



COMPLIANCE REVIEW REPORT

CALIFORNIA AIR RESOURCES BOARD

Compliance Review Unit
State Personnel Board
August 27, 2019

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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.

Effective July 1, 2012, the Governor's Reorganization Plan Number One (GRP1) of 2011 consolidated all of the functions of the Department of Personnel Administration and the merit-related operational functions of the State Personnel Board (SPB) into the California Department of Human Resources (CalHR).

Pursuant to Government Code section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, 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.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California Air Resources Board (CARB)'s personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Appointments	Equal Employment Opportunity Questionnaire Was Not Separated from Application
Appointments	Unlawful Appointment Investigation Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Ethics Training Was Not Provided for All Filers
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Area	Finding
Leave	Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records
Leave	Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Neptotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Injured Employee Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury
Policy	Performance Appraisals Were Not Provided to All Employees

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

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

BACKGROUND

The CARB is a part of the California Environmental Protection Agency. The CARB consists of 16 members, 12 of whom are appointed by the Governor and confirmed by the State Senate. The 12 members include five who serve on local air districts, four experts in fields that shape air quality rules, two public members and one, the Chair, who serves as the only full-time member. The Governor can choose any of the board members to serve as the Chair. The other four include two who represent environmental justice communities (one appointed by the Senate and the other by the Assembly) and two non-voting members appointed for Legislative oversight, one each from the Senate and Assembly.

The CARB has approximately 1,621 positions that consist of scientists, engineers, and

other professional staff. The CARB's primary responsibility is to promote and protect public health, welfare, and ecological resources through the effective and efficient reduction of air pollutants, while recognizing and considering the effects on the economy of the state.

The CARB has headquarters located in Sacramento and operates a motor vehicle testing and analysis laboratory in El Monte, California.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CARB's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if CARB's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CARB's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CARB provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CARB's Permanent Withhold Actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and Withhold letters.

A cross-section of the CARB'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 CARB provided, which included Notice of Personnel Action (NOPA) forms, Requests for Personnel Action (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CRU also reviewed the CARB's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations.

² Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

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

The review of the CARB'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 (DAC).

The CARB's PSC's were also reviewed.³ It was beyond the scope of the compliance review to make conclusions as to whether the CARB's justifications for the contracts were legally sufficient. The review was limited to whether the CARB's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CARB'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 were provided supervisory training and sexual harassment prevention training within statutory timelines.

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

The CRU reviewed the CARB's Leave Activity and Correction certification forms to verify that the CARB 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 CARB's units in order to ensure they maintained accurate and timely

³If 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.

leave accounting records. Part of this review also examined a cross-section of the CARB'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 CARB employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the CRU reviewed a selection of CARB 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 CARB's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the CARB's policies and processes adhered to procedural requirements.

The CARB declined to have an exit conference. The CRU received and carefully reviewed the CARB's written response on May 6, 2019, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, January 1, 2018 through September 30, 2018 the CARB conducted 18 examinations. The CRU reviewed six of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Air Resources Field Representative II	Open	Qualification Appraisal Panel ⁴ (QAP)	12/31/17	5
Air Resources Supervisor II	Open	Training and Experience (T&E) ⁵	12/29/17	10
Automotive Emissions Test Supervisor	Promotional	T&E	6/29/18	3
Chief, Administrative Services Division	Open	QAP	3/9/18	20
Staff Air Pollution Specialist	Promotional	T&E	Continuous	143
Vehicle Program Specialist	Promotional	QAP	4/9/18	27

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

The CRU reviewed three departmental promotional and three open examinations which the CARB administered in order to create eligible lists from which to make appointments. The CARB published and distributed examination bulletins containing the required information for all examinations. Applications received by the CARB were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of

⁴ The Qualification Appraisal Panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

⁵ The Training and Experience (T&E) examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

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

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) Once a candidate has obtained list eligibility, a department may discover information pertaining to that eligible which raises concerns regarding his/her eligibility or suitability for employment with the state. (CalHR Withhold Manual, p. 3.) A permanent withhold action is valid for the duration of the eligible’s list eligibility. (*Ibid.*) Departments are required to maintain a separate file for each withhold action and the file should include a copy of the withhold notification letter sent to the eligible, as well as all supporting documentation which form the basis of the withhold action. (CalHR Withhold Manual, p. 2.)

During the review period, the CARB conducted 58 permanent withhold actions. The CRU reviewed 10 of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Accountant Trainee	9PB31	3/17/18	3/17/19	Failed to Meet Minimum Qualifications
Air Pollution Specialist	3PB05	9/29/17	9/29/18	Failed to Meet Minimum Qualifications
Air Pollution Specialist	3PB05	6/27/17	6/17/18	Failed to Meet Minimum Qualifications
Air Resources Engineer	3PB06	12/26/17	12/26/18	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	7/17/17	7/17/18	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	5/25/17	5/25/18	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Associate Information Systems Analyst	9PB3002	8/25/17	8/25/18	Failed to Meet Minimum Qualifications
Engineering Geologist	9PB02	11/14/17	11/14/18	Failed to Meet Minimum Qualifications
Office Technician	6PB4802	12/12/17	12/12/18	Failed to Meet Minimum Qualifications
Personnel Specialist	1PB12	3/31/17	3/31/18	Failed to Meet Minimum Qualifications

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

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

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250 (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 (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 (e).)

