



COMPLIANCE REVIEW REPORT

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

Compliance Review Unit
State Personnel Board
February 13, 2020

TABLE OF CONTENTS

Introduction	1
Executive Summary	2
Background	3
Scope and Methodology.....	4
Findings and Recommendations.....	6
Examinations	6
Permanent Withhold Actions.....	8
Appointments.....	9
Equal Employment Opportunity	14
Personal Services Contracts.....	14
Mandated Training.....	17
Compensation and Pay.....	20
Leave	26
Policy and Processes.....	35
Departmental Response.....	38
SPB Reply	38

INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

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

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Unlawful Appointment By Way of Transfer
Appointments	Probationary Evaluations Were Not Timely
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All 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
Mandated Training	Supervisory Training Was Not Provided for All Supervisors
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Incorrect Application of Compensation Laws, Rules and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Bilingual Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Area	Finding
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employees Exceeded the Nine Month Limitation in Any Twelve Consecutive Month Period
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Leave	Incorrect Application of State Service and Leave Transactions
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
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

CalRecycle brings together the state's recycling and waste management programs and continues a tradition of environmental stewardship.

Through landmark initiatives like the Integrated Waste Management Act and Beverage Container Recycling and Litter Reduction Act, California works toward a society that uses less, recycles more, and takes resource conservation to higher and higher levels. Our state leads the nation with an approximate 65 percent diversion rate for all materials, and today recycling supports more than 140,000 green jobs in California.

CalRecycle's vision is to inspire and challenge Californians to achieve the highest waste reduction, recycling and reuse goals in the nation. Through innovation and creativity, sound advancements in science and technology, and efficient programs that improve economic vitality and environmental sustainability, we build a stronger California.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CalRecycle's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the CalRecycle'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 CalRecycle'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 CalRecycle provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CalRecycle's Permanent Withhold Actions documentation, including withhold determination worksheets, state applications (STD 678), class specifications, and withhold letters.

A cross-section of the CalRecycle'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 CalRecycle 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 CRU also reviewed the CalRecycle's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations.

Additionally, the CalRecycle did not make any additional appointments during the compliance review period.

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

The CalRecycle's appointments were also selected for review to ensure the CalRecycle applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CalRecycle provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: bilingual pay, alternate range movements, and out-of-class assignments.

During the compliance review period, the CalRecycle did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, arduous pay, or monthly pay differentials.

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

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

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

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

The CalRecycle declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CalRecycle's written response on November 12, 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, December 1, 2017, through August 30, 2018, the CalRecycle conducted four examinations. The CRU reviewed all of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) B, Chief Information Officer	CEA	Statement of Qualifications (SOQ) ³	4/3/2018	6
Recycling Specialist I	Open	Training and Experience ⁴ (T&E)	3/22/18	15
Recycling Specialist II	Open	T&E	3/22/18	7
Staff Services Analyst	Departmental Promotion	Written ⁵	2/13/18	6

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

The CRU reviewed one departmental promotional and three open examinations which the CalRecycle administered in order to create eligible lists from which to make appointments. The CalRecycle published and distributed examination bulletins containing the required information for all examinations. Applications received by the CalRecycle 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

³ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

⁴ The Training and Experience 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.

⁵ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

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 CalRecycle 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).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond, or fails to establish that s/he meets the minimum qualification(s), the candidate’s name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing, and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate’s subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the review period, the CalRecycle conducted three permanent withhold actions. The CRU reviewed all 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
Senior Environmental Scientist	4PB1001	12/20/2017	4/10/2018	Failed to Meet Minimum Qualifications
Environmental Scientist	9PB01	3/11/2018	3/11/2019	Failed to Meet Minimum Qualifications
Environmental Scientist	9PB01	9/6/2018	10/27/2017	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, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

For the purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. (Cal. Code Regs., tit. 2, § 265.) In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1 (*Ibid.*) A Temporary Authorization Utilization (TAU) appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.)

During the period under review, November 1, 2107, through July 31, 2018, the CalRecycle made 249 appointments. The CRU reviewed 22 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Accounting Analyst	Certification List	Limited Term	Full Time	1
Accounting Officer (Specialist)	Certification List	Limited Term	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Environmental Scientist	Certification List	Permanent	Full Time	1
Executive Assistant	Certification List	Permanent	Full Time	1
Personnel Specialist	Certification List	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Limited Term	Full Time	2
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Permissive Reinstatement	Permanent	Full Time	1
Seasonal Clerk	Temporary Authorization Utilization (TAU)	Temporary	Intermittent	1
Associate Industrial Hygienist	Training and Development	Permanent	Full Time	1
Associate Personnel Analyst	Transfer	Permanent	Full Time	1
Associate Programmer Analyst (Specialist)	Transfer	Permanent	Full Time	1
Environmental Scientist	Transfer	Permanent	Full Time	1
Program Technician	Transfer	Permanent	Full Time	1
Recycling Specialist I	Transfer	Limited Term	Full Time	1
Recycling Specialist III (Supervisory)	Transfer	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Transfer	Permanent	Full Time	1

