

# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA DEPARTMENT OF MOTOR VEHICLES**

Compliance Review Unit  
State Personnel Board  
March 2, 2020

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## **INTRODUCTION**

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the Department of Motor Vehicles (DMV)'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
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Those That Were Reviewed Were Untimely
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Ethics Training Was Not Provided for All Filers
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	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Area	Finding
Compensation and Pay	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Pay Differentials
Compensation and Pay	Incorrect Authorization of Out-of-Class Pay
Leave	Department Did Not Properly Monitor Time Worked for All Positive Paid Employees
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Department Did Not Retain Employee Time and Attendance Records
Leave	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input Is Keyed Accurately and Timely
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Leave	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
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**

The DMV serves the public by licensing drivers, registering vehicles, securing identities, and regulating the motor vehicle industry. The DMV's two primary functions are to license California's 26.5 million drivers and register more than 34.7 million vehicles.

As of January 1, 2019, the DMV has 9,711 employees who serve California's population via 231 service offices and facilities located throughout the state. In 2018, the DMV provided 30 million customers with driver license and identification card services and registration services for 35.7 million customers. The DMV also promotes traffic safety by monitoring the driving performance of licensed drivers, evaluates high-risk drivers for driving competency and takes corrective actions against the driving privilege of drivers who demonstrate safety risks.

In the commercial industry, the DMV provides consumer protection through the licensing and regulation of occupations and businesses related to the manufacture, transport, sale, and disposal of vehicles, including vehicle manufacturers, dealers, registration services, salespersons, transporters, and dismantlers. In addition, the DMV regulates all occupations and businesses related to driving and traffic schools.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the DMV's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>1</sup>. The primary objective of the review was to determine if the DMV'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 DMV'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 DMV provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the DMV's Permanent Withhold Actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and Withhold letters.

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

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

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

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

The DMV'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.

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

The CRU also identified the DMV'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 DMV to provide a copy of their leave reduction policy.

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

On Wednesday, February 19, 2020, an exit conference was held with the DMV to explain and discuss the CRU's findings and recommendations. The CRU received and carefully reviewed the DMV's written response on Friday, February 14, 2020, 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, August 1, 2018 through January 31, 2019, the DMV conducted 27 examinations. The CRU reviewed nine of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Construction Analyst	Departmental Promotional	Qualification Appraisal Panel (QAP) <sup>3</sup>	09/28/18	13
Career Executive Assignment (CEA) B, Region Administrator-Region V	CEA	Statement of Qualifications (SOQ) <sup>4</sup>	08/16/18	16
CEA C, Deputy Director- Field Operations Division	CEA	SOQ	12/05/18	6
Driver Safety Manager II	Departmental Promotional	SOQ	08/01/18	9
Inspector, Department of Motor Vehicles	Departmental Promotional	Training and Experience (T&E) <sup>5</sup>	08/31/18	220

<sup>3</sup> The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

<sup>4</sup> 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.

<sup>5</sup> 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

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Manager V, Department of Motor Vehicles	Departmental Promotional	SOQ	09/28/18	6
Office Services Manager I	Departmental Promotional	QAP	09/21/18	15
Staff Services Manager II (Supervisory)	Open	SOQ	05/22/18	27
Supervising Inspector, Department of Motor Vehicles	Open	T&E	06/21/18	16

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

The CRU reviewed five departmental promotional, two C.E.A, and two departmental open examinations which the DMV administered in order to create eligible lists from which to make appointments. The DMV published and distributed examination bulletins containing the required information for all examinations. Applications received by the DMV were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the DMV 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

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performing certain tasks typically performed by those in this classification. Responses yield point values.

name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105). The appointing authority shall promptly notify the candidate in writing, and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, August 1, 2018, through January 31, 2019, the DMV conducted two permanent withhold actions. The CRU reviewed one of these permanent withhold actions, listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Manager II, Department of Motor Vehicles	6PB42	04/13/18	04/13/20	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 action 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, September 1, 2018, through February 1, 2019, the DMV made 1,451 appointments. The CRU reviewed 57 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	1
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	1
Associate Business Management Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
CEA	Certification List	C.E.A	Full Time	1
Driver Safety Hearing Office	Certification List	Permanent	Full Time	1
Driver Safety Manager I	Certification List	Permanent	Full Time	1
Executive Secretary I	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Manager II	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Inspector, Department Of Motor Vehicles	Certification List	Limited Term	Full Time	1
Investigator	Certification List	Permanent	Full Time	1
Licensing-Registration Examiner, Department Of Motor Vehicles	Certification List	Permanent	Intermittent	1
Management Services Technician	Certification List	Permanent	Full Time	1
Manager II, Department Of Motor Vehicles	Certification List	Permanent	Full Time	1
Manager III, Department Of Motor Vehicles	Certification List	Permanent	Full Time	1
Motor Vehicle Representative	Certification List	Permanent	Full Time	2
Motor Vehicle Representative	Certification List	Permanent	Intermittent	2
Office Assistant (General)	Certification List	Permanent	Full Time	3
Office Services Manager I	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Personnel Specialist	Certification List	Permanent	Full Time	2
Special Investigator Assistant	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Supervising Investigator I, Department Of Motor Vehicles	Certification List	Permanent	Full Time	1
Training Officer II	Certification List	Permanent	Full Time	1
Control Cashier I (Motor Vehicle Services), Department Of Motor Vehicles	Demotion	Permanent	Full Time	1
Office Assistant (General)	LEAP	Temporary	Full Time	1
Office Technician (Typing)	LEAP	Temporary	Full Time	1
Assistant Division Chief/Program Manager Department Of Motorvehicles	Promotional	Permanent	Full Time	1
Control Cashier I (Motor Vehicle Services), Department Of Motor Vehicles	Promotional	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Manager I, Department of Motor Vehicles	Promotional	Permanent	Full Time	1
Manager III, Department Of Motor Vehicles	Promotional	Permanent	Full Time	1
Manager IV, Department Of Motor Vehicles	Promotional	Limited Term	Full Time	1
Senior Motor Vehicle Technician	Promtional	Permanent	Full Time	1
CEA	Reinstatement	CEA	Full Time	1
Driver Safety Hearing Office	Reinstatement	Permanent	Full Time	1
Licensing-Registration Examiner, Department Of Motor Vehicles	Reinstatement	Permanent	Full Time	1
Senior Motor Vehicle Technician	Reinstatement	Permanent	Full Time	1
Staff Services Analyst (General)	Reinstatement	Permanent	Full Time	1
Manager I, Department Of Motor Vehicles	Training and Development	Permanent	Full Time	1
Motor Vehicle Representative	Training and Development	Permanent	Full Time	1
Program Technician II	Training and Development	Permanent	Full Time	1
Senior Motor Vehicle Technician	Training and Development	Permanent	Full Time	2
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Inspector, Department Of Motor Vehicles	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1
Supervising Investigator I, Department Of Motor Vehicles	Transfer	Limited Term	Full Time	1

### **FINDING NO. 3 – Unlawful Appointment**

**Summary:** The DMV made one unlawful appointment during the compliance review period. The candidate should have been hired through the Limited Examination and Appointment Program (LEAP) process;

however, the candidate was processed as a list appointment to the Office Assistant (General) classification, despite not being in a reachable rank. The employee separated from state service before permanent status was obtained; therefore, the appointment did not require investigation by the DMV.

**Criteria:** Pursuant to Government Code section 18931, subdivision (a), the Board shall establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. In accordance with California Code of Regulations, title 2, section 249.4, appointing powers shall verify that the candidate satisfies the minimum qualifications of the classification before the candidate is appointed.

If a candidate is selected for appointment who is eligible on both a non-LEAP employment list and a LEAP-referral list, the candidate may elect from which list he or she will be appointed. (Cal. Code Regs., tit. 2, § 158, subd. (a).) All laws and regulations applicable to LEAP, including the LEAP job examination period, probationary period, and appraisals, shall apply if a candidate is selected for appointment from a LEAP-referral list. All laws and regulations applicable to probationary periods and appraisals shall apply if a candidate is selected for appointment from a non-LEAP employment list. (Cal. Code Regs., tit. 2, § 158, subd. (b).)

