



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF FINANCE

Compliance Review Unit
State Personnel Board
August 26, 2019

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

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

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Appointments	Unlawful Appointment
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Written Justification Was Not Provided for All Personal Services Contracts
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
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
Compensation and Pay	Red Circle Rate Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Area	Finding
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employee Hours Exceed Maximum Hourly Requirement
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Leave	715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Neptotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	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 DOF is a fiscal control agency with approximately 470 employees. The Director of Finance is appointed by the Governor and functions as the Governor’s chief fiscal policy advisor with emphasis on the financial integrity of the state. The Director sits as a member of the Governor’s cabinet and senior staff. DOF employees work on issues and programs that are of concern to the Governor, the Legislature, and the people of California.

Primary functions of the Department include the following:

- Establish appropriate fiscal and accounting policies to carry out the state's programs.
- Prepare, explain, and administer the state's annual financial plan (budget), which the Governor is required under the State Constitution to present by January 10 of each year.
- Analyze legislation which has a fiscal impact.
- Monitor/audit expenditures by state departments to ensure compliance with law, approved standards, and policies.
- Develop economic forecasts and revenue estimates.
- Develop population and enrollment estimates and projections.
- Review expenditures for information technology activities of state departments.
- Provide fiscal and accounting training, advice, and consulting services to state departments.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DOF's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if DOF 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 DOF'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 DOF provided, which included examination plans, examination bulletins, job analyses, and scoring results. The DOF did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the DOF'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 DOF 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,

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

correspondence, and probation reports. The DOF did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the DOF did not make any additional appointments during the compliance review period.

The DOF's appointments were also selected for review to ensure the DOF applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DOF 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, red circle rate requests, arduous pay, monthly pay differentials, and out-of-class assignments. During the compliance review period, the DOF did not issue or authorize bilingual pay, or arduous pay.

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

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

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

³If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

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

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

On June 24, 2019, an exit conference was held with the DOF to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DOF's written response on July 25, 2019, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by

the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, December 1, 2017 through August 31, 2018, the DOF conducted 11 examinations. The CRU reviewed six of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) B, Legislative Director	Open	Organizational Review Committee	12/22/17	8
CEA C, Program Budget Manager	Open	Organizational Review Committee	06/29/18	12
Executive Assistant	Promotional	Experience and Education ⁴	08/06/18	4
Financial Performance Evaluator I	Open	Written ⁵	12/27/17	5
Manager Financial Performance Evaluator	Promotional	Written ⁶ / Qualification Appraisal Panel ⁷	05/04/18	15
Supervising Administrative Analyst Accounting Systems	Promotional	Supplemental Application	05/30/18	9

⁴ In an education and experience examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

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

⁶ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

⁷ The Qualification Appraisal Panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

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

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

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250 (b).) Interviews shall be conducted using job-related criteria. (Ibid.) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250 (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (Ibid.) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250 (e).)

During the period under review, November 1, 2017 through July 31, 2018, the DOF made 88 appointments. The CRU reviewed 31 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Administrative Assistant II	Certification List	Permanent	Full Time	1
Business Service Officer I (Specialist)	Certification List	Permanent	Full Time	1
C.E.A.	Certification List	Career Executive Assignment	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Finance Budget Analyst	Certification List	Permanent	Full Time	1
Financial And Performance Evaluator I, Department Of Finance	Certification List	Permanent	Full Time	1
Financial And Performance Evaluator II, Department Of Finance	Certification List	Permanent	Full Time	1
Financial And Performance Evaluator III, Department Of Finance	Certification List	Permanent	Full Time	1
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Information Technology Specialist III	Certification List	Permanent	Full Time	1
Junior Staff Analyst (General)	Certification List	Permanent	Full Time	1
Manager-Financial And Performance Evaluator, Department Of Finance	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Principal Program Budget Analyst II	Certification List	Permanent	Full Time	1
Principal Program Budget Analyst III	Certification List	Permanent	Full Time	1
Research Analyst I - General	Certification List	Limited Term	Full Time	1
Research Analyst II (Demography)	Certification List	Permanent	Full Time	1
Research Program Specialist II	Certification List	Permanent	Full Time	1
Research Program Specialist II (Economics)	Certification List	Permanent	Full Time	1
Senior Administrative Analyst -Accounting Systems	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Supervisor-Financial And Performance Evaluator, Department Of Finance	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Financial And Performance Evaluator II, Department Of Finance	Training and Development	Permanent	Full Time	1
Associate Administrative Analyst Accounting Systems	Transfer	Permanent	Full Time	1
Attorney III	Transfer	PERS or STRS Annuitant	Intermittent	1
C.E.A.	Transfer	PERS or STRS Annuitant	Intermittent	1
Finance Budget Analyst	Transfer	Permanent	Full Time	1
Financial And Performance Evaluator I, Department Of Finance	Transfer	Permanent	Full Time	1
Principal Program Budget Analyst III	Transfer	Permanent	Full Time	1
Research Program Specialist II (Demography)	Transfer	PERS or STRS Annuitant	Intermittent	1

FINDING NO. 2 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The DOF did not provide 14 probationary reports of performance for seven of the 31 appointments reviewed by the CRU, as reflected in the table below.

Classification	Number of Appointments Missing Probation Reports	Total Number of Missing Probation Reports
Associate Administrative Analyst Accounting Systems	1	3
Principal Program Budget Analyst III	1	1
Business Service Officer I (Specialist)	1	3

Classification	Number of Appointments Missing Probation Reports	Total Number of Missing Probation Reports
Manager-Financial and Performance Evaluator Department of Finance	1	2
Staff Services Manager II	1	1
Administrative Assistant II	1	3
Senior Administrative Accounting Systems	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 DOF states, as the last step of the examination process, Finance recognizes the importance of the probationary period in determining if the appointment is a good match. Finance Human Resources (HR) staff notify all supervisors and managers when a probationary report needs to be completed; however, due to Finance's workload demands and the critical nature of the work performed not all probationary reports were completed in a timely manner.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DOF submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code sections 19171 and 19172.

