



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA DEPARTMENT OF AGING**

Compliance Review Unit  
State Personnel Board  
October 10, 2024

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## INTRODUCTION

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

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

Area	Severity	Finding
Examinations	In Compliance	Examination Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Substantial Compliance	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts <sup>1</sup>
Personal Services Contracts	Substantial Compliance	Written Justification Was Not Provided for All Personal Services Contracts
Mandated Training	Substantial Compliance	Ethics Training Was Not Provided for All Filers
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

<sup>1</sup> Repeat finding. The CDA's August 9, 2021, compliance report identified that the CDA did not notify unions prior to entering into 8 of the 10 PSCs reviewed.

Area	Severity	Finding
Compensation and Pay	In Compliance	Arduous Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Very Serious	Department's Nepotism Policy Does Not Contain All Required Components
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees <sup>2</sup>

### **BACKGROUND**

The CDA and its approximately 270 employees administer programs that serve older adults, adults with disabilities, family caregivers, and residents in long-term care facilities

<sup>2</sup>Repeat finding. The CDA's August 9, 2021, compliance report identified that the CDA did not provide annual performance appraisals to all of the 19 employees reviewed; and the CDA's October 10, 2018, report identified that the CDA failed to provide performance appraisals for all of the 20 employees reviewed.

throughout the State. The CDA administers funds allocated under the federal Older Americans Act, the Older Californians Act, and through the Medi-Cal program.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CDA's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>3</sup>. The primary objective of the review was to determine if the CDA's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CDA's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CDA provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CDA's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CDA's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CDA provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CDA did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CDA did not make any additional appointments during the compliance review period.

The CDA's appointments were also selected for review to ensure the CDA applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CDA 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,

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<sup>3</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

hire above minimum (HAM) request, arduous pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the CDA did not issue or authorize red circle rate requests, or bilingual pay.

The review of the CDA'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.

The CDA's PSC's were also reviewed.<sup>4</sup> It was beyond the scope of the compliance review to make conclusions as to whether the CDA's justifications for the contracts were legally sufficient. The review was limited to whether the CDA's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CDA's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, that all supervisors, managers, and those serving in Career Executive Assignments (CEA) were provided leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the CDA's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRU selected a small cross-section of the CDA'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 CDA'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 CDA employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CDA positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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<sup>4</sup>If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

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

The CRU received and carefully reviewed the CDA's written response on September 13, 2024, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Examinations**

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, June 1, 2023, through February 29, 2024, the CDA conducted one examination. The CRU reviewed the examination, which is listed below:



Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Assistant Director, Office of Finance and Administrative Operations	CEA	Statement of Qualifications <sup>5</sup>	8/7/2023	13

<b>IN COMPLIANCE</b>	<b>FINDING NO.1 EXAMINATION COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU reviewed one open examination which the CDA administered in order to create eligible lists from which to make appointments. The CDA published and distributed examination bulletins containing the required information for all examinations. Applications received by the CDA 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 CDA conducted during the compliance review period.

### Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority

<sup>5</sup> In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

may place a withhold on the candidate’s subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, June 1, 2023, through February 29, 2024, the CDA conducted one permanent withhold action. The CRU reviewed the authorized permanent withhold action, which is listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Associate Governmental Program Analyst	9PB04	4/18/23	4/18/24	Failed to Meet Minimum Qualifications

<b>IN COMPLIANCE</b>	<b>FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU found no deficiencies in the permanent withhold action undertaken by the department during the compliance review period.

**Appointments**

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

During the period under review, June 1, 2023, through February 29, 2024, the CDA made 100 appointments. The CRU reviewed 29 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Management Auditor	Certification List	Permanent	Full Time	2
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Executive Assistant	Certification List	Limited Term	Full Time	1
Health Program Manager III	Certification List	Permanent	Full Time	1
Health Program Specialist I	Certification List	Limited Term	Full Time	1
Health Program Specialist I	Certification List	Permanent	Full Time	1
Information Officer (Specialist)	Certification List	Limited Term	Full Time	1
Information Technology Manager I	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Nurse Evaluator IV, Health Services	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Personnel Technician II (Specialist)	Certification List	Permanent	Full Time	1
Senior Emergency Services Coordinator, Office of Emergency Services	Certification List	Permanent	Full Time	1
Staff Management Auditor	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Associate Personnel Analyst	Transfer	Limited Term	Full Time	1
Attorney	Transfer	Limited Term	Full Time	1
Health Program Specialist I	Transfer	Limited Term	Full Time	1
Information Technology Specialist I	Transfer	Limited Term	Full Time	1
Research Data Specialist I	Transfer	Limited Term	Full Time	1
Staff Services Analyst	Transfer	Limited Term	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	2

