



COMPLIANCE REVIEW REPORT

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

Compliance Review Unit
State Personnel Board
August 26, 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 High-Speed Rail Authority (Authority)'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
Appointments	Probationary Evaluations Were Not Timely
Equal Employment Opportunity	A Disability Advisory Committee Has Not Been Established
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Mandated Training Complied with Statutory Requirements
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	Arduous Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Out-of-Class Pay
Leave	Positive Paid Employee Hours Exceed Maximum Hourly Requirement
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or 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	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed
Leave	Leave Reduction Plans Were not Provided to Employees Whose Leave Balances Exceeded Established Limits
Leave	Incorrect Application of State Service and Leave Transaction
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Injured Employees 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 Authority is responsible for planning, designing, building and operating the first high-speed rail system in the nation. The Authority will connect the mega-regions of the state, contribute to economic development and a cleaner environment, create jobs and preserve agricultural and protected lands. The system will run from San Francisco to the Los Angeles basin in under three hours at speeds capable of over 200 miles per hour. The system will eventually extend to Sacramento and San Diego, totaling 800 miles with up to 24 stations. In addition, the Authority is working with regional partners to implement a state-wide rail modernization plan that will invest billions of dollars in local and regional rail lines to meet the state’s 21st century transportation needs.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the Authority'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 Authority'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 Authority'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 Authority provided, which included examination plans, examination bulletins, job analyses, and scoring results.

The Authority did not conduct any permanent withhold actions during the compliance review period.

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

The Authority's appointments were also selected for review to ensure the Authority applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the Authority 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: arduous pay, monthly pay differentials, and out-of-class assignments.

During the compliance review period, the Authority did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, or bilingual pay.

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

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

The Authority'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 Authority'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 Authority to provide a copy of their leave reduction policy.

The CRU reviewed the Authority's Leave Activity and Correction Certification forms to verify that the Authority 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 Authority'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 Authority'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 Authority employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the CRU reviewed a selection of Authority positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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.

Moreover, the CRU reviewed the Authority's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the Authority's policies and processes adhered to procedural requirements.

On August 6, 2019, an exit conference was held with the Authority to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the Authority's written response on August 16, 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, June 1, 2018 through February 28, 2019, the Authority conducted four examinations. The CRU reviewed three of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Chief of Accounting Officer, Career Executive Assignment (CEA) A	Open	Statement of Qualifications (SOQ) ⁴	11/21/18	8
Chief of Administrative Services, CEA A	Open	SOQ	10/23/18	9
Deputy Director of Real Property, CEA A	Open	SOQ	4/7/19	27

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

The CRU reviewed three open examinations, which the Authority administered in order to create eligible lists from which to make appointments. The Authority published and distributed examination bulletins containing the required information for all examinations. Applications received by the Authority 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 the score received by rank. The CRU found no deficiencies in the examinations that the Authority conducted during the compliance review period.

Appointments

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

⁴ In a Statement of Qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

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, May 1, 2018 through January 30, 2019, the Authority made 41 appointments. The CRU reviewed 17 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Apts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Administrative Assistant II	Certification List	Permanent	Full Time	1
Associate Management Auditor	Certification List	Permanent	Full Time	1
Chief of Administrative Services, CEA A	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Limited Examination & Appointment Program	Certification List	Temporary	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Senior Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	1
Staff Management Auditor (Specialist), State Controller's Office	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Supervising Environmental Planner	Certification List	Permanent	Full Time	1
Supervising Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	1

Transportation Engineer (Civil)	Permissive Reinstatement	Permanent	Full Time	1
Information Officer I (Specialist)	Transfer	Permanent	Full Time	1
Staff Services Management Auditor	Transfer	Permanent	Full Time	1

FINDING NO. 2 – Probationary Evaluations Were Not Timely

Summary: The Authority did not complete four probationary reports of performance in a timely manner.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Accounting Officer (Specialist)	Certification List	1	1
Administrative Assistant II	Certification List	1	2
Transportation Engineer (Civil)	Permissive Reinstatement	1	1

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (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. (Code Reg., 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. (Code Reg., titl. 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 Authority states that they have been proactive in notifying managers and supervisors regarding due dates of probationary reports, however not all were completed in a timely manner.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the Authority submits to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19172.

Equal Employment Opportunity

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

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like Authority, 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).)

FINDING NO. 3 – A Disability Advisory Committee Has Not Been Established

Summary: The Authority does not have an active DAC.

Criteria: 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).)