During the period under review, January 1, 2018 through September 30, 2018, the CARB made 284 appointments. The CRU reviewed 39 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	1
Accounting Administrator (Supervisor)	Certification List	Permanent	Full Time	1
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Air Pollution Specialist	Certification List	Permanent	Full Time	4
Air Resources Engineer	Certification List	Permanent	Full Time	3
Air Resources Supervisor I	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Attorney V	Certification List	Permanent	Full Time	1
Automotive Emission Test Specialist III	Certification List	Permanent	Full Time	1
Business Service Officer II (Specialist)	Certification List	Permanent	Full Time	1
Career Executive Assignment	Certification List	Permanent	Full Time	2
Health and Safety Officer	Certification List	Permanent	Full Time	1
Heavy Truck Driver	Certification List	Permanent	Intermittent	1
Information Officer I (Specialist)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Information Technology Associate	Certification List	Permanent	Full Time	1
Limited Examination and Appointment Program	Certification List	Temporary	Full Time	1
Officer Technician (Typing)	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Senior Legal Typist	Certification List	Permanent	Full Time	1
Staff Air Pollution Specialist	Certification List	Permanent	Full Time	3
Staff Services Analyst (General)	Certification List	Permanent	Intermittent	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Systems Software Specialist I (Technical)	Certification List	Permanent	Full Time	1
Air Pollution Specialist	Transfer	Permanent	Full Time	2
Air Resources Engineer	Transfer	Permanent	Full Time	1
Air Resources Field Representative III	Transfer	Permanent	Full Time	1
Air Resources Supervisor	Transfer	Permanent	Full Time	1
Air Resources Technician	Transfer	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Staff Air Pollution Specialist	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Intermittent	1

The CARB measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 31 list appointments reviewed, the CARB ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed eight CARB appointments made by way of transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The CARB verified the eligibility of each candidate to their appointed class.

The CRU found no deficiencies in the appointments that the CARB initiated during the compliance review period. Accordingly, the CRU found that the CARB's appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

However, in reviewing the CARB's appointments that were made during the compliance review period, the CRU determined the following:

FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The CARB did not provide seven probationary reports of performance for five of the 39 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	No. of Appointments Missing Probation Reports	No. of Uncompleted Probation Reports
Attorney	Certification List	1	2
Information Technology Associate	Certification List	1	2
Senior Accounting Officer (Specialist)	Certification List	1	1
Staff Air Pollution Specialist	Certification List	1	1
Air Pollution Specialist	Transfer	1	1
Total		5	7

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

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 CARB's Human Resources Branch (HRB) attempted to remind managers/supervisors of their employees serving probation periods. However, the notification and tracking mechanism utilized within the Human Resources unit for probation reports was not always consistent.

Action: The CARB submitted a corrective action plan to develop a new notification and tracking process for probation reports. It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the CARB submit to CRU documentation of the notification and tracking process that the department implemented to ensure conformity with the probationary requirements of Government Code section 19172.

FINDING NO. 4 – Equal Employment Opportunity Questionnaire Was Not Separated from Application

Summary: Out of 39 appointments reviewed, one appointment file included an application where the EEO questionnaire was not separated from the STD. 678 employment application. Specifically, one of the 90 applications reviewed included an EEO questionnaire that was not separated from the STD. 678 employment application.

Criteria: Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status). Applicants for employment in state civil service are asked to voluntarily provide ethnic data about themselves where such data is determined by the CalHR to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD. 678) states, "This questionnaire will be separated from the

application prior to the examination and will not be used in any employment decisions.”

Severity: Very Serious. The applicant’s protected classes were visible, subjecting the agency to potential liability.

Cause: The CARB states that its HRB is diligent in removing the EEO questionnaires from candidate applications and understands the importance of protecting EEO information. However, one of the 90 applications reviewed had an EEO questionnaire attached as a result of HRB staff inadvertently failing to remove the EEO questionnaire from the application.

Action: The CARB has updated its internal procedures to require the separation of future EEO questionnaires from all candidate applications prior to uploading into ECOS and or releasing to the programs. However, the CARB must continue to monitor and track the removal of EEO questionnaires to ensure conformity with Government Code section 19704.

Unlawful Appointment Investigations

Departments that entered into an Unlawful Appointment Investigation Delegation Agreement between their executive management and the CalHR have the authority to manage their own unlawful appointment investigations. The Delegation Agreement defines the reporting requirements, responsibilities, obligations, and expectations of the department in this process. The delegation agreement mandates that departments maintain up-to-date records on each unlawful appointment investigation including, at a minimum: the specific facts surrounding the appointment in question, a description of the circumstances which may have resulted in the unlawful appointment, copies of relevant appointment documents, and any documentation which may demonstrate that the agency and employee acted in good faith when the appointment was offered and accepted. Departments must also maintain a tracking system to monitor its unlawful appointments.