FINDING NO. 3 – Unlawful Appointment By Way of Transfer

Summary: The CalRecycle made one unlawful appointment on May 1, 2018, by way of transfer. Specifically, the incumbent transferred from an

Associate Governmental Program Analyst to a Recycling Specialist III. The Associate Governmental Program Analyst is the full journey level whereas the Recycling Specialist III is a working supervisory level. These two classifications do not involve substantially the same level of duties or responsibilities and as a result, the criteria specified in California Code of Regulations, title 2, section 430 was not met.

Criteria: Government Code section 19050.4 provides, in part, that a transfer may be accomplished without examination pursuant to rule.

California Code of Regulations, title 2, section 430 provides that classes meeting the criteria established by this article shall be considered to involve substantially the same level of duties, responsibility and salary for the purposes of Government Code section 19050.4; provided that the Board or the Executive Officer may prohibit transfer between such classes based on a specific finding that they are in a promotional relationship.

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

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the unlawful appointment and may also be subject to disciplinary action. The CRU finds that the appointment was made in good faith, was not the fault of the appointed employee, and did not merit being voided since it has been over one year since the unlawful appointment occurred.

Cause: The department initially advertised the position as “Limited Term May Become Permanent.” At the time, CalRecycle did not have an eligible list for the specific classification, so CalRecycle used an appropriate list from another agency using another classification as permitted. Unable to find a suitable candidate, the department re-advertised the vacancy, conducted additional interviews and subsequently appointed the individual from the appropriate list. However, because CalRecycle had an eligible list available during the additional interviews, it was not appropriate for CalRecycle to utilize the appropriate list from another agency to make the LT appointment.

Later, when this position was made a permanent position, CalRecycle mistakenly believed that converting the position allowed it to appoint the incumbent without being eligible and reachable on a permanent list. Therefore, the employee was unlawfully appointed a second time.

Corrective Action: Within 60 days of the Executive Officer’s approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with Rule 430 to prevent subsequent unlawful appointments via transfer from a rank and file classification to a supervisory classification in the future. Copies of relevant documentation including process and procedural improvements such as secondary review of appointments; and registration for CalHR training classes shall be submitted.

FINDING NO. 4 – Probationary Evaluations Were Not Timely

Summary: The CalRecycle did not provide in a timely manner 2 probationary reports of performance for 1 of the 22 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Executive Assistant	Certification List	1	2

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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

Cause: Although the CalRecycle's tracking system for probationary reports delivers notices to supervisors of probation report due dates, the system lacks a follow up procedure when probationary reports are not submitted.

Corrective Action: Within 60 days of the Executive Officer's approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with California Code of Regulations, title 2, section 599.795. Copies of relevant documentation including a followup procedure to track late probationary reports, tracking mechanism and sample of timely notification to follow up on late probationary reports shall be submitted.

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. 5 – 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 CalRecycle's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CalRecycle. The CalRecycle also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has

an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

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

During the period under review, December 1, 2017, through August 30, 2018, the CalRecycle had 96 PSC’s that were in effect. The CRU reviewed 15 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
ECC Constructors, LLC.	Emergency disaster removal and recovery services	8/28/2018 – 2/28/2019	\$57,600,000	Yes
Admail-Express Inc.	Printing, storage and fulfillment	5/15/18 – 10/31/2019	\$619,351.84	Yes
Ninyo & Moore	Investigation and inspection of closed, illegal and abandoned dumping sites	3/1/2018 – 12/31/2018	\$400,000	Yes
Chad Smith	Construction, remodel and restoration services	6/30/17- 11/30/18	\$285,000	Yes
Aptakrit Technology	IT and management consulting	1/1/2018 – 5/31/2018	\$240,000	Yes
Link One Professionals	Strategic Planning / Streamlining Processes	5/22/2018 - 12/31/2019	\$235,000	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Planet Technologies, Inc.	Providing IT networking services	5/1/2018 – 4/30/2019	\$225,000	Yes
Link One Professionals	Strategic Planning / Streamlining Processes	5/22/2018 - 12/31/2019	\$140,000	Yes
Golden State Overnight (GSO) ⁶	Delivery services	12/2/2017 – 6/30/2018	\$125,000	Yes
Regents of the University of California (Davis)	Medical Surveillance	12/1/2017- 10/31/20	\$93,000	Yes
GSO	Delivery services	7/1/2018 – 6/30/2019	\$80,000	Yes
California Reporting Services LLC	Court reporting services	7/1/2018 – 6/30/2020	\$78,600	Yes
Admail-Express Inc.	Printing, storage and order fulfillment	4/4/2017 – 4/3/2018	\$52,350	Yes
Laura Powell	Training and administrative functions	3/1/2016 – 6/30/2018	\$36,500	Yes
California Reporting LLC.	Court reporting	6/12/2017 – 6/30/2018	\$28,800	Yes

