



COMPLIANCE REVIEW REPORT

CALIFORNIA SECRETARY OF STATE

Compliance Review Unit
State Personnel Board
December 16, 2022

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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 Secretary of State (SOS) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely ¹
Appointments	Technical	Department Did Not Provide Benefit Information in Accordance with Civil Service Law
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 ²
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ³
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees ⁴

¹ Repeat finding. The March 25, 2020, SOS Compliance Review Report identified 5 missing probation reports in 2 of the 33 appointment files reviewed, and 5 probation reports were not timely in 4 of the 33 appointment files reviewed.

² Repeat finding. The March 25, 2020, SOS Compliance Review Report identified the SOS did not notify unions prior to entering into 3 of the 20 PSC's reviewed.

³ Repeat finding. The March 25, 2020, SOS Compliance Review Report identified 7 of 116 existing filers did not receive ethics training, and 5 of 10 new filers did not receive ethics training within 6 months of appointment.

⁴ Repeat finding. The March 25, 2020, SOS Compliance Review Report identified 5 of 55 existing supervisors did not receive sexual harassment prevention training every 2 years, and 7 of 10 new supervisors did not receive the training within 6 months of appointment.

Area	Severity	Finding
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs ⁵
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Alternate Range Movement Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above Minimum Request Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay ⁶
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay ⁷
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Administrative Time Off Was Not Properly Documented
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

⁵ Repeat finding. The March 25, 2020, SOS Compliance Review Report identified 1 of 5 new managers did not receive manager training within 12 months of appointment; 2 of 3 new CEAs did not receive CEA training within 12 months of appointment; and 21 of 43 existing supervisors, managers, and/or CEAs did not receive biennial leadership training.

⁶ Repeat finding. The March 25, 2020, SOS Compliance Review Report identified 14 errors in the SOS's authorization of bilingual pay.

⁷ Repeat finding. The March 25, 2020, SOS Compliance Review Report identified three errors in the SOS's authorization of OOC pay.

Area	Severity	Finding
Policy	Very Serious	Injured Employee Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ⁸

BACKGROUND

The SOS is comprised of nearly 600 people who are dedicated to making government more transparent and accessible in the areas of elections, business, political campaigning, legislative advocacy, and historical records. The SOS's headquarters are in Sacramento with a field office in Los Angeles.

It is the goal and mission of the SOS to bring the people of California reliable information, keep accurate and complete records, and expand the value of this office to all. The SOS is more than a repository of information. The SOS strives to guarantee people the relief, hope, and honesty they are entitled to by our society. The SOS wants their office to be accessible and helpful to the everyday small businesses, to the change-maker trying to better their community, and to the voter seeking to exercise their individual power.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the SOS's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁹. The primary objective of the review was to determine if the SOS's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the SOS'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 SOS provided, which included examination

⁸ Repeat finding. The March 25, 2020, SOS Compliance Review Report identified all 83 employees reviewed did not receive annual performance appraisals.

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

plans, examination bulletins, job analyses, and scoring results. The SOS did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the SOS'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 SOS 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 SOS did not conduct any unlawful appointment investigations or make any additional appointments during the compliance review period.

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

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

The SOS'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 in Career Executive Assignments (CEA) were provided leadership

¹⁰If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

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

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

On November 17, 2022, an exit conference was held with the SOS to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the SOS's written response on November 18, 2022, 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, October 1, 2021, through June 30, 2022, the SOS conducted three examinations. The CRU reviewed the three examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA B, Chief, Information Technology Division	CEA	Statement of Qualifications (SOQ) ¹¹	6/27/22	6
CEA B, Chief, Management Services Division	CEA	SOQ	2/28/22	7
Supervising Attorney	Departmental Promotional	Qualification Appraisal Panel ¹²	5/13/22	2

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed one departmental promotional and two open examinations which the SOS administered in order to create eligible lists from which to make appointments. The SOS published and distributed examination bulletins containing the required information for all examinations. Applications received by the SOS 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

¹¹ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

¹² The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the SOS conducted during the compliance review period.

Appointments

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

During the period under review, September 1, 2021, through May 31, 2022, the SOS made 108 appointments. The CRU reviewed 34 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	1
Accounting Administrator III	Certification List	Permanent	Full Time	1
Assistant Chief Counsel	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst (AGPA)	Certification List	Permanent	Full Time	1
Associate Management Auditor	Certification List	Permanent	Full Time	1
Information Technology Manager II	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Mailing Machines Operator I	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Program Technician II (LEAP)	Certification List	Limited Term	Full Time	2
Program Technician III	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	2
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	3
Supervising Program Technician II	Certification List	Permanent	Full Time	4
AGPA	Transfer	Permanent	Full Time	1
Information Technology Manager I	Transfer	Permanent	Full Time	1
Information Technology Specialist I	Transfer	Permanent	Full Time	1
Mailing Machines Operator I	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Program Technician II	Transfer	Permanent	Full Time	1
Staff Services Analyst (SSA) (General)	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	2
Staff Services Manager III	Transfer	Permanent	Full Time	1
Supervising Program Technician II	Transfer	Permanent	Full Time	1
AGPA	Training and Development	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY
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Summary: The SOS did not provide 5 probationary reports of performance for 2 of the 34 appointments reviewed by the CRU. In addition, the SOS did not provide 1 probationary report 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 SOS.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
AGPA	Certification List	1	2

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
AGPA	Transfer	1	3

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Office Technician (Typing)	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: The SOS states that their Human Resources Bureau (HRB) provides supervisors and managers with the forms and due dates for completing probationary evaluations. Despite their efforts to inform

supervisors and managers regarding the requirements of completing probationary evaluations, not all probationary evaluations were completed timely.

