



# **COMPLIANCE REVIEW REPORT**

## **DEPARTMENT OF CONSERVATION**

Compliance Review Unit  
State Personnel Board  
May 22, 2024

# **TABLE OF CONTENTS**

INTRODUCTION .....	1
EXECUTIVE SUMMARY .....	2
BACKGROUND .....	3
SCOPE AND METHODOLOGY .....	4
FINDINGS AND RECOMMENDATIONS .....	6
EXAMINATIONS .....	6
APPOINTMENTS .....	7
EQUAL EMPLOYMENT OPPORTUNITY .....	9
PERSONAL SERVICES CONTRACTS .....	10
MANDATED TRAINING .....	13
COMPENSATION AND PAY .....	14
LEAVE .....	25
POLICY AND PROCESSES .....	32
DEPARTMENTAL RESPONSE .....	35
SPB REPLY .....	35

## **INTRODUCTION**

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the Department of Conservation (DOC) 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	Examinations Complied with Civil Service Laws and Board Rules
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	In Compliance	Mandated Training Complied with Statutory Requirements
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay <sup>1</sup>

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<sup>1</sup> Repeat finding. The DOC's June 2, 2021, compliance review report identified one error in the one bilingual pay authorization reviewed.

Area	Severity	Finding
Compensation and Pay	Very Serious	Incorrect Authorization of Pay Differentials <sup>2</sup>
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Administrative Time Off Was Not Properly Documented
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>3</sup>

### **BACKGROUND**

With a team of scientists and other dedicated professionals, the DOC administers a variety of programs vital to California's public safety, environment, and economy. The services the DOC provides are designed to balance today's needs with tomorrow's obligations by fostering the wise use and conservation of energy, land, and mineral

<sup>2</sup> Repeat finding. The DOC's June 2, 2021, compliance review report identified 1 error in the 15 pay differentials reviewed.

<sup>3</sup> Repeat finding. The DOC's June 2, 2021, compliance review report identified that the DOC did not provide annual performance appraisals to 12 of 81 employees reviewed. The DOC's August 17, 2018, compliance review report identified that the DOC did not provide annual performance appraisals to 2 of 23 employees reviewed.

resources. Five divisions comprise the DOC: Land Resource Conservation; Mine Reclamation; California Geological Survey; Geologic Energy Management; and State Mining & Geology Board.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the DOC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>4</sup>. The primary objective of the review was to determine if the DOC'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 DOC'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 DOC provided, which included examination plans, examination bulletins, job analyses, and scoring results. The DOC did not conduct any permanent withhold actions during the compliance review period.

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

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

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<sup>4</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

The review of the DOC'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 DOC's PSC's were also reviewed.<sup>5</sup> It was beyond the scope of the compliance review to make conclusions as to whether the DOC's justifications for the contracts were legally sufficient. The review was limited to whether the DOC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DOC'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 DOC'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 DOC'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 DOC'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 DOC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of the DOC positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

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<sup>5</sup>If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

The CRU received and carefully reviewed the DOC’s written response on May 14, 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, May 1, 2023, through January 31, 2024, the DOC conducted six examinations. The CRU reviewed five of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Branch Chief Hazard Monitoring and Preparedness	CEA	Statement of Qualifications (SOQ) <sup>6</sup>	6/5/23	6
CEA B, Area District Deputy	CEA	SOQ	6/15/23	12

<sup>6</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.



Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA B, Northern Area District Deputy	CEA	SOQ	11/17/23	9
CEA C, Chief Deputy of Field Operations	CEA	SOQ	7/10/23	16
CEA C, State Geologist	CEA	SOQ	5/31/23	10

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

### **Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, 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, April 1, 2023, through November 30, 2023, the DOC made 120 appointments. The CRU reviewed 23 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Associate Oil and Gas Engineer	Certification List	Permanent	Full Time	2
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Engineering Geologist	Certification List	Permanent	Full Time	3
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Research Data Supervisor I	Certification List	Permanent	Full Time	1
Seismological Instrument Technician II	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Senior Engineering Geologist	Certification List	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	1
Senior Legal Analyst	Certification List	Permanent	Full Time	1
Senior Oil and Gas Engineer (Supervisor)	Certification List	Permanent	Full Time	2
Senior Personnel Specialist	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Supervising Engineering Geologist	Certification List	Permanent	Full Time	1
Supervising Oil and Gas Engineer	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1

<b>IN COMPLIANCE</b>	<b>FINDING NO. 2 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The DOC measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 21 list appointments reviewed, the DOC ordered a certification list of candidates ranked

competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed two DOC appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The DOC verified the eligibility of each candidate to their appointed class.

