



# **COMPLIANCE REVIEW REPORT**

# **CALIFORNIA TAX CREDIT ALLOCATION**

# **COMMITTEE**

Compliance Review Unit  
State Personnel Board  
March 25, 2021

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## **INTRODUCTION**

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California Tax Credit Allocation Committee (CTCAC) 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	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Timely
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Alternative Range Movement Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay
Leave	In Compliance	Positive Paid Employee's Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Area	Severity	Finding
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees

**BACKGROUND**

The CTCAC administers the low income housing tax credit program to encourage private investment in affordable rental housing for households meeting certain income requirements. Credits are available for new construction projects or existing properties undergoing rehabilitation.

Recognizing the extremely high cost of developing housing in California, the state legislature authorized a state low income housing tax credit program to augment the federal tax credit program. Authorized by Chapter 1138, Statutes of 1987, the state credit is only available to a project which has previously received, or is concurrently receiving, an allocation of federal credits. Thus the state program does not stand alone, but instead, supplements the federal tax credit program.

The California State Treasurer's Office performs human resources operations for the CTCAC.

**SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CTCAC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>1</sup>. The primary objective of the review was to determine if the CTCAC's personnel practices, policies, and procedures complied with state civil service

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

laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

The CRU examined the CTCAC's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

The CTCAC did not conduct any examinations during the compliance review period.

A cross-section of the CTCAC'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 CTCAC provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CTCAC did not conduct any unlawful appointment investigations or make any additional appointments during the compliance review period.

The CTCAC's appointments were also selected for review to ensure the CTCAC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CTCAC 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: alternate range movements and out-of-class assignments.

During the compliance review period, the CTCAC did not issue or authorize hiring above minimum requests, red circle rate requests, arduous pay, bilingual pay or monthly pay differentials.

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

The CTCAC's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors, managers, and CEAs were provided sexual harassment prevention training within statutory timelines.

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

An exit conference was not held with the CTCAC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CTCAC's written response on Monday, March 18, 2021, which is attached to this final compliance review report.

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

## FINDINGS AND RECOMMENDATIONS

### Examinations

#### Permanent Withhold Actions

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

During the period under review, September 1, 2019, through August 31, 2020, the CTCAC conducted two permanent withhold actions. The CRU reviewed two of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Associate Governmental Program Analyst	9PB04	1/9/20	1/9/21	Failed to Meet Minimum Qualifications.
Associate Governmental Program Analyst	9PB04	1/24/20	1/24/21	Failed to Meet Minimum Qualifications.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 1 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

**Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act 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, 2019, through August 31, 2020, the CTCAC made 10 appointments. The CRU reviewed all of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	4
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	2
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT TIMELY</b>
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**Summary:** The CTCAC did not provide three probationary reports of performance in a timely manner, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Office Technician (Typing)	Certification List	1	1
Staff Services Manager II (Supervisory)	Certification List	2	2

**Criteria:** The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (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 CTCAC states that although the 3 probationary reports were completed, it acknowledges that they were not completed within 10 days after the end of each one-third of the probationary period as required.

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

### **Equal Employment Opportunity**

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

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

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

IN COMPLIANCE	<b>FINDING NO. 3 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM          COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD          RULES</b>
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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 CTCAC’s EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CTCAC. The CTCAC 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, September 1, 2019, through August 31, 2020, the CTCAC had five PSC’s that were in effect. The CRU reviewed five of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Benningfield Group, Inc.	Energy Consulting	10/1/17 - 9/30/20	\$287,535	Yes	No
Boston Capital Asset Management	Asset Management	1/2/18 - 12/31/20	\$1,102,500	Yes	No
Impact Brands, Inc.	Strategic Planning	5/15/19 - 6/30/20	\$250,000	Yes	No
Pacifica Law Group	Legal Services	8/1/19 - 7/31/21	\$80,000	Yes	Yes
Stone Energy Associates	Energy Consulting	5/13/18 - 5/1/21	\$73,500	Yes	No

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 4 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACT</b>
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**Summary:** The CTCAC did not notify unions prior to entering into four of the five PSC's.

**Criteria:** The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

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

**CTCAC Reply:** The CTCAC asserts that Government Code section 19132 does not explicitly state union notification is required for amendments to existing contracts.

**SPB Response:** Amendments to contracts are part of a contract. Therefore, appropriate union notification is required for all contracts and amendments prior to execution.

**Corrective Action:** It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the work to be

contracted prior to executing the PSC. Within 90 days of the date of this report, the CTCAC 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 Government Code section 19132. 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.)

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

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

The CRU reviewed the CTCAC’s mandated training program that was in effect during the compliance review period, September 1, 2018, through August 31, 2020. The CTCAC’s ethics training was found to be in compliance, while the CTCAC’s sexual harassment prevention training was found to be out of compliance.

<b>SEVERITY:</b> <b>VERY SERIOUS</b>	<b>FINDING NO. 5 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS</b>
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**Summary:** The CTCAC did not provide sexual harassment prevention training to one of two new supervisors within six months of their appointment. In addition, the CTCAC did not provide sexual harassment prevention training to one of two existing supervisors every two years.

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

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

**Cause:** The CTCAC acknowledges that the two supervisors did not complete the sexual harassment training within the required time periods.

**Corrective Action:** CTCAC has indicated that, moving forward, it will send out reminder notifications to all employees who are required to take sexual harassment prevention training; however, it is the expectation that it develops a meaningful and measurable plan to achieve compliance in this area, including, but not limited to, establishing a policy and/or procedure related to sexual harassment prevention training. Within 90 days of the date of this report, the CTCAC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that supervisors are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>3</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special 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, 2019, through August 31, 2020, the CTCAC made 10 appointments. The CRU reviewed six of those appointments to determine if CTCAC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,149
Office Technician (Typing)	Certification List	Permanent	Full Time	\$3,144
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,281
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,124
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$7,988
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,495

<sup>3</sup> "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

<b>IN COMPLIANCE</b>	<b>FINDING NO. 6 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the salary determinations that were reviewed. The CTCAC 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, 2019, through August 31, 2020, one CTCAC employee made one alternate range movement within a classification. The CRU reviewed this alternate range movement to determine if the CTCAC applied salary regulations accurately and correctly processed each employee's compensation, which is listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Staff Services Analyst (General)	Range A	Range B	Full Time	\$4,339

<b>IN COMPLIANCE</b>	<b>FINDING NO. 7 ALTERNATIVE RANGE MOVEMENT COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the alternate range movement the CTCAC made during the compliance review period satisfied civil service laws, Board rules, and CalHR policies and guidelines.