Corrective Action: Within 90 days of the date of this report, the SOS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with the probationary requirements of Government Code section 19172 and California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: TECHNICAL	FINDING NO. 3 DEPARTMENT DID NOT PROVIDE BENEFIT INFORMATION IN ACCORDANCE WITH CIVIL SERVICE LAW
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Summary: The SOS did not memorialize that the applicant received an explanation of benefits, prior to appointment, in a formal offer of employment 13 times out of the 34 appointments reviewed by the CRU.

Criteria: An appointing power, before offering employment to an applicant, shall provide the applicant, in writing, with an explanation of benefits that accompany state service. These documents shall include a summary of the applicable civil service position with salary ranges and steps within them, as well as information on benefits afforded by membership in the Public Employees' Retirement System and benefits and protections provided to public employees by the State Civil Service Act. (Gov. Code, § 19057.2.)

Severity: Technical. An applicant is entitled to have all of the information regarding benefits relating to their potential employment prior to making a decision as to whether to accept or decline the appointment.

Cause: The SOS states that their process of providing an explanation of benefits to candidates has been implemented inconsistently by both their recruitment and hiring units.

Corrective Action: Within 90 days of the date of this report, the SOS must submit to the SPB a written corrective action response which addresses the

corrections the department will implement to demonstrate conformity with the explanation of benefits requirements of Government Code section 19057.2. Copies of relevant documentation (including a template letter) demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

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

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

IN COMPLIANCE	FINDING NO. 4	EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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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 SOS’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 Chief Deputy of the SOS. The SOS 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, October 1, 2021, through June 30, 2022, the SOS had 34 PSC's that were in effect. The CRU reviewed 20 of those, which are listed below:

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
Avantpage Inc.	Translation Services	3/01/22 - 6/30/22	\$151,672	Yes	N/A ¹³
California Reporting LLC	Court Reporter Services	2/1/22 - 11/30/22	\$6,000	Yes	No
CGI Technologies and Solutions	VoteCal System Modifications	1/24/22 - 06/30/22	\$648,300	Yes	N/A ¹⁴

¹³ This PSC was necessary due to a sudden and unexpected occurrence as outlined in Government Code section 19132, subdivision (b)(1), which does not require union notification.

¹⁴ This PSC was necessary due to a sudden and unexpected occurrence as outlined in Government Code section 19132, subdivision (b)(1), which does not require union notification.

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
Fiat Luxx Productions	Non-English Additional Language Recordings	3/01/22 - 6/30/22	\$194,000	Yes	Yes
Forensic QDE Lab, LLC	Forensic Handwriting Analysis	7/01/22 - 6/30/23	\$4,975	Yes	Yes
GDS Moving & Installation Inc.	Moving Services	7/01/22 - 6/30/24	\$100,000	Yes	Yes
Good People Inc.	Voter Hotline	4/18/22 - 6/30/22	\$58,375	Yes	Yes
i3logix, Inc.	Ballot Tracking System	11/01/21 - 12/09/22	\$999,600	Yes	No
KPMG LLP	Tecuity Partner Application Assistance	6/28/19 - 6/30/22	\$13,822,638	Yes	Yes
Magellan Health Services of California, Inc.- Employer Services	Health Services	7/01/21 - 6/30/23	\$20,000	Yes	No
Michelotti Engineering, Inc. dba Yaffe Restaurant Supply	Grille Equipment Maintenance	7/01/22 - 6/30/23	\$9,950	Yes	Yes
One Source Staffing Solutions, Inc. dba ShareSTAFF	Emergency Health Screening Contract	9/11/20 - 10/15/21	\$1,009,118	Yes	N/A ¹⁵
Platinum Security, Inc.	Unarmed Security Services	7/01/19 - 3/01/23	\$7,077,000	Yes	No

¹⁵ This PSC was necessary due to a sudden and unexpected occurrence as outlined in Government Code section 19132, subdivision (b)(1), which does not require union notification.

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
Prisma International, Inc	Translation Services	5/01/21 - 6/30/22	\$266,500	Yes	Yes
Runbeck Election Services, Inc.	Election Management System	1/15/22 - 6/30/26	\$281,250	Yes	No
Runbeck Election Services, Inc.	Election Management System	1/15/22 - 6/30/26	\$281,250	Yes	No
SLI Compliance, A Division of Gaming Laboratories International, LLC	Voting System Test Support Services	4/30/22 - 4/29/24	\$202,655	Yes	Yes
SLI Compliance, A Division of Gaming Laboratories International, LLC	Voting System Test Support Services	12/27/21 - 12/24/23	\$191,975	Yes	Yes
University Enterprises, Inc.	Student Support Services	7/01/21 - 6/30/24	\$7,282,792	Yes	Yes
Viking Shred, LLC	Confidential Destruction Services	7/01/22 - 6/30/23	\$7,580	Yes	No

SEVERITY: SERIOUS	FINDING NO. 5 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The SOS did not notify unions prior to entering into 7 of the 20 PSC's reviewed. This is the second consecutive time this has been a finding for the SOS.