Additionally, California Code of Regulations, title 2, section 254 mandates that each vacancy for a class in which the certification of eligible is under Government Code sections 19057.1 and 19057.3, the department shall fill a vacancy by eligibles in the three highest ranks certified.

**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.

**Cause:** The DMV acknowledges that the Selection and Certification Unit failed to properly process and request appropriate documentation for the LEAP appointment. Although the eligibility verification was properly processed on the correct LEAP eligibility record, the necessary appointment documentation for the LEAP hire was not requested from the program and the employee was inappropriately hired into the wrong classification.

**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate that the department will improve its hiring practices. Copies of any relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

**FINDING NO. 4 – Probationary Evaluations Were Not Provided for All Appointments Reviewed and Those That Were Reviewed Were Untimely**

**Summary:** The DMV did not provide 8 probationary reports of performance for 6 of the 57 appointments reviewed by the CRU. In addition, the DMV did not provide three probationary reports of performance in a timely manner, as reflected in the tables below.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Information Technology Associate	Certification List	1	1
Motor Vehicle Representative	Certification List	1	1
Office Assistant (General)	Certification List	1	1
Office Technician (Typing)	Certification List	1	2
Driver Safety Hearing Officer	Transfer	1	1
Senior Motor Vehicle Technician	Transfer	1	2



Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Manager III, Department of Motor Vehicles	Certification List	2	2
Personnel Specialist	Certification List	1	1

**Criteria:** The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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

**Cause:** The DMV acknowledges that eight probationary reports were missing and three were not completed timely. DMV's managers and supervisors are responsible for providing timely probationary reports to their employees as the final stage of the selection process. The

DMV will continue to instruct all supervisors and managers to complete the reports when they are due, as well as, explore options to track and notify management of the timely completion of probationary reports.

**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with the probationary requirements of Government Code sections 19171 and 19172. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **Equal Employment Opportunity**

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

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 DMV'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 DMV. The DMV 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, August 1, 2018, through January 31, 2019, the DMV had 388 PSC's that were executed. The CRU reviewed 30 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
5 Star Janitorial	Service/Maintenance	8/11/18 - 12/31/18	\$3,748.92	Yes	Yes
A Star Sweeping	Service/Maintenance	10/1/18 - 9/30/20	\$66,000.00	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Advantage Total Protection, Inc.	Service/ Maintenance	8/17/18 - 7/31/21	\$362,896.80	Yes	Yes
American Lady Vets Services, Inc.	Service/ Maintenance	9/1/18 - 8/31/20	\$11,459.00	Yes	Yes
AVRS, Inc.	Vehicle Registration	6/2/18 - 6/1/21	- \$48,000,000.00	Yes	Yes
Burkett's Office Supplies, Inc.	Emergency Drinking Water	8/31/18 - 2/28/19	\$131,105.83	Yes	Yes
California Reporting, LLC	Legal Services	10/1/18 - 11/30/20	\$413,636.00	Yes	Yes
California's Best Janitorial	Service/ Maintenance	12/1/18 - 11/30/20	\$57,731.76	Yes	Yes
California's Best Janitorial <sup>6</sup>	Service/ Maintenance	12/1/18 - 11/30/20	\$57,312.00	Yes	Yes
CAM Services	Service/ Maintenance	2/1/19 - 1/31/19	\$20,208.00	Yes	Yes
Cambria Solutions, Inc.	IT Services	7/24/17 - 11/23/19	\$194,832.00	Yes	Yes
Common Area Maintenance Services, Inc. dba CAM Services	Service/ Maintenance	10/1/18 - 9/30/20	\$31,392.00	Yes	Yes
Conejo Crest Landscape Maintenance	Service/ Maintenance	10/1/18 - 9/30/20	\$10,200.00	Yes	Yes
Cooperative Personnel Services dba CPS HR Consulting	Training	11/1/18 - 6/30/20	\$490,000.00	Yes	Yes

<sup>6</sup>Separate contract executed through same vendor.

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Corona Landscaping, Inc.	Service/ Maintenance	9/14/18 - 10/31/18	\$2,750.00	Yes	Yes
Crime Scene & Fatality Decontamination Company	Bio-Hazard Removal Services	5/31/18 - 5/31/18	\$3,000.00	Yes	Yes
Daly Movers, Inc.	Moving and Storage Services	8/1/18 - 7/31/19	\$12,400.00	Yes	Yes
Data Controls	Printing Services	9/24/18 - 6/28/19	\$4,687.80	Yes	Yes
Dewey Pest Control	Service/ Maintenance	10/5/18 - 10/31/18	\$2,400.00	Yes	Yes
DNS Solutions, Inc.	Service/ Maintenance	9/1/18 - 8/31/20	\$65,982.24	Yes	Yes
Easter Seals of Superior California	Service/ Maintenance	2/1/19- 1/31/21	\$26,340.00	Yes	Yes
Elavon, Inc.	Credit Card Services	7/1/18 - 6/30/19	\$227,780.88 8.00	Yes	Yes
Environmental Logistics, Inc.	Service/ Maintenance	4/1/19 - 3/31/22	\$23,636.00	Yes	Yes
Escue and Associates, Inc.	Modular Systems Furniture	9/1/18 - 8/31/20	\$641,373.96	Yes	Yes
Executive Heritage Janitorial Systems	Service/ Maintenance	1/1/19 - 12/31/20	\$16,080.00	Yes	Yes
Executive-Suite Services, Inc.	Service/ Maintenance	12/1/18 - 11/30/20	\$25,200.00	Yes	Yes
Spic and Span Janitorial Services	Service/ Maintenance	1/1/19 - 12/31/20	\$47,419.20	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
USA Waste of California, Inc. dba Waste Management of El Cajon - San Diego	Service/ Maintenance	10/1/18 - 9/30/21	\$13,248.00	Yes	Yes
Wildscape Restoration, Inc.	Service/ Maintenance	10/1/18 - 9/30/20	\$18,499.20	Yes	Yes
Wind Dance Moving Company	Service/ Maintenance	10/1/18 - 6/30/19	\$212,815.00	Yes	Yes

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

The total dollar amount of all the PSC's reviewed was \$182,747,241.71. It was beyond the scope of the review to make conclusions as to whether DMV justifications for the contract were legally sufficient. For all PSC's reviewed, the DMV 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, DMV complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the DMV PSC's complied with civil service laws and board rules.

#### **Mandated Training**

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the

CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & 19995.4, subd. (b).)

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

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a 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 DMV's mandated training program that was in effect during the compliance review period, February 1, 2017, through January 31, 2019.

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

**Summary:** The DMV did not provide ethics training to 5 of 1,305 existing filers. In addition, the DMV did not provide ethics training to 42 of 337 new filers within 6 months of their appointment.

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

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

**Cause:** The DMV partially agrees with the finding that states, “The DMV did not provide ethics training to 5 of 1,305 existing filers.” One of the five records shows the employee was appointed to their Conflict of Interest (COI) position effective October 31, 2018, and completed the training on January 15, 2019, well within 6 months of the appointment to the position. Prior to this appointment, the employee was not in a COI position. This brings the finding to four.

Additionally, DMV disagrees with the finding that states, “...the DMV did not provide ethics training to 42 of the 337 new filers within 6 months of their appointment.” 4 of the 42 positions were not designated as COI positions during the 2017/2018 Annual Conflict of Interest Position Review, which concluded in December 2018.

**Corrective Action:** The CRU used data furnished by DMV, which included the names of the employees whom DMV had identified as new or existing ethics filers as of the onset of the review. After the final draft report was provided to DMV for its review and comment, DMV revised its data. CRU had closed the audit portion of the review when DMV provided the revised data; thus, the finding will stand. DMV’s revised numbers do not mitigate the fact that ethics training was not provided as required by law to all ethics filers.

Within 60 days of this report, the DMV must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3, subdivision (b). Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.