## Out-of-Class Assignments and Pay

For excluded<sup>4</sup> and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, September 1, 2019, through August 31, 2020, the CTCAC issued OOC pay to two employees. The CRU reviewed both 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
Staff Services Manager I	S01	Staff Services Manager II (Supervisory)	11/1/19 - 2/12/20
Staff Services Manager I	S01	Staff Services Manager II (Supervisory)	11/1/19 - 2/12/20

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<sup>4</sup> “Excluded employee” means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING No. 8 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY</b>
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**Summary:** The CRU found two errors in the CTCAC’s authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Findings	Criteria
Staff Services Manager I	Staff Services Manager II (Supervisory)	OOO pay was incorrectly calculated for the November 2019 pay period. As such, the employee was undercompensated for the November pay period.	Pay Differential 101
Staff Services Manager I	Staff Services Manager II (Supervisory)	OOO pay was incorrectly calculated for the November 2019 and February 2020 pay periods. As such, the employee was undercompensated for both pay periods.	Pay Differential 101

**Criteria:** 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 (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 CTCAC 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 CTCAC states that the incorrect OOC pay was the result of a transactions specialist miscalculating the OOC pay.

**Corrective Action:** The CTCAC has indicated that it has implemented a two-part verification process to ensure pay calculations are completed accurate. Within 90 days of the date of this report, the CTCAC must submit to the SPB the written policies or procedures which demonstrates the corrections the department has implemented to ensure conformity with Gov. Code, § 599.810 and Pay Differential 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

days<sup>5</sup> worked and paid absences<sup>6</sup>, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

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

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

At the time of the review, the CTCAC had one positive paid employee whose hours were tracked. The CRU reviewed the one positive paid appointment to ensure compliance with applicable laws, regulations, policies and guidelines, which is listed below:

Classification	Tenure	Time Frame	Time Worked
Attorney III	Retired Annuitant	7/1/19 – 6/30/20	371 Hours

<sup>5</sup> For example, two hours or ten hours count as one day.

<sup>6</sup> For example, vacation, sick leave, compensating time off, etc.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 9</b>	<b>POSITIVE PAID EMPLOYEE’S TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the positive paid employee reviewed during the compliance review period. The CTCAC provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employee.

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, June 1, 2019, through May 31, 2020, the CTCAC placed one employee on ATO. The CRU reviewed this ATO appointment to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which is listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	4/22/20, 4/27/20, 5/4/20 & 5/16/20	4 Days

<b>IN COMPLIANCE</b>	<b>FINDING NO. 10</b>	<b>ADMINISTRATIVE TIME OFF AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CTCAC provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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

During the period under review, March 1, 2020, through May 31, 2020, the CTCAC reported three units comprised of 144 active employees. The pay period 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
May 2020	001	48	47	0

<b>IN COMPLIANCE</b>	<b>FINDING NO. 11 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU reviewed employee leave records from one different leave period to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CTCAC 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.<sup>7</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs. tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>8</sup> shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, September 1, 2019, through August 31, 2020, the CTCAC had three employees with non-qualifying pay period transactions. The CRU reviewed four transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

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<sup>7</sup> 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.

<sup>8</sup> As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

Type of Transaction	Time base	Number Reviewed
Qualifying Pay Period	Full Time	2
Non-Qualifying Pay Period	Full Time	2

<b>IN COMPLIANCE</b>	<b>FINDING NO. 12</b>	<b>SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the CTCAC ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

### **Policy and Processes**

#### Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

<b>IN COMPLIANCE</b>	<b>FINDING NO. 13</b>	<b>NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the policy was disseminated to all staff and emphasized the CTCAC’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CTCAC’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 CTCAC did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 14 <b>WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the CTCAC provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRU verified that when the CTCAC received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

## Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRU selected nine permanent CTCAC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	1/1/19
Associate Governmental Program Analyst	1/1/19
Associate Governmental Program Analyst	4/1/19
Associate Governmental Program Analyst	5/1/19
Associate Governmental Program Analyst	7/24/19
Office Technician (Typing)	3/1/19
Staff Services Manager I	4/1/19
Staff Services Manager I	9/1/19
Staff Services Manager II	2/3/19

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 15 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES</b>
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**Summary:** The CTCAC did not provide annual performance appraisals to eight of nine employees reviewed after the completion of the employee’s probationary period.

**Criteria:** Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

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

**Cause:** The CTCAC acknowledges the employees' performance appraisals were not completed at least once in each 12 month period following the end of the employee probationary period as required.

**Corrective Action:** The CTCAC has indicated that, moving forward, it will ensure performance evaluations are completed in a timely manner using an established notification process. It is the expectation that the CTCAC develops a meaningful and measurable plan to achieve compliance in this area, including, but not limited to, establishing a policy and/or procedure related to completing employees' performance appraisals. Within 90 days of the date of this report, the CTCAC 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 CTCAC's response is attached as Attachment 1.

### **SPB REPLY**

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



## CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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### MEMBERS

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 Director of HCD

DONALD CAVIER  
 Acting Executive Director of CalHFA

EXECUTIVE DIRECTOR  
 Nancee Robles

March 15, 2021

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

Dear Ms. Ambrose,

### Response to Compliance Review Report

The State Treasurer's Office (STO) provides personnel services for the California Tax Credit Allocation Committee (CTCAC). On behalf of CTCAC, the STO submits this letter in response to the State Personnel Board's (SPB) compliance review of the CTCAC personnel practices for the period September 1, 2019 through August 31, 2020. CTCAC and the STO appreciate SPB's review and the opportunity to respond to its findings. Please reference the enclosed Attachment A for detailed responses.

The STO, on behalf of CTCAC, respectfully disagrees with one finding, as noted on Attachment A. That said, CTCAC in coordination with the STO has taken or will take immediate steps to develop and submit a Corrective Action Plan within 60 days of the release of the report to address the deficiencies identified.

Thank you for the opportunity to respond to your draft report. If you have any questions, or require additional information, please do not hesitate to contact me at (916) 653-3382, or by email at [csneed@treasurer.ca.gov](mailto:csneed@treasurer.ca.gov).

Sincerely,

Christopher Sneed  
 Chief of Management Services

Enclosure

cc: Rebecca Grajski, Administration Division Director, STO  
 Genevieve Jopanda, Chief Deputy Treasurer, STO  
 Nancee Robles, Executive Director, CTCAC

AREA No. 1 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules

Cause: None.