FINDING NO. 3 – Unlawful Appointment

Summary: The DOF made one unlawful appointment during the compliance review period. Specifically, the candidate was hired via the certification list for Office Technician (Typing) who inappropriately took the exam three times within the same 12 months.

The unlawful appointment was referred to CalHR, which directed the DOF to conduct an unlawful appointment investigation. The appointment was confirmed as unlawful and voided upon conclusion of the investigation.

Criteria: California Code of Regulations, title 2, § 254 (Rule 254) mandates that each vacancy for a class in which the certification of eligibles is under Government Code §19057, the department shall fill a vacancy by eligible in the three highest names certified. Governmental Code section 19057 refers to promotional employment lists. Rule 254 additionally mandates that each vacancy for a class in which the certification of eligible is under Government Code §19057.1, 19057.2 and 19057.3, the department shall fill a vacancy by eligibles in the three highest ranks certified. Government Code § 19057.1, 19057.2 and 19057.3 refers to professional, scientific, administrative and management classifications. Applicants are required to review and certify their understanding of the Terms of Use Agreement (the

Agreement) in order to take the examination. By certifying their understanding they are in agreement with the following statement:

“I understand that I may take this exam only once every twelve (12) months. I hereby assert that I have not taken this exam within the last twelve (12) months under any other User I.D. and password, Social Security Number, or name. I understand that, if I retake this exam before the twelve (12) months are up, the new results will be inactivated, and that I will then have to wait another twelve (12) months to retake this exam. I understand that, by retaking this exam too early, once my eligibility expires, there may be a period of time that I am ineligible to apply for vacancies for this classification.”

Severity:

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

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. An unlawful appointment may not be voided if the effective date of the appointment is past one year, and both appointing power and employee have acted in good faith.

Cause:

The DOF states their hiring processes are established to ensure equitable administration of the civil service merit system. The unlawful appointment identified was initially assumed to have been a lawful appointment. When Finance HR staff looked up the applicant in the Exam Certification Online System (ECOS) to verify eligibility they had a score within the highest three ranks. Finance HR staff moved forward with the hire under the assumption that the applicant participated in the exam in a lawful manner and passed the application on to the hiring manager.

Action: Within 60 days of the Executive Officer’s approval of these findings and recommendations, the DOF must submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure the department will improve its hiring practices. Copies of any relevant documentation should be included with the plan.

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. 4 – 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 DOF EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Director of the DOF. In addition, the DOF has an established

DAC which reports to the Director on issues affecting persons with disabilities. The DOF also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities. Accordingly, the DOF EEO program complied with civil service laws and Board rules.

Personal Services Contracts

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

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

During the period under review, December 1, 2017 through August 31, 2018, the DOF had four PSC’s that were in effect. The CRU reviewed three of those listed below:

Vendor	Services	Contract Dates	Contract Amount
Red River Consulting Services Inc.	Consulting EBudget	07/01/18-06/30/19	\$650,000.00
Shaw Law Group PC	Legal	07/01/18-06/30/19	\$25,000.00
Shaw Law Group PC	Legal	08/22/18-10/01/18	\$10,500.00

FINDING NO. 5 – Written Justification Was Not Provided for All Personal Services Contracts

Summary: The DOF did not properly document the reasons why the following two contracts satisfied Government Code section 19130, subdivision (b).

Vendor	Services	Contract Dates	Contract Amount
Red River Consulting Services Inc.	Consulting EBudget	07/01/18-06/30/19	\$650,000.00
Shaw Law Group PC	Legal	08/22/18-10/01/18	\$10,500.00

Criteria: Whenever an agency executes a personal services contract under Government Code section 19130, subdivision (b), the agency shall document, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions specified in Government Code section 19130, subdivision (b). The agency shall maintain the written justification for the duration of the contract and any extensions of the contract or in accordance with the record retention requirements of section 26, whichever is longer. (Cal. Code Reg., tit. 2, § 547.60.)

Severity: Serious. Without properly documenting the reasons why a PSC satisfies one or more conditions specified in Government Code section 19130, the CRU could not substantiate that the department's PSC's complied with current procedural requirements.

Cause: The DOF states that before they enter into any personal services contract, Business Services (BS) staff verify that one or more specified conditions under Government Code section 19130 (b) exists. The two contracts identified satisfy subsection (3), which states, "The services contracted are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary knowledge, experience, and ability are not available through the civil service system." However, in these two cases, the DOF did not document with specificity and detailed factual information the reasons these contracts satisfy subsection (3).

Action: The DOF will submit to the CRU a written corrective action plan that ensures conformity with the requirements of the Government Code section 19130 no later than 60 days from the date of the SPB Executive Officer's approval of these findings and recommendations.

FINDING NO. 6 – Unions Were Not Notified of Personal Services Contracts

- Summary:** The DOF did not notify unions prior to entering into two of the three contracts reviewed.
- Criteria:** “The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted.” (Gov. Code, § 19132, subd. (b)(1).)
- Severity:** Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for work that their members could perform.
- Cause:** The DOF states the personal services contracts that were reviewed have been in place for up to 10 years. Finance interpreted this as an already existing contract rather than executing a new contract. Thus, Finance was operating under the assumption that it did not have to notify the unions of these personal services contracts.
- Action:** It is the contracting department’s responsibility to identify and notify any unions whose members could potentially perform the work to be contracted prior to executing the PSC. It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the DOF submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132 and AB 906. Copies of any relevant documentation should be included with the plan.