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 SOS states that they inadvertently notified unions after contracts were awarded. These contracts were done using the State of California's Leveraged Procurement Agreement or were statutorily or administratively exempt from bidding. Additionally, the SOS states that in reference to the PSC amendments, prior to the release of the updated State Contracts Manual Volume 1, Section 7.05.D in late April 2022, it did not specify PSC amendments required notification to the unions.

SPB Reply: The SOS did not provide any documentation to support that contracts where unions were not notified were exempt from notification requirements. Furthermore, while language was added to regulation to clarify the responsibilities of contracting agencies relative to union notifications and contract amendments, Government Code section 19132, subdivision (b)(1), has been in effect since January 1, 2015. Lastly, as this was a finding in SOS' March 25, 2020, report the CRU provided technical assistance at that time relative to contracting agencies' responsibilities for union notification.

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 PSCs reviewed during this compliance review involved several services and functions which various rank-and-file civil service classifications perform. Within 90 days of the date of this report, the SOS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of California Code of Regulations section 547.60.2. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial basis. (*Ibid.*)

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

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of

probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the SOS's mandated training program that was in effect during the compliance review period, July 1, 2020, through June 30, 2022.

SEVERITY: VERY SERIOUS	FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The SOS provided ethics training to all 57 existing filers reviewed. However, the SOS did not provide ethics training to 8 of 50 new filers within 6 months of their appointment. This is the second consecutive time this has been a finding for the SOS.

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 SOS states that two employees were inadvertently left off their ethics training tracking spreadsheet. In addition, the SOS acknowledges the remaining six employees did not complete the training timely despite being provided training reminders.

Corrective Action: Within 90 days of this report, the SOS must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: VERY SERIOUS	FINDING NO. 7 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The SOS did not provide sexual harassment prevention training to 8 of 36 new supervisors within 6 months of their appointment. In

addition, the SOS did not provide sexual harassment prevention training to 2 of 88 existing supervisors every 2 years. Further, the SOS did not provide sexual harassment prevention training to 4 of 81 reviewed non-supervisors every 2 years. This is the second consecutive time this has been a finding for the SOS.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years and non-supervisory employees one hour of sexual harassment prevention training every two years. New employees must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code § 19995.4.)

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

Cause: In reference to the new supervisors, the SOS states that five employees mistakenly enrolled in the rank-and-file sexual harassment prevention training. The SOS acknowledges the other three new supervisors did not complete the training timely despite being sent training reminders.

In reference to the two existing supervisors, the SOS states that scheduling of the training at the point in time was a manual process and the two supervisors were overlooked in the completion of their training.

In reference to the four non-supervisors, The SOS states that two employees were not placed into the correct email group and were therefore inadvertently excluded from their automatic training enrollment; training records could not be located for one employee; and one employee did not complete the training timely despite multiple notifications from their automated training system and from the SOS's HRB training office.

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

SEVERITY: VERY SERIOUS	FINDING No. 8 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The SOS provided CEA training to all four CEA’s reviewed within 12 months of appointment. However, the SOS did not provide basic supervisory training to 1 of 27 new supervisors within 12 months of appointment; did not provide manager training to 1 of 4 new managers within 12 twelve months of appointment; and did not provide biennial leadership training to 2 of 44 existing supervisors, managers, and/or CEAs. This is the second consecutive time this has been a finding for the SOS.

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

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (e).)

Severity: Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.

Cause: The SOS acknowledges not all supervisors and managers completed the training timely despite the HRB's efforts to assist current supervisors and managers in understanding the requirements of their position.

Corrective Action: Within 90 days of the date of this report, the SOS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors, managers, and CEAs are provided leadership and development training within twelve months of appointment, and that thereafter, they receive a minimum of 20 hours of leadership training biennially, as required by Government Code section 19995.4. 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 rate¹⁶ 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, September 1, 2021, through May 31, 2022, the SOS made 108 appointments. The CRU reviewed 15 of those appointments to determine if the

¹⁶ "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).

SOS applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	\$6,543
Associate Accounting Analyst	Certification List	Permanent	Full Time	\$5,652
Information Technology Specialist I	Certification List	Permanent	Full Time	\$7,021
Office Technician (Typing)	Certification List	Permanent	Full Time	\$3,291
Program Technician III	Certification List	Permanent	Full Time	\$4,330
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,403
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$7,412
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$8,352
Supervising Program Technician II	Certification List	Permanent	Full Time	\$3,721
Supervising Program Technician II	Certification List	Permanent	Full Time	\$3,721
Information Technology Manager I	Transfer	Permanent	Full Time	\$11,231
Information Technology Specialist I	Transfer	Permanent	Full Time	\$7,741
Mailing Machines Operator I	Transfer	Permanent	Full Time	\$3,740
Office Technician (Typing)	Transfer	Permanent	Full Time	\$3,810
SSA (General)	Transfer	Permanent	Full Time	\$5,604

