



COMPLIANCE REVIEW REPORT

DELTA STEWARDSHIP COUNCIL

Compliance Review Unit
State Personnel Board
November 7, 2022

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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 Delta Stewardship Council (DSC) 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	Serious	Probationary Evaluations Were Not Timely
Equal Employment Opportunity	Very Serious	A Disability Advisory Committee Has Not Been Actively Maintained ¹
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ²
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors ³
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment ⁴
Compensation and Pay	In Compliance	Alternate Range Movement Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Out of Class Pay Authorization Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ Repeat finding. January 17, 2020, the DSC's compliance review report identified the department's Disability Advisory Committee has not been actively maintained.

² Repeat finding. January 17, 2020, the DSC's compliance review report identified 3 of 11 existing filers did not receive ethics training at least once during each consecutive period of 2 calendar years.

³ Repeat finding. January 17, 2020, the DSC's compliance review report identified two of four supervisors did not receive sexual harassment prevention training within six months of their appointment.

⁴ Repeat finding. January 17, 2020, the DSC's compliance review report identified 2 deficiencies out of the 20 salary determinations made.

Area	Severity	Finding
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	Serious	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely ⁵
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

BACKGROUND

The Delta Reform Act of 2009 created the DSC. The mission of the DSC is to achieve the co-equal goals of providing a more reliable water supply for California while protecting, restoring, and enhancing the Delta ecosystem in keeping with the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

To carry out its mission, the DSC developed the Delta Plan, which is an enforceable, long-term, sustainable management plan for the Delta to ensure coordinated action at the federal, state, and local levels. The DSC's work is also supported by an independent board of nationally and internationally prominent scientists, which is known as the Independent Science Board. The DSC staffs approximately 72 permanent employees along with 11.50 temporary employees.

During the review period, the Department of Forestry and Fire Protection (CalFire) performed human resources operations for the DSC⁶.

⁵ Repeat finding. January 17, 2020, the DSC's compliance review report identified the department has not implemented a monthly internal audit process to verify all leave input is keyed accurately and timely.

⁶ As of July 2022, the DSC has assumed all human resources related responsibilities for its organization.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DSC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁷. The primary objective of the review was to determine if the DSC'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 DSC's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the DSC provided, which included examination plans, examination bulletins, job analyses, and scoring results.

The DSC did not conduct any permanent withhold actions during the compliance review period.

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

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

The DSC's appointments were also selected for review to ensure the DSC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DSC 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: alternate range movements, and out-of-class assignments.

⁷ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

During the compliance review period, the DSC did not issue or authorize hiring above minimum requests, red circle rate requests, arduous pay, bilingual pay, or monthly pay differentials.

The review of the DSC's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The DSC's PSC's were also reviewed.⁸ It was beyond the scope of the compliance review to make conclusions as to whether the DSC's justifications for the contracts were legally sufficient. The review was limited to whether the DSC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

The CRU reviewed the DSC'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 DSC's units in order to ensure they maintained accurate and timely leave accounting records. The CRU reviewed a selection of the DSC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of DSC positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

During the compliance review period, the DSC did not have any employees with non-qualifying pay period transactions.

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

⁸If 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.

On September 29, 2022, an exit conference was held with the DSC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DSC's written response on October 7, 2022, 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, April 1, 2020, through March 31, 2021, the DSC conducted five examinations. The CRU reviewed five of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) A, Deputy Executive Officer for Communications	CEA	Statement of Qualifications (SOQ) ⁹	9/19/2020	10

⁹ 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 A, Assistant Deputy Executive Officer for Communications	CEA	SOQ	10/01/2020	13
CEA A, Assistant Deputy Executive Officer for Communications	CEA	SOQ	1/15/2021	20
CEA B, Chief Deputy	CEA	SOQ	1/18/2021	7
Program Manager	Open	Qualification Appraisal Panel ¹⁰	9/17/2020	15

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

¹⁰ The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

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, January 1, 2020, through December 31, 2020, the DSC made 18 appointments. The CRU reviewed 8 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Environmental Program Manager I (Supervisory)	Certification List	Permanent	Full Time	2
Environmental Scientist	Certification List	Permanent	Full Time	1
Senior Environmental Planner	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Retired Annuitant	Limited Term	Intermittent	2
Staff Services Manager I	Retired Annuitant	Limited Term	Intermittent	1
Senior Environmental Scientist (Specialist)	Transfer	Permanent	Full Time	1

SERIOUS	FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT TIMELY
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Summary: The DSC did not provide in a timely manner three probationary reports of performance for eight of the eight appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Environmental Program Manager I (Supervisory)	A01	2	2
Senior Environmental Planner	A01	1	1

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During

the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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

Cause: NOPA forms were provided to employees and their managers; some managers did not consistently adhere to providing their employees with probationary reports by the expressed deadline(s).