FINDING NO. 6 – Personal Services Contracts Complied with Procedural Requirements

The total dollar amount of all the PSC’s reviewed was \$60,238,602. It was beyond the scope of the review to make conclusions as to whether CalRecycle’s justifications for the contract were legally sufficient. For all PSC’s reviewed, the CalRecycle provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, [Department Acronym] complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CalRecycle’s PSC’s complied with civil service laws and board rules.

⁶ CalRecycle entered into two separate contracts with GSO during the review period.

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 biennial 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 the CalRecycle's mandated training program that was in effect during the compliance review period, September 1, 2016, to August 30, 2018.

FINDING NO. 7 – Ethics Training Was Not Provided for All Filers

Summary: The CalRecycle did not provide ethics training to 168 of 539 existing filers. In addition, the CalRecycle did not provide ethics training to 33 of 97 new filers within 6 months of 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: CalRecycle has not adequately tracked and enforced the ethics training requirements.

Corrective Action: Within 60 days of the Executive Officer's approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with Government Code section 11146.3, subdivision (b). Copies of relevant documentation including a process and procedure to remind filers when ethics training is due, a tracking mechanism, and sample of advance notification to remind filers when ethics training must be completed shall be submitted.

FINDING NO. 8 – Supervisory Training Was Not Provided for All Supervisors

Summary: The CalRecycle did not provide basic supervisory training to one of six new supervisors within twelve months of appointment.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon

completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subds. (b) and (c).)

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

Cause: CalRecycle has not adequately tracked and enforced the supervisory training requirements.

Corrective Action: Within 60 days of the Executive Officer's approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with Government Code section 19995.4, subdivision (c). Copies of relevant documentation including a process and procedure to remind supervisors when basic training is due, a tracking mechanism, and sample of advance notification to remind supervisors when basic training must be completed shall be submitted.

FINDING NO. 9 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The CalRecycle did not provide sexual harassment prevention training to 9 of 24 new supervisors within six months of their appointment. In addition, the CalRecycle did not provide sexual harassment prevention training to 49 of 105 existing supervisors every two years.

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

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

impacts employee morale and productivity, and subjects the department to litigation.

Cause: CalRecycle has not adequately tracked and enforced the sexual harassment prevention training requirements.

Corrective Action: Within 60 days of the Executive Officer's approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with Government Code section 12950.1 subdivision (a). Copies of relevant documentation including a process and procedure to remind filers when sexual harassment prevention training is due, a tracking mechanism, and sample of advance notification to remind supervisors when sexual harassment prevention training must be completed shall 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 rate⁷ 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, November 1, 2017, through July 31, 2018, the CalRecycle made 249 appointments. The CRU reviewed 19 of those appointments to determine if the CalRecycle applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

⁷ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan. (Cal. Code Regs., tit.2, § 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$4,784
Accounting Officer (Specialist)	Certification List	Limited Term	Full Time	\$4,177
Associate Accounting Analyst	Certification List	Limited Term	Full Time	\$6,054
Attorney IV	Certification List	Permanent	Full Time	\$11,929
Environmental Scientist	Certification List	Permanent	Full Time	\$3,493
Environmental Scientist	Certification List	Permanent	Full Time	\$3,839
Personnel Specialist	Certification List	Permanent	Full Time	\$3,045
Seasonal Clerk	Certification List	Intermittent	Temporary	\$1,907
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	\$7,013
Staff Services Analyst	Certification List	Limited Term	Full Time	\$3,186
Staff Services Analyst	Certification List	Permanent	Full Time	\$3,977
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,287
Staff Services Manager II	Certification List	Permanent	Full Time	\$7,261
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,988
Associate Personnel Analyst	Transfer	Permanent	Full Time	\$5,425
Associate Programmer Analyst (Specialist)	Transfer	Permanent	Full Time	\$6,356
Recycling Specialist I	Transfer	Limited Term	Full Time	\$4,229
Recycling Specialist III (Supervisor)	Transfer	Permanent	Full Time	\$6,618
Senior Environmental Scientist (Specialist)	Transfer	Permanent	Full Time	\$7,690

FINDING NO. 10 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment

Summary: The CRU found the following errors in the CalRecycle’s determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Recycling Specialist I	Employee should have been placed into Range B of the Recycling Specialist I classification as she met #2 of the Range B criteria.	ARC #070

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

Severity: Very Serious. In one circumstance, CalRecycle failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: CalRecycle's Transactions Office has experienced significant turnover in the past two years resulting in a lack of trained Personnel Specialists.