IN COMPLIANCE	FINDING NO. 9 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determinations that were reviewed. The SOS appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, September 1, 2021, through May 31, 2022, the SOS made 10 alternate range movements within a classification. The CRU reviewed nine of those alternate range movements to determine if the SOS 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)
Accounting Analyst	B	C	Full Time	\$4,701
Information Technology Specialist I	A	B	Full Time	\$7,703
Information Technology Specialist I	B	C	Full Time	\$7,403
Information Technology Specialist I	A	B	Full Time	\$7,575
SSA (General)	A	B	Full Time	\$4,536
SSA (General)	A	B	Full Time	\$3,805
SSA (General)	A	B	Full Time	\$3,996
SSA (General)	A	B	Full Time	\$4,536
SSA (General)	A	B	Full Time	\$4,536

SEVERITY: VERY SERIOUS	FINDING NO. 10 ALTERNATE RANGE MOVEMENT DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
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Summary: The CRU found the following error in the SOS’s determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Information Technology Specialist I	The department did not timely move the employee into an Alternate Range, resulting in the employee being undercompensated.	Alternate Range Criteria 484

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

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

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

Cause: The SOS states that the error in the alternate range change transaction was the result of mis-keying information.

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

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state

employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

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

If the provisions of this section 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.¹⁷ (Gov. Code, § 19836, subd. (b).)

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

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

¹⁷ 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.

comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (*Ibid.*)

During the period under review, September 1, 2021, through May 31, 2022, the SOS authorized one HAM request. The CRU reviewed the authorized HAM request to determine if the SOS correctly applied Government Code section 19836 and appropriately verified, approved and documented the candidate’s extraordinary qualifications, which is listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Information Technology Specialist I	Certification List	New to State	\$5,815 - \$9,408	\$8,128

IN COMPLIANCE	FINDING NO. 11 HIRE ABOVE MINIMUM REQUEST COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM request the SOS 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, September 1, 2021, through May 31, 2022, the SOS issued bilingual pay to 10 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.
AGPA	R01	Full Time	1
Office Technician (Typing)	R04	Full Time	1
Program Technician II	R04	Full Time	4
Program Technician III	R04	Full Time	1
Supervising Program Technician II	S04	Full Time	2

SEVERITY: VERY SERIOUS	FINDING NO. 12 INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRU found five errors in the SOS's authorization of bilingual pay. This is the second consecutive time this has been a finding for the SOS.

Classification	Description of Finding(s)	Criteria
Program Technician II (3 positions)	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Pay Differential 14 and HR Manual Section 1003
Program Technician III		
Supervising Program Technician II		

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

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

Cause: The SOS states that prior to 2019, their Human Resources staff were unaware of the requirement to complete the STD. 897 form. The SOS became aware of the criteria in the middle part of 2019, and effective August 2019, the SOS began requiring the STD. 897 be completed when considering bilingual pay requests. The five employees identified in the finding were approved to receive bilingual pay prior to 2019. The SOS further states that they submitted an action plan at the end of the 2019 compliance review to commit to

using the STD.897 moving forward and so had not retroactively completed the STD.897 for employees receiving pay prior to 2019.

SPB Reply: The SOS should ensure that all employees receiving bilingual pay have a completed STD. 897 in their file. The STD. 897 ensures that there is appropriate documentation to support a justification for the need of bilingual pay.

Corrective Action: Within 90 days of the date of this report, the SOS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 7296, and/or Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Pay Differentials

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

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

During the period under review, September 1, 2021, through May 31, 2022, the SOS authorized two pay differentials.¹⁸ The CRU reviewed the two pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Investigator	244	\$100
Investigator	244	\$125

IN COMPLIANCE	FINDING NO. 13 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 SOS 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 excluded¹⁹ and most rank-and-file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

¹⁸ For the purposes of CRU’s review, only monthly pay differentials were selected for review at this time.
¹⁹ “Excluded employee” means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

to correct the situation before the time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

During the period under review, September 1, 2021, through May 31, 2022, the SOS issued OOC pay to 20 employees. The CRU reviewed 15 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
Information Technology Manager I	M01	Information Technology Manager II	10/8/21-5/31/22
Office Technician (Typing)	R04	SSA (General)	10/18/21-2/14/22
Program Technician II	R04	SSA (General)	10/18/21-2/14/22
Program Technician II	R04	SSA (General)	10/18/21-2/14/22
Program Technician II	R04	SSA (General)	10/18/21-12/31/21
Program Technician II	R04	SSA (General)	10/18/21-11/26/21
Program Technician II	R04	SSA (General)	10/18/21-2/14/22
Program Technician II	R04	SSA (General)	10/18/21-2/14/22
Program Technician II	R04	Supervising Program Technician II	2/1/22-2/28/22
Program Technician II	R04	Supervising Program Technician II	3/14/22-5/31/22
Staff Services Manager II (Supervisory)	S01	Information Technology Manager I	9/1/21-9/15/21
Supervising Program Technician II	S04	SSA (General)	10/18/21-2/14/22
Supervising Program Technician II	S04	SSA (General)	10/18/21-2/14/22
Supervising Program Technician II	S04	SSA (General)	10/18/21-2/14/22
Supervising Program Technician II	S04	SSA (General)	10/18/21-12/31/21

SEVERITY: VERY SERIOUS	FINDING NO. 14 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRU found six errors in the SOS’s authorization of OOC pay. This is the second consecutive time this has been a finding for the SOS.