During the period under review, January 1, 2018 through September 30, 2018, the CARB conducted one unlawful appointment investigation. The CRU reviewed this unlawful appointment investigation, which is listed below:

Classification	Date Investigation Initiated	Date Investigation Concluded
Staff Services Manager I	4/24/17	3/8/18

FINDING NO. 5 – Unlawful Appointment Investigation Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CARB’s unlawful appointment investigation was found to comply with the rules set forth in the signed Delegation Agreement with the CalHR.

Equal Employment Opportunity

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

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

FINDING NO. 6 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CARB 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 Director of the CARB. In addition, the CARB has an established DAC which reports to the Director on issues affecting persons with disabilities. The CARB also provided evidence of its efforts to promote EEO in its hiring and employment practices, and to increase its hiring of persons with disabilities. Accordingly, the CARB EEO program complied with civil service laws and Board rules.

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, January 1, 2018 through September 30, 2018, the CARB had 184 PSC’s that were in effect. The CRU reviewed 23 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
AgreeYa Solutions, Inc.	IT Services	6/18 - 5/19	\$236,544.00	Yes
AgreeYa Solutions, Inc.	IT Services	6/17 - 6/20	\$691,999.99	Yes
AgreeYa Solutions, Inc.	IT Services	6/17 - 6/18	\$203,300.00	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
AgreeYa Solutions, Inc.	IT Services	4/18 - 4/21	\$1,084,288.00	Yes
ASDCom, Inc.	Other	5/18 - 4/19	\$219,840.00	Yes
Celer Systems, Inc.	IT Services	6/18 - 9/19	\$499,200.00	Yes
Celer Systems, Inc.	IT Services	6/17 - 12/19	\$499,854.40	Yes
FedEx Corporate Services	Other	12/16 - 6/19	\$100,00.00	Yes
Forum One Communications Co.	IT Services	12/16 - 12/18	\$495,869.44	Yes
Gas Technology Institute	Other	4/17 - 6/19	\$150,000.00	Yes
Inter-Con Security Systems, Inc.	Other	2/18 - 1/19	\$531,281.40	Yes
Kronos Incorporated	IT Services	3/18 - 3/19	\$499,249.30	Yes
Labvantage Solutions	IT Services	3/18 - 3/19	\$750,000.00	Yes
M-Files, Inc.	Other	6/16 - 5/18	\$449,938.00	Yes
Montrose Air Quality Services	Other	6/18 - 6/20	\$250,000.00	Yes
National Academy of Sciences	Other	1/18 - 12/18	\$70,000.00	Yes
Particle Instruments, LLC	Service/Maintenance	5/18 - 5/20	\$100,000.00	Yes
Science Applications Int. Corp	IT Services	12/17 - 6/19	\$209,696.26	Yes
Sensors, Inc.	Service/Maintenance	4/18 - 3/20	\$160,580.00	Yes
Southwest Research Institute	Other	6/17 - 5/19	\$750,000.00	Yes
Technology Management Solutions, Inc.	Other	1/18 - 12/20	\$456,192.00	Yes
TriCord	Training	4/18 - 12/18	\$49,885.00	Yes
Western Climate Initiative, Inc.	Other	1/18 - 12/19	\$5,000,000.00	Yes

FINDING NO. 7 – Personal Services Contracts Complied with Procedural Requirements

The total dollar amount of all the PSC's reviewed was \$14,542,005.79. It was beyond the scope of the review to make conclusions as to whether CARB justifications for the contract

were legally sufficient. For all PSC's reviewed, the CARB provided specific and detailed factual information in the written justifications as to how each of the 23 contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, CARB complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CARB PSC's complied with civil service laws and board rules.

Mandated Training

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & 19995.4, subd. (b).)

Additionally, the training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

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

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 all the records for the CARB's mandated training program that was in effect during the compliance review period and determined that the CARB's supervisory training and sexual harassment prevention training were in compliance. However:

FINDING NO. 8 – Ethics Training Was Not Provided for All Filers

Summary: The CARB provided ethics training to 18 of 18 existing filers. However, the CARB did not provide ethics training to four of 19 new filers within six months of their appointment.

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

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

Cause: The CARB states that failure to provide Ethics training to four filers within six months of their appointment was due to insufficient procedures.

Action: The CARB developed new written procedures for Ethics training that will support all filers completing the Ethics training within six months of their appointment. Also, the CARB developed a database to track the due dates for Ethics training and each designated filer, along with their supervisor and the division liaison, will receive notification to complete training and file form 700. Within 60 days of the Executive Officer's approval of these findings and recommendations, copies of

relevant documentation of compliance with Gov. Code, § 11146.3, subd. (b) must be submitted.