Department's Response: No adverse findings were reported during the compliance review.

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AREA No. 2 – Probationary Evaluations Were Not Timely

Cause: Probationary evaluations were not timely.

Department's Response: Probationary reports were completed for the three employees in question; however, they were not completed within 10 days after the end of each one-third portion of the probationary period, as required by CA Code of Regulations, Title 2, section 599.795.

Moving forward, CTCAC management, in coordination with the STO, will ensure that probation reports are completed in a timely manner and in adherence with the CA Code of Regulations.

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AREA No. 3 – Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules

Cause: None.

Department's Response: No adverse findings were reported during the compliance review.

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AREA No. 4 – Unions Were Not Notified of Personal Services Contracts

Cause: None.

Department's Response: As noted in the contract file and as provided to SPB, CTCAC notified the appropriate union prior to the execution of all personal service contracts in question as required by Government Code § 19130. Thus, the contracts met the requirements of Government Code § 19132, subd.(b)(1), of notifying all organizations that represent the state employees who perform the type of work to be contracted. The four contracts in question included amendments to exercise one-year optional extensions.

The SPB Compliance Review Division asserts the "stance" that amendments made to the contract are required to be sent to the unions as well. However, Government Code § 19132 does not explicitly state that there is a requirement that amendments be sent to the unions. Additionally, the Department of General Services (DGS), the control agency that oversees the state contracting process and maintains the State Contract Manual, does not require that amendments be sent to the unions.

Thus, we respectfully disagree with this finding. Notifying unions of amendments to contracts for which they have been previously notified is not a requirement by DGS, the control agency that oversees the state contracting process. Nor is this a requirement of Government Code § 19132.

Finally, this requirement has never been communicated to the staff that have received training by DGS to develop contracts on behalf of CTCAC.

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AREA No. 5 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Cause: One new supervisor and one existing supervisor did not complete the sexual harassment training within the required time period.

Department's Response: CTCAC, in coordination with the STO, requires that all supervisors and managers attend the sexual harassment training in accordance with Government Code §12950.1. The STO has a tracking mechanism in place to monitor employee training status; however, the two supervisors in question did not complete the mandatory training in the required time period.

Moving forward, the STO training office will send out reminder notifications to all employees that are required to complete sexual harassment prevention training. Additionally, CTCAC management will ensure sexual harassment training is completed in compliance with Government Code §12950.1.

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AREA No. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the compliance review.

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AREA No. 7 – Alternative Range Movement Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the compliance review.

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AREA No. 8 – Incorrect Authorization of Out-of-Class Pay

Cause: A transactions specialist miscalculated the Out-of-Class Pay which created an underpayment for both employees, one for \$0.02 and the other for \$5.73 for the November 2019 pay period, and \$0.86 for one employee in the February 2020 pay period.

Department's Response: The STO has implemented a two part verification process to ensure pay calculations are completed accurately. This process requires transactions staff members to calculate the pay determination, then the second transactions staff member will review and verify that the calculations are completed correctly. This two part verification process should capture any miscalculations in the future.

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AREA No. 9 – Positive Paid Employee's Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

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AREA No. 10 – Administrative Time Off Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

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AREA No. 11 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

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AREA No. 12 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

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AREA No. 13 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

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AREA No. 14 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None.

Department's Response: No adverse findings were reported during the Compliance Review.

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AREA No. 15 – Performance Appraisals Were Not Provided to All Employees

Cause: Performance evaluations were not conducted timely.

Department's Response: Performance appraisals were completed for the nine employees in question; however, eight of them were not completed at least once in each twelve calendar months period following the end of the employee's probationary period, as required by CA Code of Regulations, Title 2, section 599.798.

Moving forward, CTCAC management, in coordination with the STO, will ensure that performance evaluations are completed in a timely manner, through an established notification process, as required by the CA Code of Regulations.

The Corrective Action Response (CAR) is an opportunity for departments to demonstrate necessary steps have been implemented to correct the non-compliant Findings (deficiency) found as a result of the Compliance Review.

For each non-compliant Finding, refer to the Corrective Action section of that Finding in the review report. Copies of relevant documentation demonstrating that the Corrective Action has been or is in the process of being corrected must be included with the CAR. Examples include, but are not limited to, a training log for supervisory training, leave reduction policy and/or any new procedures that have been implemented.

## CORRECTIVE ACTION RESPONSE

DEPARTMENT: California Tax Credit Allocation Committee	BRANCH/DIVISION/PROGRAM:
CONTACT PERSON (NAME AND TITLE): Charles Jewell, Personnel Officer	CORRECTIVE ACTION RESPONSE DATE: 06/01/2021

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)
Finding as stated in the report, by number	Description of 1) completed or planned corrective action(s) and 2) of supporting documentation (if applicable)	Actual or Estimated Completion Date
<b>FINDING NO 2. - PROBATIONARY EVALUATIONS WERE NOT TIMELY</b>	The STO, in coordination with CTCAC, will continue to reiterate the importance of completing all probationary evaluations in a timely manner. STO will continue to send out monthly probationary evaluation reminders 60-days in advance to all supervisors. STO staff will also send follow-up reminders to supervisors and managers, which will include notifications to senior and executive staff when programs are non-compliant.	06/01/2021
<b>FINDING NO 4. - UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS</b>	Notifying unions of amendments to contracts for which they have been previously notified is not a requirement by DGS, the control agency that oversees the state contracting process. Nor is this a requirement of Government Code § 19132. STO staff, in coordination with CTCAC will continue to meet notification requirements as outlined by DGS and Government Code § 19132. To address the SPB finding, STO staff has started to send contract amendments to the appropriate union as of 04/01/2020. (Please see attached)	10/01/2020
<b>FINDING NO 5. - SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS</b>	The STO training office will begin running quarterly compliance reports to determine which employees need to take Sexual Harassment Prevention Training. STO training staff will email notifications to those employees with a copy to their supervisor/manager.	09/23/2020

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)
<b>FINDING NO. 8 - INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY</b>	The STO has implemented a two-part verification process to ensure pay calculations are completed accurately. This process requires transactions staff members to calculate the pay determination, then the second transactions staff member will review and verify that the calculations are completed correctly. This two-part verification process should capture any miscalculations in the future.	06/01/2021
<b>FINDING NO 13. - Performance Appraisals Were Not Provided to All Employees</b>	The STO, in coordination with CTCAC management, will continue to reiterate the importance of completing all performance appraisals in a timely manner. STO will continue to send out monthly reminders 60-days in advance to all supervisors. STO staff will also send follow-up reminders to supervisors and managers, which will include notifications to senior and executive staff when programs are non-compliant.	06/01/2021



## CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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June 14, 2021

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

Dear Ms. Ambrose,

### Corrective Action Plan

The State Treasurer's Office (STO) provides personnel services for the CA Tax Credit Allocation Committee (CTCAC). As requested by the State Personnel Board's (SPB) Compliance Review Unit, on behalf of CTCAC, the STO respectfully submits the following corrective action plan outlining the various steps we have taken to correct the four items that were identified in the March 2021 Compliance Review Report.