Corrective Action: Within 60 days of the Executive Officer's approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with California Code of Regulations, title 2, section 599.666 for compensation determinations. Copies of relevant documentation such as registration for SCO training classes and new processes and/or procedures for secondary review of transactions that are implemented shall be submitted.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, November 1, 2017, through July 31, 2018, CalRecycle employees made nine alternate range movements within a classification. The CRU reviewed four of those alternate range movements to determine if the CalRecycle applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Attorney	Range C	Range D	Full Time	\$7,316
Environmental Scientist	Range B	Range C	Full Time	\$5,372
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Recycling Specialist I	Range A	Range B	Full Time	\$4,229

FINDING NO. 11 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Summary: The CRU found the following errors in the CalRecycle’s determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Recycling Specialist I	Employee moved from Range A to Range B. Her anniversary date was calculated incorrectly. Employee was underpaid.	ARC #070

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

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

Severity: Very Serious. In one circumstance, CalRecycle failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with CalHR’s policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: CalRecycle’s Transactions Office has experienced significant turnover in the past two years resulting in a lack of trained Personnel Specialists.

Corrective Action: Within 60 days of the Executive Officer’s approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with California Code of Regulations, title 2, section 599.666 for alternate range movements. Copies of relevant documentation such as registration for SCO training classes and new processes and/or procedures for secondary review of transactions that are implemented shall be submitted.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

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

During the period under review, November 1, 2017, through July 31, 2018, the CalRecycle issued bilingual pay to 36 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
Office Technician	R04	Permanent
Program Technician	R04	Permanent
Recycling Specialist III (Supervisor)	S01	Permanent
Recycling Specialist II	R01	Permanent
Staff Management Auditor	S01	Permanent

Seasonal Clerk	R04	Temporary
Seasonal Clerk	R04	Temporary

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 employees during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Out-of-Class Assignments and Pay

For excluded⁸ and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

During the period under review, November 1, 2017, through July 31, 2018, the CalRecycle issued OOC pay to 14 employees. The CRU reviewed three of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

⁸ “Excluded employee” means an employee as defined in section 3527, subd. (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	Bargaining Unit	Out-of-Class Classification	Time Frame
Attorney III	BU2	Attorney IV	04/01/18 - 07/31/18
Environmental Scientist	BU10	Associate Industrial Hygienist	12/01/17 - 03/30/18
Senior Environmental Scientist (Supervisory)	S10	Environmental Program manager I (Supervisory)	10/2/17 - 11/30/17

FINDING NO. 13 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the OOC pay assignments that the CalRecycle authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee’s time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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 days⁹ worked and paid absences,¹⁰ 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-

⁹ For example, two hours or ten hours counts as one day.

¹⁰ 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. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

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

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

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

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

FINDING NO. 14 – Department Did Not Properly Monitor Time Worked for All Positive Paid Employees

Summary: The CalRecycle did not consistently monitor the actual number of hours worked in order to ensure that three positive paid employees did not exceed the 1,500-hour limitation in any calendar year.

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Program Technician	Permanent	1/3/17 – 12/29/17	1,504	4
Program Technician	Permanent	1/3/17 – 12/29/17	1,502	2

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Program Technician	Permanent	1/3/17 – 12/29/17	1,653	153

Criteria: A permanent intermittent employee may work up to 1,500 hours in any calendar year. The number of hours and schedule of work shall be determined based upon the operational needs of each department. (Applicable Bargaining Unit Agreements.)

Severity: Serious. The number of days or hours an individual may work in a permanent intermittent appointment is limited in the state civil service. To ensure permanent intermittent appointments are not made on a full-time basis, a maximum of 1,500 hours has been placed on the number of hours which a permanent intermittent employee may work any calendar year.

Cause: CalRecycle’s Transactions Office has experienced significant turnover in the past two years resulting in a lack of trained Personnel Specialists causing errors in processing intermittent employees.

Corrective Action: Within 60 days of the Executive Officer’s approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with California Code of Regulations, title 2, section 265.1 subdivision (d). Copies of relevant documentation such as registration for SCO training classes and new processes and/or procedures for secondary review of transactions that will be implemented shall be submitted.

Administrative Time Off

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

During the period under review, June 1, 2017, through May 31, 2018, the CalRecycle placed one employee on ATO. The CRU reviewed one ATO appointment to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Days on ATO
Senior Personnel Specialist	2/14/18 – 3/30/18	45

FINDING NO. 15 – 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 CalRecycle provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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

During the period under review, April 1, 2018, through May 1, 2018, the CalRecycle reported 257 units comprised of 1,998 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Units Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2018	434, 782, 875	35	35	0
May 2018	172, 874	21	21	0

FINDING NO. 16 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU reviewed employee leave records from two different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CalRecycle kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

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.)