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 rate⁶ 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, December 1, 2017 through August 31, 2018, the CARB made 284 appointments. The CRU reviewed 15 of those appointments to determine if the CARB applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator (Supervisor)	Certification List	Permanent	Full Time	\$5,274
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$3,885
Air Pollution Specialist	Certification List	Permanent	Full Time	\$9,000
Air Pollution Specialist	Certification List	Permanent	Full Time	\$9,000

⁶ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Air Resources Engineer	Certification List	Permanent	Full Time	\$7,196
Air Resources Engineer	Certification List	Permanent	Full Time	\$7,934
Air Resources Supervisor I	Certification List	Permanent	Full Time	\$10,025
Attorney V	Certification List	Permanent	Full Time	\$15,266
Business Services Officer II (Specialist)	Certification List	Permanent	Full Time	\$4,160
Career Executive Assignment	Certification List	Permanent	Full Time	\$13,889
Health and Safety Officer	Certification List	Permanent	Full Time	\$5,539
Information Officer I (Specialist)	Certification List	Permanent	Full Time	\$4,784
Office Technician (Typing)	Certification List	Permanent	Full Time	\$2,921
Staff Services Analyst	Certification List	Permanent	Full Time	\$3,977
Staff Services Manager I	Certification List	Permanent	Full Time	\$5,973

FINDING NO. 9 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the salary determinations that were reviewed. The CARB 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. (California State Civil Service 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, December 1, 2017 through August 31, 2018, the CARB made 42 alternate range movements within a classification. The CRU reviewed 35 of those alternate range movements to determine if the CARB applied salary regulations accurately and correctly processed employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Air Pollution Specialist	Range A	Range B	Full Time	\$5,569
Air Pollution Specialist	Range B	Range C	Full Time	\$7,196
Air Pollution Specialist	Range B	Range C	Full Time	\$7,196
Air Pollution Specialist	Range A	Range B	Full Time	\$5,669
Air Pollution Specialist	Range B	Range C	Full Time	\$7,196
Air Pollution Specialist	Range B	Range C	Full Time	\$7,196
Air Pollution Specialist	Range B	Range C	Full Time	\$7,320
Air Pollution Specialist	Range B	Range C	Full Time	\$7,520

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Air Pollution Specialist	Range B	Range C	Full Time	\$7,196
Air Pollution Specialist	Range A	Range B	Full Time	\$5,569
Air Resources Engineer	Range C	Range D	Full Time	\$7,934
Air Resources Engineer	Range B	Range C	Full Time	\$7,196
Air Resources Engineer	Range B	Range C	Full Time	\$7,196
Air Resources Engineer	Range C	Range D	Full Time	\$7,631
Air Resources Engineer	Range A	Range B	Full Time	\$5,837
Air Resources Engineer	Range B	Range C	Full Time	\$7,196
Air Resources Engineer	Range B	Range D	Full Time	\$7,631
Information Technology Associate	Range B	Range C	Full Time	\$5,078
Information Technology Associate	Range C	Range D	005/008	\$6,305
Information Technology Associate	Range B	Range D	Intermittent	\$4,928
Information Technology Associate	Range B	Range D	015/016	\$5,598
Information Technology Specialist I	Range B	Range C	Full Time	\$7,488

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Information Technology Specialist I	Range B	Range C	Full Time	\$6,114
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Information Technology Specialist I	Range B	Range C	Intermittent	\$7,616
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Information Technology Technician	Range B	Range C	Intermittent	\$3,810
Personnel Specialist	Range C	Range D	Full Time	\$4,539
Personnel Specialist	Range A	Range B	Full Time	\$3,335
Staff Services Analyst	Range B	Range C	Intermittent	\$3,977
Staff Services Analyst	Range B	Range C	Full Time	\$3,977
Student Assistant - Engineering and Architectural Sciences	Range E	Range G	Intermittent	\$2,954

FINDING NO. 10 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Hiring Above Minimum Requests

CalHR may authorize payment at any step above-the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Persons with extraordinary qualifications should contribute to the work of the department significantly beyond that which other applicants offer. (*Ibid.*) Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) When a number of candidates offer considerably more qualifications than the minimum, it may not be necessary to pay above the minimum to acquire unusually well-qualified people. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action.⁷ (Gov. Code § 19836 subd. (b).)

⁷ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

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

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

During the period under review, December 1, 2017 through August 31, 2018, the CARB authorized 12 HAM requests. The CRU reviewed eight of those authorized HAM requests to determine if the CARB correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates’ extraordinary qualifications which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Air Pollution Specialist	Certification List	New to State	\$4,651 - \$9,000	\$6,078
Air Pollution Specialist	Certification List	New to State	\$4,651 - \$9,000	\$9,000
Air Pollution Specialist	Certification List	New to State	\$4,651 - \$9,000	\$9,000
Air Pollution Specialist	Certification List	New to State	\$4,651 - \$9,000	\$8,436

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Air Pollution Specialist	Certification List	New to State	\$4,651 - \$9,000	\$6,971
Air Resources Engineer	Certification List	New to State	\$5,837 - \$7,303	\$7,303
Air Resources Engineer	Certification List	New to State	\$5,098 - \$9,000	\$7,303
IT Specialist I	Certification List	New to State	\$4,921 - \$7,962	\$8,280

FINDING NO. 11 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Bilingual Pay

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

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

During the period under review, December 1, 2017 through August 31, 2018, the CARB issued Bilingual Pay to 27 employees. The CRU reviewed seven of these bilingual pay

authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base
Air Pollution Specialist	R09	Full Time
Air Resources Field Representative II	R11	Full Time
Air Resources Field Representative III	S11	Full Time
Air Resources Engineer	R09	Full Time
Air Resources Technician	R11	Intermittent
Staff Services Analyst	R01	Intermittent
Staff Services Analyst	R01	Full Time

FINDING NO. 12 – Bilingual Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found that the bilingual pay authorized to seven employees during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

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 nine 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 days⁸ worked and paid absences,⁹ is 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-

⁸ For example, two hours or ten hours counts as one day.