Severity: Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency's ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

Cause: The Authority states that they adhere to all EEO policies and procedures, but acknowledges that a DAC had not been established prior to this compliance review.

Action: The Authority must continue to take appropriate steps to ensure the establishment of a DAC, comprised of members who have disabilities or who have an interest in disability issues. The Authority must submit to the CRU a written report of compliance, including the DAC roster, agenda, and meeting minutes, no later than 60 days from the date of the SPB Executive Officer's approval of these findings and recommendations.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include but are not limited to private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, June 1, 2018 through February 28, 2019, the Authority had 14 PSC's that were in effect. The CRU reviewed 10 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Briggs Field Services, Inc.	Right of Way (ROW) Appraisals and Acquisitions Services	11/1/14-11/30/19	\$4,135,000	Yes
Central California Private Security	Security Services	5/1/18-9/30/18	\$42,174	Yes
Epic Land Solutions, Inc.	ROW and Real Property Services	1/14/15-11/30/18	\$2,590,000	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Hamner, Jewell, & Associates, a Division of Beacon Integrated Professional Resources, Inc.	ROW Appraisals and Acquisitions Services	12/14/15-11/30/19	\$5,727,000	Yes
Nossaman, LLP	Legal Services	4/24/09-12/31/20	\$22,500,000	Yes
O'Melveny & Myers LLP	Legal Services	9/11/13-12/31/20	\$5,000,000	Yes
Project Finance Advisory Limited	Consultant Services	12/18/15-10/10/21	\$4,000,000	Yes
Realty Property Management	Property Management Services	7/1/17-1/30/21	\$1,250,000	Yes
Rutan & Tucker, LLP	Consultant Services	8/12/15-12/31/20	\$6,400,000	Yes
Vanguard Cleaning Systems	Emergency Janitor Services	8/8/18-1/30/19	\$17,280	Yes

FINDING NO. 4 – Unions Were Not Notified of Personal Services Contracts

Summary: The Authority did not notify the unions prior to entering into two of 10 PCS's.

Criteria: Government Code section 19132, subdivision (b)(1), mandates that “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.”

Severity: Serious. Unions must be notified of impending PSC's in order to ensure they are aware contracts are being proposed for work that their members could perform.

Cause: The Authority states that staff was not sufficiently trained on the statutory notice requirement.

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. It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the Authority submits to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132 and AB 906. Copies of any relevant documentation should be included with the plan.

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), (c), & 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.

FINDING NO. 5 – Mandated Training Complied with Statutory Requirements

The Authority provided ethics training to its 37 new filers within six months of appointment and, for its 95 existing filers, “at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter.” The Authority also provided supervisory training to its five new supervisors within 12 months of appointment. In addition, the Authority provided sexual harassment prevention training to its 24 new supervisors within six months of appointment, and sexual harassment prevention training to its 70 existing supervisors every two years. Thus, the Authority complied with mandated training requirements within statutory timelines.

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 rate⁵ 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

⁵ “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).

recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, May 1, 2018 through January 30, 2019, the Authority made 41 appointments. The CRU reviewed 15 of those appointments to determine if the Authority applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$4,412
Administrative Assistant II	Certification List	Permanent	Full Time	\$4,784
Associate Management Auditor	Certification List	Permanent	Full Time	\$5,484
CEA A	Certification List	Permanent	Full Time	\$10,334
Information Technology Associate	Certification List	Permanent	Full Time	\$4,928
Office Technician (Typing)	Certification List	Permanent	Full Time	\$3,038
Senior Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	\$10,477
Staff Management Auditor (Specialist), State Controller's Office	Certification List	Permanent	Full Time	\$6,908
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,136
Staff Services Manager I	Certification List	Permanent	Full Time	\$5,689
Supervising Environmental Planner	Certification List	Permanent	Full Time	\$8,474
Supervising Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	\$12,341
Information Officer I (Specialist)	Transfer	Permanent	Full Time	\$5,988
Staff Services Management Auditor	Transfer	Permanent	Full Time	\$4,789

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Transportation Engineer (Civil)	Transfer	Permanent	Full Time	\$8,827

FINDING NO. 6 – 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 Authority 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, 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, May 1, 2018 through January 30, 2019, the Authority made two alternate range movements within a classification. The CRU reviewed all two of those alternate range movements to determine if the Authority applied salary regulations accurately and correctly processed employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Administrative Assistant II	A	L	Full Time	\$5,179
Administrative Assistant II	A	L	Full Time	\$6,168