Mandated Training

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

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

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

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

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

FINDING NO. 7 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The DOF did not provide sexual harassment prevention training to three of six new supervisors within six months of their appointment. In addition, the DOF did not provide sexual harassment prevention training to two of 26 existing supervisors every two years.

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

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

Cause: The DOF states, in accordance with Government Code section 12950.1, DOF offers onsite mandatory sexual harassment training every two years. Additionally, Finance tracks new managerial and supervisory appointments and works with them to schedule sexual harassment training within six months of their appointment. Unfortunately, in the cases identified, Finance worked with the managers and supervisors to schedule the training; however, the training could not be attended by the incumbents due to unforeseen critical deadlines.

Action: The DOF must take appropriate steps to ensure that its supervisors are provided sexual harassment prevention training within the time periods prescribed. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the DOF must establish a plan to ensure compliance with sexual harassment training mandates and submit to the SPB a corrective action plan.

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 rate⁸ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, November 1, 2017 through July 31, 2018, the DOF made 88 appointments. The CRU reviewed 15 of those appointments to determine if the DOF applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Business Service Officer I (Specialist)	Certification List	Permanent	Full Time	\$4,490
Finance Budget Analyst	Certification List	Permanent	Full Time	\$4,306
Finance Budget Analyst	Certification List	Permanent	Full Time	\$4,306
Financial and Performance Evaluator I, Department of Finance	Certification List	Permanent	Full Time	\$3,480
Financial and Performance Evaluator III, Department of Finance	Certification List	Permanent	Full Time	\$7,147
Research Analyst II (Demography)	Certification List	Permanent	Full Time	\$5,380
Research Program Specialist II	Certification List	Permanent	Full Time	\$6,184
Staff Services Manager II	Certification List	Permanent	Full Time	\$7,421
Financial and Performance Evaluator II, Department of Finance	Certification List	Permanent	Full Time	\$5,497
Manager- Financial and Performance Evaluator, Department of Finance	Certification List	Permanent	Full Time	\$8,555
Office Technician (Typing)	Certification List	Permanent	Full Time	\$3,009
Finance Budget Analyst	Transfer	Permanent	Full Time	\$4,306

⁸ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Financial and Performance Evaluator I, Department of Finance	Transfer	Permanent	Full Time	\$6,240
Staff Administrative Analyst Accounting Systems	Transfer	Permanent	Full Time	\$6,592
Associate Administrative Analyst Accounting Systems	Transfer	Permanent	Full Time	\$6,290

FINDING NO. 8 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment

Summary: The CRU found the following error in the DOF’s determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Staff Administrative Analyst Accounting Systems	Employee should not have received a 5% increase when appointed to their new classification.	CCR tit. 2, § 599.674a

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. When moving to a class with the same salary range or a range not to exceed one step higher at the maximum, the employee may, as recommended by the appointing power, receive any rate in the salary range not to exceed the total of the range differential between the maximum salary rates. (California Code of Regulations, title 2, section 599.674a.)

Severity: Very Serious. The DOF failed to comply 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 DOF states their HR staff use a salary determination sheet that identifies the appropriate salary rule to apply to each appointment.

For the appointment noted in the compliance review, Finance staff properly identified which salary rule to apply; however, the staff member transposed two numbers in the determined salary and submitted the incorrect number to the payroll specialist.

Action: The DOF must take appropriate steps to ensure that employees are compensated correctly. It is therefore recommended that no later than 60 days after the SPB’s Executive Officer’s approval of these findings and recommendations, the DOF must establish an audit system to correct current compensation transactions well as future transactions.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, November 1, 2017 through August 31, 2018, the DOF made 26 alternate range movements within a classification⁹. The CRU reviewed eight of those alternate range movements to determine if the DOF applied salary regulations accurately and correctly processed employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Accounting Analyst	B	M	Full Time	\$4,123
Accounting Analyst	B	M	Full Time	\$4,123
Information Technology Specialist I	M	N	Full Time	\$6,906
Information Technology Specialist I	M	N	Full Time	\$7,844
Information Technology Specialist I	M	N	Full Time	\$7,844

⁹ 335 transactions.

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Information Technology Specialist I	M	N	Full Time	\$7,844
Information Technology Technician	L	N	Full Time	\$4,527
Junior Staff Analyst (General)	L	M	Full Time	\$3,312

FINDING NO. 9 – 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 DOF’s determination of employee compensation:

Classification	Description of Finding(s)	Criteria
1. Accounting Analyst	The employee’s anniversary date was incorrectly determined when keying employee’s alternate range change resulting in the employee receiving a merit salary adjustment seven months early.	599.683 & 599.674a
2. Accounting Analyst	The employee’s anniversary date was incorrectly determined when keying employee’s alternate range change resulting in the employee receiving a merit salary adjustment seven months early.	599.683 & 599.674a
3. Information Technology Technician	The employee’s salary was incorrectly determined when keying the alternate range change.	599.674b

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 DOF failed to comply, in three 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 DOF states their HR staff follow the guidelines set forth by CalHR when moving employees from one range to another. The DOF is an excluded organization, which makes routine range movement more complicated. The range movements identified in the compliance review that were incorrectly processed were calculated by an employee who was new to the DOF and did the calculations without submitting them for a peer review.

Action: The DOF must take appropriate steps to ensure that employees are compensated correctly. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the DOF must establish an audit system to correct current compensation transactions well as future transactions.