The CRU found no deficiencies in the appointments that the DOC initiated during the compliance review period. Accordingly, the CRU found that the DOC's appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

### **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).)

IN COMPLIANCE	<b>FINDING NO. 3 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 DOC’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 DOC. The DOC 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, May 1, 2023, through January 31, 2024, the DOC had 47 PSC’s that were in effect. The CRU reviewed 25 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
ACCO Engineered Systems, Inc	A/C Repair and Maintenance	\$48,000	Yes	Yes
Affordable Fire Services	Fire Suppression Monitoring	\$345,000	Yes	Yes
Badlands Off-Road Adventures	Instructor Led Off-Road Driving Training	\$29,622	Yes	Yes
Bracy Hawkins Law, P.C.	Legal Services	\$149,000	Yes	Yes
Brown's Construction Service, Inc.	Inspection and Emergency Oil/Gas Well Services	\$200,000	Yes	Yes
Cedars Business Services, LLC	Debt Collection Services	\$120,000	Yes	Yes
CPS HR Consulting	Professional Development Training	\$112,425	Yes	Yes
Driltek, Inc.	Plugging & Abandonment Services	\$35,048,429	Yes	Yes
Driltek, Inc.	Clean-up Work on Well Pads	\$137,200	Yes	Yes
Frontier Environmental Solutions, Inc.	Remediation of Mine Physical Safety Hazards	\$95,414	Yes	Yes
Geophysical Imaging Partners, Inc	Consolidation of Electromagnetic Datasets and Creation of New Data Models	\$52,030	Yes	Yes
HSI Workplace Compliance Solutions, Inc	Safety and Professional Development Training	\$17,550	Yes	Yes
Institute of Internal Auditors	Training, Exam, and Membership Services	\$49,500	Yes	Yes
Jay Seidel	Commercial UAS/Drone Remote Pilot Certification Course	\$150,000	Yes	Yes
KJ Construction	Security Camera and Fire Suppression System Installations	\$49,000	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Lawrence Livermore National Security, LLC	Surface Expression Study	\$991,248	Yes	Yes
Lazar Translating and Interpreting	Translation and Interpretation Services	\$89,750	Yes	Yes
MRS Environmental	CEQA Consulting Services	\$5,000,000	Yes	Yes
New Horizons	Professional Development Training	\$49,000	Yes	Yes
PG Exam School Prep	Geology Licensing Exam Training	\$49,000	Yes	Yes
REG Review, Inc.	Geology Licensing Exam Training	\$49,325	Yes	Yes
Rescue Training Institute, Inc.	Workplace Safety Training	\$28,835	Yes	Yes
Terra AI, Inc.	Intelligent Decision Process for Efficient and Economic Geoscientific Data Collection	\$180,000	Yes	Yes
ThinkDev, LLC	Workforce Reorganization Consultant Services	\$202,250	Yes	Yes
Woodruff and Smart, APC	Legal Services	\$3,600,000	Yes	Yes

<b>IN COMPLIANCE</b>	<b>FINDING NO. 4 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS</b>
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The total dollar amount of all the PSC’s reviewed was \$46,842,578. It was beyond the scope of the review to make conclusions as to whether the DOC justifications for the contracts were legally sufficient. For all PSC’s reviewed, the DOC provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, DOC complied with proper notification to all organizations that represent state employees who perform or could perform the type or work contracted as required by California Code of Regulations section 547.60.2. Accordingly, the DOC PSC’s complied with civil service laws and board rules.

## **Mandated Training**

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) 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 DOC’s mandated training program that was in effect during the compliance review period, February 1, 2022, through January 31, 2024.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 5</b>	<b>MANDATED TRAINING COMPLIED WITH STATUTORY REQUIREMENTS</b>
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The DOC provided ethics training to the 56 new filers reviewed within 6 months of appointment and for the 92 existing filers reviewed, “at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter.” The DOC also provided supervisory training to its 16 new supervisors and one new manager within 12 months of appointment. In addition, the DOC provided sexual harassment prevention training to its 26 new supervisors within 6 months of appointment, and sexual harassment prevention training to its 108 existing supervisors and to the 100 new non-supervisory employees reviewed every 2 years. Thus, the DOC complied with mandated training requirements within statutory timelines.