FINDING NO. 7 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Arduous Pay

Effective July 1, 1994, appointing authorities were provided the discretion to provide additional compensation for employees exempt from the Fair Labor Standards Act (FLSA) who perform arduous work that exceeds the normal demands of state service employment. (Human Resources Manual Section 1702.) The work must be extraordinarily demanding, time consuming, and significantly exceed employees' normal workweek. The employee cannot be entitled to receive any other sort of compensation such as overtime. Eligible employees are FLSA-exempt employees who do not receive compensation in recognition of hours worked in excess of 40 hours per week. The duration of the arduous period must be at least two weeks or more. (*Ibid.*)

Excluded and represented employees who are FLSA-exempt and assigned to Work Week Group E are eligible to receive up to four (4) months of pay per fiscal year, or per event for emergencies, if the following conditions are met:⁶

- There is a nonnegotiable deadline or extreme urgency;
- Work exceeds normal work hours and normal productivity;
- Work is unavoidable;
- Work involves extremely heavy workload;
- Employee is eligible for no other compensation, and
- The circumstances that support this pay differential are documented.

Departments have delegated authority to approve arduous pay for excluded employees who are FLSA-exempt, but CalHR approval is required for any arduous pay issued to represented employees.

Although departments have delegated authority to approve arduous pay,⁷ they are required to fill out CalHR Form 777, documenting the circumstances, assessment and

⁶ Applicable Memorandum of Understandings or Bargaining Unit Agreements detail other specific criteria.
⁷ Pay Letter 94-32 established Pay Differential 62 regarding arduous pay for Bargaining Units 1, 7, 9, 17, 19, and 21, and Excluded employees.

rationale behind all arduous pay approvals. A new Form 777 should be filled out for every employee receiving the pay differential, every time an employee is approved to receive a new pay differential, and every time an employee wants to extend their arduous pay. Extensions are only granted in rare circumstances. Departments must keep the Form 777 on file and retain the form for five years after the approval date. (*Ibid.*)

During the period under review, May 1, 2018 through January 30, 2019, the Authority issued arduous pay to one employee. The CRU reviewed one arduous pay authorization, listed below, to ensure compliance with applicable CalHR policies and guidelines:

Classification	Bargaining Unit	Work Week Group	Time Base	Total Compensation	Number of Months Received
Information Officer II	S01	E	Full Time	1,500	5

FINDING NO. 8 – Arduous Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found that the arduous pay authorization that the Authority made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Pay Differentials

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

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

the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, May 1, 2018 through January 30, 2019, the Authority issued pay differentials⁸ to 17 employees. The CRU reviewed six of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Principal Transportation Engineer, Caltrans	433	2%
Principal Transportation Engineer, Caltrans	433	2%
Senior Land Surveyor	433	2%
Senior Transportation Electrical Specialist	433 and 261	2% and \$300
Senior Transportation Engineer, Caltrans	433	2%
Supervising Transportation Engineer, Caltrans	433	2%

FINDING NO. 9 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the pay differentials that the Authority authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments (OOC) and Pay

For excluded⁹ and most rank and file employees, out of class 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 (a)(2).) A higher

⁸ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

⁹ "Excluded employee" means an employee as defined in section 3527(b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

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 (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 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, May 1, 2018 through January 30, 2019, the Authority issued OOC pay to four employees. The CRU reviewed all four of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Attorney III	R02	Attorney IV	11/1/18-2/28/19
Attorney IV	R02	Director of Real Property	5/18/18-9/14/18
Senior Environmental Planner	S01	Supervising Environmental Planner	11/19/18-12/31/18
Senior Right of Way Agent	S01	Supervising Right of Way Agent	8/26/18-12/17/18

FINDING NO. 10 – Incorrect Authorization of Out-of-Class Pay

Summary: The CRU found the following error in the Authority’s authorization of the OOC pay:

Classification	Out-of-Class Classification	Description of Finding(s)	Criteria
Senior Environmental Planner	Supervising Environmental Planner	The Authority incorrectly determined the amount of OOC pay issued for the November 2018 pay period and inappropriately paid one day of OOC pay to an employee who was not entitled to OOC pay in the December 2018 pay period.	Pay Differential 101

Criteria: When an employee is assigned OOC work, they shall receive the rate of pay pursuant to the applicable California State Civil Service Pay Scales Section 14 Pay Differential criteria.

Severity: Very Serious. The Authority 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 pay amounts.

Cause: The Authority states that it acknowledges the oversight and that a lack of additional review led to the errors.