Corrective Action: The DSC provides it has taken measures to achieve compliance in this area. Within 90 days of the date of this report, the DSC must submit to the SPB written documentation demonstrating the corrective actions implemented to ensure conformity with California Code of Regulations, title 2, section 599.795.

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).)

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like DSC, the EEO Officer may be the Personnel Officer.

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).)

VERY SERIOUS	FINDING NO. 3 A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN MAINTAINED
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Summary: The DSC does not have an active DAC. This is the second consecutive time the DSC has had this finding.

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

Severity: Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency's ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

Cause: The DSC states that, following the Council's last SPB Compliance Review, a DAC establishment was prioritized by the Council and launched on or around February, 2020. However, due to the

unanticipated events triggered by the Covid-19 pandemic, the Council's DAC as an independent committee was in a state of dormancy until 2021. Because the Council is a small organization, the DAC was incorporated within the Emergency Response Team and meetings were held throughout 2020 and 2021. The DSC states that in 2022, the DAC has become a stand-alone committee and has a robust agenda.

Corrective Action: The DSC provides that it has taken steps to re-establish and maintain its DAC. Within 90 days of the date of this report, the DSC must submit to the SPB written documentation demonstrating the corrective actions implemented to ensure the maintenance of a DAC, comprised of members who have disabilities or who have an interest in disability issues.

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, April 1, 2020, through March 31, 2021, the DSC had 47 PSC's that were in effect. The CRU reviewed 27 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
United States Geological Survey	Climate Change Project Work Team Leadership	5/1/2020-6/30/2022	\$248,799	Yes	Exempt ¹¹
ESSA	Delta Science Tracker	5/12/2020-4/30/2022	\$449,803	Yes	Yes
Virginia Institute of Marine Sciences	Operation Baseline 2.0	5/15/2020-4/30/2022	\$155,520	Yes	No
BSA Environmental Services	Operation Baseline 2.0	6/9/2020-4/30/2022	\$200,000	Yes	Yes
UC Davis	Synthesis of Juvenile Salmon Growth, Condition and Delta Habitat Use	6/24/2020-5/31/2022	\$372,910	Yes	Exempt
USGS	Operation Baseline 2.0	6/29/2020-4/30/2022	\$943,645	Yes	No
UC Davis	San Francisco Estuary and Watershed Science Journal	7/1/2020-6/30/2022	\$884,329	Yes	Yes
Cliff Dahm	SBDS Editorial Board member	8/19/2020-4/30/2022	\$41,316	Yes	Yes
Resource Management Associates, Inc.	CAMT Decision Support Tool - White Paper	9/7/2020-6/30/2021	\$9,600	Yes	Yes

¹¹ Pursuant to Water Code, section 85213, subdivision (c)(1), the DSC is exempt from union notification for consultant services.