Hiring Above Minimum Requests

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

Persons with extraordinary qualifications should contribute to the work of the department significantly beyond that which other applicants offer. (*Ibid.*) Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique

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

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action.¹⁰ (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, November 1, 2017 through July 31, 2018, the DOF authorized 11 HAM requests. The CRU reviewed seven of those authorized HAM

¹⁰ 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.

requests to determine if the DOF 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)
Finance Budget Analyst	Certification List	New to State	\$4,306-\$5,389	\$5,389
Finance Budget Analyst	Certification List	New to State	\$4,306-\$5,389	\$4,306
Finance Budget Analyst	Certification List	Current State Employee	\$4,306-\$5,389	\$5,389
Junior Staff Analyst	Certification List	New to State	\$3,154-\$3,953	\$3,154
Principle Program Budget Analyst II	Certification List	New to State	\$7,972-\$9,053	\$8,790
Finance Budget Analyst	Certification List	New to State	\$5,175-\$6,482	\$5,434
Finance Budget Analyst	Transfer	Current State Employee	\$4,306-\$5,389	\$5,267

FINDING NO. 10 – 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 DOF made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Red Circle Rates

A red circle rate is a rate of pay authorized for an individual above the maximum salary for his or her class. (Gov. Code, § 19837.) Departments may authorize a red circle rate in the following circumstances: management initiated change¹¹, lessening of abilities¹²,

¹¹ Any major change in the type of classes, organizational structure, and/or staffing levels in a program.

¹² Refers to an employee who, after many years of satisfactory service, no longer possess the ability to perform the duties and responsibilities of his/her position.

downward reclassification,¹³ split-off,¹⁴ allocation standard changes,¹⁵ or changes in salary setting methods.¹⁶ (*Ibid.*)

If a salary reduction is the result of split-off, changes in allocation standards, changes in salary setting methods, or a downward reclassification initiated by SPB or CalHR staff determination, the affected employee may receive a red circle rate regardless of the employee's state service total. The employee may retain it until the maximum salary of his or her class equals or exceeds the red circle rate. (Classification and Pay Guide Section 260.)

If an employee is moved to a position in a lower class because of management-initiated changes, he or she may receive a red circle rate provided he or she has a minimum of ten years' state service¹⁷ and has performed the duties of the higher class satisfactorily¹⁸. The length of the red circle rate resulting from a management-initiated change is based on the affected employee's length of state service. The red circle rate ends when the maximum salary of the class equals or exceeds the red circle rate or at the expiration of eligibility. (*Ibid.*)

An employee whose position is blanketed into the state civil service from another public jurisdiction may receive a red circle rate regardless of the length of service in the other jurisdiction. (Cal. Code Regs., tit. 2, § 275.) The employee may retain the red circle rate until the maximum salary of the class to which the employee's position is allocated equals or exceeds the red circle rate.

Additionally, a red circle rate may be authorized for a former CEA appointee who is reinstating to a civil service classification, a CEA with no prior civil service in a promotional exam and is being appointed from a list without a break in service, or a CEA appointee who is being reduced to a lower CEA salary rate (Class and Pay Guide Section 440). An employee who has ten years of service, one year of which is under a career executive

¹³ Downward reclassification is when, as a result of SPB action or a DPA staff determination, an incumbent's position is moved to a lower class without the duties being changed.

¹⁴ Split off is when one class is split into two or more classes, one of which is at a lower salary level than the original class.

¹⁵ Allocation standards for two or more classes may change to the degree that a position originally allocated to one class may be reallocated to a class with a lower salary without a change in duties.

¹⁶ Revised valuation standards applied in setting the salary for a class may result in reducing the salary of a class.

¹⁷ As calculated by the State Service and Seniority Unit at CalHR. An employee with nine years' state service qualifies if the employee had been laid off or had been on a leave of absence for one or more years to reduce the effect of a layoff (CCR § 599.608).

¹⁸ The latter requirement is normally satisfied by the successful completion of a probationary period, unless there is compelling evidence to suggest otherwise.

assignment, shall receive a red circle rate in unless the termination was voluntary or based on unsatisfactory performance. (Cal. Code of Regs., tit. 2, § 599.993.) If the termination was voluntary and performance was satisfactory, a red circle rate is permissive. (*Ibid.*) This rate is based on the CEA salary rate received at the time of the termination. Government Code section 13332.05 limits the funding of the red circle rate to no more than 90 calendar days following termination of a CEA appointment.

As of April 1, 2005, departments have delegated authority to approve red circle rates for general civil service employees and CEA positions for up to 90 days. Current Bargaining Unit agreements also provide guidelines and rules on red circle rates that may supersede applicable laws, codes, rules and/or CalHR policies and guidelines.

During the period under review, November 1, 2017 through August 31, 2018, the DOF authorized one red circle request. The CRU reviewed the red circle request, listed below, to determine if the DOF correctly verified, approved and documented the red circle authorization process:

Classification	Prior Classification	Red Circle Rate	Reason for Red Circle Rate
Principal Program Budget Analyst III	CEA	\$2,064	Management Initiated Change

FINDING NO. 11 – Red Circle Rate Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found that the red circle rate request the DOF authorized 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, November 1, 2017 through August 31, 2018, the DOF issued pay differentials¹⁹ to 268 employees. The CRU reviewed 46 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Associate Administrative Analyst Accounting Systems	352	10%
Associate Administrative Analyst Accounting Systems	352	10%
Associate Administrative Analyst Accounting Systems	352	10%
Associate Administrative Analyst Accounting Systems	352	10%
Associate Administrative Analyst Accounting Systems	352	10%
C.E.A.	352	10%
C.E.A.	352	15%
Finance Budget Analyst	352	15%
Finance Budget Analyst	352	15%
Finance Budget Analyst	352	15%
Finance Budget Analyst	352	10%
Finance Budget Analyst	352	10%
Finance Budget Analyst	352	10%
Financial and Performance Evaluator I, Department of Finance	352	10%
Financial and Performance Evaluator I, Department of Finance	352	10%
Financial and Performance Evaluator I, Department of Finance	352	10%
Financial and Performance Evaluator I, Department of Finance	352	10%