## **Compensation and Pay**

### **Salary Determination**

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

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, April 1, 2023, through November 30, 2023, the DOC made 120 appointments. The CRU reviewed 10 of those appointments to determine if the

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



DOC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$6,031
Associate Oil and Gas Engineer	Certification List	Permanent	Full Time	\$10,559
Associate Personnel Analyst	Certification List	Permanent	Full Time	\$5,856
Information Technology Specialist I	Certification List	Permanent	Full Time	\$7,197
Seismological Instrument Technician II	Certification List	Permanent	Full Time	\$4,853
Senior Legal Analyst	Certification List	Permanent	Full Time	\$7,252
Senior Personnel Specialist	Certification List	Permanent	Full Time	\$5,938
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,760
Associate Personnel Analyst	Transfer	Permanent	Full Time	\$5,684
Staff Services Manager I	Transfer	Permanent	Full Time	\$8,150

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 6 INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT</b>
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**Summary:** The CRU found 1 error in the 10 salary determinations reviewed:

Classification	Description of Finding	Criteria
Associate Personnel Analyst	Incorrect salary determination resulting in the employee being overcompensated.	Cal. Code Regs., tit.2 section 599.676

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

**Severity:** Very Serious. In one circumstance, the DOC failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with

CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

**Cause:** The DOC states that the incorrect salary was keyed in error and has since been corrected.

**Corrective Action:** Within 90 days of the date of this report, the DOC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The DOC must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, April 1, 2023, through November 30, 2023, the DOC made 14 alternate range movements within a classification. The CRU reviewed nine of those alternate range movements to determine if the DOC 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)
Business Service Assistant (Specialist)	B	C	Full Time	\$4,014
Engineering Geologist	C	D	Full Time	\$9,548
Engineering Geologist	C	D	Full Time	\$9,781
Engineering Geologist	C	D	Full Time	\$10,782
Information Technology Associate	C	D	Full Time	\$6,673

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Information Technology Specialist I	B	C	Full Time	\$8,228
Information Technology Specialist I	B	C	Full Time	\$8,989
Information Technology Specialist I	B	C	Full Time	\$9,223
Staff Services Analyst (General)	B	C	Full Time	\$5,028

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 7 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES</b>
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**Summary:** The CRU found two errors in the nine alternate range movements reviewed:

Classification	Description of Findings	Criteria
Business Service Assistant (Specialist)	Incorrect salary determination resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, section 599.673
Engineering Geologist	Incorrect salary determination resulting in the employee being overcompensated.	Cal. Code Regs., tit. 2, section 599.676

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

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

**Severity:** Very Serious. In two circumstances, the DOC failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules not in accordance with CalHR’s policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

**Cause:** The DOC states that the incorrect salary determinations were the result of human error and have since been corrected.

**Corrective Action:** Within 90 days of the date of this report, the DOC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The DOC must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### Bilingual Pay

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

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

During the period under review, April 1, 2023, through November 30, 2023, the DOC issued bilingual pay to two employees. The CRU reviewed the two bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Associate Governmental Program Analyst	R01	Full Time	1
CEA	M01	Full Time	1

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 8 INCORRECT AUTHORIZATION OF BILINGUAL PAY</b>
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**Summary:** The CRU found two errors in the two bilingual pay authorizations reviewed. This is the second consecutive time this has been a finding for the DOC.

Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	Department failed to provide supporting documentation that the employee has been tested and certified bilingual.	Government Code section 7296
CEA	Department failed to provide certification that the employee's duties required use of bilingual skills for at least 10% of their time.	Pay Differential 14

**Criteria:** For any state agency, a "qualified" bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296, subd. (a)(3).)

An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

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

**Cause:** The DOC states that both employees were receiving bilingual pay at their previous departments, and the bilingual pay was not removed when their DOC appointments were keyed.