Classification	Out-of-Class Classification	Description of Findings	Criteria
Program Technician II	SSA (General)	Employee was undercompensated for the October 2021 and February 2022 pay periods.	Pay Differential 91
Program Technician II	SSA (General)	Employee was not compensated for working OOC in the January 2022 pay period.	Pay Differential 91
Supervising Program Technician II	SSA (General)	Employee was undercompensated for the October 2021 pay period.	Pay Differential 101
Supervising Program Technician II	SSA (General)	Employee was undercompensated for the February 2022 pay period.	Pay Differential 101
Supervising Program Technician II	SSA (General)	Employee was undercompensated for the February 2022 pay period.	Pay Differential 101
Supervising Program Technician II	SSA (General)	Employee was undercompensated for the February 2022 pay period.	Pay Differential 101

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.

Excluded employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in writing and the employee is given a copy of the assignment; and the duties performed by the employee are not described in a training and development assignment or by the specification for the class to which the excluded employee is

appointed and, are fully consistent with the types of jobs described in the specification for the higher classification; and the employee does not perform such duties for more than 120 days in a fiscal year. (Cal. Code Regs., tit. 2, § 599.810, subd. (b)(1)(3)(4).)

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. (c).) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, § 599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, subd. (e).)

Severity: Very Serious. The SOS 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 SOS states that they use an OOC calculator that may be out of date.

Corrective Action: Within 90 days of the date of this report, the SOS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differentials 91 and 101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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 days²⁰ worked and paid absences²¹, 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.

²⁰ For example, two hours or ten hours count as one day.

²¹ For example, vacation, sick leave, compensating time off, etc.

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 SOS had 15 positive paid employees whose hours were tracked. The CRU reviewed 12 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
AGPA	Retired Annuitant (RA)	7/1/21 – 6/30/22	747 Hours
Attorney III	RA	7/1/21 – 6/30/22	134.25 Hours
CEA	RA	7/1/21 – 6/30/22	1,240 Hours ²²
Information Technology Manager I	RA	7/1/21 – 6/30/22	960 Hours
Information Technology Manager II	RA	7/1/21 – 6/30/22	820.75 Hours
Information Technology Specialist I	RA	7/1/21 – 6/30/22	527 Hours
Information Technology Specialist II	RA	7/1/21 – 6/30/22	194 Hours
Information Technology Supervisor II	RA	7/1/21 – 6/30/22	45 Hours
Office Technician (General)	RA	7/1/21 – 6/30/22	952.5 Hours
Program Technician III	RA	7/1/21 – 6/30/22	522.75 Hours
Staff Services Manager I	RA	7/1/21 – 6/30/22	106.5 Hours
Staff Services Manager II (Supervisory)	RA	7/1/21 – 6/30/22	228.5 Hours

²² Executive Order N-25-20, signed by Governor Newsom on March 12, 2020, suspended work hour limitations on retired annuitants' hours due to the Covid-19 emergency. This expired on March 31, 2022. Appointing authorities whose employees exceeded the established work hour limitations were required to notify CalHR of such. If a positive paid employee's hours exceeded limitations, and there was no notification to CalHR, then that would result in a finding.

IN COMPLIANCE	FINDING NO. 15 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 SOS 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, April 1, 2021, through March 31, 2022, the SOS authorized 386 ATO transactions. The CRU reviewed 45 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Accounting Administrator I (Supervisor)	12/13/21 – 12/20/21	48 Hours
Archivist II	4/19/2021	2 Hours
Archivist II	5/5/2021	8 Hours
Associate Accounting Analyst	10/1/21 – 10/8/21	48 Hours
Associate Accounting Analyst	11/29/2021	2 Hours
AGPA	6/18/2021	2 Hours
AGPA	6/9/21 – 6/10/21	9 Hours
AGPA	7/6/21 – 7/8/21	24 Hours
AGPA	8/2/21 – 8/6/21	40 Hours
AGPA	8/24/2021	2 Hours
AGPA	1/10/2022	2 Hours
AGPA	2/9/2022	1 Hours
Business Service Officer II (Supervisor)	9/2/2021	2 Hours
Corporation Documents Examiner	7/6/21 – 7/8/21	30 Hours
Information Technology Specialist I	4/27/21 – 4/28/21	10 Hours
Information Technology Specialist I	12/24/21	4 Hours
Mailing Machines Operator I	6/18/2021	8 Hours