Action: The Authority must take appropriate steps to ensure that employees are compensated correctly. It is therefore recommended that no later than 60 days after the SPB’s Executive Officer’s approval of these findings and recommendations, the Authority must submit a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810. Copies of any relevant documentation should be included with the plan.

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 days¹⁰ worked and paid absences,¹¹ 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-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.¹² (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.

¹⁰ For example, two hours or ten hours counts as one day.

¹¹ For example, vacation, sick leave, compensating time off, etc.

¹² "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.

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

At the time of the review, the Authority had 13 employees whose hours were tracked. The CRU reviewed 10 of those positive paid appointments to ensure compliance with applicable laws, regulations, and policies and guidelines, which are listed below:

Classification	Time Base	Time Frame	Time Worked
Accounting Administrator I (Supervisor)	Intermittent	7/1/17-6/30/18	974 Hours
Principal Transportation Engineer, Caltrans	Intermittent	7/1/17-6/30/18	554 Hours
Senior Right of Way Agent	Intermittent	7/1/17-6/30/18	636.5 Hours
Senior Right of Way Agent	Intermittent	7/1/17-6/30/18	954 Hours
Staff Services Analyst (General)	Intermittent	7/1/17-6/30/18	960 Hours
Student Assistant	Intermittent	5/10/17-5/9/18	941 Hours
Student Assistant	Intermittent	7/28/17-7/18/18	1275.5 Hours
Student Assistant - Engineering And Architectural Sciences	Intermittent	2/22/17-2/22/18	995.5 Hours
Student Assistant - Engineering And Architectural Sciences	Intermittent	4/6/17-4/5/18	1428 Hours
Student Assistant - Engineering And Architectural Sciences	Intermittent	8/7/17-8/6/18	874.5 Hours

FINDING NO. 11 – Positive Paid Employee Hours Exceed Maximum Hourly Requirement

- Summary:** The Authority did not monitor one of seven employees' hours worked in order to ensure the employee did not exceed 960 hours in a fiscal year. According to the timesheets and pay history documents provided by the Authority, this employee worked 974 hours in a fiscal year, which exceed the maximum by 14 hours.
- Criteria:** In accordance with the Human Resources Manual Section 1206, appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June) without reinstatement, loss or interruption of benefits.
- Severity:** Serious. Discrepancies in timekeeping practices and procedures may result in payroll and leave accounting discrepancies.
- Cause:** The Authority states that the automated system that was being used previously was not programmed to provide an alert when additional hours were entered by staff after the pay period.
- Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the Authority submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure all positive paid employees' hours are tracked and processed in conformity with California Code of Regulations, title 2, section 265.1, subdivision (a).

Administrative Time Off

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

During the period under review, December 1, 2017 through November 30, 2018 the Authority placed 12 employees on ATO. The CRU reviewed 12 of these ATO appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Days/Hours on ATO
Accounting Officer Specialist	5/1/18-5/1/18	1 Day
Associate Governmental Program Analyst	5/22/18-5/22/18	1 Day
CEA	1/12/18-1/31/18	20 Days
Information Officer I	11/13/18-11/14/18	2 Days
Office Technician (Typing)	6/12/18-6/12/18	4.5 Hours
Office Technician (Typing)	6/29/18-6/29/18	2 Hours
Office Technician (Typing)	7/11/18-8/9/18	30 Days
Office Technician (Typing)	8/10/18-9/8/18	30 Days
Office Technician (Typing)	9/9/18-10/8/18	30 Days
Office Technician (Typing)	10/9/18-10/15/18	7 Days
Staff Services Manager I	10/15/18-10/19/18	5 Days
Staff Services Manager I	7/17/18-7/17/18	1 Day

FINDING NO. 12 – 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 Authority 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, September 1, 2018 through November 29, 2018, the Authority reported one unit comprised of 200 active employees during the September through November pay period. The pay period and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
November 2018	001	194	194	0

FINDING NO. 13– Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely

Summary: The Authority failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely.

Criteria: In accordance with California Code of Regulations, title 2, section 599.665, departments are responsible for maintaining accurate and timely leave accounting records for their employees. In an effort to ensure departmental compliance, “all departments shall create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. This includes all leave types accrued/earned or used by all employees on a monthly

basis, regardless of whether leave records are system generated or manually keyed.” (Human Resources Manual Section 2101.) Departments may utilize one or more reports for auditing purposes such as Leave Activity Balance (LAB) report or equivalent, reports available on View Direct such as High CTO, Holiday Credit, or Excess Hours, and State Service Begin Balance. In addition, Departments utilizing Management Information Retrieval System (MIRS) in conjunction with CLAS may develop customized reports.