¹¹ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 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.

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation, ensuring employees maintain the capacity to optimally perform their jobs. (Cal. Code Regs., tit. 2, § 599.742.1.) 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 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, 67 CalRecycle employees exceeded the established limits of vacation or annual leave. The CRU reviewed nine 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
Attorney III	R02	1,024	No
Attorney IV	R02	636	No
Integrated Waste Manager (Specialist)	R10	1,116	No
Recycling Program Manager I	S01	768	No
Recycling Specialist II	R01	597.25	No
Senior Management Auditor	S01	685.5	No
Supervising Management Auditor	M01	996.5	Yes
Systems Software Specialist III (Technical)	R01	581	No
Senior Management Auditor	S01	573.5	No
Total		6,978	

FINDING NO. 17 – Leave Reduction Plans Were Not Developed for Employees Whose Leave Balances Exceeded Established Limits

Summary: The CalRecycle did not provide leave reduction plans for the eight of the nine 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: CalRecycle does send an email each year requiring leave reduction plans for staff whose leave exceeds the established earnings. However, there is no policy which defines appropriate procedures and responses for those who fail to submit plans.

Corrective Action: Within 60 days of the Executive Officer's approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with Human Resources Manual Section 2124. Copies of relevant documentation including a policy, process and procedures that will be implemented to ensure that each employee "over the cap" has submitted a leave reduction plan and is actively reducing their hours shall be submitted.

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.

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, November 1, 2017, through July 31, 2017, the CalRecycle had seven employees with non-qualifying pay period transactions. The CRU reviewed 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
Non-qualifying Pay Period	Full-Time	2
Qualifying Pay Period	Full-Time	1

¹³ Except as provided in sections 599.609 and 599.776.1, subd. (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.

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

FINDING NO. 18 – Incorrect Application of State Service and Leave Transactions

Summary: The CRU found the following errors in the CalRecycle’s state service transactions:

Type of Transaction	Time base	State Service Incorrectly Posted	Leave Accruals Incorrectly Posted
Non- Qualifying Pay Period	Full Time	1	1
Qualifying Pay Period	Full Time	1	1

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 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: CalRecycle's Transactions Office has experienced significant turnover in the past two years resulting in a lack of trained Personnel Specialists. This caused the incorrect processing of non-qualifying pay periods.

Corrective Action: Within 60 days of the Executive Officer's approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with California Code of Regulations, title 2, section 599.608. Copies of relevant documentation such as registration for SCO training classes and new processes and/or procedures that will be implemented shall be submitted.

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. 19 – 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 CalRecycle's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CalRecycle'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 subds. (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 CalRecycle did not employ volunteers during the compliance review period.

FINDING NO. 20 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the CalRecycle provides notice to their employees to inform them of their rights and responsibilities under CA Workers' Compensation Law. Furthermore, the CRU verified that when the CalRecycle received worker's compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

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

The CRU selected 21 permanent CalRecycle employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Accounting Administrator I (Supervisor)	12/2/2018
Associate Industrial Hygienist	3/10/2018
Associate Management Auditor	7/1/2018
Engineering Geologist	7/15/2018
Environmental Program Manager I (Supervisory)	1/3/2018
Environmental Program Manager II	1/31/2018
Graphic Designer III	9/8/2018
Information Technology Technician	3/27/2018
Questioned Document Examiner II	7/1/2018
Recycling Program Manager II	1/1/2018
Recycling Specialist III (Supervisory)	1/1/2018
Research Analyst II (Geographic Information System	8/25/2018
Research Program Specialist I (Economics)	1/13/2018
Senior Environmental Scientist (Supervisory)	9/8/2018
Senior Integrated Waste Management Specialist	5/21/2018
Senior Management Auditor	1/1/2018
Staff Management Auditor	1/1/2018
Staff Services Management Auditor	10/1/2018
Staff Services Manager II (Supervisory)	8/15/2018
Staff Services Manager III	2/7/2018
Supervising Waste Management Engineer	6/1/2018

FINDING NO. 21 – Performance Appraisals Were Not Provided to All Employees

Summary: The CalRecycle did not provide performance appraisals to 18 of 21 employees after the completion of the employee’s probationary period.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2,

subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

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

Cause: CalRecycle does require performance appraisals to be turned in by June 30 each year. CalRecycle concedes it has not done an adequate job of tracking when performance appraisals are submitted.

