



COMPLIANCE REVIEW REPORT

CALIFORNIA GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

Compliance Review Unit
State Personnel Board
August 21, 2018

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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 comply 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 not monitored on a consistent, 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 Governor’s Office of Business and Economic Development (GO-Biz) 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	Unlawful Appointment
Appointments	Equal Employment Opportunity Questionnaires Were Not Separated from Applications
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Equal Employment Opportunity	An Equal Employment Opportunity Policy Was Not Issued
Equal Employment Opportunity	A Disability Advisory Committee Has Not Been Established
Personal Services Contracts	Written Justification Was Not Provided Prior to Approval
Personal Services Contracts	Union Was Not Notified In a Timely Manner
Mandated Training	Supervisory Training Was Not Provided for All Supervisors
Mandated Training	Ethics Training Was Not Provided for All Filers
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Out-of-Class Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

Area	Finding
Leave	Actual Time Worked Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Efforts Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	715 Transaction Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Errors in Leave Balances and/or Timekeeping Records
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Were Not Provided to All Employees

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

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

BACKGROUND

The GO-Biz was created by Governor Edmund G. Brown Jr. to serve as the State of California's leader in job growth and economic development efforts. The GO-Biz offers a range of services to businesses and economic development stakeholders through its following units: (1) California Business Investment Services (CalBIS), (2) International Affairs and Business Development Unit, (3) Office of the Small Business Advocate, (4) Office of Permit Assistance (OPA), (5) Innovation and Entrepreneurship Unit, (6) California Competes Tax Credit Program, (7) Zero Emission Vehicles (ZEV) Unit, (8) California Infrastructure and Economic Development Bank (IBank), (9) Office of Tourism, and (10) California Film Commission.

The CalBIS assists businesses with incentive and resource identification and utilization, site selection services, and facilitates interactions with state agencies and local governments. The International Affairs and Business Development Unit provides assistance to California exporters and works to attract foreign investment to California. The Office of the Small Business Advocate provides small businesses with the information and access to resources they need to thrive in California. The OPA supports the business community by providing permitting and regulatory compliance assistance. The Innovation and Entrepreneurship Unit oversees the statewide innovation hub network and fosters partnerships and opportunities for innovators and entrepreneurs to thrive in California. The California Competes program allocates tax credits to incentivize high-value employers to locate or grow in California. The ZEV Unit addresses barriers and cultivates opportunities to accelerate ZEV infrastructure and market growth. The IBank provides financial assistance to support infrastructure and economic development in California. The Office of Tourism supports the promotion of California as a global tourism destination and offers information services to visitors. The California Film Commission supports the film, television, and commercial industries to retain, attract, and grow production-related jobs and the many ancillary businesses that benefit from increased production activity.

The GO-Biz currently has 121 employees of which 29 are exempts and 92 are civil servants. The GO-Biz has three locations and some employees that work in various Governors' office locations. The headquarters office is located at 1325 J Street Suite 1800, Sacramento, CA 95814.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the GO-Biz examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes² when applicable. The primary objective of the review was to determine if GO-Biz 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 GO-Biz'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 GO-Biz provided, which included

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

examination plans, examination bulletins, job analyses, and scoring results. The GO-Biz did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the GO-Biz's appointments were selected to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the GO-Biz provided, which included notice of personnel action (NOPA) forms, request for personnel actions (RPA's), vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The GO-Biz did not make any additional appointments during the compliance review period.

The GO-Biz's appointments were also selected for review to ensure the GO-Biz applied salary regulations accurately and correctly processed employee's compensation and pay. The CRU examined the documentation that the GO-Biz provided, which included employee's 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 function related to compensation and pay: out of class pay. During the compliance review period, the GO-Biz did not issue or authorize red circle rates, hiring above minimum (HAM) requests, bilingual pay, arduous pay, 335 transactions or any other monthly pay differential.

The review of the GO-Biz'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 upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

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

The GO-Biz'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 and managers were provided supervisory and sexual harassment prevention training within statutory timelines.

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 also identified the GO-Biz 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 GO-Biz to provide a copy of their leave reduction policy.

The CRU reviewed the GO-Biz’s Leave Activity and Correction certification forms to verify that the GO-Biz 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 GO-Biz’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 GO-Biz’s employee’s 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 GO-Biz employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. The GO-Biz did not track any temporary intermittent employees by actual time worked during the compliance review period.