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

- Summary:** The DMV did not provide basic supervisory training to 3 of 89 new supervisors within 12 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:** The DMV currently tracks completion of the mandated training manually. The current process places the responsibility on the employees' direct supervisor or manager to ensure enrollment and completion of training, which resulted in a lack of compliance. DMV recently purchased a Learning Management System (LMS) to facilitate improved training compliance.
- Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors are provided supervisory training within twelve months of appointment. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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

- Summary:** The DMV did not provide sexual harassment prevention training to 103 of 171 new supervisors within 6 months of their appointment. In addition, the DMV did not provide sexual harassment prevention training to 54 of 1,342 existing supervisors every 2 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:** The DMV agrees that training new and existing supervisors on sexual harassment prevention training within the mandated timeframe is critical. DMV's current process places the responsibility on the employees' direct supervisor or manager to ensure enrollment and completion of training upon an employee returning from a leave of absence, which resulted in a lack of compliance. DMV recently purchased a LMS to facilitate improved training compliance.

**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that supervisors are provided sexual harassment prevention training within the time periods prescribed. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>7</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, September 1, 2018, through February 1, 2019, the DMV made 1,451 appointments. The CRU reviewed 26 of those appointments to determine if the DMV applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	\$6,232
Assistant Division Chief/ Program Manager Department of Motor Vehicles	Certification List	Permanent	Full Time	\$8,694
Associate Business Management Analyst	Certification List	Permanent	Full Time	\$4,975
Driver Safety Manager I	Certification List	Permanent	Full Time	\$6,409
Information Technology Manager II	Certification List	Permanent	Full Time	\$10,378
Information Technology Specialist I	Certification List	Permanent	Full Time	\$5,758
Investigator	Certification List	Permanent	Full Time	\$7,462
Management Services Technician	Certification List	Permanent	Full Time	\$3,990
Manager I, Department of Motor Vehicles	Certification List	Permanent	Full Time	\$4,430
Manager III, Department of Motor Vehicles	Certification List	Permanent	Full Time	\$6,026
Manager III, Department of Motor Vehicles	Certification List	Permanent	Full Time	\$5,512
Manager IV, Department of Motor Vehicles	Certification List	Limited Term	Full Time	\$6,057

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Motor Vehicle Representative	Certification List	Permanent	Intermittent	\$2,773
Office Services Manager I	Certification List	Permanent	Full Time	\$4,754
Personnel Specialist	Certification List	Permanent	Full Time	\$3,016
Special Investigator Assistant	Certification List	Permanent	Full Time	\$3,329
Staff Services Analyst	Certification List	Permanent	Full Time	\$4,091
Supervising Investigator I, Department of Motor Vehicles	Certification List	Permanent	Full Time	\$7,835
Training Officer II	Certification List	Permanent	Full Time	\$6,351
Manager II, Department of Motor Vehicles	Certification List	Permanent	Full Time	\$5,226
Associate Governmental Program Analyst	Reinstatement	Permanent	Full Time	\$4,975
Licensing-Registration Examiner, Department of Motor Vehicles	Reinstatement	Permanent	Intermittent	\$3,612
Driver Safety Hearing Officer	Transfer	Permanent	Full Time	\$4,521
Inspector, Department of Motor Vehicles	Transfer	Permanent	Full Time	\$4,623
Senior Motor Vehicle Technician	Transfer	Permanent	Full Time	\$4,492
Staff Services Analyst	Transfer	Permanent	Full Time	\$3,539

**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 DMV's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
1. Information Technology Specialist I	Employee was placed in the incorrect alternate range upon appointment. This resulted in the employee being immediately placed in the higher range without salary rule considerations.	Cal. Code Regs., tit. 2, § 599.675
2. Management Services Technician	Employee was entitled to an accelerated Merit Salary Adjustment and was undercompensated.	Cal. Code Regs., tit. 2, § 599.683, subd. (b)

**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. The DMV failed to comply, in several circumstances, with 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:** The DMV acknowledges that the salary determination findings were due to a processing error by Personnel Transactions staff. The errors have subsequently been corrected.

**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The DMV must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

#### Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move

between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, September 1, 2018, through February 1, 2019, the DMV employees made 313 alternate range movements within a classification. The CRU reviewed 35 of those alternate range movements to determine if the DMV 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)
Driver Safety Hearing Office	Range C	Range D	Full Time	\$5,585
Information Technology Specialist I	Range B	Range C	Full Time	\$6,179
Information Technology Specialist I	Range A	Range C	Full Time	\$6,179
Motor Vehicle Assistant	Range A	Range B	Full Time	\$2,885
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057
Motor Vehicle Representative	Range B	Range C	Full Time	\$3,371
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057
Motor Vehicle Representative	Range B	Range C	Full Time	\$3,911
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Motor Vehicle Representative	Range A	Range B	Full Time	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Motor Vehicle Representative	Range A	Range B	Intermittent	\$3,057
Personnel Specialist	Range A	Range B	Full Time	\$3,468
Personnel Specialist	Range C	Range D	Full Time	\$4,721
Personnel Specialist	Range A	Range B	Full Time	\$3,468
Personnel Specialist	Range A	Range B	Full Time	\$3,468
Staff Services Management Auditor	Range A	Range B	Full Time	\$3,688
Staff Services Management Auditor	Range A	Range B	Full Time	\$3,688

**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 DMV's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
1. Information Technology Specialist I	The employee should have been initially placed in Range A via A01, following a 335 to place the employee into the correct range, C.	Cal. Code Regs., tit. 2, § 599.675
2. Motor Vehicle Representative	Incorrect 335 effective date	Alternate Range Criteria #243
3. Motor Vehicle Representative	Incorrect 335 effective date	Alternate Range Criteria #243
4. Motor Vehicle Representative	Incorrect 335 effective date	Alternate Range Criteria #243
5. Motor Vehicle Representative	Incorrect salary determination	Cal. Code Regs., tit. 2, § 599.674, subd. (b)
6. Motor Vehicle Representative	Incorrect anniversary date which resulted in the employee receiving the alternate range incorrectly.	Cal. Code Regs., tit. 2, § 599.683, subd. (a) Cal. Code Regs., tit. 2, § 599.674, subd. (b)

**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. The DMV failed to comply, in six circumstances, with the state civil service pay plan, by incorrectly applying compensation laws and rules not in accordance with CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate pay amounts.

**Cause:** The DMV acknowledges that the alternate range determination findings were due to a processing error by Personnel Transactions staff. The errors have subsequently been corrected, and accounts receivable have been established for impacted employees.



**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The DMV must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

#### Hiring Above Minimum Requests

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

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

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum

of understanding shall be controlling without further legislative action.<sup>8</sup> (Gov. Code § 19836 subd. (b).)

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

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

During the period under review, September 1, 2018, through February 1, 2019, the DMV authorized two HAM requests. The CRU reviewed both of those authorized HAM requests to determine if the DMV correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Information Technology Specialist I	Certification List	New to State	\$6,179-\$8,280	\$8,280
Investigator	Certification List	New to State	\$5,789-\$7,462	\$7,462

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<sup>8</sup> Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

**FINDING NO. 12 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

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

**Bilingual Pay**

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

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

During the period under review, September 1, 2018, through February 1, 2019, the DMV issued bilingual pay to 1,233 employees. The CRU reviewed 47 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base
Control Cashier I (Motor Vehicle Services), Department of Motor Vehicles	R04	Full-Time
Control Cashier II (Motor Vehicle Services), Department of Motor Vehicles	R04	Full-Time
Control Cashier II (Motor Vehicle Services), Department of Motor Vehicles	R04	Full-Time
Information Technology Specialist I	R01	Full-Time
Information Technology Specialist II	R01	Full-Time
Investigator	R07	Full-Time
Investigator	R07	Full-Time
Licensing-Registration Examiner, Department of Motor Vehicles	R04	Full-Time