Classification	Time Frame	Amount of Time on ATO
Mailing Machines Operator I	7/16/21 – 7/30/21	88 Hours
Office Assistant (Typing)	3/28/22 – 3/30/22	24 Hours
Office Technician (Typing)	7/7/21 – 7/8/21	12 Hours
Office Technician (Typing)	1/3/2022	2 Hours
Program Technician	4/27/21 – 4/28/21	10 Hours
Program Technician II	5/25/21 – 5/26/21	20 Hours
Program Technician II	5/6/21 – 5/7/21	12 Hours
Program Technician II	5/14/2021	4.5 Hours
Program Technician II	8/23/21 – 8/27/21	40 Hours
Program Technician II	8/5/21 – 8/27/21	48 Hours
Program Technician II	9/1/21 – 9/2/21	16 Hours
Program Technician II	9/13/21 – 9/15/21	18 Hours
Program Technician II	10/5/2021	3 Hours
Program Technician II	11/30/2021	2 Hours
Program Technician II	12/1/2021	4 Hours
Program Technician II	1/18/2022	4 Hours
Program Technician II	1/4/22 - 1/18/22	80 Hours
Program Technician II	2/1/22 - 2/3/22	24 Hours
Program Technician II	3/28/2022	2 Hours
Program Technician II	3/4/2022	10 Hours
Program Technician II	3/14/22 - 3/21/22	40 Hours
Program Technician III	9/1/21 - 9/9/21	50 Hours
SSA (General)	12/13/2021	2 Hours
SSA (General)	2/21/2022	2 Hours
SSA (General)	3/21/2022	8 Hours
Staff Services Manager I	9/14/2021	8 Hours
Staff Services Manager I	3/26/22 - 3/30/22	40 Hours
Supervising Program Technician II	5/3/21 - 5/14/21	80 Hours

SEVERITY: SERIOUS	FINDING NO. 16 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED
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Summary: The SOS did not grant ATO in conformity with the established policies and procedures. Of the 45 ATO authorizations reviewed by the CRU, 5 were found to be out of compliance for failing to document justification for ATO.

Criteria: Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they “have delegated authority to approve up to 30 calendar days.” (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar

days must be approved in advance by the CalHR. (*ibid.*) In most cases, if approved, the extension will be for an additional 30 calendar days. (*ibid.*) The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. (*ibid.*)

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. (*ibid.*) ATO may not be used and will not be granted for an indefinite period. (*ibid.*) If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. (*ibid.*)

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

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

Cause: The SOS states that during the compliance review period, the SOS was transitioning to an electronic timekeeping system. Furthermore, with the increase of COVID-19 related duties and processes, delays occurred within their internal ATO audit process.

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

Leave Auditing and Timekeeping

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

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

During the period under review, January 1, 2022, through March 31, 2022, the SOS reported 20 units comprised of 586 active employees for the January 2022 pay period; 20 units comprised of 600 active employees for the February 2022 pay period; and 20 units comprised of 577 active employees for the March 2022 pay period. 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
January 2022	201	7	7	0
January 2022	211	16	16	0
January 2022	220	25	23	0 ²³
February 2022	300	35	35	0
February 2022	400	25	25	0

²³ Two SOS employees separated prior to the end of the pay period.

IN COMPLIANCE	FINDING NO. 17 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 two different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The SOS 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 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.²⁴ (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.

²⁴ 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 employees²⁵ 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, September 1, 2021, through May 31, 2022, the SOS had seven employees with qualifying and non-qualifying pay period transactions. The CRU reviewed six 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	1
Qualifying Pay Period	Full Time	5

IN COMPLIANCE	FINDING NO. 18 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 SOS 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

²⁵ 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.

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.*)

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

SEVERITY: VERY SERIOUS	FINDING NO. 20 INJURED EMPLOYEE DID NOT RECEIVE CLAIM FORM WITHIN ONE WORKING DAY OF NOTICE OR KNOWLEDGE OF INJURY
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Summary: Of the five workers' compensation claim forms reviewed by the CRU, one of them was not provided to the employee within one working day of notice or knowledge of injury.

Criteria: An employer shall provide a claim form and notice of potential eligibility for workers' compensation benefits to its employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness. (Cal. Lab. Code, § 540.1, subd. (a).)

Severity: Very Serious. An injured employee was not provided the required form within the 24-hour time period. Providing the form within 24-hours of injury prevents any delay in treatment to which the employee is entitled. A work related injury can result in lost time beyond the employee's work shift at the time of injury and/or result in additional medical treatment beyond first aid.

Cause: The SOS states that on February 23, 2021, the injured worker reported the injury to their supervisor, at which point their supervisor completed an incident report and submitted it to the SOS's HRB. It was noted by the HRB Worker's Compensation Coordinator that the injured employee had a similar claim with the State Compensation Insurance Fund (SCIF) from 2014. The SOS contacted SCIF to assess whether the injured worker would need to reopen their case from 2014 or file a new DWC1 form. After confirming with SCIF, the injured worker was provided a DWC1 form on February 26, 2022.

Corrective Action: Within 90 days of the date of this report, the SOS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Labor Code, section 540.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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 71 permanent SOS 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. 21 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The SOS did not provide annual performance appraisals to all 71 employees reviewed after the completion of the employee’s probationary period. This is the second consecutive time this has been a finding for the SOS.

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 appraised of work performance issues and/or goals in a systematic manner.

Cause: An internal shift in responsibilities as a response to the Covid-19 pandemic, as well as remote work contributed to the compliance rate of this requirement.

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

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

DEPARTMENTAL RESPONSE

The SOS's response is attached as Attachment 1.

SPB REPLY

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



SHIRLEY N. WEBER, Ph.D. | CALIFORNIA SECRETARY OF STATE
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Attachment 1

DATE: November 18, 2022

TO: Suzanne Ambrose, Executive Officer
State Personnel Board

FROM: Mike Green, Human Resources Manager
Secretary of State

SUBJECT: Secretary of State response to SPB 2022 Draft
Compliance Review Report

Dear Ms. Ambrose:

The California Secretary of State's office has received the State Personnel Board's (SPB) 2022 Draft Compliance Review Report, California Secretary of State. The audit objectives were to ensure compliance with examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training with civil service laws and Board regulations.