Moreover, the CRU reviewed the GO-Biz’s policies and processes concerning nepotism, workers’ compensation, and performance appraisals when applicable. The review was limited to whether the GO-Biz’s policies and processes adhered to procedural requirements.

On July 10, 2018, an exit conference was held with the GO-Biz to explain and discuss the CRU’s initial findings and recommendations. The CRU received and carefully reviewed the GO-Biz’s written response on July 18, 2018, 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.) 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 in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934.) Generally, 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, April 1, 2016, through March 31, 2017, the GO-Biz conducted two examinations. The CRU reviewed all the examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) A, Chief Compliance Officer	CEA	Statement of Qualifications (SOQ) ⁴	1/30/17	10
Career Executive Assignment (CEA) A, Chief Compliance Officer	CEA	Statement of Qualifications (SOQ) ⁵	1/30/17	10
CEA A, Chief Counsel	CEA	SOQ	Continuous	2

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

⁵ In a statement of qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

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

The CRU reviewed two open examinations which the GO-Biz administered in order to create eligible lists from which to make appointments. The GO-Biz published and distributed examination bulletins containing the required information for all examinations. Applications received by the GO-Biz 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 GO-Biz 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.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual’s job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the period under review, April 1, 2016, through March 31, 2017, the GO-Biz made 30 appointments. The CRU reviewed 21 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Motion Picture Production Analyst	Certification List	Limited Term	Full Time	1
Office Technician (Typing)	Certification List	Limited Term	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	2
Senior Loan Officer (Specialist)	Certification List	Permanent	Full Time	1
Senior Loan Officer (Supervisor)	Certification List	Permanent	Full Time	2
Senior Program Specialist	Certification List	Limited Term	Full Time	1

Staff Services Analyst	Certification List	Limited Term	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager I (Specialist)	Certification List	Limited Term	Full Time	2
Staff Services Manager I (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Staff Services Manager III (Supervisory)	Certification List	Permanent	Full Time	1
Personnel Specialist	Mandatory reinstatement	Permanent	Full Time	1
Attorney III	Permissive Reinstatement	Permanent	Full Time	1
Staff Services Manager III	Retired Annuitant	Limited Term	Intermittent	1
Office Technician (Typing)	Transfer	Limited Term	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1

FINDING NO. 2 – Unlawful Appointment

Summary: The GO-Biz promoted an Associate Governmental Program Analyst to a limited-term Staff Loan Officer (Specialist) position on January 4, 2016. The employee was subsequently appointed to a permanent Senior Loan Officer (Supervisor) position on September 26, 2016. The CRU determined that the employee did not meet the MQs for the Staff Loan Officer (Specialist) or (Supervisor) classifications.

Criteria: Article VII of the State Constitution requires that permanent appointments in State Civil Service be based on merit as ascertained by competitive examination. Unlawful appointments may occur for a variety of reasons including administrative errors, oversight, misinformation, or in rare cases, attempts to circumvent the state's civil service system. Some of the most common reasons for unlawful appointments are:

- Transfer of an individual based on inaccurate interpretation of the transfer requirements.

- Appointment of an individual from a non-reachable rank of the certification list.
- Appointment of an individual who does not meet the minimum qualifications of the 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. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the unlawful appointment and may also be subject to disciplinary action.

Cause: GO-Biz checks all applications for MQs; however, due to a misunderstanding of the MQs promoted an Associate Governmental Program Analyst to a limited-term Staff Loan Officer (Specialist) position on January 4, 2016. The employee subsequently appointed to a permanent Senior Loan Officer (Supervisor) position on September 26, 2016. The CRU determined that the employee did not meet the MQs for the Staff Loan Officer (Specialist) or (Supervisor) classifications.

Action: The GO-Biz voided the appointment on September 25, 2017. The limit-term Staff Loan Officer (Specialist) appointment was made in good faith and more than one year had elapsed. Therefore, the limited term appointment will stand. However, on September 25, 2017, the Staff Loan Officer (Supervisor) was voided and the

employee returned to the AGPA position. No further action is required.

FINDING NO. 3 – Equal Employment Opportunity Questionnaires Were Not Separated from Applications

Summary: Seven of 813 EEO questionnaires were not separated from the STD 678 employment applications; in four of 21 appointment files the CRU reviewed.