Classification	Bargaining Unit	Time Base
Licensing-Registration Examiner, Department of Motor Vehicles	R04	Full-Time
Licensing-Registration Examiner, Department of Motor Vehicles	R07	Full-Time
Licensing-Registration Examiner, Department of Motor Vehicles	R07	Full-Time
Licensing-Registration Examiner, Department of Motor Vehicles	R07	Full-Time
Licensing-Registration Examiner, Department of Motor Vehicles	R07	Full-Time
Licensing-Registration Examiner, Department of Motor Vehicles	R07	Full-Time
Licensing-Registration Examiner, Department of Motor Vehicles	R07	Full-Time
Licensing-Registration Examiner, Department of Motor Vehicles	R07	Full-Time
Licensing-Registration Examiner, Department of Motor Vehicles	R07	Full-Time
Management Services Technician	R01	Full-Time
Manager I, Department of Motor Vehicles	S01	Full-Time
Manager I Department of Motor Vehicles	S01	Full-Time
Manager II, Department of Motor Vehicles	S01	Full-Time
Manager III, Department of Motor Vehicles	S01	Full-Time
Manager III, Department of Motor Vehicles	S01	Full-Time
Manager III, Department of Motor Vehicles	S01	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Full-Time
Motor Vehicle Representative	R04	Intermittent

Classification	Bargaining Unit	Time Base
Motor Vehicle Representative	R04	Intermittent
Motor Vehicle Representative	R04	Intermittent
Motor Vehicle Representative	R04	Intermittent
Motor Vehicle Representative	R05	Full-Time
Office Technician (Typing)	S01	Full-Time
Senior Motor Vehicle Technician	R04	Full-Time
Senior Motor Vehicle Technician	R04	Full-Time
Senior Motor Vehicle Technician	R04	Full-Time
Special Investigator Assistant	R07	Full-Time

**FINDING NO. 13 – 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.

### Pay Differentials

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

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

During the period under review, September 1, 2018, through February 1, 2019, the DMV issued pay differentials<sup>9</sup> to 868 employees. The CRU reviewed 55 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Executive Assistant	52	1.5 salary step
Investigator	245	3%
Investigator	173	\$200
Investigator	244	\$125
Investigator	244	\$125
Investigator	244	\$125
Investigator	244	\$125
Investigator	245	8%
Investigator	173	\$200
Investigator	173	\$200
Investigator	244	\$125
Investigator	173	\$200
Licensing-Registration Examiner, Department of Motor Vehicles	30	\$85
Licensing-Registration Examiner, Department of Motor Vehicles	30	\$85
Licensing-Registration Examiner, Department of Motor Vehicles	30	\$85
Licensing-Registration Examiner, Department of Motor Vehicles	30	\$85
Licensing-Registration Examiner, Department of Motor Vehicles	30	\$85
Licensing-Registration Examiner, Department of Motor Vehicles	30	\$85
Licensing-Registration Examiner, Department of Motor Vehicles	30	\$85
Licensing-Registration Examiner, Department of Motor Vehicles	30	\$85
Motor Vehicle Representative	403	\$100
Motor Vehicle Representative	403	\$100
Motor Vehicle Representative	403	\$100
Motor Vehicle Representative	403	\$100

<sup>9</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Motor Vehicle Representative	403	\$100
Motor Vehicle Representative	403	\$100
Motor Vehicle Representative	403	\$100
Motor Vehicle Representative	403	\$100
Motor Vehicle Representative	403	\$100
Senior Motor Vehicle Technician	403	\$100
Supervising Investigator I, Department of Motor Vehicles	245	8%
Supervising Investigator I, Department of Motor Vehicles	245	6%
Supervising Investigator I, Department of Motor Vehicles	244	\$125
Supervising Investigator I, Department of Motor Vehicles	245	6%
Supervising Investigator II, Department of Motor Vehicles	245	8%
Supervising Investigator II, Department of Motor Vehicles	245	8%

#### **FINDING NO. 14 – Incorrect Authorization of Pay Differentials**

**Summary:** The CRU found 6 errors in the 55 pay differentials reviewed:

Classification	Area	Description of Finding(s)	Criteria
Licensing- Registration Examiner, Department of Motor Vehicles	Commercial Drivers	Missing documentation to support the employee is conducting Commercial Drivers License (CDL) driving tests for an average of 25% (average of 300 per fiscal year) certified by management.	Pay Differential 30
Licensing- Registration Examiner, Department of Motor Vehicles	Commercial Drivers	Missing documentation to support the employee is conducting CDL driving tests for an average of 25% (average of 300 per fiscal year) certified by management.	Pay Differential 30
Licensing- Registration Examiner, Department of Motor Vehicles	Commercial Drivers	Missing documentation to support the employee is conducting CDL driving tests for an average of 25% (average of 300 per fiscal year) certified by management.	Pay Differential 30

Classification	Area	Description of Finding(s)	Criteria
Licensing-Registration Examiner, Department of Motor Vehicles	Commercial Drivers	Missing documentation to support the employee is conducting CDL driving tests for an average of 25% (average of 300 per fiscal year) certified by management.	Pay Differential 30
Licensing-Registration Examiner, Department of Motor Vehicles	Commercial Drivers	Missing documentation to support the employee is conducting CDL driving tests for an average of 25% (average of 300 per fiscal year) certified by management.	Pay Differential 30
Supervising Investigator II, Department of Motor Vehicles	Educational Pay	Missing copy of transcripts to substantiate the educational differential.	Pay Differential 244

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

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

**Cause:** The DMV acknowledges that tracking procedures did not comply with the pay differential requirements. Additionally, the DMV acknowledges the missing copy of transcripts to substantiate the educational differential for one of the records reviewed.

**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 30 and 244 and ensure that employees are



compensated correctly and that transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### Out-of-Class Assignments and Pay

For excluded<sup>10</sup> and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

During the period under review, September 1, 2018, through February 1, 2019, the DMV issued OOC pay to 18 employees. The CRU reviewed 10 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Information Technology Supervisor II	S01	CEA B	8/31/18-9/28/18

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<sup>10</sup> “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
Investigator	R07	Supervising Investigator I, Department of Motor Vehicles	8/31/18-9/28/18
Manager IV, Department of Motor Vehicles	S01	Manager V, Department of Motor Vehicles	1/2/19-1/30/19
Office Technician (Typing)	R04	Executive Assistant	8/31/18-09/14/18
Staff Services Manager I	S01	Staff Services Manager II (Supervisory)	9/1/18-11/16/18
Staff Services Manager II (Supervisory)	S01	Assistant Division Chief/ Program Manager Department of Motor Vehicles	12/31/18-1/30/19
Supervising Investigator I, Department of Motor Vehicles	S07	Supervising Investigator II, Department of Motor Vehicles	8/31/18-9/28/18
Supervising Investigator I, Department of Motor Vehicles	S07	Supervising Investigator II, Department of Motor Vehicles	10/1/2018-12/11/18
Supervising Investigator II, Department of Motor Vehicles	S07	Deputy Chief, Investigations and Enforcement, Department of Consumer Affairs	8/31/18-12/11/18
Supervising Investigator II, Department of Motor Vehicles	S07	Deputy Chief, Investigations and Enforcement, Department of Consumer Affairs	8/31/18-12/28/2018

#### **FINDING NO. 15 – Incorrect Authorization of Out-of-Class Pay**

**Summary:** The CRU found the two error(s) in the DMV's authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Finding(s)	Criteria
Investigator	Supervising Investigator I, Department of Motor Vehicles	Incorrect calculation of OOC pay.	Pay Differential 92
Staff Services Manager II (Supervisory)	Assistant Division Chief/ Program Manager Department of Motor Vehicles	Incorrect calculation of OOC pay.	Pay Differential 101

**Criteria:** Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in writing and the employee is given a copy of the assignment; and the duties performed by the employee are not described in a training and development assignment and further, taken as a whole, are fully consistent with the types of jobs described in the specification for the higher classification; and the employee does not perform such duties for more than 120 days in a fiscal year. (Cal. Code Regs., tit. 2, § 599.810, subd. (b)(1)(3)(4).)

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

**Severity:** Very Serious. The DMV failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil

service employees receiving incorrect and/or inappropriate compensation.

**Cause:** The DMV acknowledges the incorrect calculations for the OOC pay and determined that the error was a result of a processing error by the Personnel Transactions Staff. Corrective action has been taken, and accounts receivable have been established for overpayments.