¹⁹ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Financial and Performance Evaluator I, Department of Finance	352	10%
Financial and Performance Evaluator II, Department of Finance	352	10%
Financial and Performance Evaluator III, Department of Finance	352	10%
Information Technology Manager I	223	5%
Information Technology Manager I	223	5%
Information Technology Manager II	223	5%
Information Technology Supervisor II	223	5%
Junior Staff Analyst (General)	352	10%
Junior Staff Analyst (General)	352	10%
Manager-Financial and Performance Evaluator, Department of Finance	352	10%
Principal Program Budget Analyst II	352	15%
Principal Program Budget Analyst II	352	15%
Senior Administrative Analyst Accounting Systems	352	15%
Senior Administrative Analyst Accounting Systems	352	10%
Senior Administrative Analyst Accounting Systems	352	10%
Staff Administrative Analyst Accounting Systems	352	15%
Staff Administrative Analyst Accounting Systems	352	15%
Staff Administrative Analyst Accounting Systems	352	15%
Staff Administrative Analyst Accounting Systems	352	10%
Staff Administrative Analyst Accounting Systems	352	10%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	15%
Staff Finance Budget Analyst	352	10%
Supervising Administrative Analyst Accounting Systems	352	10%
Supervisor-Financial and Performance Evaluator, Department of Finance	352	10%
Supervisor-Financial and Performance Evaluator, Department of Finance	352	10%
Supervisor-Financial and Performance Evaluator, Department of Finance	352	10%

FINDING NO. 12 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the 46 pay differentials that the DOF authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments (OOC) and Pay

For excluded²⁰ 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 (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 (a)(3).)

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

During the period under review, November 1, 2017 through August 31, 2018, the DOF issued out-of-class pay²¹ to one employee. The CRU reviewed the out-of-class assignment to ensure compliance with applicable CalHR policies and guidelines listed below:

²⁰ “Excluded employee” means an employee as defined in section 3527(b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

²¹ Excluding bilingual and arduous pay.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Staff Finance Budget Analyst	E97	Principle Program Budget Analyst	03/05/18 - 07/31/18

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

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

Leave

Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days²² worked and paid absences, ²³ is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine

²² For example, two hours or ten hours counts as one day.

²³ For example, vacation, sick leave, compensating time off, etc.

calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded.²⁴ (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) without reinstatement, loss or interruption of benefits for all state employers.

At the time of the review, the DOF had seven employees who hours were tracked. The CRU reviewed all seven of those positive paid appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Base	Time Frame	Time Worked
Attorney III	Intermittent	07/01/17-06/31/18	22.5 Hours
CEA	Intermittent	07/01/17-06/31/18	962 Hours
Financial and Performance Evaluator	Intermittent	07/01/17-06/31/18	103 Hours
Research Analyst II	Intermittent	07/01/17-06/30/18	650 Hours
Senior Administrative Analyst Accounting Systems	Intermittent	02/14/18-06/30/18	319.75 Hours
Student Assistant	Intermittent	06/18/18-06/30/18	80 Hours
Student Assistant	Intermittent	07/01/17-06/30/18	994.75 Hours

FINDING NO. 14 – Positive Paid Employee Hours Exceed Maximum Hourly Requirement

Summary: The DOF did not monitor one of seven employees’ hours worked in order to ensure the employee did not exceed 960 hours in a fiscal

²⁴ “California Code of Regulation section 265.1 became effective July 1, 2017, and did not apply at the time of all of these appointments. The current regulation sets forth the method for counting time for temporary appointments. The cap under the current regulation is 189 days.

year. According to the timesheets and pay history documents provided by the DOF, this employee worked 962 hours in a fiscal year, which exceed the maximum by two hours.

Criteria: In accordance with the Human Resources Manual Section 1206, appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June) without reinstatement, loss or interruption of benefits.

Severity: Serious. Departments must audit positive paid employee's hours to ensure they follow established guidelines and CalHR policies.

Cause: The DOF states they monitor positive paid employees to ensure that Human Resources Manual section 1206 is adhered to. The DOF also serves in a critical role in California as the Governor's chief fiscal policy advisor. This requires DOF staff, including some positive paid employees, to work an extraordinary number of hours in the months of April, May, and June while working on enacting California's budget. Unavoidable workload and critical deadlines required one positive paid employee to exceed the 960 hour maximum by a total of two hours.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DOF submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure all positive paid employees' hours are tracked and processed in conformity with California Code of Regulations, title 2, section 265.1, subdivision (a).

Administrative Time Off

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

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

Classification	Time Frame	No. of Days/Hours on ATO
CEA (B)	11/13/17-12/4/17	14 d / 112 h
Financial and Performance Evaluator I	10/12/17-10/13/17	2 d / 17 h
Financial and Performance Evaluator II	10/12/17-10/13/17	2 d / 15 h
Financial and Performance Evaluator II	10/12/17-10/13/17	2 d / 16.5 h
Staff Finance Budget Analyst	10/10/17-10/11/17	2 d / 5 h

FINDING NO. 15 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the five employees placed on ATO during the compliance review period. The DOF provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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

During the period under review, March 1, 2018 through May 31, 2018, the DOF reported 38 units comprised of 403 active employees during the March 2018 pay period, 38 units

comprised of 377 active employees during the April 2018 pay period, and 38 units comprised of 406 active employees during the May 2018 pay period. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
March 2018	110	12	10	1
	150	14	13	1
	675	13	13	0
April 2018	110	12	10	1
	850	16	16	0
	914	14	14	0
May 2018	315	6	6	0
	911	11	11	0
	955	7	8	0

FINDING NO. 16 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The DOF failed to provide completed Leave Activity and Correction Certification forms for nine out of nine units reviewed during the March 2018 to May 2018 pay period.