Criteria: Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status). Furthermore, applicants for employment in state civil service are asked to provide voluntarily ethnic data about themselves where such data is determined by the CalHR to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. Ethnic data information gathered pursuant to this section on an individual applicant shall not be available to any interviewer or any officer or employee empowered to make or influence the civil service appointment of such individual. (Gov. Code, § 19705)

Severity: Very Serious. The applicants' protected classes were visible, subjecting the agency to potential liability.

Cause: GO-Biz removed all of the EEO questionnaires; but inadvertently missed four appointment files which specifically included seven of 813 applications reviewed where EEO questionnaires were not separated from the STD 678 employment application.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the GO-Biz submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity

with Government Code section 19705. Copies of any relevant documentation should be included with the plan.

FINDING NO. 4 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The GO-Biz did not prepare, complete, and/or retain seven probationary reports of performance.

Classification	Appointment Type	Number of Appointments Missing Probation Reports	Total Number of Missing Probation Reports
Office Technician (Typing)	List Appointment	1	2
Senior Loan Officer (Supervisor)	List Appointment	1	1
Staff Services Manager I (Specialist)	List Appointment	1	1
Staff Services Manager II (Supervisor)	List Appointment	1	3
Total		4	7

Criteria: A new probationary report is not required when an employee is appointed by reinstatement with a right of return. (Cal. Code Regs., tit. 2, § 322, subd. (d)(2).) However, the service of a probationary period is required when an employee enters state civil service by permanent appointment from an employment list. (Cal. Code Regs., tit. 2, § 322, subd. (a).) In addition, unless waived by the appointing power, a new probationary period is required when an employee is appointed to a position under the following circumstances: (1) without a break in service in the same class in which the employee has completed the probationary period, but under a different appointing power; and (2) without a break in service to a class with substantially the same or lower level of duties and responsibilities and salary range as a class in which the employee has completed the probationary period. (Cal. Code Regs., tit. 2, § 322, subds. (c)(1) & (2).)

During the probationary period, the appointing power is required to evaluate the work and efficiency of probationer at sufficiently

frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, §599.795.) The appointing power must prepare a written appraisal of performance each one-third of the probationary period. (Cal. Code Regs. tit. 2, § 599.795.)

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: GO-Biz requires all supervisors to complete and provide probationary evaluations to all employees; however, inadvertently did not prepare, complete, and/or retain seven probationary reports of performance.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the GO-Biz submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of California Code of Regulations section 599.795. 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; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*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.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

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

FINDING NO. 5 – An Equal Employment Opportunity Policy Was Not Issued

- Summary:** The GO-Biz did not have an Equal Employment Opportunity Policy.
- Criteria:** 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. (Gov. Code, § 19794, subd. (a).)
- Severity:** Very Serious. A policy statement committing to EEO is a vital step in preventing discrimination in the workplace. Without an EEO policy in place, the agency cannot establish its expectation as an equal opportunity employer to its employees.
- Cause:** GO-Biz did not have an Equal Employment Opportunity Policy due to the rapid growth of the agency.
- Action:** The GO-Biz has developed its own EEO Policy. However, it is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the GO-Biz submit documentation to SPB that it has disseminated its EEO Policy to all employees to ensure conformity with Government Code section 19794.

FINDING NO. 6 – A Disability Advisory Committee Has Not Been Established

- Summary:** The GO-Biz does not have an active DAC.
- Criteria:** Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)
- Severity:** Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency's ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.
- Cause:** GO-Biz does not have an active DAC due to the rapid growth of the agency.
- Action:** The GO-Biz has partnered with the CHP's DAC since October 2017. One employee is attending DAC meetings. Therefore, no further action is required at this time.

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 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, April 1, 2016, through March 31, 2017, the GO-Biz had five PSC's that were in effect. The CRU found no deficiencies in four of five contracts the GO-Biz made during the compliance review period.

FINDING NO. 7 – Written Justification Was Not Provided Prior to Approval

Summary: The GO-Biz did not provide written justification prior to approving and executing one of five PSC's.

Vendor	Services	Contract Dates	Contract Amount	Written Justification
Enovity, Inc. ⁶	Engineering Consulting Services	7/1/17-6/30/20	\$200,000.00	No

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 California Code of Regulations section 26, whichever is longer. (Cal. Code Regs., tit. 2, § 547.60 subds. (a) and (b).)

Severity: Serious. By not providing a detailed and factual written justification prior to approving and executing PSC(s), the GO-Biz failed to comply with law and rule.

⁶ Amendment to a contract.