**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 101 and 92. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **Leave**

### **Positive Paid Employees**

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days<sup>11</sup> worked and paid absences,<sup>12</sup> is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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<sup>11</sup> For example, two hours or ten hours counts as one day.

<sup>12</sup> For example, vacation, sick leave, compensating time off, etc.

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 DMV had 1,888 positive paid employees whose hours were tracked. The CRU reviewed 26 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	1,303.25 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	656 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	782.5 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,069.75 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	1,885.25 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,098 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,213 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	255.75 Hours

Classification	Tenure	Time Frame	Time Worked
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	1,905.5 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,181.25 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,340.25 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	1,923.5 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,032.25 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	266 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,185.5 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	1,047.5 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,300.25 Hours
Information Technology Specialist I	Retired Annuitant	07/01/18-06/30/19	818.5 Hours
Manager III, Department of Motor Vehicles	Retired Annuitant	07/01/18-06/30/19	530.5 Hours
Manager III, Department of Motor Vehicles	Retired Annuitant	07/01/18-06/30/19	945.35 Hours
Motor Vehicle Representative	Retired Annuitant	07/01/18-06/30/19	304.5 Hours
Motor Vehicle Representative	Retired Annuitant	07/01/18-06/30/19	960.03 Hours
Motor Vehicle Representative	Retired Annuitant	07/01/18-06/30/19	502.25 Hours
Motor Vehicle Representative	Retired Annuitant	07/01/18-06/30/19	924 Hours
Motor Vehicle Representative	Retired Annuitant	07/01/18-06/30/19	943 Hours
Motor Vehicle Representative	Temporary	08/10/18-08/09/19	163 Days

**FINDING NO. 16 – Department Did Not Properly Monitor Time Worked for All Positive Paid Employees**

**Summary:** The DMV did not consistently monitor the actual number of hours worked in order to ensure that positive paid employees did not

exceed the 1,500-hour limitation in any calendar year. Specifically, the following employees exceeded the 1,500-hour limitation<sup>13</sup>:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,069.75 Hours	569.75 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	1,885.25 Hours	385.25 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,098 Hours	598 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,213 Hours	713 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	1,905.5 Hours	405.5 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,181.25 Hours	681.25 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,340.25 Hours	840.25 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	1,923.5 Hours	423.5 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,032.25 Hours	532.25 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,185.5 Hours	685.5 Hours
Motor Vehicle Representative	Permanent	01/01/18-12/31/18	2,300.25 Hours	800.25 Hours

**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.

<sup>13</sup> None of the employees listed are in Bargaining Unit 6.

**Cause:** The DMV partially agrees with this finding. The DMV currently runs monthly reports to monitor the time worked for positive paid employees. There may be occasions when unexpected or temporary changes in workload or staffing require intermittent employment beyond the 1,500-hour limitation. In these situations, an exception may be requested. The DMV has been delegated authority to to approve exceptions to the 1,500-hour limitation, if it meets the exception requirements<sup>14</sup>. The written justification and approval is to be kept on file for audit purposes. Of the 11 employees identified, the DMV states it has exemption approvals for 4.

**Corrective Action:** The CRU acknowledges that the DMV has delegation to approve or deny exceptions to the 1,500-hour limitation. However, documentation for the four exceptions was not provided to the CRU. Therefore, the finding will stand. Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to better monitor positive paid employees, including retaining documentation for any exceptions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### 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, November 1, 2017, through October 31 2018, the DMV placed 2,903 employees on ATO. The CRU reviewed 44 of these ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

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<sup>14</sup> Pursuant to the Personnel Management Policy and Procedures Manual section 333.5, exceptions may be granted in instances where it may be more cost effective to extend a trained employee's maximum hours than to hire a new intermittent employee who will require training.



Classification	Time Frame	Amount of Time on ATO
Accounting Officer (Specialist)	9/27/2018	1 Hour
Associate Administrative Analyst Accounting Systems	9/5/2018	7 Hours
Associate Governmental Program Analyst	4/2/2018 – 06/12/18	24 days
Associate Information Systems Analyst	12/8/2017	2 Hours
Control Cashier II (Motor Vehicle Services), Department of Motor Vehicles	5/1/2018	7.75 Hours
Driving Safety Hiring Officer	1/30/2018	8 Hours
Executive Assistant	5/29/2018	4 Hours
Key Data Operator	2/14/2018 & 2/21/18	3.5 Hours
Licensing-Registration Examiner, Department of Motor Vehicles	6/8/2017 – 12/7/17	183 days
Manager I, Department of Motor Vehicles	12/14/2017	4 Hours
Motor Vehicle Representative	7/27/2018 – 7/30/18	16 Hours
Motor Vehicle Representative	9/19/2018 & 09/27/18	6.5 Hours
Motor Vehicle Representative	9/5/2018	2 Hours
Motor Vehicle Representative	2/13/2018	4.5 Hours
Motor Vehicle Representative	3/20/2018 & 03/30/18	3 Hours
Motor Vehicle Representative	3/8/2018 & 3/22/18	1.5 Hours
Motor Vehicle Representative	6/20/2018	1.75 Hours
Motor Vehicle Representative	12/5/2018 & 12/27/18	2.5 Hours
Motor Vehicle Representative	7/12/2018	8 Hours
Motor Vehicle Representative	12/12/2017	1.5 Hours
Motor Vehicle Representative	4/3/2018	1.5 Hours

Classification	Time Frame	Amount of Time on ATO
Motor Vehicle Representative	8/1/2017 – 08/30/17	176 Hours
Motor Vehicle Representative	7/12/2018	7.75 Hours
Motor Vehicle Representative	6/20/2018	3 Hours
Motor Vehicle Representative	7/23/2018	2.25 Hours
Motor Vehicle Representative	8/8/2018	2.75 Hours
Motor Vehicle Representative	4/24/2018	2 Hours
Motor Vehicle Representative	7/2/2018 – 07/12/18	64 Hours
Motor Vehicle Representative	3/16/2018	3 Hours
Motor Vehicle Representative	7/30/2018 – 7/31/18	16 Hours
Personnel Specialist	6/5/2018	9 Hours
Research Data Specialist I	9/25/2018	3.5 Hours
Senior Motor Vehicle Representative	9/19/2018	5.5 Hours
Senior Motor Vehicle Technician	3/19/2018	2.25 Hours
Senior Motor Vehicle Technician	11/8/2017	.75 Hour
Staff Services Analyst	9/19/2018	3 Hours
Staff Services Analyst	9/19/2018	1.5 Hours
Supervising Inspector	4/25/2018	2 Hours
Supervising Inspector	6/15/2018 – 6/27/18	67.5 Hours
Supervising Investigator Assistant	5/21/2018 – 05/22/18	4.5 Hours
Systems Software Specialist I (Technical)	11/14/2017 – 12/14/17	168 Hours
Training Officer I	10/10/2018	6 Hours
Training Officer I	12/4/2017	1.75 Hours

Classification	Time Frame	Amount of Time on ATO
Webfed Offset Press Operator I	11/16/2018	0.5 Hours

**FINDING NO. 17 – 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 DMV 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, October 1, 2018, through December 31, 2018, the DMV reported 8,308 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
October 2018	001	5	5	0
October 2018	015	11	11	0

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
October 2018	038	7	7	0
November 2018	461	15	15	0
November 2018	523	35	35	0
November 2018	567	28	23	5

**FINDING NO. 18 – Department Did Not Retain Employee Time and Attendance Records**

**Summary:** The DMV did not retain 5 of 101 timesheets from the November 2018 pay period.

**Criteria:** Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Such records shall be kept in the form and manner prescribed by the Department of Finance in connection with its powers to devise, install and supervise a modern and complete accounting system for state agencies. (*Ibid.*)

**Severity:** Serious. The DMV failed to retain employee time and attendance records for each employee. Therefore, the department was unable to reconcile timesheets against their leave accounting system at the conclusion of the pay period, which could have affected employee leave accruals and compensation.