Corrective Action: Within 60 days of the Executive Officer's approval of these recommendations, the CalRecycle shall submit a corrective action response to demonstrate conformity with California Code of Regulations, title 2, section 599.798. Copies of relevant documentation including a procedure and process to track submission of performance appraisals, tracking mechanism and sample of timely notification to follow up on late performance appraisals shall be submitted.

DEPARTMENTAL RESPONSE

The CalRecycle's response is attached as Attachment 1.

SPB REPLY

Based upon the CalRecycle's written response, the CalRecycle will comply with the corrective actions specified in these report findings. Within 60 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified, must be submitted to the CRU.



Department of
Resources Recycling and Recovery

Jared Blumenfeld
Secretary for
Environmental Protection

Scott Smithline
CalRecycle Director

November 12, 2019

State Personnel Board
Compliance Review Unit
801 Capitol Mall
Sacramento, CA 95815

Thank you for the opportunity to review and provide responses to the September 30, 2019, State Personnel Board (SPB) compliance review report. In short, the Department of Resources Recycling and Recovery (CalRecycle) concurs with the results of the audit and we outline below how the department's leadership shall address the audit findings, adopt practices, procedures, and policies to avoid such findings in the future. Where applicable, we identify relevant timelines and schedules.

We take these findings very seriously and recognize they result from an absence of defined or consistently applied and understood management objectives. The department will not only address these findings through improved training of Human Resources personnel but also via mandatory training of supervisors and managers, and accountability to and from all levels of department management and leadership for executing these improvements.

Lastly, the department is conducting further review of the compliance review report's findings, particularly those derived from sampled personnel transactions, to determine if other issues exist and where improvements and corrections may be warranted.

Finding No. 3: Unlawful Appointment

Summary:

CalRecycle made an unlawful appointment due to an employee not meeting transfer eligibility requirements and/or having permanent list eligibility. An Associate Governmental Program Analyst transferred to a Recycling Specialist III (Supervisory) position. This was an unlawful appointment because an employee cannot transfer from a rank and file classification to a supervisory one.

Cause:

When the department advertised the position in question, it did so as "Limited Term - May Become Permanent." At the time, an eligible list for the specific classification did not exist, so CalRecycle used an appropriate list from another agency using another classification as permitted. The department did not find a suitable candidate in the first round, so the department re-advertised the vacancy and interviewed additional candidates. The department found a qualified candidate and appointed the individual from the eligible list. However, the department's Human Resources Office (HRO) staff neglected to check to see if CalRecycle had an eligible list at the time of the second advertisement. Because an eligible list was available at the time, it was not appropriate for CalRecycle to utilize the appropriate list from another agency.

Additionally, this position was later made a permanent position as advertised in the job bulletin. Although indicating "may become permanent" on the job bulletin allowed CalRecycle to convert the incumbent to permanent without re-advertising, the HRO analyst mistakenly believed that it allowed CalRecycle to appoint the incumbent without being eligible and reachable on a permanent list. Therefore, the employee was unlawfully appointed.

In April 2019, HRO Management and the SPB Policy and Compliance Review Division discussed a potential unlawful appointment. In providing additional information to the SPB Policy and Compliance Review Division it was acknowledged on April 24, 2019 that the employee and CalRecycle acted in good faith. Because the issues occurred more than one year before the date of discovery and both CalRecycle and the employee acted in good faith, SPB concurred that the employee will be allowed to remain in the position.

CalRecycle Response:

CalRecycle acknowledges the mistakes made on this appointment, and the importance of providing and ensuring training to all HRO staff and department managers and supervisors on appointments laws, rules, and policies.

In an effort to prevent these types of issues recurring, HRO staff have been receiving training on the laws, rules, and procedures of Human Resources functions, including appointments. This includes on the job training, webinars, and classroom training. Additionally, the HRO analysts are now required to submit all Request for Personnel Action (RPA) packages to HRO management for review, along with an analysis and reference to applicable laws, rules, or policy. This will reduce the likelihood of misinterpretation and ensure accuracy.

Additionally, HRO staff will provide guidance and mandatory training to department supervisors and managers on the laws, rules, and procedures of recruiting and appointments over the next 12 months.

Finding No. 4: Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary:

The service of a probationary period is required when an employee enters state civil service by permanent appointment from an employment list. 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. One employee was not provided two probationary reports.

Cause:

Although CalRecycle's tracking system for probationary reports delivers notices to supervisors of probation report due dates, the system lacks a follow up procedure when probationary reports are not submitted.

CalRecycle Response:

CalRecycle will reinforce the importance and responsibility for department supervisors and managers to complete probationary reports. As 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.

Therefore, CalRecycle will begin utilizing the tracking system more efficiently and effectively. The Human Resources Office (HRO) will begin sending follow up notices when the reports are not received to the direct supervisor as well as the second line supervisor. Additionally, beginning November 2019, HRO will produce quarterly reports to the Chief Deputy Director of non-compliant reports for follow-up and appropriate action to the relevant division's or office's senior management.