Each appointing power shall 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 an audit process to verify all leave input is keyed accurately and timely. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (Human Resources Manual Section 2101.)

Severity: Serious. In order for Department leave accounting reports to reflect accurate data, the review of the leave accounting records and corrections, if necessary, are to be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. This process allows departments to make required corrections prior to the next monthly leave activity report being produced.

Cause: The Authority states that they audit leave balances monthly and any errors are corrected in a timely manner and notated on the 672. However, any audit findings that were found were not properly documented.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the Authority submit to the CRU a written corrective action plan that the department will implement a monthly internal audit process to ensure that all leave input was keyed accurately and timely.

FINDING NO. 14 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The Authority failed to provide completed a Leave Activity and Correction Certification form for one unit reviewed during the November 2018 pay period.

Criteria: In accordance with California Code of Regulations, title 2, section 599.665, departments are responsible for maintaining accurate and timely leave accounting records for their employees. In an effort to ensure departmental compliance, CalHR mandates that departments' audit processes include the comparison of "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" (Human Resources Manual Section 2101). CalHR also directs departments to identify and record all leave errors found using a Leave Activity and Correction Certification form (*Ibid.*). Moreover, CalHR requires that departments certify that all leave records for the unit/pay period identified on the certification form be reviewed regardless of whether errors were identified.

Severity: Non-serious or Technical. Departments must document that they reviewed all leave inputted 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 Authority states that they did not have an internal audit process and thus did not utilize Leave Activity and Correction Certification Forms.

Action: The Authority must take appropriate steps to ensure that their monthly internal audit process is 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 Authority must incorporate completion of Leave Activity and Correction Certification forms for all leave records 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 Bargaining Unit (BU) Agreements 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."¹³ (Cal. Code Regs., tit. 2, § 599.737.) "If it appears an exempt employee will have a vacation or annual leave balance that will be above the maximum amount¹⁴ 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 exempt employees, "the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work- life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2018, 27 Authority employees exceeded the established limits of vacation or annual leave. The CRU reviewed 14 of those employees' leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

¹³ 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.

¹⁴ Excluded employees shall not accumulate more than 80 days.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Chief	E99	1025	No
Chief Deputy Director	E99	268	No
Chief Finance Officer	E99	1394	No
Director, Central Valley Regional	E99	243	No
Principal Right of Way Agent	M01	194	No
Principal Transportation Engineer	M09	340	No
Senior Accounting Officer (Specialist)	R01	292	No
Staff Services Manager III	M01	315	No
Supervising Transportation Engineer	M09	332	No
Total		4403	

FINDING NO. 15 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

Summary: Although the Authority disseminated a leave reduction policy to all employees, the Authority did not provide leave reduction plans for nine of 14 employees reviewed whose leave balances significantly exceeded established limits.

Criteria: “It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. (Human Resources Manual Section 2124.) Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the organization and monitor employees’ leave to ensure compliance with the departmental leave policy. Employees who have significant “over-the-cap” leave balances must have a leave reduction plan in place and be actively reducing hours. (*Ibid.*)

Severity: Non-Serious or Technical. California state employees have accumulated significant leave hours creating an unfunded liability for departmental budgets. The value of this liability increases with each

passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

Cause: The Authority indicates that it sends out notices to managers to inform them which of their employees are over the cap on an annual basis, however this process did not ensure 100% compliance.

Action: The Authority must take appropriate steps to ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. It is, therefore, recommended that no later than 60 days after the SPB’s Executive Officer’s approval of these findings and recommendations, the Authority must establish a policy and plan to address leave reduction efforts

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.¹⁵ (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

¹⁵ 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.

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 employees¹⁶ 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, May 1, 2018 through January 30, 2019, the Authority had three employees with non-qualifying pay period transactions. The CRU reviewed all three transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Qualifying Pay Period	Full Time	2
Non-Qualifying Pay Period	Full Time	1

FINDING NO. 16 – Incorrect Application of State Service and Leave Transaction

Summary: During the period under review, one employee was not given state service and leave accruals for a qualifying pay period. Specifically, the employee worked 14 days before a leave of absence took place, satisfying the qualifying pay period requirement of at least 11 working days.