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
UC Davis	Thiamine Deficiency Research in CV Chinook Salmon	10/6/2020-4/30/2022	\$389,829	Yes	Yes
Aqua Lux Lucis, Inc.	Delta Mercury Control Program Control Studies Independent Scientific Review Panel	10/8/2020-4/30/2021	\$6,600	Yes	Yes
UC Davis	Adaptive Management of Juvenile Spring-run Chinook San Joaquin River	10/9/2020-4/30/2022	\$296,180	N/A	Yes
UC San Diego	DSP Proposal Solicitation Review Services	11/3/2020-6/30/2024	\$433,648	N/A	Yes
Maven's Notebook, Inc.	Science Communication to Support Bay-Delta Estuary Science	12/15/2020-6/30/2023	\$157,500	Yes	Yes
Zynger Events, Inc.	2021 BDSC Conference and Virtual Platform Services	1/11/2021-6/30/2021	\$65,500	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
ABAG	Science Partnership to Support the San Francisco Estuary	2/2/2021-6/30/2023	\$946,246	Yes	No
Robert Mason	Delta Mercury Control Program Review Panelist	4/22/2019-4/30/2021	\$14,600	Yes	Exempt
Brian Branfireun	Delta Mercury Control Program Review Panelist	4/22/2019-4/30/2021	\$17,000	Yes	Exempt
Carl Mitchell	Delta Mercury Control Program Review Panelist	4/22/2019-4/30/2021	\$13,800	Yes	Exempt
Smithsonian Institute	Delta Mercury Control Program Review Panelist	4/22/2019-12/31/2020	\$12,200	Yes	Exempt
UC Santa Barbara	Reproducible Research Techniques for Synthesis: Facilitated Working Group	6/25/2020-5/31/2022	\$177,407	Yes	Exempt

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Kearns & West	Technical Facilitation of Sacramento River Drainage Spring-run Chinook Workshop	8/26/2020-10/31/2020	\$4,794	Yes	Yes
Little Manila Foundation	Delta Adapts Community Engagement	2/3/2021-6/30/2021	\$3,000	Yes	Yes
Restore the Delta	Delta Adapts Community Engagement	1/28/2021-6/30/2021	\$2,990	Yes	Yes
Confidential Document Control, LLC	On-Site Document Destruction Services	10/1/2020-9/30/2021	\$450	Yes	Yes
Sacramento Disinfecting Services, LLC	Covid-19 Disinfection Cleaning	12/1/2020-11/30/2021	\$55,800	Yes	Yes
AGP Video, Inc.	Webcasting Services	3/23/2021-12/30/2020	\$169,000	Yes	No

SERIOUS	FINDING NO. 4 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The DSC did not notify unions prior to entering into 4 of the 27 PSC's.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

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

Cause: The DSC states that its Contracts team acknowledges notice was not provided to the applicable bargaining unit representatives for the identified contracts. Further, the DSC understands that Water Code,

section 85213, subdivision (b) does not exempt the Council from all union notification.

Corrective Action: It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the type of work to be contracted prior to executing a PSC. The PSC's reviewed during this compliance review involved Scientific research and consultation, functions which various rank-and-file civil service classifications perform. The DSC provides it has taken measures to achieve compliance in this area. Within 90 days of the date of this report, the DSC must submit to the SPB written documentation demonstrating the corrective actions implemented to ensure conformity with the requirements of Government Code section 19132.

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.)

Additionally, 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, subs. (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 DSC's mandated training program that was in effect during the compliance review period, April 1, 2019, through March 31, 2021. The DSC's ethics training and sexual harassment prevention training were found to be out of compliance.

VERY SERIOUS	FINDING NO. 5	ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The DSC did not provide ethics training to four of nine existing filers. In addition, the DSC did not provide ethics training to one of two new filers within six months of their appointment. This is the second consecutive time the DSC has had this finding.

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

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

Cause: The DSC states that prior to July 2022, all training was tracked by a single employee (Training Coordinator) using a manual system. Employees would forward any applicable training completion certificates to the Training Coordinator, and those documents were retained in a file only accessible by that individual. Entrusting one employee with all of the documentation and data toward mandatory training adherence resulted in paper format. The manual system was prone to error and vagaries of consistent reporting. The Council believes that the majority of staff members completed Ethics Training in a timely manner, however, during the period the audit was being conducted the Council was in the midst of an office move and a major document digitization effort and some records were not located.

Corrective Action: The DSC provides it has taken measures to achieve compliance in this area. Within 90 days of the date of this report, the DSC must submit to the SPB written documentation demonstrating the corrective actions implemented to demonstrate conformity with Government Code section 11146.3.

VERY SERIOUS	FINDING NO. 6 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The DSC did not provide sexual harassment prevention training to either of its two new supervisors within six months of appointment. In addition, the DSC did not provide sexual harassment prevention training to 6 of 24 existing supervisors every 2 years. This is the second consecutive time the DSC has had this finding.