Cause: GO-Biz inadvertently missed providing written justification prior to approving and executing one of five PSC's.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the GO-Biz submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of California Code of Regulations, title 2, section 547.60. Copies of any relevant documentation should be included with the plan.

FINDING NO. 8 – Union Was Not Notified In a Timely Manner

Summary: The GO-Biz did not notify the union prior to entering into one of five PCS's it executed.

Vendor	Services	Contract Dates	Contract Amount	Union Notified
Enovity, Inc.	Engineering Consulting Services	7/1/17-6/30/20	\$200,000.00	No

Criteria: Government Code section 19132, subdivision (b)(1), mandates that "the contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted."

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

Cause: GO-Biz inadvertently missed notifying the union prior to entering into one of five PSC's it executed.

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

19132, subdivision (b)(1). 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 California Department of Human Resources (CalHR). (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & (c), & 19995.4, subd. (b).)

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

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

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661,

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

The CRU reviewed the STO's mandated training program that was in effect during the compliance review period. However, the GO-Biz's supervisory, ethics and sexual harassment prevention training were found to be out of compliance.

FINDING NO. 9 – Supervisory Training Was Not Provided for All Supervisors

Summary: The GO-Biz did not provide basic supervisory training to one of seven new supervisors within twelve months of appointment.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biannually. (Gov. Code, § 19995.4, subds. (b) and (c).)

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

Cause: GO-Biz requires all supervisors to attend mandatory supervisory training, but inadvertently missed one of seven new supervisors within twelve months of appointment.

Action: The GO-Biz has implemented a tracking system for training requirements. However, it is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the GO-Biz submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19995.4. Copies of any relevant documentation should be included with the plan.

FINDING NO. 10 – Ethics Training Was Not Provided for All Filers

- Summary:** The GO-Biz did not provide ethics training to 15 of 19 existing filers. In addition, the GO-Biz did not provide ethics training to three of ten new filers within six months of their appointment.
- Criteria:** New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)
- Severity:** Very Serious. The department does not ensure that its filers are aware of prohibitions related to their official position and influence.
- Cause:** GO-Biz requires all filers to attend ethics training, but inadvertently missed 15 of 19 existing filers and three of ten new filers within six months of their appointment.
- Action:** The GO-Biz has implemented a tracking system for training requirements. However, it is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the GO-Biz submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code sections 11146 and 11146.1. Copies of any relevant documentation should be included with the plan.

FINDING NO. 11 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

- Summary:** The GO-Biz did not provide sexual harassment prevention training to two of eight new supervisors within six months of their appointment. In addition, the GO-Biz did not provide sexual harassment prevention training to seven of 18 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 its new 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: GO-Biz requires all supervisors to attend the sexual harassment training, but inadvertently missed two of eight new supervisors within six months of their appointment and seven of 18 existing supervisors every two years.

Action: The GO-Biz has implemented a tracking system for training requirements. However, it is therefore recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the GO-Biz must submit a written corrective action plan to ensure compliance with Government Code section 12950.1, subdivision (a).

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR (Cal. Code Regs., tit. 2, § 599.666). Several salary rules dictate how departments calculate and determine an employee's salary rate⁷ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

During the period under review, January 1, 2016, through December 31, 2016, the GO-Biz made 30 appointments. The CRU reviewed 14 of those appointments to determine if the GO-Biz applied salary regulations accurately and correctly keyed employees' compensation transactions. These appointments are listed below:

⁷ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary
Senior Loan Officer (Supervisor)	Certification List	Permanent	Full Time	\$5,872
Senior Loan Officer (Supervisor)	Certification List	Permanent	Full Time	\$6,165
Senior Programmer Analyst (Specialist)	Certification List	Limited Term	Full Time	\$6,165
Staff Services Analyst (General)	Certification List	Limited Term	Full Time	\$3,824
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$2,949
Staff Services Manager I	Certification List	Permanent	Full Time	\$5,470
Staff Services Manager I (Specialist)	Certification List	Limited Term	Full Time	\$5,470
Staff Services Manager I (Specialist)	Certification List	Limited Term	Full Time	\$5,470
Staff Services Manager I (Specialist)	Certification List	Permanent	Full Time	\$6,046
Staff Services Manager II (Supervisor)	Certification List	Permanent	Full Time	\$5,830
Staff Services Manager II (Supervisor)	Certification List	Permanent	Full Time	\$5,871
Office Technician (Typing)	Transfer	Limited Term	Full Time	\$3,875
Office Technician (Typing)	Transfer	Permanent	Full Time	\$3,875
Personnel Specialist	Mandatory Reinstatement	Permanent	Full Time	\$3,938

The CRU found no deficiencies in 13 out of 14 salary determinations that the GO-Biz made during the compliance review period. The GO-Biz appropriately calculated and processed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, board rules and CalHR policies and guidelines.