Criteria: In accordance with California Code of Regulations, title 2, section 599.665, departments are responsible for maintaining accurate and timely leave accounting records for their employees. In an effort to ensure departmental compliance, CalHR mandates that departments’ audit processes include the comparison of “what has been recorded in the leave accounting system as accrued/earned or used by each employee to their attendance record for the pay period” (Human Resources Manual Section 2101.) CalHR also directs departments to identify and record all leave errors found using a Leave Activity and Correction Certification form. (*Ibid.*) Moreover, CalHR requires that departments certify that all leave records for the unit/pay period identified on the certification form have been reviewed regardless of whether errors were identified.

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

Cause: The DOF states, in accordance with CCR 559.665, they have a monthly internal audit process to ensure accurate and timely leave accounting records. This process includes reviewing and correcting leave input errors on a monthly basis. DOF did not use the Leave Activity and Correction Certifications (CalHR 139) to document this process. Moving forward, DOF will incorporate the use of the Cal HR 139 into its monthly internal audit process.

Action: The DOF must take appropriate steps to ensure that their monthly internal audit process was documented. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the DOF must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected.

Leave Reduction Efforts

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

Applicable Bargaining Unit (BU) Agreements and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, "the employee may accumulate the unused portion."²⁵ (Cal. Code Regs., tit. 2, § 599.737.) "If it appears an exempt employee will have a vacation or annual leave

²⁵ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and for bargaining unit 05 the established limit is 816 hours.

balance that will be above the maximum amount²⁶ as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

“It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation. (Cal. Code Regs., tit. 2, § 599.742.1.), ensuring employees maintain the capacity to optimally perform their jobs. For exempt employees, “the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work- life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2017, 80 DOF employees exceeded the established limits of vacation or annual leave. The CRU reviewed 36 of those employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Attorney IV	E 97	69.5	Yes
Attorney IV	E 97	152.75	Yes
CEA (A)	E 99	523	Yes
CEA (B)	E 99	140	No
CEA (B)	E 97	1,587	Yes
CEA (B)	E 99	238.25	Yes
CEA (B)	E 99	540	Yes
CEA (B)	E 99	557	Yes
CEA (C)	E 99	1,129.25	No
CEA (C)	E 99	670	Yes
Deputy Director, External Affairs	E 79	759	No
Finance Budget Analyst	E 97	240.25	Yes

²⁶ Excluded employees shall not accumulate more than 80 days.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Information Technology Manager II	E 99	1330	Yes
Information Technology Manager II	E 99	195.5	Yes
Information Technology Specialist I	E 97	591.5	Yes
Information Technology Specialist III	E 97	289	No
Information Technology Supervisor II	E 98	261	Yes
Manager, Financial and Performance Evaluator	E 99	1,484	Yes
Manager, Financial and Performance Evaluator	E 99	576.5	Yes
Principal Program Budget Analyst II	E 79	181	Yes
Principal Program Budget Analyst III	E 79	518	Yes
Principal Program Budget Analyst III	E 79	535.75	Yes
Principal Program Budget Analyst III	E 79	90.5	Yes
Principal Program Budget Analyst III	E 79	191.5	Yes
Principal Program Budget Analyst III	E 79	526.75	Yes
Research Data Specialist II	E 97	462.5	Yes
Senior Administrative Analyst Accounting Systems	E 48	625.5	Yes
Senior Administrative Analyst Accounting Systems	E 48	88.25	Yes
Staff Administrative Analyst Accounting Systems	E 48	470.75	Yes
Staff Administrative Analyst Accounting Systems	E 48	449	Yes

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Staff Finance Budget Analyst	E 97	86.3	Yes
Staff Finance Budget Analyst	E 97	157.5	Yes
Staff Finance Budget Analyst	E 97	573	Yes
Supervising Administrative Analyst Accounting Systems	M 01	510.5	Yes
Supervising Administrative Analyst Accounting Systems	M 01	209.75	Yes
Supervisor, Financial and Performance Evaluator	E 98	257.5	Yes
Total		17,267.55	

FINDING NO. 17 – Leave Reduction Plans Were not Provided to Employees Whose Leave Balances Exceeded Established Limits

Summary: Although the DOF has a leave reduction policy, the DOF did not provide leave reduction plans for three out of 36 employees reviewed whose leave balances significantly exceeded established limits.

Criteria: “It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. (*Ibid.*) 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: DOF states, in accordance with CalHR Manual section 2124, and in an effort to reduce the fiscal liability of staff accumulating significant leave balances, DOF HR annually notifies all employees that have leave balances "over the cap" that they must develop a leave reduction plan with their supervisor and submit it to HR. While this effort did reduce leave balances by about 15 percent, 3 of the 90 employees at DOF with leave balances "over the cap" did not submit a plan to DOF's HR office.