**Cause:** The DMV acknowledges that 5 of the 101 timesheets were not located. The DMV understands the importance of accurate time and attendance records for all employees and outlines time and attendance reporting requirements and responsibilities in the DMV Personnel Manual.

**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with California Code of Regulations, title 2, section 599.665. Copies of relevant documentation demonstrating that the

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

**FINDING NO. 19 – Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input Is Keyed Accurately and Timely**

**Summary:** The DMV failed to provide Leave Activity and Certification forms for all six units reviewed during the October and November 2018 pay periods.

**Criteria:** Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Departments are directed to create an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

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

**Cause:** The DMV acknowledges the Leave Activity and Correction Certification forms were not completed for the six units reviewed, and has determined this was due to a processing error by Personnel Transactions staff.

**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with California Code of Regulations, title 2, section 599.665. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## 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."<sup>15</sup> (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 amount<sup>16</sup> as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation, 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 January 2019, 407 DMV employees exceeded the established limits of vacation or annual leave. The CRU reviewed 60 of those employees' leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

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<sup>15</sup> For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 6 there is no established limit and for Bargaining Unit 5 the established limit is 816 hours.

<sup>16</sup> Excluded employees shall not accumulate more than 80 days.

Classification	Total Hours Over Established Limit	Leave Reduction Plan Provided
Accounting Officer (Specialist)	125	No
Accounting Technician	392.75	No
Assistant Division Chief/Program Manager Department of Motor Vehicles	179.75	No
Assistant Division Chief/Program Manager Department of Motor Vehicles	1138.25	No
Associate Construction Analyst	391	No
Associate Governmental Program Analyst	123.5	No
CEA	247	No
CEA	670	No
CEA	697	No
CEA	189.25	No
Deputy Chief, Investigations and Enforcement, Department of Consumer Affairs	1150	No
Deputy Director and Chief Counsel	1159.5	No
Driver Safety Manager II	378	No
Driver Safety Manager III	132.25	No
Information Technology Manager I	1684.75	No
Information Technology Manager I	1455.25	No
Information Technology Manager II	136	No
Information Technology Specialist I	435.25	No
Information Technology Specialist I	695.75	No
Information Technology Specialist I	399.25	No
Information Technology Specialist I	1052	No
Information Technology Specialist I	699	No
Information Technology Specialist I	134.5	No
Information Technology Specialist II	127	No
Information Technology Specialist II	191.5	No
Information Technology Specialist II	1613	No
Information Technology Supervisor II	123	No
Investigator	132.25	No
Investigator	411.5	No
Investigator	689.5	No
Investigator	378	No
Licensing-Registration Examiner, Department of Motor Vehicles	76.75	No
Management Services Technician	191	No
Manager I, Department of Motor Vehicles	695.25	No
Manager I, Department of Motor Vehicles	97.5	No

Classification	Total Hours Over Established Limit	Leave Reduction Plan Provided
Manager I, Department of Motor Vehicles	187.25	No
Manager I, Department of Motor Vehicles	554.75	No
Manager II, Department of Motor Vehicles	180.5	No
Manager II, Department of Motor Vehicles	795	No
Manager III, Department of Motor Vehicles	401.5	No
Manager III, Department of Motor Vehicles	2234	No
Manager III, Department of Motor Vehicles	227.5	No
Manager III, Department of Motor Vehicles	137.75	No
Manager IV, Department of Motor Vehicles	128	No
Manager IV, Department of Motor Vehicles	1117	No
Manager IV, Department of Motor Vehicles	63.25	No
Manager IV, Department of Motor Vehicles	127.5	No
Manager V, Department of Motor Vehicles	898	No
Manager V, Department of Motor Vehicles	1693.25	No
Motor Vehicle Representative	191.5	No
Personnel Supervisor I	1133.75	No
Regional Construction and Maintenance Superintendent, Department of Motor Vehicles	386.5	No
Senior Accounting Officer (Specialist)	361.5	No
Senior Management Auditor	310.5	No
Staff Services Manager I	185.75	No
Staff Services Manager I	176.5	No
Staff Services Manager I	138.5	No
Supervising Investigator II, Department of Motor Vehicles	482.25	No
Supervising Investigator II, Department of Motor Vehicles	189	No
Training Officer II	184.75	No
Total	30,877	

**FINDING NO. 20 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits**

**Summary:** The DMV did not provide leave reduction plans for all 60 employees reviewed whose leave balances significantly exceeded established limits. Additionally, DMV did not provide a general departmental policy addressing leave reduction.



- 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 Online Manual Section 2124.) Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the organization and monitor employees' leave to ensure compliance with the departmental leave policy. Employees who have significant "over-the-cap" leave balances must have a leave reduction plan in place and be actively reducing hours. (*Ibid.*)
- Severity:** Non-Serious or Technical. California state employees have accumulated significant leave hours creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.
- Cause:** The DMV acknowledges that leave reduction plans were not in place at the time of the compliance review. Effective July 31, 2019, the Department implemented a Leave Management Policy and Plan in an effort to comply with vacation/annual leave accumulation limits and has incorporated the policy into the DMV's Personnel Manual.
- Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### 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.<sup>17</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs. tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs. tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>18</sup> shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, September 1, 2018, through February 1, 2019, the DMV had 146 employees with non-qualifying pay period transactions. The CRU reviewed 15 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Number Reviewed
Non-qualifying	15

<sup>17</sup> 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.

<sup>18</sup> 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. 21 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU determined that the DMV ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

**Policy and Processes**

**Nepotism**

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) In addition, there may be personal relationships beyond this general definition that could be subject to these policies. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

**FINDING NO. 22 – 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 DMV's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the DMV'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 DMV did not employ volunteers during the compliance review period.

**FINDING NO. 23 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU verified that the DMV provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRU verified that when the DMV 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 134 permanent DMV 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 II	12/14/2018

Classification	Date Performance Appraisals Due
Accounting Officer (Specialist)	6/21/2018
Assistant Chief Counsel	2/3/2018
Assistant Division Chief/Program Manager Department of Motor Vehicles	5/31/2018
Associate Accounting Analyst	4/25/2018
Associate Accounting Analyst	1/31/2018
Associate Administrative Analyst Accounting Systems	11/9/2018
Associate Administrative Analyst Accounting Systems	3/15/2018
Associate Contract Analyst	1/29/2018
Associate Contract Analyst	12/14/2018
Associate Governmental Program Analyst	1/15/2018
Associate Governmental Program Analyst	4/25/2018
Associate Governmental Program Analyst	2/9/2018
Associate Governmental Program Analyst	10/31/2018
Associate Governmental Program Analyst	2/7/2018
Associate Governmental Program Analyst	7/6/2018
Associate Governmental Program Analyst	2/11/2018
Associate Governmental Program Analyst	9/21/2018
Associate Governmental Program Analyst	7/20/2018
Associate Management Auditor	4/2/2018
Associate Management Auditor	4/14/2018
Associate Management Auditor	7/31/2018
Associate Personnel Analyst	8/6/2018
Associate Space Planner	12/1/2018
Attorney	2/2/2018
Attorney III	2/28/2018
Control Cashier I (Motor Vehicle Services), Department of Motor Vehicles	1/27/2018
Control Cashier I (Motor Vehicle Services), Department of Motor Vehicles	12/1/2018
Control Cashier II (Motor Vehicle Services), Department of Motor Vehicles	1/2/2018
Control Cashier II (Motor Vehicle Services), Department of Motor Vehicles	6/12/2018
Custodian	11/7/2018
Custodian	3/31/2018