**Corrective Action:** Within 90 days of the date of this report, the DOC 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 7296, and/or Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, April 1, 2023, through November 30, 2023, the DOC authorized 49 pay differentials.<sup>8</sup> The CRU reviewed 25 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Associate Governmental Program Analyst	441	\$250
Associate Oil and Gas Engineer	433	5.5%
Associate Oil and Gas Engineer	433	5.5%
Associate Oil and Gas Engineer	433	4%

<sup>8</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Associate Oil and Gas Engineer	433	2%
Energy and Mineral Resources Engineer	433	5.5%
Engineering Geologist	433	2%
Engineering Geologist	433	5.5%
Engineering Geologist	433	5.5%
Office Technician (Typing)	441	\$250
Research Data Analyst II	441	\$250
Senior Engineering Geologist	433	2%
Senior Engineering Geologist	433	5.5%
Senior Engineering Geologist	433	5.5%
Senior Engineering Geologist	433	2%
Senior Oil And Gas Engineer (Supervisor)	433	4%
Senior Oil and Gas Engineer (Supervisor)	433	3%
Senior Oil and Gas Engineer (Supervisor)	433	5.5%
Senior Oil and Gas Engineer (Supervisor)	433	5.5%
Senior Precision Electronics Specialist	433	2%
Senior Precision Electronics Specialist	433	2%
Supervising Engineering Geologist	432	\$250
Supervising Engineering Geologist	433	4%
Supervising Engineering Geologist	433	5.5%
Supervising Oil and Gas Engineer	433	5.5%

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING No. 9 INCORRECT AUTHORIZATION OF PAY DIFFERENTIALS</b>
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**Summary:** The CRU found 1 error in the 25 pay differentials reviewed. This is the second consecutive time this has been a finding for the DOC.

Classification	Area	Description of Finding	Criteria
Research Data Analyst II	Geographic Recruitment and Retention Pay	The employee's worksite is not located in an eligible county to receive the monthly pay differential resulting in the employee being overcompensated.	Pay Differential 441

**Criteria:** A pay differential may be appropriate when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary

responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or recruitment and retention. (CalHR Classification and Pay Manual Section 230.)

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

**Cause:** The DOC states that new transactions staff were not properly trained on pay differentials. As a result, the employee's previous position's pay differential was not removed upon appointment to the new position.

**Corrective Action:** Within 90 days of the date of this report, the DOC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 441 and ensure that employees are compensated correctly and that transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### Out-of-Class Assignments and Pay

For excluded<sup>9</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

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<sup>9</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.



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, April 1, 2023, through November 30, 2023, the DOC issued OOC pay to 12 employees. The CRU reviewed 8 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	8/23/23-11/30/23
Associate Governmental Program Analyst	R01	Staff Services Manager I	9/8/23-10/10/23
Associate Oil and Gas Engineer	R09	Senior Oil and Gas Engineer (Supervisor)	4/1/23-5/10/23
Associate Oil and Gas Engineer	R09	Senior Oil and Gas Engineer (Supervisor)	5/26/23-9/22/23
Associate Oil and Gas Engineer	R09	Senior Oil and Gas Engineer (Supervisor)	9/25/23-11/30/23
Senior Oil and Gas Engineer (Supervisor)	S09	CEA B, Northern Area District Deputy	4/3/23-6/29/23
Staff Services Manager I	S01	Staff Services Manager II	8/23/23-11/30/23
Supervising Oil and Gas Engineer	S09	CEA C, California Geological Energy Management	4/1/23-6/30/23

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 10 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY</b>
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**Summary:** The CRU found two errors in the eight OOC pay assignments reviewed:

Classification	Out-of-Class Classification	Description of Findings	Criteria
Associate Oil and Gas Engineer	Senior Oil and Gas Engineer (Supervisor)	OOB compensation was incorrectly calculated resulting in the employee being overcompensated for the May 2023 pay period.	Pay Differential 92
Senior Oil and Gas Engineer (Supervisor)	CEA B, Northern Area District Deputy	OOB compensation was incorrectly calculated resulting in the employee being undercompensated for the June 2023 pay period.	Pay Differential 101

**Criteria:** An employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120) calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment is of unusual urgency, nature, volume, location, duration, or other special characteristics; and, cannot feasibly be met through use of other civil service or administrative alternatives. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid using existing eligibility lists created as the result of a civil service examination.

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

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. (c).) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, §

599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, subd. (e).)

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

**Cause:** The DOC states that there was an error in the formula on their OOC calculator spreadsheet resulting in the OOC pay not computing correctly.