The Secretary of State would like to thank Compliance Review Unit staff for their thoroughness and professionalism demonstrated while performing this important oversight function.

Below is the Secretary of State's response to the findings in the Draft report, which includes the "cause" for each finding as requested by SPB:

FINDING NO. 2 – PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY

The SOS agrees it did not provide 5 probationary reports of performance for 2 of the 34 appointments reviewed by the CRU. The Secretary of State's Human Resources Bureau (HRB) makes a good faith effort to inform supervisors and managers regarding the requirements of completing probationary evaluations. Supervisors and managers are provided the forms and due dates of probationary evaluations of their employees.

FINDING NO. 3 – DEPARTMENT DID NOT PROVIDE BENEFIT INFORMATION IN ACCORDANCE WITH CIVIL SERVICE LAW

The SOS agrees it did not memorialize that the applicant received an explanation of benefits, prior to appointment, in a formal offer of employment 13 times out of the 34 appointments reviewed by the CRU.

The Human Resources Recruitment unit provides the Explanation of Benefits (EOB) summary information sheet to the hiring unit to send to the candidate when they are scheduled for an interview. This process has been inconsistent by both recruitment and hiring units. The Human Resources Recruitment unit is working on updating its processes and procedures to ensure this requirement is clear to hiring supervisors and managers.

FINDING NO. 5 – UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS

The cause of the contract findings identified in the audit were due to the SOS inadvertently notifying the unions post contract award on transactions which were done using the State of California's Leveraged Procurement Agreement or were statutorily or administratively exempt from bidding. Additionally, in reference to those transactions listed in the audit findings which were amendments, prior to the release of the updated State Contracts Manual Volume 1, Section 7.05.D in late April 2022, it did not specify amendments required notification to the unions. However, to correct and prevent these from happening again, the SOS has refined our step-by-step procedures on contract awards and issuance, to include a step prior to an agreement being sent for signature to a Contractor, that requires the notification and copy of the agreement must first be sent electronically to the union to notify them of the upcoming contract or amendment in accordance with Government Code section 19132.

FINDING NO. 6 – ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS

All Secretary of State employees who were required to complete the Ethics Training did compete it, however eight (8) employees did not complete the training within the six (6) month timeframe.

Ethics Training is tracked manually via a spreadsheet. When staff are appointed to positions that require them to complete Ethics Training, HRB notifies them by email of the training provided by the Department of

Justice (which includes a link to the training site) and the date the training must be completed by.

Two (2) of the employees were inadvertently left off the tracking spreadsheet and the oversight was not caught until communication was sent to existing staff required to complete Ethics Training for the 2021 cycle. Since the realization of this oversight the HRB has begun auditing the tracking spreadsheet once per month to ensure all affected employees are listed.

One (1) employee was due to complete the training on or before 09/01/2021. That employee was on vacation from 08/30/2021 through 09/03/2021 and did not realize she did not complete the training prior to her vacation, she completed the training immediately upon her return on 09/06/2021. The remaining five (5) staff did not complete the training timely even though they were provided reminders to do so.

The SOS takes such training requirements seriously. Going forward, in addition to the emails and reminders, the SOS leadership team will emphasize the importance of completing mandatory trainings during its executive management meetings with Division Chiefs.

FINDING NO. 7 – SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES

New Supervisors

The SOS agrees that while all newly appointed supervisors and managers did complete the Sexual Harassment Prevention (SHP) Training, eight (8) of those staff did not do so timely. The HRB makes every attempt to notify supervisors and managers of their required training.

Three (3) staff members did not complete it within the required time frame. Five (5) staff members mistakenly enrolled in Rank-and-File SHP training and completed that timely however by the time the mistake was recognized and corrected they completed the supervisory training outside of the required time frame.

Existing Supervisors

Until the recent COVID-19 pandemic the SOS provided in-person SHP training for supervisors and managers. The period in question is year 2019 during which the SOS provided the SHP training on August 13, 2019, and August 19, 2019. The SOS agrees that one (1) CEA and one (1) manager did not receive SHP training. Scheduling of training at that point in time was a manual process and it appears both staff members were overlooked in the completion of their training.

Rank and File Employees

The audit indicated that four (4) staff members had not completed the SHP training for Rank-and-File staff timely. Since the previous audit the SOS has begun using a web-based training system in which new Rank-and-File staff are automatically enrolled in SHP training using email groupings and thereafter receive automated reminders weekly until completion. Of the four (4) staff who did not complete SHP timely, two (2) employees were not placed into the correct email group and were therefore inadvertently left out of the automatic enrollment, records could not be found for one (1) staff member so it is unclear what happened, and one (1) staff member was given a counseling memo for not completing the SHP training timely despite multiple notifications from the automated system and from the HRB training office.

FINDING NO. 8 – SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS

SOS agrees that one (1) supervisor and one (1) manager did not complete their training timely. The HRB works with new and current supervisors and managers to assist them in understanding the requirements of their position.