⁹ For example, vacation, sick leave, compensating time off, etc.

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.¹⁰ (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 for all state employers in any fiscal year (July-June) without reinstatement, loss or interruption of benefits.

At the time of the review, the CARB had 149 employees whose hours were tracked. The CRU reviewed 16 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Time Base	Time Frame	Time Worked
Air Resources Technician II	Intermittent	1/1/17 - 10/30/18	1186.75
Air Resources Technician II	Intermittent	1/1/17 - 10/30/18	1263.50
Air Resources Technician II	Intermittent	1/1/17 - 10/30/18	1142

¹⁰ “California Code of Regulation section 265.1 became effective July 1, 2017, and did not apply at the time of all of these appointments. The current regulation sets forth the method for counting time for temporary appointments. The cap under the current regulation is 189 days.

Classification	Time Base	Time Frame	Time Worked
Air Resources Technician II	Intermittent	1/1/17 - 10/30/18	1372
Air Resources Technician II	Intermittent	1/1/17 - 10/30/18	1261
Air Resources Technician II	Intermittent	1/1/17 - 10/30/18	1089.25
Information Technician Associate	Intermittent	4/10/17-12/31/18	1377
Office Technician (Typing)	Intermittent	1/1/17 - 10/30/18	1184
Staff Services Analyst	Intermittent	1/1/17 - 10/30/18	1186.75
Staff Services Analyst	Intermittent	1/1/17 - 10/30/18	1377
Student Assistant	Intermittent	6/21/17 - 6/29/18	810
Student Assistant - Engineering & Architectural Sciences	Intermittent	1/2/17-12/29/17	1119
Student Assistant - Engineering & Architectural Sciences	Intermittent	1/2/17-12/29/17	1366.5
Student Assistant - Engineering & Architectural Sciences	Intermittent	1/2/17-12/29/17	1206
Air Resources Technician II	Intermittent	1/1/17 - 10/30/18	1089.25
Air Resources Technician II	Intermittent	1/1/17 - 10/30/18	1198

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

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

Administrative Time Off

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

During the period under review, July 1, 2017 through June 30, 2018, the CARB placed 217 employees on ATO. The CRU reviewed 21 of these ATO authorizations to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Days on ATO
Air Pollution Specialist	7/25/17 – 7/27/17	2
Air Pollution Specialist	7/25/17 – 7/27/17	2
Air Pollution Specialist	7/25/17 – 7/27/17	2
Air Pollution Specialist	4/20/18 – 4/20/18	1
Air Pollution Specialist	7/25/17 – 7/27/17	2
Air Pollution Specialist	5/2/17 – 5/31/17	22
Air Pollution Specialist	8/7/17 – 8/7/17	1
Air Resources Field Representative II	12/5/17 – 12/5/17	1
Air Resources Technician I	7/25/17 – 7/27/17	2

Classification	Time Frame	No. of Days on ATO
Air Resources Technician II	4/20/18 – 4/20/18	1
Air Resources Technician II	7/25/17 – 7/27/17	2
Air Resources Technician II	7/25/17 – 7/27/17	2
Associate Governmental Program Analyst	6/20/18 – 6/20/18	1
Associate Information Services Analyst	10/26/17 – 10/26/17	1
Office Technician	11/2/18 – 11/2/18	1
Petroleum Production Engineer	7/25/17 – 7/27/17	2
Petroleum Production Engineer	4/20/18 – 4/20/18	1
Petroleum Production Engineer	7/25/17 – 7/27/17	2
Staff Services Analyst	7/21/17 – 7/21/17	1
Staff Services Manager I	8/24/17 – 8/24/17	1

FINDING NO. 14 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CARB 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.) 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, April 1, 2018 through June 30, 2018, the CARB reported four units comprised of 208 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2018	010	43	43	0
April 2018	150	21	21	0
April 2018	310	72	72	0
April 2018	860	72	72	0

FINDING NO. 15 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The CARB failed to provide completed Leave Activity and Correction Certification forms for four out of four units reviewed during the April 2018 pay period.

Criteria: Departments are responsible for maintaining accurate and timely leave accounting records for their employees. (Cal. Code Regs., tit. 2, § 599.665.) Departments shall identify and record all errors found using a Leave Activity and Correction form. (*Ibid.*) Furthermore, departments shall certify that all leave records for the unit/pay period identified on the certification form have been reviewed and all leave errors identified have been corrected. (*Ibid.*)

Severity: Non-serious or Technical. Departments must document that they reviewed all leave entered into their leave accounting system to ensure accuracy and timeliness. For post audit purposes, the completion of Leave Activity and Correction Certification forms demonstrates compliance with CalHR policies and guidelines.