**Corrective Action:** Within 90 days of the date of this report, the DOC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differentials 92 and 101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## Leave

### Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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>10</sup>

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<sup>10</sup> For example, two hours or ten hours count as one day.

worked and paid absences<sup>11</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 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 DOC had six positive paid employees whose hours were tracked. The CRU reviewed five 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
Attorney III	Retired Annuitant	7/1/22-6/30/23	535.25 Hours
Attorney IV	Retired Annuitant	7/1/22-6/30/23	263.5 Hours
Seasonal Clerk	Temporary	1/1/23-12/31/23	1,259 Hours
Seasonal Clerk	Temporary	1/1/23-12/31/23	1,202.25 Hours
Senior Precision Electronics Specialist	Retired Annuitant	7/1/22-6/30/23	958 Hours

<sup>11</sup> For example, vacation, sick leave, compensating time off, etc.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 11 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 DOC 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, November 1, 2022, through October 31, 2023, the DOC authorized 42 ATO transactions. The CRU reviewed 25 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
Associate Personnel Analyst	10/3/23, 10/13/23	16 Hours
Senior Accounting Officer (Specialist)	12/30/22	5 Hours
Associate Governmental Program Analyst	1/9/23	4 Hours
Associate Governmental Program Analyst	11/15/22-11/21/22	40 Hours
Associate Governmental Program Analyst	11/04/22-11/07/22	16 Hours
Associate Oil and Gas Engineer	1/09/23-1/10/23	18 Hours
Associate Oil and Gas Engineer	12/01/22-12/02/22	18 Hours
Associate Oil and Gas Engineer	11/29/22-11/30/22	18 Hours
Associate Oil and Gas Engineer	12/15/22-12/20/22	30 Hours
Associate Oil and Gas Engineer	12/27/22-12/30/22	32 Hours
CEA	9/1/23 - 9/20/23	104 Hours
Engineering Geologist	12/19/22-12/23/22	40 Hours
Environmental Planner	11/14/22-11/16/22	24 Hours
Information Technology Specialist I	12/20/22	8 Hours
Information Technology Specialist I	11/8/22	8 Hours
Research Data Specialist II	12/13/22	8 Hours
Seismological Instrument Technician I	1/6/23 - 1/9/23	6 Hours

Classification	Time Frame	Amount of Time on ATO
Senior Environmental Scientist (Supervisory)	1/5/23 - 1/17/23	64 Hours
Senior Environmental Scientist (Supervisory)	3/10/23	9 Hours
Senior Oil and Gas Engineer (Specialist)	12/1/22-12/6/22	32 Hours
Senior Oil and Gas Engineer (Specialist)	1/17/23	8 Hours
Senior Oil and Gas Engineer (Specialist)	11/21/22-11/30/22	48 Hours
Senior Oil and Gas Engineer (Supervisor)	12/06/22-12/09/22	32 Hours
Senior Personnel Specialist	1/9/23-1/10/23	9.5 Hours
Staff Services Analyst (General)	1/9/23-1/10/23	15 Hours

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 12 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED</b>
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**Summary:** The DOC did not grant ATO in conformity with the established policies and procedures. Of the 25 ATO authorizations reviewed by the CRU, 2 were found to be out of compliance for failing to document justification for ATO. In addition, three were not properly documented in the California Leave Accounting System.

**Criteria:** Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they “have delegated authority to approve up to 30 calendar days.” (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. (*Ibid.*) In most cases, if approved, the extension will be for an additional 30 calendar days. (*Ibid.*) The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. (*Ibid.*)

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. (*Ibid.*) ATO may not be used and will not be granted for an indefinite period. (*Ibid.*) If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. (*Ibid.*)

Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (*Ibid.*)

**Severity:** Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

**Cause:** The DOC states that they have a 90-day email retention policy; therefore, not all ATO authorizations could be retrieved. In addition, timesheets for two employees were not received timely resulting in the ATO not being keyed.