However, the GO-Biz incorrectly applied compensation laws, rules and/or CalHR policies and guidelines for one salary determination reviewed.

Out-of-Class Assignments (OOC) Pay

For excluded⁸ and most rank and file employees, out of class work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment (Cal. Code of Regs., tit. 2, § 599.810.)

According to CalHR's 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 DPA Rule 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 provision or DPA regulation. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Section 375).

During the period under review, January 1, 2016, through December 31, 2016, the GO-Biz issued OOC pay⁹ to one employee. The CRU reviewed the one OOC assignment to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Staff Services Manager I	S01	Staff Services Manager II (Sup)	6/6/16 – 9/5/16

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

The CRU found no deficiencies in the one OOC assignment authorizing that the CCC authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50% 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.

⁸ "Excluded employee" means an employee as defined in section 3572(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.

⁹ Excluding bilingual and arduous pay.

Leave

Actual Time Worked

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization (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. Time is accrued by months so that the immediate prior 12-calendar months are the ones used to count the 194 working days. ATW includes; any day on which the employee physically worked, regardless of the length of time worked on that day¹⁰, any day for which the employee is on paid absence¹¹, any holiday for which the employee receives either full or partial pay. If the employee works on the holiday, the day is counted only once regardless of the rate of pay¹².

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. Therefore, departments must monitor the actual number of days worked in order to ensure that they do not exceed 194 days in any 12-consecutive month period (Personnel Management Policy and Procedures Manual Sections 330.2-330.4).

During the period under review, January 1, 2016, through December 31, 2016, the GO-Biz placed one employee on ATW. The CRU reviewed one ATW appointment to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

Classification	Time Base	Time Frame	No. of Days on ATW
Special Consultant	Full Time	01/2016-02/2016	31 Days

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

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

¹² For example, straight time, time and one-half, double time, etc.

FINDING NO. 13 – Actual Time Worked Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiency with the one employee on ATW during the compliance review period. The GO-Biz provided the proper documentation justifying the use of ATW and adhered to applicable laws, regulations and CalHR policy and guidelines.

Administrative Time Off

Administrative Time Off (ATO) is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. 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. Additionally, ATO may be granted when employees need time off for any of the following: donating blood, extreme weather that makes getting to work impossible, and/or, when employees need time off to attend special events. Any ATO requests lasting over 30 days must be submitted and approved by CalHR. Approval will generally be given in 30 calendar day increments and any extension must be approved prior to the expiration of the 30 calendar days. Departments must properly document and track ATO for any length of time (PML, "Administrative Time Off (ATO) – Policy, Procedure and Documentation Requirements", 2012-008).

Employees may also be granted a paid leave of absence of up to five days by their appointing power when the employee works or resides in a county where a state of emergency has been proclaimed by the Governor. (Cal. Code Regs., tit. 2, § 599.785.5.)

During the period under review, January 1, 2016, through December 31, 2016, the GO-Biz placed two employees on ATO. The CRU reviewed the two employees on ATO to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Reason	Time Frame	No. of Days on ATO
Staff Services Manager II (Supervisor)	Disciplinary Investigation	7/1/16 – 7/29/16	19
Associate Governmental Program Analyst	Disciplinary Investigation	3/1/16 – 6/10/16	53

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

The CRU found no deficiencies with the two employees placed on ATO during the compliance review period. The GO-Biz provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Reduction Efforts

Departments must comply with the regulations and CalHR policies that require a leave plan for every employee with vacation or annual leave hours over the maximum amount permitted (Cal. Code Regs., tit. 2, § 599.742.1 and applicable Bargaining Unit Agreements). Bargaining Unit Agreements and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, according to California Code of Regulations, title 2, section 599.737, if a represented employee does not use all of the vacation to which he or she is entitled in a calendar year, “the employee may accumulate the unused portion, provided that on January 1st of a calendar year, the employee shall not have more than” the established limit as stipulated by the applicable bargaining unit agreement¹³. Likewise, if an excluded employee does not use all of the vacation to which he or she is entitled in a calendar year, the “employee may accumulate the unused portion of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days.” (Cal. Code Regs., tit. 2, § 599.738.)