Cause: The CARB acknowledges it did not have a documented process for conducting monthly leave audits during the review period.

Action: The CARB implemented a new monthly internal process within its Transactions Unit to ensure future leave input is keyed accurately and timely. However, the CARB must continue to take appropriate steps to ensure that their monthly internal audit process has been documented. It is therefore recommended that no later than 60 days after the SPB’s Executive Officer’s approval of these findings and recommendations, the CARB must incorporate completion of Leave Activity and Correction Certification forms for all leave records reviewed even when errors are not identified or corrected.

Leave Reduction Efforts

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

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. “If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion.”¹¹ (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount¹² as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

“It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation. (Cal. Code Regs., tit. 2, § 599.742.1.), ensuring employees maintain the capacity to optimally perform their jobs. For excluded employees, “the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee

¹¹ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and for bargaining unit 05 the established limit is 816 hours.

¹² Excluded employees shall not accumulate more than 80 days.

to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work-life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2017, 133 CARB employees exceeded the established limits of vacation or annual leave. The CRU reviewed 31 of those employees' leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Accounting Administrator III	M01	864	Yes
Administrative Assistant II	R01	977.25	Yes
Air Pollution Specialist	R09	1652	Yes
Air Pollution Specialist	R09	840	Yes
Air Pollution Specialist	R09	535	Yes
Air Pollution Specialist	R09	429.25	Yes
Air Resources Engineer	R09	1383	Yes
Air Resources Engineer	R09	510	Yes
Air Resources Field Representative III	S11	2393	Yes
Air Resources Field Representative III	S11	860	Yes
Air Resources Field Representative III	S11	561	Yes
Air Resources Supervisor I	S09	685	Yes
Air Resources Supervisor I	S09	596.7	Yes
Air Resources Supervisor I	S09	360	Yes
Air Resources Supervisor I	S09	369.7	Yes
Air Resources Supervisor II	S09	747.75	Yes
Air Resources Supervisor II	S09	541.75	Yes
Assistant Division Chief	M09	718.25	Yes
Associate Governmental Program Analyst	R01	679.75	Yes
Attorney III	R02	406	Yes
Career Executive Assignment	M01	2454	Yes
Career Executive Assignment	M01	1275.25	Yes
Career Executive Assignment	M01	1061.75	Yes

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Career Executive Assignment	M01	873.5	Yes
Career Executive Assignment	M01	628	Yes
Information Officer II	S01	761	Yes
Staff Air Pollution Specialist	R09	779.5	Yes
Staff Air Pollution Specialist	R09	368.5	Yes
Staff Air Pollution Specialist	R09	387	Yes
Staff Air Pollution Specialist	R09	446.25	Yes
Vehicle Program Specialist	R09	999.5	Yes
Total		26,143.65	

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

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

State Service

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

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.¹³ (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.

¹³ Except as provided in sections 599.609 and 599.776.1(b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

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 employees¹⁴ 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, December 1, 2017 through August 31, 2018, the CARB had three employees with non-qualifying pay period transactions¹⁵. The CRU reviewed three transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of 715 Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	1
Non-Qualifying Pay Period	15/16	1
Non-Qualifying Pay Period	9/10	1

¹⁴ As identified in Government Code sections 19858.3(a), 19858.3(b), or 19858.3(c) or as it applies to employees excluded from the definition of state employee under Government Code section 3513(c) or California Code of Regulations section 599.752 subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

¹⁵ 715 transaction code is used for: temporary leaves of 30 calendar days or less (per SPB Rule 361) resulting in a non-qualifying pay period; used for qualifying a pay period while on NDI; used for qualifying a pay period while employee is on dock and furlough.

FINDING NO. 17 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU determined that the CARB 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 but are not limited to, association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) In addition, there may be personal relationships beyond this general definition that could be subject to these policies. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

FINDING NO. 18 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the policy was disseminated to all staff and emphasized the CARB’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CARB’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.*)

FINDING NO. 19 – Injured Employee Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury

Summary: Of the five workers' compensation claim forms reviewed by the CRU, one claim form was not provided to the employee within one working day of notice or knowledge of injury.

Criteria: Employers shall provide a claim form and notice of potential eligibility for workers' compensation benefits to their employees within one working day of notice or knowledge that the employee has suffered a work related injury or illness (Labor Code, § 5401).

Severity: Very Serious. An Injured employee was not provided the Division of Workers' Compensation (DWC) 1 form within the 24-hour time period. A work-related injury may result in lost time beyond the employee's work shift at the time of injury and/or result in additional medical treatment beyond first aid. The importance of providing the DWC 1 form within 24-hours is to prevent any delay in treatment to which the employee is entitled.

