was voided. Furthermore, Energy Safety has implemented additional controls to include a secondary view of minimum qualifications and provide training as needed to ensure HR staff are aware of lawful appointment requirements in order to prevent this from occurring in the future.

FINDING No. 2	SERIOUS	PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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The OEIS did not provide 2 probationary reports of performance for 1 of the 20 appointments reviewed by the CRU...

Cause(s)/Response:

Energy Safety agrees with this finding and understands the importance of providing timely feedback to its probationary employees. Energy Safety is a fairly new department, established on July 1, 2021. The manager was notified to complete the required probation reports, but due to workload demands, failed to complete them timely.

Human Resources (HR) will continue to monitor and provide executive management with monthly reports on the statistics of outstanding probation reports to ensure compliance. In addition, HR will continue to provide training to educate managers/supervisors on the requirement and best practices for completing effective and timely evaluations.

FINDING No. 4	SERIOUS	UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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The OEIS did not notify unions prior to entering into 3 of the 12 PSC’s [Personal Services Contracts] reviewed.

Cause(s)/Response:

Energy Safety agrees with this finding. Energy Safety is aware of the requirement to notify unions prior to entering into personal services contracts. During the period audited for this finding, the department contracted out its procurement services (including the scope to notify unions of personal services contracts) to another state agency. The cause of these three (3) incidents noted are found to be human error.

After the time period covered by this audit, Energy Safety received its initial purchasing authority and brought procurement functions in house on April 3, 2024. Since then, Energy Safety has created new processes and procedures including notifying HR when unions have been notified to avoid any future non-compliance.

FINDING No. 5	VERY SERIOUS	ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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The OEIS did not provide ethics training to 1 of 8 existing filers. In addition, the OEIS did not provide ethics training to 3 of 32 new filers within 6 months of their appointment.

Cause(s)/Response:

Energy Safety agrees with this finding. Energy Safety is a fairly new department, established on July 1, 2021. Staff were notified to take the training, but due to workload demands, failed to complete them timely.

Energy Safety will (1) continue to monitor and provide executive management with monthly reports on the statistics of outstanding Ethics training to ensure compliance and (2) reinforce the importance with managers and supervisors to ensure employees timely meet training requirements. In addition, Energy Safety will continue to educate Conflict of Interest filers on the requirement and best practices for completing the required training.

FINDING No. 6	VERY SERIOUS	SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
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The OEIS provided sexual harassment prevention training to all 16 existing supervisors and all 52 non-supervisors every 2 years. However, the OEIS did not provide sexual harassment prevention training to 2 of 5 new supervisors within 6 months of appointment.

Cause(s)/Response:

Energy Safety agrees with this finding. Energy Safety is a fairly new department, established on July 1, 2021. Staff were notified to take the training, but due to workload demands, failed to complete them timely.

Energy Safety will (1) continue to monitor and provide executive management with monthly reports on the statistics of outstanding Sexual Harassment Prevention training to encourage compliance and (2) reinforce the importance with managers and supervisors to ensure employees timely meet training requirements. In addition, Energy Safety will continue to educate staff on the requirement and best practices for completing the required training.

FINDING No. 7	VERY SERIOUS	INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT
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The CRU found 2 errors in the 9 salary determinations reviewed.

Cause(s)/Response:

Energy Safety agrees with this finding. Energy Safety, through its contracted human resources provider, provided the entrance rate that was available at time of appointment. Although a General Salary Increase (GSI) and Special Salary Adjustment (SSA) was approved for these classifications, the State Controller’s Office (SCO) did not update the pay scales and implement a mass update until mid-December 2023. Due to human error, it was overlooked that the SSA was not processed in the mass update that should have included both the GSI and SSA.

When Energy Safety brings its Human Resources in-house on July 1, 2024, Energy Safety’s HR will establish procedures to ensure accurate pay, continue to monitor salary determinations, and have a secondary review performed in addition to providing ongoing training as needed.

FINDING No. 18	SERIOUS	PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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The OEIS did not provide annual performance appraisals to the two employees reviewed after the completion of the employee’s probationary period.

Cause(s)/Response:

Energy Safety agrees with this finding and understands the importance of providing feedback to its team members. Supervisors/managers were notified to complete the performance appraisals, but due to workload demands, they were not completed timely. Although late, both performance appraisals were completed.

HR will (1) continue to monitor and provide executive management with monthly reports on the statistics of outstanding performance appraisals to encourage compliance and (2) reinforce the importance with managers and supervisors to ensure permanent employees timely receive performance appraisals. In addition, HR will continue to provide training to educate managers and supervisors on the requirement and best practices for completing effective and timely performance appraisals.

Energy Safety appreciates the opportunity to respond to the findings. We take the audit findings very seriously and will take immediate action to rectify the non-compliance.

Sincerely,

DocuSigned by:

319BEC4D8B4841D...
 Caroline Thomas Jacobs
 Director

Cc: Tyler Morris, Chief of Administrative Services
Susan Bitcon, Personnel Officer