#### **Finding No. 2 - Probationary Evaluations Were Not Timely**

An excerpt from the STO's Department Administrative Manual titled "STD 636, Completion of Report of Performance for Probationary Employees" reads, "SPB Rule 323: Three Reports of Performance are to be completed at regular intervals for each probationary employee. Supervisors must complete a STD 636 every two months (or 280 hours) for employees with a six-month probationary period and every four months (or 560 hours) for employees with a twelve-month probationary period... The Personnel Office will send the STD 636, Report of Performance, to the supervisor prior to the due date for each report."

The STO has an Excel tracking system in place to monitor timely submission of probationary reports. When probationary reports are missing, emails are sent with escalation language to remind supervisors to complete the reports.

#### **Finding No. 5- Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

The STO conducts sexual harassment training for all supervisors in accordance with GOV § 12950.1. While there is no written policy on the administration of this plan, the STO training office sets quarterly reminders in Outlook to ensure all supervisors receive the training. If a staff member does not take the training, an escalation notice is sent to his/her manager and the Executive Director. Failing that, the notice

#### MEMBERS

FIONA MA, CPA, CHAIR  
State Treasurer

BETTY YEE  
State Controller

KEELY MARTIN BOSLER  
Director of Finance

GUSTAVO VELASQUEZ  
Director of HCD

DONALD CAVIER  
Acting Executive Director of CalHFA

EXECUTIVE DIRECTOR  
Nancee Robles

will be escalated to the Chief of Staff. As of today, CTCAC is 100% compliant with the administration of Sexual Harassment Prevention Training.

**Finding No. 8- Incorrect Authorization of Out-of-Class Pay**

The two-part verification process is communicated to Transactions staff via staff meetings. There are no formal written procedures or policies for this process.

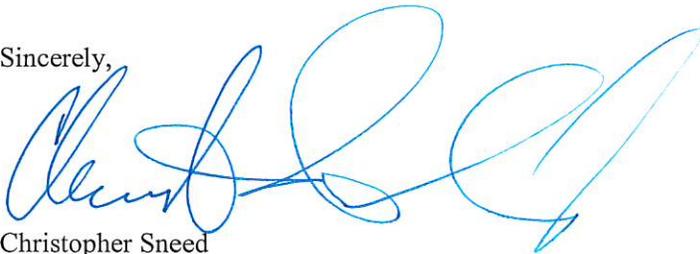
**Finding No. 15- Performance Appraisals Were Not Provided to All Employees**

The STO issued Policy Memo 18-01, dated January 3, 2018, which established a notification and tracking system to verify that all employees receive annual performance appraisals at least once every twelve months. This policy memorandum links to section 3212 of the STO's Department Administrative Manual, titled "Performance Appraisal and Individual Development Plan."

An excerpt from this section reads, "Each supervisor is responsible for preparing a written performance appraisal and discussing it with the employee at least once in each twelve calendar months following the end of the employee's probationary period... The Personnel Office will notify the supervisor in the month prior to the due date of the performance appraisal as a reminder."

On behalf of CTCAC, the STO thanks you for the opportunity to respond to SPB's compliance review with our corrective action plan. If you have any questions, or require additional information, please do not hesitate to contact me at (916) 653-3382, or by email at [csneed@treasurer.ca.gov](mailto:csneed@treasurer.ca.gov).

Sincerely,



Christopher Sneed  
Chief of Management Services

Enclosure

Intermittent employees are paid by the hour and there is no guarantee of total hours of work to be available. The amount of work an individual intermittent employee may receive is contingent on availability of work and funds, the employee's possession of particular skills or knowledge of the particular assignment, and the employee's availability for work.

**Guidelines Governing Permanent Intermittent Employment** - When interviewing for intermittent positions, the supervisor should explain to each eligible the anticipated conditions of work, including days and hours of work and the circumstances which might increase or decrease the work schedule. It should be made clear that the job is of a fluctuating nature and that there is no absolute guarantee of a total number of hours the employee may work.

The supervisor should document on the STO 3001 the number of anticipated hours to be worked by the employee.

An intermittent employee should never be used as a substitute for full-time employment and should work no more than 1500 hours in any fiscal year. While an intermittent employee may work the equivalent of full time for one or more pay periods, they should not work the equivalent of full time for the 12-month period. When an exception may be necessary, the supervisor should prepare a memo to the Personnel Officer requesting an extension of time, stating the reason why an extension is necessary and the additional hours the employee is expected to work, 30 days prior to the employee reaching the 1500 hours.

Permanent intermittent employees accrue vacation and sick leave credits and should follow the standard procedures for requesting leave. They serve probationary periods, they have rights to the grievance procedures, and they should be encouraged to participate in promotional examinations.

A supervisor shall notify an intermittent employee if, for any reason, there is no intent to call the employee to work again. However, an intermittent employee has permanent status and may not be terminated unless:

- A. They have not worked for more than one year and that time was not covered by a paid leave, a formal leave of absence without pay, or other temporary separation, AND
- B. There are circumstances that create the presumption that the employee has abandoned his/her position.

Supervisors are cautioned not to use this rule for disciplinary actions. It would be inappropriate to refrain from calling a person for a year and then to separate them. If an intermittent employee is unsatisfactory, the disciplinary process must be used for termination since these employees have status and are entitled to due process.