Cause: The CARB acknowledges its failure to provide all injured employees with the DWC 1 claim forms within the prescribed period. Because of oversight, delay in communication, and lack of training on the part of staff and managers, the CARB did not provide notice of potential eligibility for workers' compensation benefits within one working day of notice or knowledge of injury.

Action: The CARB established written procedures relative to future workers' compensation claim forms and notice of potential eligibility for workers' compensation. However, the CARB must continue to monitor the dissemination of claim forms to ensure conformity with the law. It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, copies of relevant documentation must be submitted to the CRU.

Performance Appraisals

According to Government Code section 19992.2 subsection (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 50 permanent CARB employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Air Pollution Specialist	6/14/2018
Air Pollution Specialist	6/25/2018
Air Pollution Specialist	6/20/2017
Air Pollution Specialist	10/19/2018
Air Pollution Specialist	6/29/2017
Air Pollution Specialist	7/13/2018
Air Pollution Specialist	6/28/2018
Air Pollution Specialist	6/26/2018
Air Pollution Specialist	6/13/2018
Air Pollution Specialist	6/14/2018
Air Pollution Specialist	7/3/2017
Air Pollution Specialist	5/26/2015
Air Pollution Specialist	6/15/2017
Air Pollution Specialist	7/26/2018
Air Resources Engineer	6/29/2017

Classification	Date Performance Appraisals Due
Air Resources Engineer	6/28/2018
Air Resources Engineer	6/22/2018
Air Resources Engineer	11/6/2017
Air Resources Engineer	6/22/2018
Air Resources Engineer	7/9/2018
Air Resources Engineer	11/6/2018
Air Resources Supervisor I	12/22/2017
Air Resources Supervisor I	1/10/2018
Air Resources Supervisor I	12/19/2017
Air Resources Supervisor I	7/25/2017
Air Resources Supervisor I	6/2/2016
Air Resources Supervisor I	6/29/2016
Air Resources Supervisor I	8/13/2015
Air Resources Supervisor II	6/30/2014
Air Resources Supervisor II	7/6/2007
Air Resources Supervisor II	4/1/2017
Air Resources Supervisor II	6/28/2018
Air Resources Supervisor II	1/30/2018
Associate Governmental Program Analyst	7/2/2018
Associate Governmental Program Analyst	2/21/2017
Attorney	6/6/2018
Attorney III	5/22/2018
Executive Assistant	5/16/2018
Executive Secretary I	11/30/2017
Information Technology Associate	6/27/2018
Information Technology Specialist I	2/10/2017
Information Technology Specialist I	7/9/2018
Information Technology Specialist II	8/7/2013
Information Technology Supervisor II	11/5/2017
Office Technician (Typing)	9/29/2017
Staff Air Pollution Specialist	11/5/2018
Staff Air Pollution Specialist	8/2/2018
Staff Air Pollution Specialist	7/24/2018
Staff Services Analyst (General)	12/3/2012

Classification	Date Performance Appraisals Due
Staff Services Manager I	11/16/2017

In reviewing the CARB performance appraisals policies and processes, the CRU determined the following:

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

Summary: The CARB did not provide performance appraisals to 21 of 50 employees reviewed at least once in each twelve calendar months 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 appraised of work performance issues and/or goals in a systematic manner.

Cause: The CARB’s failure to provide written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employees’ probationary period was the result of lack of communication with supervisors in providing direction and due dates.

Action: It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the CARB submit to the CRU a written corrective action plan that 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.

DEPARTMENTAL RESPONSE

The CARB's response is attached as Attachment 1.

SPB REPLY

Based upon the CARB's written response, the CARB will comply with the CRU's recommendations and findings.

It is further recommended that the CARB comply with the afore-stated recommendations within 60 days of the Executive Officer's approval and submit to the CRU a written report of compliance.



Mary D. Nichols, Chair
Jared Blumenfeld, CalEPA Secretary
Gavin Newsom, Governor

May 06, 2019

Diana Campbell
Compliance Review Manager
State Personnel Board
801 Capital Mall
Sacramento, CA 95818

Dear Ms. Campbell:

The California Air Resources Board (CARB) would like to thank the State Personnel Board's (SPB) Compliance Review Unit for undertaking the 2018 CARB Compliance Review. CARB has reviewed the draft report and provides the following responses to each deficient findings as presented by the SPB.

FINDING NO. 3 Probationary Evaluations Were Not Provided for All Appointments Reviewed. The report noted that CARB did prepare, complete, and/or retain required probationary reports of performance for five of the 39 appointments reviewed by the SPB Compliance Review Unit (Serious)

Cause: CARB's Human Resources Branch (HRB) attempted to remind managers/supervisors of their employees that were serving a probation period. However, the notification and tracking mechanism utilized within the Human Resources unit for probation reports was not always consistent.

Department Response and Corrective Action Plan: CARB's HRB will develop a new notification/tracking process. The new notification and tracking process for probation reports will be disseminated to all CARB manager and supervisors within 60 days of this response.

When an employee's appointment is entered into the payroll systems, a Notice of Personnel Action (NOPA), Report of Appointment, is generated by the State Controller's Office. The NOPA contains information relevant to the appointment, including the length of the probationary period and the dates that the first, second, and final probation reports are due.