Furthermore, the DSC did not provide sexual harassment prevention training to any of its six new non-supervisors within six months of their appointment. In addition, the DSC did not provide sexual harassment prevention training to 9 of 30 existing non-supervisors every 2 years.

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

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

Cause: The DSC states that prior to July 2022, all training was tracked by a single employee (Training Coordinator) using a manual system. Employees would forward any applicable training completion certificates to the Training Coordinator, and those documents were retained in a file only accessible by that individual. Entrusting one employee with all the documentation and data toward mandatory training adherence resulted in paper format. The manual system was prone to error and vagaries of consistent reporting. The Council believes that its leadership team completed the Sexual Harassment Prevention training within the prescribed timeframes. However,

during the period the audit was being conducted the Council was in the midst of an office move and a major document digitization effort and some records were not located.

Corrective Action: The DSC provides it has taken measures to achieve compliance in this area. Within 90 days of the date of this report, the DSC must submit to the SPB written documentation demonstrating the corrective actions implemented to ensure that all employees are provided sexual harassment prevention training in accordance with Government Code section 12950.1.

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 rate¹² 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, January 1, 2020, through December 31, 2020, the DSC made 18 appointments. The CRU reviewed 8 of those appointments to determine if the DSC applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	# of Appointments	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	3	Retired Annuitant	Limited Term	Intermittent	\$6,446.00
Environmental Program Manager	2	List Appointment	Permanent	Full Time	\$10,717.00

¹² “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).

Classification	# of Appointments	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
I (Supervisory)					
Environmental Scientist	1	List Appointment	Permanent	Full Time	\$5,926.00
Senior Environmental Planner	1	List Appointment	Permanent	Full Time	\$7,110.00
Staff Service Manager I	1	Retired Annuitant	Limited Term	Intermittent	\$7,608.00

VERY SERIOUS	FINDING NO. 7	INCORRECT APPLICATION OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT
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Summary: The CRU found the following errors in the DSC’s determination of employee compensation. This is the second consecutive time this has been a finding for the DSC.

Classification	Description of Finding(s)	Criteria
Environmental Scientist	Incorrect salary determination resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, § 599.675

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 DSC 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 DSC states that, per the Council’s inter-agency agreement with CalFire, salary determinations were conducted by the CalFire Transactions team. Documentation supporting the determination of a salary was not made available to the Council in response to this audit request.

Corrective Action: The DSC provides it has taken measures to achieve compliance in this area. Within 90 days of the date of this report, the DSC must submit to the SPB written documentation demonstrating the corrective actions implemented to ensure that employees are compensated correctly. The DSC must establish an audit system to correct current compensation transactions as well as future transactions.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, January 1, 2020, through December 31, 2020, the DSC employees made one alternate range movement within a classification. The CRU reviewed one of the alternate range movement to determine if the DSC 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)
Environmental Scientist	Range B	Range C	Full Time	\$5,926

IN COMPLIANCE	FINDING NO. 8	ALTERNATIVE RANGE MOVEMENT COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU determined that the alternate range movement the DSC made during the compliance review period satisfied civil service laws, Board rules and CalHR policies and guidelines.

Out-of-Class Assignments and Pay

For excluded¹³ 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, January 1, 2020, through December 31, 2020, the DSC issued OOC pay to one employee. The CRU reviewed the OOC assignment to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. This is listed below:

Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Senior Environmental Planner	S01	Environmental Program Manager I (Supervisory)	9/2/2020 - 12/1/2020

IN COMPLIANCE	FINDING NO. 9	OUT OF CLASS PAY AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the OOC pay assignments that the DSC authorized during the compliance review period. OOC pay was issued appropriately to employees

¹³ “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.

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 in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days¹⁴ worked and paid absences¹⁵, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

¹⁴ For example, two hours or ten hours count as one day.

¹⁵ For example, vacation, sick leave, compensating time off, etc.

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year. Further, exceptions, under certain circumstances, may be made to the 1500 hour limitation, as long as the appointing power follows the process outlined in the Personnel Management Policy and Procedures Manual, section 333.