<b>SUBSTANTIAL COMPLIANCE</b>	<b>FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED</b>
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**Summary:** The CDA did not provide three probationary reports of performance for 1 of the 29 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Accounting Officer (Specialist)	Certification List	1	3

**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:** Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

## **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).)

<b>IN COMPLIANCE</b>	<b>FINDING NO. 4    EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES</b>
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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 CDA's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Director of the CDA. The CDA also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

## Personal Services Contracts

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

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

During the period under review, June 1, 2023, through February 29, 2024, the CDA had 35 PSC's that were in effect. The CRU reviewed 11 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Care Transitions Intervention	Certification Course	\$610,200	Yes	No
Center for Aging and Disability Education and Research	Training	\$129,675	Yes	No
Environmental Systems Research Institute, Inc.	Environmental Research	\$87,450	No	No
G5 Office Interiors	Moving Services	\$150,000	Yes	No
GLS Overnight	Small Parcel Delivery	\$15,000	Yes	No
Innovative Solutions, dba ISI, Inc	Software Training	\$45,000	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Lake Natoma Inn	Support Services for Conference	\$27,762	Yes	Yes
University of California, Davis	Statewide Training	\$1,012,721	Yes	No
University of California, Davis	Evaluation of Grant Program	\$196,549	Yes	No
University of Southern California	Statewide Academic Evaluation	\$104,050	Yes	No
Strato Communications, Inc.	Internet Technology Solutions	\$54,316	Yes	Yes

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 5 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS</b>
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**Summary:** The CDA did not notify unions prior to entering into 8 of the 11 PSC's reviewed. This is the second consecutive time this has been a finding for the CDA.

**Criteria:** Before a state agency executes a contract or amendment to a contract for personal services conditions specified within Government Code section 19130, subdivision (b), the agency shall notify all organizations that represent state employees who perform or could perform the type of work that is called for within the contract, unless exempted under Government Code section 19132, subdivision (b)(1). (Cal. Code Regs., tit. 2, § 547.60.2.)

**Severity:** Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for the type of work that their members could perform.

**Cause:** The CDA states that new employees who had no prior contracting or procurement experience may have caused the errors during the learning process.

**Corrective Action:** Departments are responsible for notifying all organizations that represent state employees who perform or could perform the type of work to be contracted prior to executing a PSC. The PSC's reviewed

during this compliance review involved several services and functions which various rank-and-file civil service classifications perform. Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of California Code of Regulations section 547.60.2. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

<b>SUBSTANTIAL COMPLIANCE</b>	<b>FINDING NO. 6 WRITTEN JUSTIFICATION WAS NOT PROVIDED FOR ALL PERSONAL SERVICES CONTRACTS</b>
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**Summary:** The CDA did not prepare or retain written justification as to why one contract satisfied Government Code section 19130, subdivision (b).

Vendor	Services	Contract Dates	Contract Amount
Environmental Systems Research Institute, Inc.	Environmental Research	8/21/23 – 8/24/26	\$87,450

**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). (Cal. Code Reg., tit. 2, § 547.60, subd. (a).) 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, subd. (b).)

**Severity:** Serious. Without specific written justification detailing why a PSC satisfies one or more conditions specified in Government Code section 19130, the CRU could not determine whether the department’s PSC’s complied with current procedural requirements.

**Corrective Action:** Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to



address full compliance in the future; therefore, no corrective action is required.

### **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) and (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).)

Within 12 months of the initial appointment of an employee to a management or 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.*)

New employees must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two hours of sexual harassment prevention training and non-supervisors one hour of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

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 CDA’s mandated training program that was in effect during the compliance review period, March 1, 2022, through August 31, 2023. The CDA’s supervisory training and sexual harassment prevention training was found to be in compliance, while the CDA’s ethics training was found to be out of compliance.

<b>SUBSTANTIAL COMPLIANCE</b>	<b>FINDING NO. 7 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS</b>
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**Summary:** The CDA did not provide ethics training to 2 of 115 new filers within 6 months of their appointment. This is the second consecutive time this has been a finding for the CDA.