Classification	Date Performance Appraisals Due
Driver Safety Hearing Office	6/30/2018
Driver Safety Hearing Office	3/18/2018
Driver Safety Hearing Office	8/29/2018
Driver Safety Hearing Office	12/28/2018
Information Technology Associate	11/20/2018
Information Technology Associate	1/24/2018
Information Technology Manager I	11/23/2018
Information Technology Specialist I	8/25/2018
Information Technology Specialist I	4/15/2018
Information Technology Specialist I	7/31/2018
Information Technology Specialist I	11/26/2018
Information Technology Specialist II	2/1/2018
Information Technology Specialist II	4/5/2018
Information Technology Supervisor I	12/14/2018
Inspector, Department of Motor Vehicles	4/1/2018
Inspector, Department of Motor Vehicles	7/30/2018
Inspector, Department of Motor Vehicles	6/30/2018
Investigator	11/1/2018
Investigator	12/15/2018
Investigator	3/1/2018
Key Data Operator	7/17/2018
Key Data Operator	3/12/2018
Key Data Operator	10/21/2018
Key Data Operator	10/31/2018
Labor Relations Manager II	12/1/2018
Licensing-Registration Examiner, Department of Motor Vehicles	8/20/2018
Licensing-Registration Examiner, Department of Motor Vehicles	7/14/2018
Licensing-Registration Examiner, Department of Motor Vehicles	11/1/2018
Licensing-Registration Examiner, Department of Motor Vehicles	1/5/2018
Licensing-Registration Examiner, Department of Motor Vehicles	7/26/2018

Classification	Date Performance Appraisals Due
Licensing-Registration Examiner, Department of Motor Vehicles	6/1/2018
Licensing-Registration Examiner, Department of Motor Vehicles	5/27/2018
Licensing-Registration Examiner, Department of Motor Vehicles	11/10/2018
Mailing Machines Operator II	1/2/2018
Mailing Machines Operator II	8/2/2018
Mailing Machines Operator II	1/11/2018
Mailing Machines Operator II	9/1/2018
Management Services Technician	10/12/2018
Manager I, Department of Motor Vehicles	6/8/2018
Manager I, Department of Motor Vehicles	6/13/2018
Manager I, Department of Motor Vehicles	8/2/2018
Manager I, Department of Motor Vehicles	5/30/2018
Manager I, Department of Motor Vehicles	1/28/2018
Manager III, Department of Motor Vehicles	5/1/2018
Manager III, Department of Motor Vehicles	1/7/2018
Manager III, Department of Motor Vehicles	1/17/2018
Manager III, Department of Motor Vehicles	9/30/2018
Manager V, Department of Motor Vehicles	9/30/2018
Motor Vehicle Representative	1/19/2018
Motor Vehicle Representative	3/14/2018
Motor Vehicle Representative	6/2/2018
Motor Vehicle Representative	12/27/2018
Motor Vehicle Representative	8/23/2018
Motor Vehicle Representative	9/4/2018
Motor Vehicle Representative	4/12/2018
Motor Vehicle Representative	4/18/2018
Motor Vehicle Representative	8/29/2018
Motor Vehicle Representative	6/2/2018
Motor Vehicle Representative	9/1/2018
Motor Vehicle Representative	1/13/2018
Motor Vehicle Representative	5/7/2018
Motor Vehicle Representative	7/27/2018
Motor Vehicle Representative	3/22/2018

Classification	Date Performance Appraisals Due
Motor Vehicle Representative	10/6/2018
Motor Vehicle Representative	12/14/2018
Motor Vehicle Representative	10/25/2018
Motor Vehicle Representative	1/19/2018
Motor Vehicle Representative	7/6/2018
Motor Vehicle Representative	10/4/2018
Motor Vehicle Representative	7/20/2018
Motor Vehicle Representative	5/3/2018
Office Assistant (General)	9/19/2018
Office Assistant (General)	9/1/2018
Office Occupations Clerk	2/25/2018
Office Services Supervisor III (General)	5/31/2018
Office Technician (Typing)	7/27/2018
Office Technician (Typing)	9/1/2018
Personnel Specialist	5/12/2018
Personnel Specialist	5/31/2018
Research Data Specialist II	4/30/2018
Research Scientist III (Social/Behavioral Sciences)	10/31/2018
Senior Motor Vehicle Technician	8/21/2018
Senior Motor Vehicle Technician	2/27/2018
Senior Motor Vehicle Technician	8/9/2018
Senior Motor Vehicle Technician	9/1/2018
Senior Motor Vehicle Technician	12/16/2018
Senior Motor Vehicle Technician	2/29/18
Senior Motor Vehicle Technician	4/30/2018
Senior Motor Vehicle Technician	1/26/2018
Service Assistant (DMV Operations)	2/28/2018
Staff Services Analyst (General)	2/23/2018
Staff Services Analyst (General)	10/14/2018
Staff Services Analyst (General)	12/11/2018
Staff Services Manager I	11/14/2018
Staff Services Manager I	3/16/2018
Staff Services Manager I	1/16/2018
Staff Services Manager II Supervisory	1/30/2018
Staff Services Manager II Supervisory	5/25/2018



Classification	Date Performance Appraisals Due
Supervising Investigator II, Department of Motor Vehicles	5/1/2018
Training Officer I	7/12/2018
Training Officer I	1/3/2018
Training Officer I	7/1/2018

#### **FINDING NO. 24 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The DMV did not provide annual performance appraisals to 79 of 134 employees reviewed after the completion of the employee's probationary period.

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

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

**Cause:** The DMV acknowledges that not all performance appraisals were provided to all employees. The DMV is currently developing a standardized process to ensure managers and supervisors complete performance appraisals for their employees on an annual basis.

**Corrective Action:** Within 60 days of the date of this report, the DMV must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **DEPARTMENTAL RESPONSE**

The DMV's response is attached as Attachment 1.

## **SPB REPLY**

Based upon the DMV's written response, the DMV 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 MOTOR VEHICLES**

P.O. BOX 942890

SACRAMENTO, CA 94290-0001



February 14, 2020

Ms. Suzanne Ambrose  
Executive Officer  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

Dear Ms. Ambrose:

The Department of Motor Vehicles (DMV) appreciates the opportunity to respond to the State Personnel Board Compliance Review draft report. The DMV responses to the Board's findings are as follows:

Specific Findings with Responses**FINDING NO. 1 – Examinations Complied with Civil Service Laws and Board Rules**

The DMV is compliant, and no response is required.

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

The DMV is compliant, no response is required.

**FINDING NO. 3 – Unlawful Appointment**

**Cause:** The DMV acknowledges the Selection and Certification Unit (SCU) failed to properly process and request appropriate documentation for the Limited Examination Appointment Program (LEAP) appointment. Although the eligibility verification was properly processed on the correct LEAP eligibility record, the necessary appointment documentation for the LEAP hire was not requested from the program; hence, the employee was inappropriately hired into the wrong classification.

The DMV took corrective action to correct and appropriately reflect the LEAP appointee's employment history in the State Controller's Office (SCO) System on

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January 23, 2020. The DMV has implemented a monthly review of hires into the LEAP parallel classifications to ensure LEAP appointees are appropriately keyed.

**FINDING NO. 4 – Probationary Evaluations Were Not Provided For All Appointments Reviewed And Those That Were Reviewed Were Untimely**

**Cause:** The DMV acknowledges that of the 57 appointments reviewed eight probationary reports were missing and three were not completed timely. The DMV has a comprehensive personnel manual, which instructs managers and supervisors on the requirements of probationary reports. The DMV recognizes that managers and supervisors are responsible for providing timely probationary reports to their employees as the final stage of the selection process. The DMV will continue to instruct all supervisors and managers to complete the reports when they are due, as well as, explore options that will track and notify management of the timely completion of probationary reports.

**FINDING NO. 5 – Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules**

The DMV is compliant, and no response is required.

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

The DMV is compliant, and no response is required.

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

**Cause:** The DMV partially agrees with this finding. As stated in the report, "The DMV did not provide ethics training to five of 1,305 existing filers." The record shows that DMV provided email notifications to all filers. One of the five records shows the employee was appointed to their Conflict of Interest (COI) position effective October 31, 2018, and completed the training on January 15, 2019, well within six months of the appointment to the position. Prior to this appointment, the employee was not in a COI position. This brings the finding to four.

DMV disagrees with the finding that states, "DMV did not provide ethics training to 42 of the 337 new filers within six months of their appointment." Four of the 42 positions were not designated as COI positions during the 2017/2018 Annual Conflict of Interest Position Review, which concluded in December 2018. The DMV notifies all filers of their responsibility to complete the training by the due date and has a system in place for tracking and sending reminder notifications to designated employees and their management. The DMV is implementing changes to the

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reminder notification process, which will allow for earlier notification to employees reminding them of their responsibility to complete the training.