### 3203.15 - Intermittent/Part-Time Employees to Full-Time/Part-Time Positions - SPB Rule 277

The following provisions indicate when employees are eligible for various time base changes without an appointment from an employment list. Increases in the time base of part-time employees, movement of part-time and intermittent employees to full-time and movement of intermittent employees to part-time are permitted when:

- The employee is currently reachable for a full-time appointment on an employment list, or
- The employee has previously held a permanent or probationary status appointment at or above the desired time base in the classification to which the appointment is to be made or in a classification that is substantially at or above the salary level of that classification, or
- The department can clearly establish that the employee was reachable for a full-time appointment when appointed to less than full time or at some time during the life of the list, or
- The employee has worked under any combination of permanent or probationary appointments for at least two calendar years and has worked at least 1,920 hours. The 1,920 hours must have been worked at substantially the same level or at a higher level than the class to which the employee will receive the full-time appointment.

### 3203.16 - Medical Clearance - G.C. 18931, 19253.5; SPB Rule 172.3

The new duty statement process has replaced the Medical Exam Report and Health Questionnaire clearance process.

### 3203.17 - Probationary Periods G.C. 19171

Each employee must complete a probationary period prior to gaining permanent status. During the probationary period, the supervisor evaluates the employee's capacity to perform the duties and responsibilities of the position. If the employee performs satisfactorily, they are passed on probation and are permanently appointed. However, an employee may be rejected for reasons relating to the qualifications, the good of the service, or failure to demonstrate merit, efficiency, fitness, or moral responsibility.

An employee is considered to be on probation in the following circumstances:

- Upon appointment from an open or promotional employment list.
- Upon reinstatement after a permanent separation from State service.
- Upon transfer from another State agency or another classification.
- After a leave of absence if the original probationary period was not completed.

**Length of Probationary Periods** - G.C. 19170; SPB Memo 6/82: The probationary period is either six months (840 hours worked) or 12 months (1680 hours worked) for most classifications. The STO Payscales indicates how long the probationary period is for all classes utilized by the STO. In some instances, the probationary period may be waived for lateral transfers within the STO. The Personnel Office can determine whether or not a probationary period can be waived based on instructions from the State Personnel Board.

**Extension of Probationary Periods** - G.C. 19170, SPB Rule 321: In the event a probationer works significantly less than full-time during a prescribed probationary period due to part-time employment or a continued absence of 60 or more working days, the probationary period may be extended, with SPB approval, to provide the department with sufficient time to evaluate the probationer's performance. The length of the extension is determined by the length of the completed portion of the probationary period. As an example, if a probationer worked more than one-third and no more than two-thirds of the minimum number of hours required, they can be required to serve an additional time on probation which equals two-thirds of the total minimum number of hours required for probation. Employees will be notified of any extensions to their probationary periods.

**STD 636, Completion of Report of Performance for Probationary Employees** - SPB Rule 323: Three Reports of Performance are to be completed at regular intervals for each probationary employee. Supervisors must complete a **STD 636** every two months (or 280 hours) for employees with a six-month probationary period and every four months (or 560 hours) for employees with a twelve-month probationary period. Supervisors who anticipate rejecting an employee on probation should complete the necessary Report of Performance before completion of the probationary period and at least 15 days before the effective date of the termination to allow sufficient time for the employee to exercise their right to a Skelly hearing (5 days prior to rejection date). A probationer may be rejected at any time with ADEQUATE documentation. A supervisor need not wait until the last few weeks of the probationary period. Once the completion date of the probationary period has passed, an employee is considered permanent; therefore, it is important to serve an employee with the rejection in a timely manner. Supervisors should contact the Personnel Office as soon as they start considering rejecting an employee on probation.

The Personnel Office will send the **STD 636**, Report of Performance, to the supervisor prior to the due date for each report. After the Report has been filled out and signed by all parties, supervisors remove their copy, give the employee their copy, and return the original to the Personnel Office. The original is filed in the employee's Official Personnel File.

It is important to note that if supervisors are late in filling out the final probationary report, the employee automatically passes probation.

### 3203.18 - Assigned Out-of-Class Duties for Pay

Out-of-class work is defined as the performance of the full range of duties (more than 50%) of a higher class on a regular and consistent basis. The work must meet all of the Department of Personnel Administration position allocation and out-of-class guidelines.

Some Memorandums of Understanding (MOU) bargaining agreements contain provisions on employees who temporarily perform duties of a classification higher than the one to which they are appointed. Generally, these agreements provide that an employee may be required IN WRITING to perform higher level duties for at

least two consecutive weeks or more **up to 120 calendar days, within 12 consecutive calendar months**. Provisions vary by MOU and are subject to the collective bargaining process. For specific provisions, the current MOU for the specified bargaining unit should be consulted.

**Non-Represented Employees** - Non-represented supervisory, confidential and excluded employees may be compensated for performing duties of a higher classification provided the assignment is made in advance, in writing, and the employee is given a copy of the assignment; the department certifies that funds are available within the current budget; the duties are performed for more than 15 consecutive working days but less than 120 calendar days in a fiscal year; 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 employee is appointed and, taken as a whole, are fully consistent with the types of jobs described in the specification for the higher classification.

A non-represented 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. A non-represented employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the department files a written statement with 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. These extensions are subject to termination by DPA upon finding that reasonable alternatives do exist.

Note: Individuals designated as managerial and exempt are not covered by specific provisions governing out-of-class assignment pay; and, furthermore no authority exists to assign such individuals out-of-class work.

**Procedures** - Department policy requires the following procedures are to be followed when assigning out-of-class duties:

- All requests to work an employee out-of-class must be approved in advance by the Personnel Officer.
- Requests shall be submitted in memorandum format, signed by the Division Director, with an attached duty statement of the proposed duties and a justification as to why the employee will be working out-of-class. The justification shall include the period of the out-of-class assignment.

After review, the Personnel Office will notify the Division Director of the approval or disapproval, and the employee will be informed in writing of the assignment.

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## 3204 - Appointments

### 3204.1 - Appointment Documents

It is the responsibility of the Personnel Transactions staff to process all appointments. There are many forms new employees need to fill out both prior to beginning work and once they are on board. Before employees can begin employment with the State Treasurer's Office, they must have a medical clearance, a background clearance, and a citizenship clearance.

### 3204.2 - Medical Clearance G.C. 18931, 19253.5; SPB Rule 172 .3; PMPP 375

All persons entering State service or returning to State service after a break in service are required to possess a state of health consistent with the ability to perform the assigned duties of the class. The new duty statement process (section 3203.5) replaces the old Health Questionnaire process due to changes imposed by AB 2222, effective January 1, 2001. Duty statements now reflect the essential and non-essential functions of the position including the physical and mental requirements associated with these functions. Applicants will be required to certify that they can perform the essential functions with or without reasonable accommodation only after a job offer has been made. When a supervisor makes a job offer, it is contingent upon clearance of the duty statement process and background clearance. An appointment is made for the employee by the Personnel Office to fill out the required paperwork after the job offer is made.