As it relates to biennial training, all supervisors and managers completed the training except for two (2) employees who did not finish the full 20 hours. Since the beginning of the 2022 audit process the SOS is monitoring the progress of one (1) employee to ensure they complete the 20 hours of training; the other employee has separated from the SOS.

FINDING NO. 10 – ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES

The SOS agrees that one (1) employee had a 335 transaction that had an incorrect effective date. The 335 was corrected to be effective 9/1/2021. The cause was a mis-key of the information when processing the 335 transaction.

FINDING NO. 12 – INCORRECT AUTHORIZATION OF BILINGUAL PAY

The SOS has gone through audits in 2013, 2016, 2019 and 2022. The 2019 audit was the first time Bilingual Pay was audited.

Prior to 2019, Human Resources staff were unaware of the requirement to complete form STD. 897. The SOS became aware of the criteria in the middle part of 2019 and effective August 2019 the SOS began requiring the STD. 897 be completed along with other substantiating documentation when considering bilingual pay requests.

During the 2022 audit the SOS was asked to provide documentation on nine (9) SOS employees receiving bilingual pay. Of the nine (9) employees five (5) were found to be out of compliance with regulation.

The five (5) employees in question were approved to receive bilingual pay prior to 2019. The Secretary of State submitted an action plan at the end of the 2019 audit to commit to using the STD.897 moving forward and so had not retroactively completed the STD.897 for employees receiving pay prior to 2019.

In its 2022 audit findings the State Personnel Board stated, "The STD. 897 completed in Sept 2022 at the time of the review and the EE was receiving the bilingual pay before then." The SOS created the documents in response to the 2022 audit and the statement of missing documents by the SPB in an effort to provide the requested documentation. The documentation for the four (4) other employees, who began receiving bilingual pay after 2019 was found to comply with regulation.

In light of the SPB 2022 audit findings, the Secretary of State will audit those records prior to 2019 and correct any deficiencies in paperwork.

FINDING NO. 14 – INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY

The CRU reviewed fifty-eight (58) Out-of-Class (OOC) pay transactions processed for fifteen (15) employees reviewed. The SOS agrees there were six (6) errors in the fifty-eight (58) transactions reviewed. For five (5) of the employees the error in pay averaged to \$0.22 cents per hour for one month. One (1) employee was not provided OOC pay for the month of January 2022.

The SOS uses an Out of Class (OOC) calculator that may be out of date. The SOS will look at updating its procedures and process tools. The SOS will issue updated pay to the affected employees.

FINDING NO. 16 – ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED

The SOS acknowledges of the 45 ATO authorizations reviewed by the CRU, five (5) were found to be out of compliance for failing to document

justification for ATO.

The Secretary of State's timesheet audit process should have caught any ATO being used without prior approval. However, during the audit period, the Secretary of State was transitioning to electronic signatures for the STD.634 due to the Covid-19 pandemic, in addition there were increased Covid-19 related duties/processes which caused delays with auditing.

FINDING NO. 20 – INJURED EMPLOYEE DID NOT RECEIVE CLAIM FORM WITHIN ONE WORKING DAY OF NOTICE OR KNOWLEDGE OF INJURY

On February 23, 2021, the injured worker reported their injury and expressed to their supervisor that they were experiencing back pain from standing and filing, at which point their supervisor filed out an incident report and submitted it to the Secretary of State's Human Resources Bureau (HRB). It was noted by the HRB Worker's Compensation Coordinator that the injured employee had a similar claim with the State Compensation Insurance Fund (SCIF) from 2014 in which they alleged a similar injury. The SOS contacted SCIF to assess whether the injured worker would need to reopen their case from 2014 or file a new DWC1 form. After confirming with SCIF, the injured worker was provided a DWC1 form on 2/26/22.

FINDING NO. 21 – PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES

The Secretary of State acknowledges that performance appraisals were not provided to all employees. The Secretary of State is currently developing a standardized process, which includes training for management, to ensure managers and supervisors complete performance appraisals for their employees on an annual basis.

After the 2019 audit which included this same finding the SOS began preparing a plan to roll out the processes and procedures for the Department to begin completing the annual Performance Appraisal Summary (PAS) for staff. The first phase was training supervisors and managers on the requirements of the annual PAS. With the advent of the Covid-19 pandemic and beginning in March of 2020, 75% of Secretary of State staff were required to work remotely. The Workforce Development Section (WDS) oversaw the training function for the SOS. Training was done predominantly in-house but was largely discontinued as WDS was repurposed to take on health and safety duties related to the pandemic, which included but was not limited to writing procedures for, and coordinating Covid-19 screenings, monitoring Covid cases among staff,

interfacing with CalHR and the Department of Public Health on best practices for crafting strategies and procedures to ensure the safety of staff, and regular and consistent communications to staff regarding the pandemic.

In mid-to-late 2021 the HRB established a new Safety and Wellness Section that took over responsibilities related to the Covid-19 pandemic formerly conducted by WDS. As remote work has become a constant rather than a rarity and the SOS has implemented tools and software solutions to better stay in contact with its remote workforce the HRB has turned its attention to converting what was once in-house training into remote training opportunities. This includes implementing the plan for the completion of the annual PAS for staff which the SOS intends to complete in 2023.