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 DSC had four positive paid employees whose hours were tracked. The CRU reviewed four 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
Associate Governmental Program Analyst	Retired Annuitant	1/1/2019 – 6/30/2020	58 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/2020 – 6/30/2021	564 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/2020 – 6/30/2021	317.5 Hours
Staff Services Manager I	Retired Annuitant	7/1/2020 – 6/30/2021	1657 Hours ¹⁶

IN COMPLIANCE	FINDING NO. 10	POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The DSC provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

¹⁶ Executive Order N-25-20, signed by Governor Newsom on March 12, 2020, and expired March 31, 2022, suspended work hour limitations for retired annuitants, and permanent and intermittent personnel due to the Covid-19 pandemic.

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, October 1, 2020, through December 31, 2020, the DSC placed three employees on ATO. The CRU reviewed three of these ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Administrative Assistant II	11/2020 - 12/2020	37 Hours
Attorney IV	11/2020 - 12/2020	24 Hours
Executive Officer, Delta Stewardship Council	11/2020	16 Hours

IN COMPLIANCE	FINDING NO. 11	ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The DSC provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records

shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. *(Ibid.)* If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. *(Ibid.)* Attendance records shall be corrected by the pay period following the pay period in which the error occurred. *(Ibid.)* Accurate and timely attendance reporting is required of all departments and is subject to audit. *(Ibid.)*

During the period under review, October 1, 2020, through December 31, 2020, the DSC reported 1 unit comprised of 66 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
October 2020	001	66	26	0
November 2020	001	66	26	0
December 2020	001	66	26	0

SERIOUS	FINDING NO. 12 DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY
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Summary: The DSC failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely and to certify that all leave records have been reviewed and corrected if necessary. This is the second consecutive time this has been a finding for the DSC.

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

Severity: Serious. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. Failure to audit leave could put the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Cause: The DSC states that it was responsible for verifying timesheets against SCO reporting to ensure staff's time and leave were captured appropriately. However, reporting documents from SCO, the Attendance Report form 672, were not provided on a consistent basis, and the Council did not have access to SCO to verify leave inputs.

Corrective Action: The DSC provides it has taken measures to achieve compliance in this area. Within 90 days of the date of this report, the DSC must submit to the SPB written documentation demonstrating the corrective actions implemented to ensure that their monthly internal audit process was documented and that all leave input is keyed accurately and timely. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

IN COMPLIANCE	FINDING NO. 13 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the DSC’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the DSC’s nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

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 DSC did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 14 WORKERS’ COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the DSC 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 DSC 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 20 permanent DSC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Administrative Assistant II	9/26/2020
Associate Governmental Program Analyst	8/13/2020
Associate Governmental Program Analyst	11/11/2020
Environmental Program Manager I	1/23/2021
Environmental Program Manager II	3/4/2021
Environmental Scientist (Specialist)	9/11/2020
Environmental Scientist (Specialist)	3/19/2020
Program Manager II	5/1/2020
Program Manager II	5/15/2020
Program Manager III	12/12/2020
Program Manager III	9/27/2020
Senior Engineer (Specialist)	1/3/2020
Senior Engineer (Specialist)	4/3/2020
Senior Engineer (Specialist)	7/30/2020
Senior Environmental Scientist (Specialist)	9/1/2020
Senior Environmental Scientist (Specialist)	11/13/2020
Senior Environmental Scientist (Specialist)	11/26/2020
Senior Environmental Scientist (Specialist)	7/19/2020
Senior Environmental Scientist (Specialist)	9/1/2020
Staff Services Manager I	6/11/2020

IN COMPLIANCE	FINDING NO. 15	PERFORMANCE APPRAISAL POLICY AND PROCESSES COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the 20 performance appraisals selected for review. Accordingly, the DSC performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

DEPARTMENTAL RESPONSE

The DSC's response is attached as Attachment 1.

SPB REPLY

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



**Delta
Stewardship
Council**

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October 6, 2022

Ms. Suzanne Ambrose, Executive Officer
State Personnel Board
Policy and Compliance Review Division
801 Capitol Mall
Sacramento, CA 95814

RE: State Personnel Board Compliance Review – Delta Stewardship Council

Dear Ms. Ambrose,

Pursuant to Government Code section 18661, the State Personnel Board's (SPB/Board) Compliance Review Unit (CRU) conducted a compliance review of the Department of Health Care Services' (DHCS/Department) personnel practices in five areas: examinations, appointments, equal employment opportunity, personal services contracts, and mandated training, to ensure compliance with civil service laws and Board regulations. This letter is in response to the State Personnel Board's (SPB) Compliance Review of the Delta Stewardship Council (Council).