In accordance with Cal HR Online Manual Section 2124, 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 and are actively reducing hours.

As of December 2016, the GO-Biz reported 14 employees who exceeded established limits of vacation or annual leave. The CRU reviewed five of those employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

¹³ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.

Classification	Collective Bargaining Identifier	Total Leave Hours Accrued ¹⁴	Leave Reduction Plan
Associate Governmental Program Analyst	R01	662.5	Yes
Director, CA Film Commission	E99	840.0	Yes
Senior Environmental Research Scientist (Specialist)	E79	942.0	Yes
Staff Services Analyst (General)	R01	945.5	Yes
Systems Software Specialist III (Supervisor)	S01	742.5	Yes
Total Hours		4,132.5	

FINDING NO. 15 – Leave Reduction Efforts Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies with the five employees that had exceeded established limits of vacation or annual leave during the compliance review period. The GO-Biz provided the leave reduction plans for the five employees and adhered to applicable laws, regulations and CalHR policy and guidelines.

State Service

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 service¹⁵ (Cal. Code Regs., tit. 2, § 599.608.)

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 additional qualifying monthly pay period as defined in section 599.608, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. 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. Portions of non-qualifying

¹² As of May 1, 2017

¹⁵ Except as provided in sections 599.609 and 599.776.1(b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

monthly pay periods of service shall not be counted nor accumulated (Cal. Code Regs., tit. 2, § 599.739). On the first day following a qualifying monthly pay period, excluded employees¹⁶ shall be allowed credit for annual leave with pay (Cal. Code Regs., tit. 2, § 599.752).

Permanent Intermittent employees earn vacation according to the preceding schedule for each increment of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period are not counted or accumulated.

During the period under review, January 1, 2016, through December 31, 2016, the GO-Biz processed one 715 transaction¹⁷. The CRU reviewed the one 715 transaction to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

Type of 715 Transaction	Time base	Number Reviewed
Non-qualifying pay period	Full Time	1

FINDING NO. 16 – 715 Transaction Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU determined that the GO-Biz ensured the employee 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.

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.)

Additionally, in accordance with CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient

¹⁶ As identified in Government Code sections 19858.3(a), 19858.3(b), or 19858.3(c) as it applies to employees excluded from the definition of state employee under section Government Code 3513(c), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

¹⁷ Transaction code 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.

balances for a leave type used, the attendance record must be amended. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

During the period under review, January 1, 2016 through December 31, 2016, the GO-Biz reported 7 units comprised of 1,149 active employees. The pay periods and timesheets reviewed by the CRU are summarized as follows:

FINDING NO. 17 – Errors in Leave Balances and/or Timekeeping Records

Summary: The GO-Biz incorrectly entered one of 42 timesheets in the Leave Accounting System (LAS). The GO-Biz subsequently corrected this timesheet after the CRU reviewed it.

Timesheet Leave Period	No. Units	No. Units Reviewed	No. Employees Reviewed	No. Timesheets Reviewed	No. Timesheets Incorrectly Posted
June 2017	7	3	42	42	1

Criteria: In accordance with PML 2015-007 or CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. 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. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

Severity: Technical. Without sufficient processes to verify the accuracy of leave accounting date entered, departments may make erroneous leave accounting transactions that remain undetected or are never identified. These errors put the department at risk of additional costs such as the initiation of collection efforts on overpayment, the risk of litigation related to recovering inappropriately credited leave

hours and funds, and/or the increase in the state's pension payments.¹⁸

Cause: GO-Biz incorrectly entered one of 42 timesheets in the Leave Accounting System (LAS). GO-Biz subsequently corrected this timesheet after CRU reviewed it.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the GO-Biz submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure verify all leave input into any leave accounting system is keyed accurately and timely into LAS. Copies of any relevant documentation should be included with the plan.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. 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. Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies. Overall, departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning employees. Departments have the discretion, based on organizational structure and size, to develop nepotism policies as they see fit. (CalHR Online Manual Section 1204).

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

After reviewing the GO-Biz's nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized

¹⁸ State employees can convert sick leave to state service credit when they retire, ultimately increasing the state's pension payments.

the GO-Biz's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the GO-Biz's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions as outlined in CalHR's Online Manual Section 1204.