### 3204.3 - Background Clearance Pre-Employment Questionnaire

The State Treasurer's Office and the Boards, Commissions, and Authorities under its purview (herein referred to as the STO) have the legal and fiduciary responsibility to utilize and safeguard the State's assets and financial information. All positions within the STO may have access to these assets and financial information; therefore, it is imperative that individuals appointed be prescreened for convictions.

The STO policy requires, at a minimum, pre-employment investigations consisting of fingerprinting, inquiry to local, state and national files to disclose criminal records, and personal interviews. The information furnished will help to determine an applicant's suitability for employment with the STO. When an applicant is tentatively offered and accepts an employment offer, personnel staff will contact the individual to schedule an appointment for fingerprinting.

Under Section 432.7 of the Labor Code, persons seeking employment with the State Treasurer's Office may be asked to disclose an arrest or detention that resulted in a conviction or an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial. Arrests or detention, which resulted in any pre-trial or post-trial diversion program, need not be disclosed.

Completion of the Pre-employment Questionnaire is mandatory. Omission of any item may result in an applicant not receiving full consideration for employment. In addition, any falsification of any information can be grounds for failure to hire.

Prospective employees are not permitted to start their employment relationship with the STO until the results of the background check are received by the personnel office; a personnel employee will contact the hiring manager with the outcome. In most cases, the results are processed within one week from the date the prospective employee has their fingerprints taken. Additionally, subsequent arrest information will be made available to the personnel office until the employee ends their employment relationship with the STO.

Fingerprinting scans will be valid for 90 days from the date the prospective employee has completed their fingerprinting. If an employee leaves the STO for outside employment and then wishes to return to the STO, they will be required to be re-fingerprinted, if the period of separation is more than 90 days.

Hiring supervisors should encourage their prospective employee to get their fingerprinting done as fast as possible so it does not delay their start date.

Please see Attachment 7 for a sample Pre-Employment Questionnaire.

### 3204.4 - The Immigration Reform and Control Act of 1986 - PMPP 370; SPB Memo 7/15/87

The Immigration Reform and Control Act of 1986 requires all employers to comply with certain employment verification procedures for all employees who were hired on or after November 7, 1986. These verification requirements are intended to ensure compliance with a policy of employing only United States citizens and aliens who are authorized to work in the United States.

To accomplish the objective of the law, employers are required to verify the identity and work eligibility of every employee whether temporary, permanent, full time, or part time. The Immigration Reform and Control Act of 1986 outlines mandatory procedures employers must follow to avoid substantial monetary penalties, and contains provisions against discrimination based on nationality, citizenship or against eligible workers seeking employment.

**Required Documentation:** New employees will be required to complete the Form I-9 (Employment Eligibility Verification) and show proof of the appropriate documentation **prior to their start date**. This form will be given to the individual when they come in to fill out paperwork after the job offer is made. Individuals must produce the required documentation within three business days of the date that the hiring commitment is made. The individual **cannot** start working until all verification requirements are met. After completion, the Form I-9 will be retained in the Personnel Office.

**Discrimination:** It is extremely important that all employers avoid discrimination when complying with this law. Hiring supervisors must not refuse to hire new employees or discriminate in any other manner on the basis of foreign appearance, language or name. All hiring must be done without respect to the national origin or citizenship status of those authorized to work in the United States. If documents produced by the prospective employee appear to be false or appear not to apply to the applicant, suspend all further steps in the employment process. Do not allow the person to start work, and contact the Immigration and Naturalization Service for further guidance on a case by case basis.

### 3204.5 - Oaths of Allegiance - G.C. 18151; SPB Rule 263; PMPP 371

## April 2021 Probationary Report Log

Employee Name	#	Date of Report	Probation Ends	Position Number	Classification	Report Rater/Reviewer	Date Sent	Reminder Sent	Final Notice Sent	Forwarded	Date Returned	Comments
Barron, Estefania	2	04/27/21	06/27/21	318-001-1728-004	Executive Assistant	R. Berry	03/19/2021	--	--	--	04/20/21	Electronic Copy Submitted
Carrico, Theresa G	2	04/01/21	06/01/21	820-200-4567-001	Senior Accounting Officer	K. Fong	03/09/21	--	--	--	04/08/21	Per Chris' phone call
Chan, Connie K.	2	04/13/21	06/13/21	820-120-5393-001	Associate Governmental Program Analyst	K. O'Conner	03/12/21	04/16/21	--	--	05/14/21	Electronic Copy Submitted
Doan, Linda N.	1	04/14/21	12/14/21	342-001-5157-042	Staff Services Analyst (General)	D. Sohoo	03/12/21	04/16/21	--	--	04/19/21	Original
Dunn, Tara M.	F	04/14/21	04/14/21	318-001-4801-001	Staff Services Manager II	A. Hernandez	03/12/21	04/16/21	--	--	04/22/21	Electronic Copy Submitted
Farbitnikova, Lyudmila	2	04/09/21	06/09/21	345-002-5393-002	Associate Governmental Program Analyst	D. Hamelin	03/09/21	04/12/21	--	--	04/16/21	Original
Galianosa, Rhomel N.	2	04/02/21	08/02/21	342-001-5157-015	Staff Services Analyst (General)	Q. Le	No longer with STO as of 1/22/21					
Gerlach, Vivian L.	2	04/09/21	08/09/21	318-001-5740-002	Research Data Manager	A. Hernandez	03/09/21	04/12/21	--	--	04/12/21	Electronic Copy Submitted
Gevercer, Matthew D.	2	04/23/21	08/23/21	820-515-5157-005	Staff Services Analyst (General)	C. Francisco	03/19/21	04/23/21	--	--	05/07/21	Per Sara's email
Ghuman, Gursant S.	2	04/02/21	08/02/21	342-001-5157-039	Staff Services Analyst (General)	P. Blanton	3/4/2021	04/12/21	--	--	04/12/21	Electronic Copy Submitted
Haghani, Parsa	2	04/02/21	08/02/21	342-001-5157-011	Staff Services Analyst (General)	M. Lozano	No longer with STO as of 1/22/21					
Hervey, Dylan M.	2	04/02/21	08/02/21	342-001-5157-009	Staff Services Analyst (General)	M. Lozano	3/4/2021	--	--	--	04/01/21	Per Sara's email
Johnson, Teddy L.	2	04/09/21	06/09/21	342-001-5393-062	Associate Governmental Program Analyst	D. McDaniels	03/09/21	04/12/21	--	--	04/20/21	Original, e-signed
Le, Quang	2	04/23/21	08/23/21	342-001-4800-006	Staff Services Manager I	S. Nardinelli	03/19/21	--	--	--	04/21/21	Original
Lightman, Noah	F	04/26/21	04/26/21	302-001-4800-002	Staff Services Manager I	S. Zeto	03/19/21	--	--	--	04/30/21	Original
Malko, Solomita	2	04/09/21	06/09/21	345-002-5393-001	Associate Governmental Program Analyst	D. Hamelin	03/09/21	04/12/21	--	--	05/14/21	Will Mail Original Per Email 4/21
Marcada, Michelle G.	F	04/13/21	04/13/21	820-100-4800-003	Staff Services Manager I	G. Jopanda & F. Ma	03/12/21	--	--	--	04/12/21	
Martin, Jeffery T	F	04/30/21	04/30/21	298-005-5393-007	Associate Governmental Program Analyst	T. Dear	03/19/21	--	--	--	05/07/21	Scanned copy - Julie
McEuen, Shannon R.	2	04/30/21	08/31/21	298-003-4800-001	Staff Services Manager I	T. Dear	03/19/21	--	--	--	05/07/21	Scanned copy - Julie
Mitchell, Tricia M.	2	04/02/21	08/02/21	342-001-5157-008	Staff Services Analyst (General)	D. McDaniels	3/4/2021	--	--	--	04/08/21	Original
Schlocker, Austin D	2	04/20/21	06/20/21	342-001-5393-025	Associate Governmental Program Analyst	C. Doonan	03/19/21					In June?
Zhang, Shixun S.	2	04/16/21	08/16/21	820-760-1402-004	Information Technology Specialist I	D. Lopez	No longer with STO as of 4/09/21					