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

**Cause:** DMV agrees that three of 89 new supervisors were not provided a minimum of 80 hours of supervisory training within 12 months of appointment. DMV currently tracks completion of the mandated training manually. The current process places the responsibility on the employees' direct supervisor or manager to ensure enrollment and completion of training, which resulted in a lack of compliance. DMV has recently purchased a Learning Management System (LMS) to be implemented in the fall of 2020. The LMS includes an email notification system that will automatically notify new supervisors of the requirement to complete the mandated training. The LMS will track training progress, electronically store completion certificates, and allow ease of pulling reports to ensure compliance.

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

**Cause:** DMV agrees that training new and existing supervisors on Sexual Harassment Prevention Training within the mandated timeframe is critical. DMV recognizes the 103 new supervisors and 54 existing supervisors were not trained within the prescribed timeframe. Of the 103 new supervisors, three names were duplicated, and four could not be confirmed to have completed the training. The other 96 did complete the training after the 6-month timeframe. Of the 54 existing supervisors, seven could not be confirmed to have completed the training. The other 47 did complete the training, after the 6-month timeframe. The current process places the responsibility on the employees' direct supervisor or manager to ensure enrollment and completion of training upon an employee returning from a Leave of Absence, which may result in a lack of compliance. DMV acknowledges that a more efficient process will support compliance and will be implementing a LMS to aid in efficiently notifying supervisors and tracking completion of training.

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

**Cause:** The DMV agrees with this finding. The DMV acknowledges this was due to a processing error by Personnel Transactions staff. The DMV has taken corrective action and updated the employment Personnel Information Management System (PIMS) history on October 29, 2019, to reflect the accelerated anniversary date and issue appropriate pay adjustments. The DMV has taken corrective action and has updated the employment PIMS history on February 4, 2020, to place the employee in the correct alternate range upon appointment based on criteria Rule 599.676.

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The DMV has incorporated salary determination classes in the mandatory interdepartmental Personnel Specialist training program, and has implemented a secondary review process, in which the supervisor must review and approve salary determinations and alternate range placement prior to processing.

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

**Cause:** The DMV agrees with this finding. The DMV acknowledges this was due to a processing error by Personnel Transactions staff. The DMV has taken corrective action and updated the employment PIMS history to reflect the correct salary rates and employment history transactions. In addition, the DMV has requested difference due adjustments, and the establishment of Accounts Receivable for any overpayments due to impacted employees.

The DMV has incorporated salary determination classes in the mandatory interdepartmental Personnel Specialist training program, and has implemented a secondary review process, in which the supervisor must review and approve salary determinations and alternate range placement prior to processing.

**FINDING NO. 12 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The DMV is compliant, and no response is required.

**FINDING NO. 13 – Bilingual Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The DMV is compliant, and no response is required.

**FINDING NO. 14 – Incorrect Authorization of Pay Differentials**

**Cause:** The DMV agrees with this finding. The DMV acknowledges during the review period it was brought to our attention that our tracking procedures did not comply with the Pay Differential 30 – Commercial Drivers License Differential – Unit 07 requirements.

The DMV is in the process of developing a tracking system to ensure compliance with the 25% time requirement and annual certification by management. The DMV acknowledges the missing copy of transcripts to substantiate the educational differential for one of the records reviewed. The DMV is currently reviewing the process and updating procedures for receiving and maintaining the required substantiating documents, and will be conducting refresher training to Personnel Transactions staff.

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#### **FINDING NO. 15 – Incorrect Authorization of Out-of-Class Pay**

**Cause:** The DMV agrees with this finding. The DMV acknowledges the incorrect calculations for the Out-of-Class (OOC) Pay, and determined that the error was a result of a processing error by the Personnel Transactions staff. The DMV has taken corrective action and has requested the establishment of Accounts Receivable (A/R) for any overpayments made to employees.

The DMV is in the process of updating procedures, and will be conducting refresher training on OOC Pay.

#### **FINDING NO. 16 – Department Did not Properly Monitor Time Worked for All Positive Pay Employees**

**Cause:** The DMV partially agrees with this finding. The DMV currently runs monthly reports to monitor the time worked for positive paid employees. There may be occasions when unexpected or temporary changes in workload or staffing require intermittent employment beyond the 1,500-hour limitation. In these situations, an exception may be requested. CalHR has delegated authority to the Human Resources Branch (HRB) Chief to approve or deny exceptions to the 1,500-hour limitation if it meets the exception requirements. The written justification and HRB approval is kept on file for audit purposes. Of the 11 employees identified, the DMV has exemption approvals for four.

The DMV is currently reviewing the tracking process and revising procedures to ensure compliance and/or approval for exception is on file for all positive paid employees.

#### **FINDING NO. 17 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The DMV is compliant, and no response is required.

#### **FINDING NO. 18 – Department Did Not Retain Employee Time and Attendance Records**

**Cause:** The DMV acknowledges that five of the 101 Timecard Report (TCR)'s were not located in the HRB. The DMV understands the importance of accurate time and attendance records for all employees and outlines our time, and attendance reporting requirements and responsibilities in our Personnel Manual.

The DMV has provided training to Personnel Transactions staff on timekeeping audit procedures, and will continue to educate Personnel Attendance Coordinators (PAC) on the importance of submitting time and attendance records timely.

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Furthermore, the submission of over 9,711+ TCR's per month to HRB is a manual process. The DMV is evaluating options to move to a complete electronic system to establish a more efficient and compliant process.

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**FINDING NO 19 – Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is keyed Accurately and Timely**

**Cause:** The DMV agrees with the finding. The DMV has a monthly internal verification process to verify all leave input is keyed accurately and timely. The DMV acknowledges the Leave Activity and Correction Certification Forms were not completed for the six units reviewed, and has determined this was due to a processing error by Personnel Transactions staff.

The DMV has provided training to Personnel Transactions staff on the leave processes, and will continue to educate Personnel Attendance Coordinators on the importance of submitting the Leave Activity and Correction Certification forms timely.

**FINDING NO. 20 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits**

**Cause:** The DMV acknowledges Leave Reduction Plans were not in place at the time of the compliance review. Effective July 31, 2019, the Department implemented a Leave Management Policy and Plan in an effort to comply with vacation/annual leave accumulation limits and has incorporated the policy into the Department's Personnel Manual.

**FINIDNG NO. 21 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The DMV is compliant, and no response is required.

**FINDING NO. 22 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The DMV is compliant, and no response is required.

**FINDING NO. 23 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The DMV is compliant, and no response is required.



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## **FINDING NO. 24 -- Performance Appraisals Were not Provided to All Employees**

**Cause:** The DMV acknowledges not all Performance Appraisals were provided to all employees. The DMV is currently developing a standardized process to ensure managers and supervisors complete performance appraisals for all their employees on an annual basis.

## **CONCLUSION**

The DMV takes our compliance responsibilities very serious. We will continue to improve our processes to ensure the areas identified with deficiencies will improve and have strategies in place to ensure compliance with the established civil service laws, rules, regulations, and policies.

Currently, the Transactions Operations Unit is in the process of restructuring their teams to redirect seasoned Personnel Specialists to focus primarily on all temporary leave transactions and pay. The goal for full implementation is April 2020. In August 2019, management restructured the Transactions Support Unit to redirect team members to lead and oversee internal audit activities.

Thank you for the opportunity to discuss and respond to the draft compliance report. If you have any questions, please contact me, via email at [tina.campbell@dmv.ca.gov](mailto:tina.campbell@dmv.ca.gov) or by telephone at (916) 403-8206, or Dena Loui, Selection and Administrative Services Section Manager via email at [dena.loui@dmv.ca.gov](mailto:dena.loui@dmv.ca.gov) or by telephone (916) 403-8326.

Sincerely,



TINA CAMPBELL, Chief  
Human Resources Branch

cc: Robbie Crockett, Deputy Director, Administrative Services Division  
Gini Corbitt, Chief of Audits, Executive Division