**Corrective Action:** Within 90 days of the date of this report, the DOC 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 19991.10 and Human Resources Manual Section 2121. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### 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, August 2, 2023, through October 31, 2023, the DOC reported 29 units comprised of 701 active employees during the August 2023 pay period,

720 active employees during the September 2023 pay period, and 717 active employees during the October 2023 pay period. 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
August 2023	105	17	17	0
August 2023	106	9	9	0
September 2023	305	12	12	0
September 2023	405	17	17	0
October 2023	208	16	16	0

<b>IN COMPLIANCE</b>	<b>FINDING NO. 13 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 DOC 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>12</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>12</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>13</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, April 1, 2023, through November 30, 2023, the DOC had one employee with qualifying and non-qualifying pay period transactions. The CRU reviewed four transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Non-qualifying Pay Period	Full Time	2
Qualifying Pay Period	Full Time	2

<b>IN COMPLIANCE</b>	<b>FINDING NO. 14 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 DOC 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>13</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. 15 DEPARTMENT'S NEPOTISM POLICY DOES NOT CONTAIN ALL REQUIRED COMPONENTS</b>
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**Summary:** The DOC's nepotism policy does not contain all required components. Specifically, the DOC's nepotism policy does not include:

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.

**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 DOC states that they failed to update their nepotism policy when the new components were added to the California Code of Regulations, title 2, section 87.

**Corrective Action:** Within 90 days of the date of this report, the DOC 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 DOC did not employ volunteers during the compliance review period.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 16 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 DOC 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 DOC 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 89 permanent DOC 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. 17 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES</b>
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**Summary:** The DOC did not provide annual performance appraisals to 5 of 89 employees reviewed after the completion of the employee's probationary period. This is the third consecutive time this has been a finding for the DOC.

**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 DOC states that although supervisors and managers were notified of the requirement to complete performance appraisals timely, a tracking mechanism was not in place to ensure all performance appraisals were completed within the required timeframe.

**Corrective Action:** Within 90 days of the date of this report, the DOC 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 DOC's departmental response is attached as Attachment 1.

### **SPB REPLY**

Based upon the DOC's written response, the DOC 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.



May 14, 2024

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

Dear Ms. Ambrose:

## **RESPONSE TO DRAFT COMPLIANCE REVIEW**

The Department of Conservation (DOC), Division of Administration, Human Resources Office (HRO), has taken the findings from the Compliance Audit conducted by the State Personnel Board seriously. Below are the causes to the various findings.

### **Finding No. 6 – Incorrect Application of Salary Determination Laws, Rules and CalHR Policies and Guidelines for Appointment**

Cause/Department Response:

The DOC found the incorrect salary was due to a keying error and has since been corrected.

### **Finding No. 7 – Alternative Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

Cause/Department Response:

The DOC found the identified errors were the result of human error and oversight and has since been corrected.

### **Finding No. 8 – Incorrect Authorization of Bilingual Pay**

Cause/Department Response:

The DOC was not able to locate the bilingual certification and duty statement. Both employees had been receiving bilingual pay at their previous departments and when their appointments were keyed, the bilingual pay was not removed. The transactions team has added a new section to their A01 requests to identify any bilingual pay that non-DOC employees may be receiving prior to their appointment.

### **Finding No. 9 – Incorrect Authorization of Pay Differentials**

Cause/Department Response:

New transactions personnel were not trained fully on pay differentials. The employee's previous state position was located in a county that was eligible for the pay differential. When the new appointment was keyed, the pay differential was not removed.

**Finding No. 10 – Incorrect Authorization of Out-of-Class Pay**

Cause/Department Response:

Due to an error in the formula on the out-of-class calculation spreadsheet, pay was not computed correctly. The spreadsheet has been deleted and a new calculation worksheet with manual calculations has been created. The updated spreadsheet also requires a second review.

**FINDING NO. 12 - Administrative Time Off (ATO) Was Not Properly Documented**

Cause/Department Response:

The DOC has a 90-day email retention policy. Authorization for two employee's ATO was not retained, and the emails could not be retrieved. Final timesheets for two employees that were placed on ATO prior to separation were not received timely and the ATO was not keyed.

**FINDING No. 15 - Nepotism Policy Does Not Contain All Required Components**

Cause/Department Response:

The DOC failed to update the Nepotism Policy when the new components were added to CCR 87. The policy is being updated and will be sent to the unions. Once the new policy is approved, the updated policy will be sent to all employees.

**FINDING NO. 17 – Performance Appraisals Were Not Provided to All Employees**

Cause/Department Response:

The DOC notified supervisors and managers of the requirement to complete timely performance appraisals. A tracking mechanism was not in place to ensure all performance appraisals were completed by the established deadline.

If you have any questions or need additional information, please contact me at (916) 531-3557.

Sincerely,



Tara Hirst  
Personnel Officer