Executive Director,

Please be advised that your employee, (NAME), is in violation of GC section 12950.1. This section requires that employers, including state agencies, provide training and education regarding sexual harassment prevention to all employees. **Participation in this training is mandatory for all employees for the State Treasurer's Office, and Boards, Commissions, and Authorities. This training is part of our on-boarding process.**

(Employee Name) was sent a notification and link to the DFEH's website on (xx/xx/xxxx), and to date, a certificate of completion has not been received by the training office.

Thank you in advance for your assistance regarding this mandatory training.

Please contact me if you have any questions.

# STO INFORMATION/POLICY MEMO

	NO: 18-01
TO: All Employees	DATE ISSUED: 01/03/18
SUBJECT: Performance Appraisal and Individual Development Plan	EXPIRES: Indefinite

Effective immediately the State Treasurer's Office (STO) has revised Section 3212 of the Departmental Administrative Manual (DAM) related to Performance Appraisal and Individual Development Plan.

The policy revision updates the Performance Appraisal process as well as creates a separate process for the Individual Development Plan. The revised policy can be located on the STO's Intranet site at: <http://intranet/admin/dam/3200.asp#3212>.

If you have any questions regarding this memorandum, please contact the Personnel Office at (916) 653-3100.

*/Original signed by*

Christopher Sneed, Chief of Management Services  
Administration Division  
CS: sz

This appeal process applies only to denial of reasonable accommodation. Complaints of discrimination based on disability are subject to the same process and time frames as complaints based on sex or ethnicity. Please see DAM Section 3210.7, Discrimination Complaint Process.

### 3210.10 - Upward Mobility Program

Upward mobility is an important tool in the department's recruiting process. The components included in upward mobility are (a) career counseling, (b) training opportunities, (c) training and development assignments (T&D), (d) on-the-job training, and (e) job restructuring.

The Treasurer's Office recognizes the need for and the advantages of maintaining, for all occupational groups, a continuing and comprehensive program of human resource development. The Upward Mobility Program is part of the department's Equal Employment Opportunity Program and supervisors should utilize this program to facilitate career development for employees who demonstrate the aptitude and potential for advancement.

### 3210.11 - Limited Examination and Appointment Program (LEAP)

The Limited Examination and Appointment Program (LEAP) is designed to facilitate the recruitment and hiring of individuals with disabilities into California state civil service. It is intended to provide an alternative way to demonstrate qualifications for employment rather than the traditional state civil service examination process.

To be eligible for a LEAP class examination, the Department of Rehabilitation must certify that a candidate meets the disability requirements and enters the information into the CalHR database. Once a candidate is approved, they may apply for LEAP class examinations. The LEAP examinations currently being offered are:

- Accountant Trainee
- Attorney
- Custodian
- Disability Insurance Program Representative
- Motor Vehicle Representative
- Office Assistant (General) and (Typing)
- Office Technician (General) and (Typing)
- Program Technician
- Staff Services Analyst (General)

Once the candidate has taken a LEAP examination for a particular classification, they will be placed on a LEAP hiring list and are eligible to start applying for job openings in that particular classification. In addition, the candidate may continue to apply for traditional State Examinations.

The LEAP examination consists of two parts: **I)** a Readiness Evaluation (to obtain list eligibility), and **II)** a Job Examination Period (JEP), which is performed on the job.

**Part I – Readiness Evaluation:** The candidate's education, experience, and personal qualifications will be evaluated through a competitive examination process to determine their readiness to work. The type of examination will be described on the examination bulletin.

**Part II – Job Examination Period:** Once hired, the candidate will serve a temporary six (6) or nine (9) month on-the-job performance evaluation period. A written review will be given every four weeks of the candidate's evaluation period. If the candidate meets performance standards, they will pass the examination.

After the candidate successfully passes the JEP, they will be appointed to the regular civil service classification; the appointment could be permanent or limited term, depending on the position. The candidate will not be required to serve an additional probationary period.

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## 3211 - Merit Issue Complaints

The civil service laws and rules require that appointments and promotions be made on the basis of merit. Occasionally, issues arise questioning the proper implementation of these laws and rules. Merit issue complaints may be filed by employees for any perceived violation of these laws and rules. Examples of merit issue complaints can include interference with promotional opportunities, disputes regarding the effective dates of appointments or promotions, the applicability of designated alternate salary ranges, and issues involving out-of-class work.

These types of complaints are distinguished from grievances and complaints covered under the collective bargaining agreements in that these complaints are part of the merit selection process which is under the jurisdiction of the State Personnel Board (SPB) rather than the Department of Personnel Administration. Please refer to DAM Section 2400, Labor Relations for further information.