**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:** Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

**Compensation and Pay**

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee’s salary rate<sup>6</sup> upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

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<sup>6</sup> “Rate” is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

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

During the period under review, June 1, 2023, through February 29, 2024, the CDA made 100 appointments. The CRU reviewed 14 of those appointments to determine if the CDA applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$4,819
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,518
Associate Management Auditor	Certification List	Permanent	Full Time	\$6,880
Executive Assistant	Certification List	Limited Term	Full Time	\$4,461
Health Program Specialist I	Certification List	Permanent	Full Time	\$6,061
Information Officer (Specialist)	Certification List	Limited Term	Full Time	\$5,518
Office Technician (Typing)	Certification List	Permanent	Full Time	\$3,609
Staff Management Auditor	Certification List	Permanent	Full Time	\$8,398
Staff Services Manager I	Certification List	Permanent	Full Time	\$8,000
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$8,649
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$7,114
Associate Personnel Analyst	Transfer	Limited Term	Full Time	\$5,968
Staff Services Manager I	Transfer	Permanent	Full Time	\$8,398
Staff Services Manager I	Transfer	Permanent	Full Time	\$7,470

<b>IN COMPLIANCE</b>	<b>FINDING NO. 8 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the salary determinations that were reviewed. The CDA appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, 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, June 1, 2023, through February 29, 2024, the CDA employees made five alternate range movements within a classification. The CRU reviewed all those alternate range movements to determine if the CDA applied salary regulations accurately and correctly processed each employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Attorney	A	B	Full Time	\$8,454
Information Technology Specialist I	A	B	Full Time	\$7,106
Information Technology Specialist I	B	C	Full Time	\$8,258
Staff Services Analyst	B	C	Full Time	\$5,180
Staff Services Analyst	B	C	Full Time	\$5,028

<b>IN COMPLIANCE</b>	<b>FINDING NO. 9</b>	<b>ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the alternate range movements the CDA made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.) For all employees new to state service, departments

are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

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.*) 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 conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.<sup>7</sup> (Gov. Code, § 19836, subd. (b).)

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

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee's salary in the exempt appointment. (*Ibid.*) For example, an employee appointed to a civil service

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<sup>7</sup> Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

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, June 1, 2023, through February 29, 2024, the CDA authorized one HAM request. The CRU reviewed the authorized HAM request to determine if the CDA 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)
Associate Management Auditor	Certification List	New to State	\$6,082-\$7,998	\$7,040

<b>IN COMPLIANCE</b>	<b>FINDING NO. 10 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found that the HAM request the CDA made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines

Arduous Pay

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

Excluded and represented employees who are FLSA-exempt and assigned to Work Week Group E are eligible to receive up to four (4) months of pay per fiscal year, or per event for emergencies, if the following conditions are met:<sup>8</sup>

<sup>8</sup> Applicable Memorandum of Understandings or Bargaining Unit Agreements detail other specific criteria.

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

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

Although departments have delegated authority to approve arduous pay,<sup>9</sup> they are required to fill out CalHR Form 777, documenting the circumstances, assessment and rationale behind all arduous pay approvals. A new Form 777 should be filled out for every employee receiving the pay differential, every time an employee is approved to receive a new pay differential, and every time an employee wants to extend their arduous pay. Extensions are only granted in rare circumstances. Departments must keep the Form 777 on file and retain the form for five years after the approval date. (*Ibid.*)

During the period under review, June 1, 2023, through February 29, 2024, the CDA issued arduous pay to two employees. The CRU reviewed both of those arduous pay authorizations, listed below, to ensure compliance with applicable CalHR policies and guidelines:

Classification	Bargaining Unit	Work Week Group	Time Base	Total Compensation	No. of Months Received
Staff Services Manager I (Specialist)	E48	E	Full Time	\$4,800	4
Staff Services Manager I (Specialist)	E48	E	Full Time	\$4,800	4

<sup>9</sup> Pay Letter 94-32 established Pay Differential 62 regarding arduous pay for Bargaining Units 1, 7, 9, 17, 19, and 21, and Excluded employees.

<b>IN COMPLIANCE</b>	<b>FINDING NO.11 ARDUOUS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found that the arduous pay authorization that the CDA made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Pay Differentials

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

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

During the period under review, June 1, 2023, through February 29, 2024, the CDA authorized one pay differential.<sup>10</sup> The CRU reviewed the authorized pay differential to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

Classification	Pay Differential	Monthly Amount
Senior Emergency Services Coordinator, Office of Emergency Services	245	2%

<sup>10</sup> For the purposes of CRU’s review, only monthly pay differentials were selected for review at this time.