Finding No. 7: Ethics Training Was Not Provided For All Filers

Summary:

CalRecycle did not provide ethics training to 168 of 539 existing filers. In addition, CalRecycle did not provide ethics training to 33 of 97 new filers within six months of their appointment.

Cause:

CalRecycle has not adequately tracked and enforced the ethics training requirements.

CalRecycle Response:

CalRecycle's training unit will send out a notice to all non-compliant employees to immediately take the online Ethics training. CalRecycle will also provide mandatory training to department supervisors and managers emphasizing the importance of staff adhering to ethics training requirements. Additionally, within the next six months, CalRecycle's training unit, in conjunction with HRO and Legal staff, will begin tracking all filers' hire date and last ethics training date to ensure compliance.

Finding No. 8: Supervisory Training Was Not Provided for All Supervisors

Summary:

CalRecycle did not provide basic supervisory training to one of six new supervisors within twelve months of appointment.

Cause:

CalRecycle has not adequately tracked and enforced the supervisory training requirements.

CalRecycle Response:

CalRecycle's training unit will send out a notice to all current non-compliant supervisors to immediately sign up for supervisory training through California Department of Human Resources (CalHR) or another vendor that will satisfy the requirement. Managers will be made aware of supervisors for which they are responsible but have yet to take the requisite training and will share the responsibility for ensuring the non-compliant supervisors complete the training.

Additionally, within the next six months, CalRecycle's training unit, in conjunction with HRO, will begin tracking all manager and supervisors' hire date and last supervisory training date (and communicate this information to the relevant managers and their senior managers) to ensure compliance and accountability.

Finding No. 9: Sexual Harassment Prevention Training Was Not Provided For All Supervisors

Summary:

CalRecycle did not provide sexual harassment prevention training to nine of 24 new supervisors within six months of their appointment. In addition, CalRecycle did not provide sexual harassment prevention training to 49 of 105 existing supervisors every two years.

Cause:

CalRecycle has not adequately tracked and enforced the sexual harassment prevention training requirements.

CalRecycle Response:

CalRecycle's training unit will send out a notice to all non-compliant supervisors to immediately sign up for Sexual Harassment Prevention (SHP) training through CalHR or another vendor that will satisfy the requirement. Non-compliant supervisors and managers will be reported to senior management and will be held accountable for their failure to meet training requirements. CalRecycle's Equal Employment Opportunity (EEO) office will conduct group SHP supervisory trainings on a regular basis beginning November 2019. Additionally, within the next six months, CalRecycle's training unit, in conjunction with HRO and EEO, will begin tracking all managers' and supervisors' hire date and last SHP training date to ensure compliance.

Finding No. 10: Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment

Summary:

CalRecycle is required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. One error was found in an employee's compensation. The employee was placed into an incorrect range resulting in an underpayment.

Cause:

CalRecycle's Transactions Office has experienced significant turnover in the past two years resulting in a lack of trained Personnel Specialists.

CalRecycle Response:

CalRecycle acknowledges the seriousness of the error made in this case determining an employee's compensation. Further, we recognize the importance of training all HRO staff being in the applicable laws, rules, and policies surrounding these issues.

In an effort to prevent these types of issues recurring, HRO staff have been receiving training on the laws, rules, and policies of Human Resources functions, including compensation. This includes on the job training, webinars, and classroom training. Additionally, HRO has implemented a review process for these types of transactions. This will ensure analysts apply the correct law, rule, or policy and avoid errors. All HRO staff will be fully trained in this area within the next 6 months.

Additionally, HRO is correcting the impacted staff's employment history to reflect the correct compensation.

Finding No. 11: Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Alternate Range Movement

Summary:

CalRecycle is required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. CalRecycle had one error in four alternate range movements. An employee's anniversary date was calculated incorrectly resulting in an underpayment.

Cause:

CalRecycle's Transactions Office has experienced significant turnover in the past two years resulting in a lack of trained Personnel Specialists.

CalRecycle Response:

CalRecycle acknowledges the seriousness of errors made when determining an employee's alternate range placement and the importance of all HRO staff being trained in the applicable laws, rules, and policies surrounding these issues.

In an effort to prevent these types of issues recurring, HRO staff have been receiving training on the laws, rules, and policies of Human Resources functions, including compensation. This includes on the job training, webinars, and classroom training. Additionally, HRO has implemented a review process for these types of transactions. This will ensure analysts apply the correct law, rule, or policy and avoid errors. All HRO staff will be fully trained in this area within the next 6 months.

Additionally, HRO is correcting the impacted staff's employment history to reflect the correct alternate range movement.