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

State Service

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

An employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.²⁷ (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, §

²⁷ Except as provided in sections 599.609 and 599.776.1(b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

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 employees²⁸ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, November 1, 2017 through July 31, 2018, the DOF had four employees with non-qualifying pay period 715 transactions²⁹. The CRU reviewed the four 715 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of 715 Transaction	Time base	Number Reviewed
Qualifying Leave Period	Full Time	2
Non Qualifying Leave Period	Full Time	2

FINDING NO. 18 – 715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU determined that the DOF 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

²⁸ As identified in Government Code sections 19858.3(a), 19858.3(b), or 19858.3(c) or as it applies to employees excluded from the definition of state employee under Government Code section 3513(c) or California Code of Regulations section 599.752 subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

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

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

FINDING NO. 19 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the DOF's nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the DOF's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. However, the policy last revision was in March 1986 and is missing updated information. The CRU recommends DOF to incorporate specific components as outline in the Human Resources Manual Section 1204.

Workers' Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880 subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code Section 4600. (Cal. Code Regs., tit. 8, § 9880 subd. (c)(7)(8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401 subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers' compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the

Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

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

After reviewing the DOF's workers' compensation process that was in effect during the compliance review period, the CRU determined their process was in compliance. The DOF did not have any workers' compensation claims filed during the review period; therefore, the CRU was unable to verify that notice to their employees to inform them of their rights and responsibilities under CA Workers' Compensation Law were provided in one day.

Performance Appraisals

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

The CRU selected 67 permanent DOF employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Administrative Assistant I	10/31/17
Associate Administrative Analyst Accounting System	09/19/17
Associate Business Management Analyst	10/19/17
Associate Governmental Program Analyst	02/02/17
Associate Governmental Program Analyst	11/04/17
Associate Personnel Analyst	01/01/17
Attorney III	08/16/17
Attorney IV	12/02/17
Business Service Officer I (Specialist)	03/01/17
Business Service Officer I (Specialist)	11/23/17

Classification	Date Performance Appraisals Due
Chief Counsel	08/01/17
Executive Assistant	8/2/2017
Executive Assistant	5/1/2017
Finance Budget Analyst	11/9/2017
Finance Budget Analyst	7/5/2017
Finance Budget Analyst	1/1/2017
Finance Budget Analyst	11/1/2017
Finance Budget Analyst	6/30/2017
Financial and Performance Evaluator I	7/31/2017
Financial and Performance Evaluator I	8/4/2017
Financial and Performance Evaluator I	7/31/2017
Financial and Performance Evaluator II	2/1/2017
Financial and Performance Evaluator II	10/1/2017
Financial and Performance Evaluator II	6/13/2017
Financial and Performance Evaluator III	7/1/2017
Financial and Performance Evaluator III	10/1/2017
Financial and Performance Evaluator III	6/1/2017
Information Technology Associate	9/1/2017
Information Technology Associate	2/1/2017
Information Technology Manager I	3/17/2017
Information Technology Manager I	7/6/2017
Information Technology Manager I	12/4/2017
Information Technology Manager II	5/1/2017
Information Technology Manager II	3/2/2017
Information Technology Specialist I	1/31/2017
Information Technology Specialist I	8/1/2017
Information Technology Specialist II	12/2/2017
Information Technology Supervisor II	4/1/2017
Information Technology Supervisor II	7/1/2017
Information Technology Technician	12/1/2017
Manager, Financial and Performance Evaluator	11/2/2017
Manager, Financial and Performance Evaluator	10/1/2017
Manager, Financial and Performance Evaluator	8/27/2017
Office Technician (Typing)	9/4/2017

Classification	Date Performance Appraisals Due
Personnel Specialist	4/22/2017
Principal Program Budget Analyst II	1/10/2017
Principal Program Budget Analyst II	11/1/2017
Principal Program Budget Analyst III	1/1/2017
Research Data Analyst I	7/30/2017
Research Data Specialist II	10/4/2017
Research Data Specialist II	1/1/2017
Research Data Specialist III	6/1/2017
Senior Administrative Analyst Accounting System	5/18/2017
Senior Administrative Analyst Accounting System	5/1/2017
Staff Administrative Analyst Accounting System	4/1/2017
Staff Administrative Analyst Accounting System	4/1/2017
Staff Administrative Analyst Accounting System	7/1/2017
Staff Finance Budget Analyst	2/22/2017
Staff Finance Budget Analyst	4/13/2017
Staff Finance Budget Analyst	5/1/2017
Staff Services Manager II (Managerial)	8/24/2017
Supervising Administrative Analyst Accounting System	7/8/2017
Supervising Administrative Analyst Accounting System	7/1/2017
Supervising Administrative Analyst Accounting System	7/1/2017
Supervisor, Financial and Performance Evaluator	7/1/2017
Supervisor, Financial and Performance Evaluator	7/1/2017
Supervisor, Financial and Performance Evaluator	11/30/2017

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

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

Summary: The DOF did not provide performance appraisals to 28 of 54 employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.

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

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 DOF states that they strive to provide performance appraisals to each employee in accordance with Government Code section 19992.2. Every July, DOF HR notifies supervisors and managers of all their employees that are due an annual performance report. The HR office tracks the submitted appraisals and sends managers and supervisors reminders. Despite reminders being sent, not all managers and supervisors completed the required appraisals due to work demands and competing priorities.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DOF submit to the SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of any relevant documentation should be included with the plan.

DEPARTMENTAL RESPONSE

The DOF's response is attached as Attachment 1.

SPB REPLY

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

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



August 16, 2019

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

Dear Ms. Ambrose:

On behalf of the Department of Finance (Finance), thank you for the opportunity to review the draft Compliance Review Report and for having your staff meet with my staff on June 24, 2019 to discuss the initial Findings. The following reflects Finance's response to the findings:

Finding No. 2 – Probationary Reports Were Not Provided for All Appointments Reviewed

Cause:

As the last step of the examination process, Finance recognizes the importance of the probationary period in determining if the appointment is a good match. Finance Human Resources (HR) staff notify all supervisors and managers when a probationary report needs to be completed; however, due to Finance's workload demands and the critical nature of the work performed not all probationary reports were completed in a timely manner.