Workers' Compensation

Pursuant to California Code of Regulations, title 8, section 9880, employers shall provide to every new employee 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. This notice shall also contain a form that the employee can use to pre-designate their personal physician or medical group as defined by Labor Code section 4600. Additionally, employers shall also provide a claim form and notice of potential eligibility to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness. (Labor Code, § 5401).

According to Labor Code section 3363.5, public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. Workers' compensation coverage is not mandatory for volunteers as it is for employees. This is specific to the legally uninsured state departments participating in the Master Agreement. 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 (PML, "Workers' Compensation Coverage for Volunteers," 2015-009). Those departments that have volunteers should have notified or updated their existing notification to the SCIF by April 1, 2015 whether or not they have decided to extend workers' compensation coverage to volunteers. In this case, the GO-Biz did not employ volunteers during the compliance review period.

FINDING NO. 19 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the GO-Biz's workers' compensation process that was in effect during the compliance review period, the CRU verified that the GO-Biz provides notice to their employees to inform them of their rights and responsibilities under CA workers' compensation law. Furthermore, the CRU verified that when the GO-Biz received workers' compensation claims, the GO-Biz properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, departments must “prepare performance reports.” Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

The CRU selected four permanent GO-Biz 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.

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

Summary: The GO-Biz did not provide performance appraisals to two of four employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

Classification	Date Performance Appraisal(s) due
Associate Governmental Program Analyst	12/1/16
Office Technician (Typing)	1/1/17

Criteria: Departments are required to “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 employees are apprised of work performance issues and/or goals in a fair and systematic manner.

Cause: GO-Biz requires all supervisors to complete and provide annual performance appraisals to all employees; however, inadvertently

missed two of four employees in the twelve calendar months after the completed of the employee's probationary period.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the GO-Biz must submit 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 GO-Biz's departmental response is attached as Attachment 1.

SPB REPLY

It is further recommended that the GO-Biz comply with the afore-stated recommendations and submit documentation to the CRU within 60 days that shows all corrective actions have been implemented.



GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

STATE OF CALIFORNIA • OFFICE OF GOVERNOR EDMUND G. BROWN JR.

July 18, 2018

Luisa Doi, Compliance Review Manager
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. Doi,

Response to Compliance Review Report

The Governor's Office of Business and Economic Development (GO-Biz) submits this letter in response to the State Personnel Board's (SPB) compliance review of GO-Biz 's personnel practices for the period April 1, 2016, through March 31, 2017. GO-Biz appreciates SPB's review and the opportunity to respond to its findings. Please reference the enclosed Attachment for detailed responses.

GO-Biz agrees with SPB's findings, and has taken or will take immediate steps to develop and submit a Corrective Action Plan within 60 days of the release of the report to address the deficiencies identified.

Thank you for the opportunity to respond to your draft report. If you have any questions, or require additional information, please do not hesitate to contact me at (916) 322-0669, or by email at amarpal.george@gobiz.ca.gov.

Sincerely,
Amarpal George
Personnel Officer
Governor's Office of Business and Economic Development
Human Resources Division

Enclosure

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

Cause: None

Department's Response: No adverse findings were reported during the Compliance Review.

FINDING NO. 2 – Unlawful Appointment

Cause: GO-Biz checks all applications for MQ's however, due to a misunderstanding of the MQ's promoted an Associate Governmental Program Analyst to a limited-term Staff Loan Officer (Specialist) position on January 4, 2016. The employee was subsequently appointed to a permanent Senior Loan Officer (Supervisor) position on September 26, 2016. The CRU determined that the employee did not meet the MQs for the Staff Loan Officer (Specialist) or (Supervisor) classifications.

Department's Response: This was due to an inaccurate interpretation of the MQ's of the education requirements. GO-Biz voided the appointment on September 25, 2017. The limited-term Staff Loan Officer (Specialist) appointment was made in good faith and more than one year had elapsed. Therefore, the limited term appointment will stand. However, on September 25, 2017, the Staff Loan Officer (Supervisor) was voided and the employee returned to the AGPA position. (Please see attached)

FINDING NO. 3 – Equal Employment Opportunity Questionnaires Were Not Separated from Applications

Cause: GO-Biz removed all of the EEO questionnaires but inadvertently missed four appointment files which specifically included seven of the 813 applications reviewed applications where EEO questionnaires were not separated from the STD 678 employment application.

Department's Response: Not separating the EEO questionnaires was due to inadvertent oversight and they have been removed from the files.