Finding No. 14: Positive Paid Employees Exceeded the Nine Month in Any Twelve Consecutive Month Limitation

Summary:

Three employees' actual number of hours worked were not monitored to ensure the employees did not exceed the 1,500 hour limitation for Actual Time Worked (ATW) in a 12-consecutive month period.

Cause:

CalRecycle's Transactions Office has experienced significant turnover in the past two years resulting in a lack of trained Personnel Specialists causing errors in processing intermittent employees.

CalRecycle Response:

CalRecycle acknowledges the seriousness of errors made when intermittent employees and the importance of training all HRO staff in the applicable laws, rules, and policies surrounding these issues.

In an effort to prevent these types of issues recurring, HRO staff have been receiving training on the laws, rules, and policies of Human Resources functions, including intermittent employees. This includes on the job training, webinars, and classroom training. HRO has also implemented using California Leave Accounting System (CLAS) to track intermittent working hours to ensure compliance with the limits as well as ensuring intermittent employees receive benefits and retirement and the appropriate time.

Additionally, HRO will be sending out an information document to all managers and supervisors regarding the laws, rules, and policies surrounding intermittent employee. HRO will provide training, tracking tools, and guidance to department supervisors and managers to improve monitoring of total number of hours worked for intermittent time base positions. This document will be sent out by February 1, 2020.

Finding No. 17: Leave Reduction Plans Were Not Provided For All Employees Whose Leave Balances Exceeded Established Limits

Summary:

Eight employees whose leave balances significantly exceeded established limits were not provided leave reduction plans.

Cause:

CalRecycle does send an email each year requiring leave reduction plans for staff whose leave exceeds the established earnings. However, we do not currently have a policy that defines appropriate procedures and responses for those who fail to submit plans.

CalRecycle Response:

CalRecycle's will establish a policy, and related procedures, outlining the requirements of staff whose leave exceeds the established earnings. The policy will establish due dates and requirements for the leave-reduction plans. Additionally, HRO will submit a yearly report the Chief Deputy Director identifying staff that are not in compliance. CalRecycle supervisors and managers will ensure reporting staff exceeding established limits create a leave reduction plan. Additionally, department managers and supervisors will be required to review, approve, monitor, and ensure the adherence to the leave reduction plans occurs.

HRO will also offer training to department supervisors and managers regarding the impact of significant accumulated leave hours of California state employees. The value of increasing liability with each passing promotion and salary increase. Additionally, the leave balances exceeding established limits that require immediate action by CalRecycle employees. This training will occur each December.

Finding No. 18: Incorrect Application of Service and Leave Transactions

Summary:

In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: one has had 11 or more working days of service in a monthly pay period; or two 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. It was identified that two of CalRecycle employees received state service and/or leave accruals for non-qualifying pay periods.

Cause:

CalRecycle's Transactions Office has experienced significant turnover in the past two years resulting in a lack of trained Personnel Specialists. This caused the incorrect processing of non-qualifying pay periods.

CalRecycle Response:

CalRecycle acknowledges the seriousness of errors made when processing non-qualifying pay periods. Further, we recognize the importance of training all HRO staff being in the applicable laws, rules, and policies surrounding these issues.

In an effort to prevent these types of issues recurring, HRO staff have been receiving training on the laws, rules, and policies of Human Resources functions, including qualifying pay periods. This includes on the job training, webinars, and classroom training. Additionally, CalRecycle is correcting the employment history, state service, and leave accruals for the effected employees. All HRO staff will be fully trained in this area within the next 12 months.

Finding No. 21: Performance Appraisals Were Not Provided to All Employees

Summary:

18 employees did not receive performance appraisals at least once in each twelve calendar months after the completion of the employee's probationary period.

Cause:

CalRecycle does require performance appraisal to be turned in by June 30 each year. However, CalRecycle has not done an adequate job of tracking when performance appraisals are submitted.

CalRecycle Response:

CalRecycle's HRO has implemented a tracking process for performance appraisals. The HRO will begin sending follow up notices to the direct supervisor as well as the second line supervisor, if reports are not received by the June 30 deadline. Additionally, HR will produce an annual report to the Chief Deputy Direct of non-compliant reports.

Additionally, department managers and supervisors will be required to provide thorough and timely performance appraisals and, in cases where performance appraisals are not provided, managers and supervisors will be held accountable.

Conclusion:

CalRecycle is committed to continuing correcting the issues listed in the compliance review report, as well as ensuring all CalRecycle staff receive the appropriate training in order to remain in compliance with all applicable laws, rules, and policies. Thank you for the opportunity to respond to the compliance review report. Should you have any questions or concerns regarding our response, please contact Desiree Scott at (916) 341-6508.

Sincerely,



Scott Smithline
Director