Criteria: In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: (1) has had 11 or more working days of service in a monthly pay period; or (2) would have had 11 or more working days of service in a monthly pay period but was laid off or on a leave of absence for the purpose of lessening the impact of an impending layoff. (Cal. Code of Regs., tit.2, § 599.608.) Absences from state service

¹⁶ 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.

resulting from permanent separation for more than 11 consecutive working days which fall into two consecutive pay periods shall disqualify one of the pay periods. (*Ibid.*)

Hourly or daily rate employees working in a state agency 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.) When an employee has a break in service or changes to full-time, any combination of time worked which does not equal one qualifying month of full-time service shall not be accumulated or counted. (*Ibid.*)

Severity: Very Serious. For audit purposes, accurate and timely attendance reporting is required of all departments. If the length of an informal leave results in a non-qualifying pay period, a state service transaction must be processed. Inappropriately authorizing state service credits and leave accruals to employees who did not earn them results in a monetary loss for the department.

Cause: The Authority states that the automated system that was being used previously was not programmed to provide an alert when additional days were paid to an employee.

Action: The Authority must take appropriate steps to ensure state service transactions are keyed accurately. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the Authority must establish an audit system to key and correct state service transactions.

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. 17 – 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 Authority’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the Authority’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 Authority did not employ volunteers during the compliance review period.

Classification	Date of Injury	Claim Form Provided (DWC 1)
Accounting Administrator II	5/10/18	Yes
Accounting Administrator II	7/11/18	Yes
Staff Services Manager I	6/7/18	Yes

FINDING NO. 18 – Injured Employees Did Not Receive Workers’ Compensation Claim Forms Within One Working Day of Notice or Knowledge of Injury.

Summary: Three of three worker’s compensation claim forms reviewed by the CRU were 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 to their employee 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. Injured employees were not provided the DWC 1 form within the 24-hour time period. Providing the DWC 1 form within 24-hours of injury prevents any delay in treatment the employee is entitled to. A work related injury can result in lost time beyond the employee’s work shift at the time of injury and/or result in additional medical treatment beyond first aid.

Cause: The Authority states that managers and staff were not sufficiently trained on the worker’s compensation statutory requirement.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the Authority submit to the CRU a written corrective action plan that the department will implement to ensure conformity with California workers’ compensation law.

Performance Appraisals

According to Government Code section 19992.2 subsection (a), departments 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 29 permanent Authority 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
Accounting Administrator II	5/26/18
Associate Governmental Program Analyst	4/6/18
Associate Governmental Program Analyst	6/17/18
Associate Governmental Program Analyst	10/5/18
Attorney III	10/31/18
Graphic Designer II	4/23/18
Information Officer I (Specialist)	5/3/18
Information Officer I (Specialist)	7/15/18
Information Technology Associate	5/27/18
Information Technology Specialist I	7/1/18
Information Officer II	11/2/18
Principal Transportation Engineer, Caltrans	2/2/18
Senior Accounting Officer (Specialist)	9/8/18
Senior Accounting Officer (Specialist)	11/1/18
Senior Bridge Engineer	9/17/18
Senior Right of Way Agent	5/20/18
Senior Right of Way Agent	8/1/18
Senior Right of Way Agent	11/16/18
Senior Management Auditor	3/1/18
Staff Services Manager I	4/10/18
Staff Services Manager I	12/13/18
Staff Services Manager II (Managerial)	3/31/18
Staff Services Manager II (Supervisory)	8/31/18
Staff Services Manager III	8/7/18
Supervising Transportation Engineer, Caltrans	5/27/18

Classification	Date Performance Appraisals Due
Supervising Transportation Engineer, Caltrans	3/2/18
Supervising Transportation Planner	4/3/18
Television Specialist	9/26/18
Transportation Engineer (Civil)	6/22/18

In reviewing the Authority’s performance appraisals policies and processes, the CRU determined the following:

FINDING NO. 19 – Performance Appraisals Were Not Provided to All Employees

Summary: The Authority did not provide performance appraisals to seven of 29 employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.

Criteria: Departments are required to “prepare performance reports and keep them on file as prescribed by department rule.” (Gov. Code § 19992.2.) 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 Authority states that the current process of providing annual notices to management did not ensure 100% compliance.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the Authority submits to the SPB 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. Copies of any relevant documentation should be included with the plan.

DEPARTMENTAL RESPONSE

The Authority's response is attached as Attachment 1.

SPB REPLY

Based upon the Authority's written response, the Authority will comply with the CRU recommendations and findings and provide the CRU with an action plan.

It is further recommended that the Authority 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