FINDING NO. 4 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Cause: GO-Biz requires all supervisors to complete and provide probationary evaluations to all employees however inadvertently did not prepare, complete, and/or retain seven probationary reports of performance.

Department's Response: The probationary evaluations not provided for all appointments were due to lack of an effective tracking process, as well as lack of administrative notification, follow-up, and enforcement, which GO-Biz now has a tracking system in place to remedy this situation. (Please see attached)

FINDING NO. 5 – An Equal Employment Opportunity Policy Was Not Issued

Cause: GO-Biz did not have an Equal Employment Opportunity Policy due to the rapid growth of the agency.

Department's Response: Since GO-Biz is a fairly new agency a written policy was in process at the time of the audit. A policy since then has been written and approved by the union and will be sent to all staff at the end of this month. (Please see attached)

FINDING NO. 6 – A Disability Advisory Committee Has Not Been Established

Cause: GO-Biz does not have an active DAC due to the rapid growth of the agency.

Department's Response: Since GO-Biz is a fairly new agency an advisory committee was not established at the time of the audit, due to being a small agency GO-Biz did create our own committee, but instead GO-Biz now has a staff member who is on the DAC with CHP as of September 2017. (Please see attached)

FINDING NO. 7 – Written Justification Was Not Provided Prior to Approval

Cause: GO-Biz inadvertently missed providing written justification prior to approving and executing one of five PSC's .

Department's Response: This was due to inadvertent oversight; GO-Biz is working on procedures to make sure this is not missed in the future.

FINDING NO. 8 – Union Was Not Notified In a Timely Manner

Cause: GO-Biz inadvertently missed notifying the union prior to entering into one of five PCS's it executed.

Department's Response: This was due to inadvertent oversight; GO-Biz is working on procedures to make sure this is not missed in the future.

FINDING NO. 9 – Supervisory Training Was Not Provided for All Supervisors

Cause: GO-Biz requires all supervisors to attend mandatory supervisory training, but inadvertently missed one of seven new supervisors within twelve months of appointment.

Department’s Response: This was due to lack of an effective tracking process, as well as lack of administrative notification, follow-up, and enforcement, which GO-Biz now has a tracking system in place to remedy this situation. (Please see attached)

FINDING NO. 10 – Ethics Training Was Not Provided for All Filers

Cause: GO-Biz requires all filers to attend the ethics training, but inadvertently missed 15 of 19 existing filers and three of ten new filers within six months of their appointment.

Department’s Response: This was due to lack of an effective tracking process, as well as lack of administrative notification, follow-up, and enforcement, which GO-Biz now has a tracking system in place to remedy this situation. (Please see attached)

FINDING NO. 11 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Cause: GO-Biz requires all supervisors to attend the sexual harassment prevention training, but inadvertently missed two of eight new supervisors within six months of their appointment and 18 existing supervisors every two years.

Department’s Response: This was due to lack of an effective tracking process, as well as lack of administrative notification, follow-up, and enforcement, which GO-Biz now has a tracking system in place to remedy this situation. (Please see attached)

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

Cause: None

Department’s Response: No adverse findings were reported during the Compliance Review.

FINDING NO. 13 – Actual Time Worked Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None

Department's Response: No adverse findings were reported during the Compliance Review.

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

Cause: None

Department's Response: No adverse findings were reported during the Compliance Review.

FINDING NO. 15 – Leave Reduction Efforts Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None

Department's Response: No adverse findings were reported during the Compliance Review.

FINDING NO. 16 – 715 Transaction Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None

Department's Response: No adverse findings were reported during the Compliance Review.

FINDING NO. 17 – Incorrectly Posting Leave Usage or Leave Credit

Cause: GO-Biz incorrectly entered one of 42 timesheets in the Leave Accounting System (LAS). GO-Biz subsequently corrected this timesheet after the CRU reviewed it.

Department's Response: This was due to inadvertent oversight and organization and GO-Biz now has another staff member auditing the postings.

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

Cause: None

Department's Response: No adverse findings were reported during the Compliance Review.

FINDING NO. 19 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: None

Department's Response: No adverse findings were reported during the Compliance Review.

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

Cause: GO-Biz requires all supervisors to completed and provide annual performance appraisals to all employees, however inadvertently missed two out of four employees in the twelve calendar months after the completion of the employee's probationary period.

Department's Response: This was due to lack of an effective tracking process, as well as lack of administrative notification, follow-up, and enforcement, which GO-Biz now has a tracking system in place to remedy this situation. (Please see attached)