<b>IN COMPLIANCE</b>	<b>FINDING NO.12 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the pay differential that the CDA 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 and Pay

For excluded<sup>11</sup> and most rank-and-file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

During the period under review, June 1, 2023, through February 29, 2024, the CDA issued OOC pay to one employee. The CRU reviewed the one authorized OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines, which is listed below:

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<sup>11</sup> “Excluded employee” means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Personnel Analyst	R01	SSM I (Supervisory)	1/2/24-2/29/24

<b>IN COMPLIANCE</b>	<b>FINDING NO.13 OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the OOC pay assignment that the CDA authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

**Leave**

**Positive Paid Employees**

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee’s time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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 the working days of a month. When counting 189 days, every day worked, including partial days<sup>12</sup> worked and paid absences<sup>13</sup>, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are 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

<sup>12</sup> For example, two hours or ten hours count as one day.

<sup>13</sup> 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. (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).)

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

At the time of the review, the CDA had 24 positive paid employees whose hours were tracked. The CRU reviewed 13 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked (Hours)
Associate Governmental Program Analyst	Retired Annuitant	N/A	940.5
Associate Management Auditor	Retired Annuitant	N/A	464
Associate Personnel Analyst	Retired Annuitant	N/A	727
Associate Personnel Analyst	Retired Annuitant	N/A	676
Information Officer I (Specialist)	Retired Annuitant	N/A	670.5
Senior Personnel Specialist	Retired Annuitant	N/A	621
Senior Personnel Specialist	Retired Annuitant	N/A	892
Staff Services Analyst	Retired Annuitant	N/A	946
Staff Services Manager I	Retired Annuitant	N/A	960
Student Assistant	Temporary	4/11/23-2/29/24	916.5
Student Assistant	Temporary	9/13/23-2/29/24	772.5
Student Assistant	Temporary	6/28/23-2/29/24	629.2
Student Assistant	Temporary	5/01/22-4/30/23	1206.3

<b>IN COMPLIANCE</b>	<b>FINDING NO.14 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CDA provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

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

During the period under review, December 1, 2022, through November 30, 2023, the CDA authorized 21 ATO transactions. The CRU reviewed 17 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Accounting Administrator I (Supervisor)	12/1/2022	1 day
Associate Governmental Program Analyst	12/22/22-12/23/22 12/27/22-12/30/22	6 days
Associate Governmental Program Analyst	1/9/2023	1 day
Associate Governmental Program Analyst	12/15/22-12/16/22 12/21/22-12/22/22	3 days, 2.5 hours
Associate Governmental Program Analyst	1/9/2023	1 day
Associate Management Auditor	12/5/22-12/6/22	2 days
Associate Management Auditor	12/1/2022	1 day
CEA	2/21/23-2/24/23 2/27/23-2/28/23 3/01/23	7 days
CEA	3/2/2023-3/3/2023 3/6/2023-3/9/2023	6 days
Health Program Specialist I	12/1/22-12/2/22	2 days

Classification	Time Frame	Amount of Time on ATO
Office Technician (Typing)	1/9/23 1/13/23 1/17/23-1/20/23	6 days
Personnel Specialist	1/4/23 1/9/23	7.50 hours
Personnel Technician I	12/23/2022	2 hours
Staff Management Auditor	1/9/2023-1/10/23	2 days
Staff Services Analyst	1/9/2023-1/10/2023	2 days
Staff Services Manager I	12/15/22-12/16/22 12/19/22-12/21/22	5 days
Staff Services Manager I	1/10/2023	1 day

<b>IN COMPLIANCE</b>	<b>FINDING NO.15 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CDA provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

#### Leave Auditing and Timekeeping

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

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

During the period under review, September 1, 2023, through November 30, 2023, the CDA reported 41 units comprised of 270 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
September 2023	510	14	14	0
September 2023	530	7	7	0
October 2023	550	11	11	0
October 2023	634	17	17	0
November 2023	631	18	18	0
November 2023	711	12	12	0
November 2023	930	7	7	0

<b>IN COMPLIANCE</b>	<b>FINDING NO.16 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CDA kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

### 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 a qualifying or non-qualifying pay period for state service and leave accruals.

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.<sup>14</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

<sup>14</sup> Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>15</sup> shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, June 1, 2023, through February 29, 2024, the CDA had one employee with qualifying and non-qualifying pay period transactions. The CRU reviewed this transaction to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

Type of Transaction	Time Base	No. Reviewed
Qualifying Pay Period	Full Time	1

<b>IN COMPLIANCE</b>	<b>FINDING NO.17 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the CDA 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.

<sup>15</sup> As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

## **Policy and Processes**

### **Nepotism**

It is the policy of the State of California to hire, transfer, and promote 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. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of "nepotism" as an employee's use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of "personal relationship" as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO 18 NEPOTISM POLICY DOES NOT CONTAIN ALL REQUIRED COMPONENTS</b>
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**Summary:** The CDA's nepotism policy does not contain all required components. Specifically, the CDA's nepotism policy does not include a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant.