Finding No. 3 – Unlawful Appointment

Cause:

Finance's hiring processes are established to ensure equitable administration of the civil service merit system. The unlawful appointment identified was initially assumed to have been a lawful appointment. When Finance HR staff looked up the applicant in the Exam Certification Online System (ECOS) to verify eligibility they had a score within the highest three ranks. Finance HR staff moved forward with the hire under the assumption that the applicant participated in the exam in a lawful manner and passed the application on to the hiring manager.

Finding No. 5 – Written Justification Was Not Provided for All Personal Services Contracts

Cause:

Before Finance enters into any personal services contract, Business Services (BS) staff verify that one or more specified conditions under Government Code section 19130 (b) exists. The two contracts identified satisfy subsection (3), which states "The contract does not cause the displacement of civil service employees. The term "displacement" includes layoff, demotion,

involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. Displacement does not include changes in shifts or days off, nor does it include reassignment to other positions within the same class and general location.” The services that are provided under the contract are specialized and cannot be provided by any other civil service classification.

Finding No. 6 – Unions Were Not Notified of Personal Services Contracts

Cause:

The personal services contracts that were reviewed have been in place for up to 10 years. Finance interpreted this as an already existing contract rather than executing a new contract. Thus, Finance was operating under the assumption that it did not have to notify the unions of these personal services contracts.

Finding No. 7 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Cause:

In accordance with Government Code section 12950.1 Finance offers onsite mandatory sexual harassment training every two years. Additionally Finance tracks new managerial and supervisory appointments and works with them to schedule sexual harassment training within six months of their appointment. Unfortunately in the cases identified, Finance worked with the managers and supervisors to schedule the training; however, the training could not be attended by the incumbents due to unforeseen critical deadlines.

Finding No. 8 – Incorrect Application of Salary Determinations Laws, Rules, and CalHR Policies and Guidelines for Appointment

Cause:

Finance HR staff use a salary determination sheet that identifies the appropriate California Code of Regulations (CCR) to apply to each appointment. For the appointment noted in the compliance review, Finance staff properly identified which CCR to apply; however, the staff member transposed two numbers in the determined salary and submitted the incorrect number to the payroll specialist.

Finding No. 9 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and /or CalHR Policies and Guidelines

Cause:

Finance HR staff follow the guidelines set forth by CalHR when moving employees from one range to another. Finance is an excluded organization, which makes routine range movement more complicated. The range movements identified in the compliance review that were incorrectly processed were calculated by an employee who was new to Finance and did the calculations without submitting them for a peer review.

Finding No. 14 – Positive Paid Employee Hours Exceed Maximum Hourly Requirement

Cause:

Finance monitors positive paid employees to ensure that Human Resources Manual section 1206 is adhered to. Finance also serves in a critical role in California as the Governor's chief fiscal policy advisor. This requires Finance staff, including some positive paid employees, to work an extraordinary number of hours in the months of April, May, and June while working on enacting California's budget. Unavoidable workload and critical deadlines required one positive paid employee to exceed the 960 hour maximum by a total of two hours.

Finding No. 16 – Leave Activity and Correction Certification Forms Were Not Completed for All Leave Records Reviewed

Cause:

In accordance with CCR 559.665 Finance has a monthly internal audit process to ensure accurate and timely leave accounting records. This process includes reviewing and correcting leave input errors on a monthly basis. Finance did not use the Leave Activity and Correction Certifications (CalHR 139) to document this process. Moving forward, Finance will incorporate the use of the CalHR 139 into its monthly internal audit process.

Finding No. 17 – Leave Reduction Plans Were not Provided to Employees Whose Leave Balances Exceeded Established Limits

In accordance with CalHR Manual section 2124, and in an effort to reduce the fiscal liability of staff accumulating significant leave balances, Finance HR annually notifies all employees that have leave balances "over the cap" that they must develop a leave reduction plan with their supervisor and submit it to HR. While this effort did reduce leave balances by about 15 percent, 3 of the 90 employees at Finance with leave balances "over the cap" did not submit a plan to Finance's HR office.

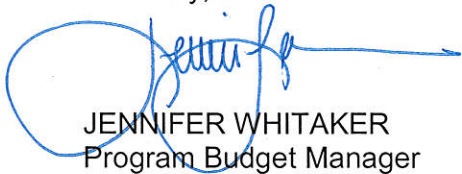
Finding No. 21 – Performance Appraisals Were Not Provided to All Employees

Finance strives to provide performance appraisals to each employee in accordance with Government Code section 19992.2. Every July, Finance HR notifies supervisors and managers of all their employees that are due an annual performance report. The HR office tracks the submitted appraisals and sends managers and supervisors reminders. Despite reminders being sent, not all managers and supervisors completed the required appraisals due to work demands and competing priorities.

Finance thanks the State Personnel Board for its review and report on of our department's personnel practices in the areas of examinations, appointments, Equal Employment Opportunity, Personnel Services Contracts, mandated training, compensation and pay, leave, and policies and processes. Finance is committed to complying with all related statutorily and regulatory requirements. In order to achieve full compliance, my staff in the Administration Services Unit will revise existing policies, procedures and best practices, and implement training to HR and BS staff, department managers, and support staff to ensure successful implementation of appropriate procedural changes.

If you have any questions, please feel free to contact me at (916) 445-3274.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer", with a long horizontal stroke extending to the right.

JENNIFER WHITAKER
Program Budget Manager

cc: Mr. Greg Skubal, Chief, Administration Services