The new notification and tracking process will require staff to send the NOPA, along with a cover letter restating the dates the probation reports are due to division liaisons, supervisors and managers. HRB staff will also generate monthly reports for employees who have a probation report due within the next two months as a reminder. HRB will designate staff that will maintain a tracking mechanism for the probation evaluations to ensure that reports are completed on time and submitted to HRB.

FINDING NO. 4 Equal Employment Opportunity Questionnaire Was Not Separated from Application (Very Serious)

Cause: CARB's Human Resources Branch (HRB) is diligent in removing the EEO questionnaires from candidate applications and understands the importance of protecting EEO information. However, one of the 90 applications reviewed had an EEO questionnaire attached as a result of a HRB staff inadvertently failing to remove the EEO questionnaire from the application.

Department Response and Corrective Action Plan: HRB's internal procedures have been updated and HRB analysts who receive all job applications submitted to HRB, whether by mail, hand delivered or electronically via the Examination Certification Online Systems (ECOS) have been reminded about the importance of ensuring the removal of the EEO questionnaires from all applications prior to uploading into ECOS and or releasing to the programs. The aforementioned tasks will be taken effective immediately to ensure compliance with Government Code 19704.

FINDING NO. 8 Ethics Training Was Not Provided for All Filers (Very Serious)

Cause: Failure to provide Ethics training to four of 19 new filers within six months of their appointment was due to insufficient procedures.

Department Response and Corrective Action Plan: CARB's Human Resources Branch (HRB) has developed new written procedures for Ethics training that will support all filers completing the Ethics training within six months of their appointment. HRB has developed a database to track the due dates for Ethics training, and we now collaborate with the HRB Selections Unit for notifications of new hires/promotions/transfers. Upon receiving a notification, we notify each new designated filer, their supervisor, and the division liaison via email of the filer's responsibility to complete Ethics training and file their 700 form. Liaisons are updated every 30 days on who is upcoming due and who is past due for the Ethics training. The new filer and their respective supervisor are also notified of due dates for Ethics training. This new procedure creates a multilayer system of accountability to ensure Ethics compliance.

FINDING NO. 15 Leave Activity and Correction Certification Forms Were not Completed For All Leave Records Reviewed (Non-serious or Technical)

Cause: CARB did not have a process for ensuring that monthly leave audits were conducted.

Department Response and Corrective Action Plan: CARB's Human Resources Branch (HRB) has implemented a monthly internal process within its Transactions Unit to ensure leave input into the leave accounting system (CLAS) is keyed accurately and timely. Transactions staff will utilize Leave Activity Balance (LAB) reports, Management Information Retrieval Systems (MIRS),

and other applicable reports monthly. Transactions staff will compare what has been recorded in the leave accounting system as accrued/earned or used by each employee to their attendance record for the pay period. Transaction staff will certify leave activity for each period by utilizing the CalHR 139 Leave Activity and Correction Certification form.

FINDING NO. 19 Injured Employee Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury (Very Serious)

Cause: Failure to provide all injured employees with claim forms and notice of potential eligibility for worker's compensation within one working day of notice or knowledge of injury was the result of oversight, delay in communication, and training on the part of staff and managers receiving notice or having knowledge of the injured person.

Department Response and Corrective Action Plan: Written procedures relative to Workers' Compensation claim forms, and notice of potential eligibility for worker's compensation have been provided to staff and management to ensure that all injured employees receive claim forms and notice of potential eligibility for worker's compensation within one working day of notice or knowledge of injury.

CARB will reinforce the practice of sending claims forms within one working day of notice or knowledge of injury with the relevant staff.

Moreover, with the implementation of new tracking procedures will allow staff to accurately track and assure that claims forms are sent out within one working day of notice or knowledge of injury.

FINDING NO. 20 Performance Appraisals Were Not Provided to All Employees (Serious)

Cause: Failure to provide written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employees' probationary period was the result of lack of communication with supervisors in providing direction and due dates.

Department Response and Corrective Action Plan: The Human Resources Branch (HRB) will send an annual memorandum to supervisors to conduct and submit performance appraisals by the end of each fiscal year. A new tracking procedure will be implemented to ensure performance appraisals are submitted on time. The Classification and Performance Management Unit will track compliance and follow up with supervisors who did not complete the assignment on time with monthly reminders. With the implementation of written procedures and a plan to track documents, it will allow staff to ensure that performance appraisals are conducted and submitted to HRB in a timely manner.

CARB Human Resources Branch would like to once again thank the SPB Compliance Review team and appreciate the opportunity to respond to the compliance review. CARB Human Resources Branch will continue to work toward ensuring consistent application of laws, rule, and regulations in regard to personnel practices.

If you have any further questions or need additional information, please feel free to contact me at (916) 324-2813.

Sincerely,

A handwritten signature in cursive script, reading "Jennifer Edmond". The signature is written in black ink and is positioned above the printed name.

Jennifer Edmond, Chief
Human Resources Branch

cc: Edna Murphy, Division Chief
Administrative Services Division