**Criteria:** It is the policy of the State of California to hire, transfer, and promote all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204). All department nepotism policies shall include six specific components which emphasize that nepotism is antithetical to merit-based civil service and include definitions and prohibitions integral to upholding the merit system. (Cal. Code Regs., tit. 2, § 87.)



**Severity:** Very Serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. Departments must take proactive steps to ensure that the hiring, transferring, and promoting of all employees is done on the basis of merit and fitness in accordance with civil service statutes. Maintaining a current written nepotism policy that addresses all requirements outlined in civil service statute, rules and regulations, and its dissemination to all staff, is the cornerstone for achieving these outcomes.

**Cause:** The CDA states that it does maintain a written nepotism policy (dated March 29, 2011) that is available to all staff on the CDA intranet and is provided to all new employees as part of CDA onboarding activities. However, an updated nepotism policy containing all the required components is in final draft for review and submission to the unions.

**Corrective Action:** Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which includes an updated nepotism policy which contains requirements outlined in Human Resources Manual section 1204, and documentation demonstrating that it has been distributed to all staff.

### Workers’ Compensation

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

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers’ compensation coverage is not mandatory for volunteers as it is for employees.

(*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

In this case, the CDA did not employ volunteers during the compliance review period.

<b>IN COMPLIANCE</b>	<b>FINDING NO.19 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the CDA provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRU verified that when the CDA received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

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

The CRU selected 28 permanent CDA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO.20 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES</b>
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**Summary:** The CDA did not provide annual performance appraisals to all 28 of 28 employees reviewed after the completion of the employees' probationary periods. This is the third consecutive time this has been a finding for the CDA.

**Criteria:** Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the

employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

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

**Cause:** The CDA states the cause as a lack of training, tracking, notification, and a failure to provide the necessary forms and employee anniversary dates to supervisors and managers.

**Corrective Action:** Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **DEPARTMENTAL RESPONSE**

The CDA's departmental response is attached as Attachment 1.

### **SPB REPLY**

Based upon the CDA's written response, the CDA will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified must be submitted to the CRU.

**CALIFORNIA DEPARTMENT OF AGING****Human Resources Branch**

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September 13, 2024

Suzanne M. Ambrose  
Executive Officer  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95819

Dear Ms. Ambrose:

SUBJECT: COMPLIANCE REVIEW REPORT RESPONSE

The California Department of Aging (CDA) is submitting this letter in response to the findings from the State Personnel Board's (SPB) draft Compliance Review Report dated August 30, 2024. The Department recognizes the importance of compliance reviews to ensure proper personnel practices and adherence to civil service laws, rules and regulations.

CDA has reviewed the SPB's report and appreciates the opportunity to respond to the findings. Thank you for the opportunity to respond to the draft report.

If you have any questions or need additional information, please contact me at [Virginia.Perry@aging.ca.gov](mailto:Virginia.Perry@aging.ca.gov) or (916) 751-0019.

Sincerely,

Virginia Perry, Chief Human Resources Officer  
Human Resources Branch

Cc: Nicole Shimosaka, Deputy Director, Division of Administrative Services

**FINDING NO. 5** – Unions were not notified of Personal Services Contracts

CDA did not notify the unions of personal services contracts for 8 of the 11 Personal Services Contracts reviewed.

**CDA Response:** CDA hired and trained three new employees who had no prior contracting or procurement experience. These errors may have occurred during the learning process. The staff has a checklist that they follow to ensure compliance with all rules and regulations.

**FINDING NO. 18** – Department Does Not Maintain a Current Written Nepotism Policy

**CDA Response:** CDA does maintain a written Nepotism Policy (dated March 29, 2011) that is available to all staff on the CDA intranet and is provided to all new employees as part of CDA onboarding activities. The updated policy is in final draft for review and submission to the unions to implement. The updated policy contains all the required components.

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

**CDA Response:** CDA did not provide performance appraisals to any of the 28 employee records reviewed at least once in each twelve calendar months after the completion of the employee's probationary period due to a lack of training, tracking, notification, and failure to provide the necessary forms and employee anniversary dates to supervisors and managers.

CDA agrees with this finding. CDA understands the importance and requirements for supervisors to complete annual performance appraisals for staff. In June of 2024, CDA implemented an annual review of duty statements and workplace expectations to ensure that the employees are aware of the workplace expectations and that the duties performed are accurately reflected to evaluate the staff. CDA has also updated the tracking system for probation reports to include the performance appraisal dates and the human resources analyst has begun tracking and reminding the managers of these requirements to assist with compliance.