### Procedure

Employees should first try to resolve merit issue complaints through informal discussion with their supervisor. Supervisors are encouraged to discuss issues with the Personnel Office to ensure that appropriate actions are taken. If an acceptable solution cannot be reached through this informal process, employees may file a written complaint to the Personnel Officer.

A written complaint must be filed within 30 days of the event or omission that led to the complaint. The Personnel Officer will provide the complainant with a written decision within 30 calendar days. (Time limits specified may be extended by mutual agreement of the complainant and the Personnel Officer.)

If the employee is not satisfied with the Personnel Officer's response, the employee may file an appeal with the Appeals Division of the State Personnel Board within 15 days of the decision. Failure on the employee's part to file an appeal with the State Personnel Board within the 15-day limit will be considered as the employee dropping the complaint.

The State Personnel Board is responsible for the appeal and resolution of merit issue disputes. However, the SPB expects employees and departments to attempt to resolve the complaint at the lowest level, as quickly as possible, before they accept jurisdiction of cases.

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## 3212 - Performance Appraisal and Individual Development Plan (Rev. 1/3/18)

### 3212.1 - Performance Appraisal

This is a negotiable issue and may be addressed in the bargaining unit contracts; if the issue is not addressed, Department policy applies as follows:

Annual performance appraisals are required by [California Code of Regulations \(CCR\) § 599.798](#) for all permanent employees. These appraisals aid supervisors in informing the employee of the caliber of their work, helping the employee recognize areas where performance could be improved and developing with the employee a plan for accomplishing such improvement.

Each supervisor is responsible for preparing a written performance appraisal and discussing it with the employee at least once in each twelve calendar months following the end of the employee's probationary period. Each employee's birth month will determine the month in which the performance appraisal will be due, except in the Public Finance Division the month will be July. The Personnel Office will notify the supervisor in the month prior to the due date of the performance appraisal as a reminder. The performance appraisal should be a reflection of the employee's past performance for the previous twelve months of work. Each employee will be given a copy of the written appraisal covering his or her performance and is privileged to discuss it with the appointing power before it is filed.

Supervisors can use the Performance Appraisal process as a tool to provide feedback to employees, counsel and develop employees, and convey and discuss compensation, job status, or disciplinary decisions. It helps the employees to better understand the expectations of them and how they are doing to meet the expectations.

Effective July 1, 2017, when conducting performance appraisals with Bargaining Units 1, 4 and 14 employees, supervisors are required to use the Performance Appraisal Summary (STD 638) and the Individual Development Plan (STD 637) separately.

Please use [STD 638 Performance Appraisal Summary](#) to prepare employee performance appraisals.

### 3212.2 - Individual Development Plan (IDP)

If the issue is not addressed, Department policy applies as follows:

The purpose of the Individual Development Plan (IDP) is to help employees establish personal objectives and develop plans for achieving professional growth, career mobility and/or future career changes.

Supervisors are required to notify the employees of the opportunity to submit an IDP at least annually for full-time employees and part-time employees who work 750 hours annually. The Personnel Office will notify the supervisor at the same time the performance appraisal form is sent as a reminder. An employee is not required to participate in the IDP process. If an employee elects not to participate, this decision will not be held against him or her.

The IDP process should not be part of the performance appraisal or disciplinary process. An IDP may be created by an employee without triggering a performance appraisal.

Effective July 1, 2017, when conducting IDPs with Bargaining Units 1, 4 and 14 employees, if all or part of the IDP is disapproved, the employee should be notified in writing and a copy should be provided to the Union.

Please use [STD 637 Individual Development Plan](#) to prepare IDPs.

### 3212.3 - Performance Appraisal for Managers and Supervisors

The Treasurer's Office should ensure that clear, job-related, written standards of performance are developed and kept up to date for the managerial and supervisory positions in the department and its Boards, Commissions and Authorities (BCAs). The standards should be based on the specific requirements of individual positions as well as general organizational requirements. They should reflect the level of job performance that can normally be expected from a well-qualified manager or supervisor who performs their duties with a reasonable degree of industry, initiative and responsibility.

Please use [STO3007](#) to prepare Manager/Supervisory performance appraisals. The appraisals must be completed at least annually and should provide a clear assessment of managers' and supervisors' performance. They should also provide suggestions and/or plans for further development and improvement.

Each manager and supervisor will receive a copy of their appraisal report and will have the opportunity to discuss it with the rater before it is filed. If a manager or supervisor in the State Treasurer's Office does not agree with the appraisal, they may discuss it with the State Treasurer or his/her designee, unless the rater is the State Treasurer or his/her designee in which case there will be no further discussion. If a manager or supervisor in the Authorities or Commissions does not agree with the appraisal, they may discuss it with the Executive Director of the authority or commission. The appraisal report may not be appealed except for the reasons discussed in DAM Section 3212.5.

Performance appraisals will be kept on file for at least three years.

Please see Attachment 22 for a sample Manager/Supervisor Performance Appraisal form.

### 3212.4 - Merit Salary Adjustments (MSAs)

The Performance Appraisal Process shall form the basis for awarding MSAs to managers and supervisors. Only those managers and supervisors whose performance is successful shall receive an MSA, provided they are not at the maximum of the salary range. MSAs may be denied if the standards of efficiency required for the position have not been met by the employee.

### 3212.5 - Appeals

A rank and file employee may file an appeal of a performance appraisal report if the performance appraisal report has been used to abuse, harass or discriminate against an employee.

An excluded employee may file a grievance of his or her performance appraisal to the appointing power (See DAM Section 2406). The grievant may appeal the decision of the third level within (10) working days after receipt of the response to the Director, Department of Personnel Administration. Filing of a grievance is based on the belief that the performance appraisal report was used to abuse, harass, or discriminate against the employee.

A manager or supervisor who was denied an MSA may appeal that action using only the excluded employee grievance procedure. The only grounds for such appeals are:

1. Failure to receive a performance appraisal or other substantive performance feedback during the past twelve months.
2. A clear and compelling disparity between the department's failure to grant the salary increase and the performance appraisals and/or other performance feedback that the manager or supervisor has received.
3. Circumstances clearly indicating that the department's salary action was determined by factors other than the manager's or supervisor's job performance.

In all appeals, the manager or supervisor has the burden of substantially proving their case within the grounds specified above. If this burden is not met, the action shall stand.

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