During the audit period of August 1, 2020, through March 31, 2021, the California Department of Forestry and Fire Protection (CAL FIRE) administered all examinations, processes all appointments, administers salary regulations and compensation, and pay and maintained timesheets and leave materials on behalf of the Council. The Council had been responsible for adopting policy, overseeing Equal Employment Opportunity (EEO) matters, executing personal services contracts, and overseeing training requirement compliance. The Council has reviewed the final draft report and has provided the following responses to the Compliance Review Unit (CRU) findings.

The Council would like to thank the SPB for the review, and the opportunity to provide

responses to the SPB audit findings. Your efforts and dedication to ensuring the Council's adherence toward applicable laws, rules, and regulations is greatly appreciated.

Finding No. 2 – Probationary Evaluations Were Not Timely.

Cause: During the period when the inter-agency agreement with CAL FIRE was in place, the Council's leadership team was dependent on CAL FIRE to provide Notice of Personnel Action Request (NOPA) forms to employees and their managers, for incumbents appointed to new roles, on a regular basis. Some managers did not consistently adhere to providing their employees with probationary reports by the expressed deadline(s).

Corrective Action: The Council recognizes, appreciates, and fosters an environment where the opportunities, progress, and success of our employees are documented and shared in a consistent manner. To address the deficiencies noted for delinquent probationary reports, the Council has established new internal processes.

In July of 2022 the Council has assumed all Human Resources-related responsibilities, and now processes all transactions within our organization. As the result of our internal HR expansion, two positions have been filled that are responsible for ensuring our leadership's compliance with timely compliance reports. An Human Resources (HR) shared calendar has been created, with applicable HR staff having access to this calendar for the purpose of establishing, monitoring, tracking, and ensuring the completion of probation reports in a timely manner.

When a new appointment triggers a probationary period, three (3) calendar events are established within the HR calendar, and those events are then shared with both the employee's immediate supervisor and their Deputy Executive Officer (DEO) to ensure compliance with established probationary timeframes. Furthermore, reporting will be shared with the Council's Executive Leadership Team monthly to provide full transparency into the status of timeliness of performance-related responsibilities.

Finding No. 3 – A Disability Advisory Committee Has Not Been Maintained.

Cause: Following the Council's last SPB Compliance Review, a Disability Advisory Committee (DAC) establishment was prioritized by the Council and launched on or around February of 2020. However, due to the unanticipated events triggered by the Covid-19 pandemic, the Council's DAC as an independent committee was in a state of dormancy until 2021. Because the Council is a small organization, the DAC was incorporated within the Emergency Response Team (ERT) and meetings were held throughout 2020 and 2021. In 2022, the DAC has become a stand-alone committee and has a robust agenda.

Corrective Action: The Council recognizes the value of establishing, maintaining, and implementing DAC objectives throughout the organization to ensure all applicants and employees have equal access to the tools, resources, and opportunities pertinent to employment at the Council. Both the Council's EEO and Personnel Officer chair this committee and have secured representation from each of our organizations four (4) Divisions. The Council's DAC meets on a quarterly basis and has invited the State's DAC Chair to participate as a guest speaker on future occasions to serve as an example as we continue to build our internal DAC.

Finding No. 4 – Unions Were Not Notified of Personal Services Contracts.

Cause: The Council's Contracts team acknowledges that these contracts identified by SPB audit were not noticed to the applicable bargaining units. It is understood that Water Code - WAT § 85213 (b) does not exempt the Council from union notification.

Corrective Action: The Council acknowledges SPB's finding and will ensure all relevant Personal Service-related contracts are shared with applicable unions, when deemed necessary. In addition, the Council's Personnel Officer also acts in the capacity of the Accounting Officer and will review all contracts prior to execution thoroughly to support or contest union notification. Finally, the Contracts Unit is copying the Council's HR Office on all outgoing union notifications as a best practice toward a checks-and-balances environment.

Finding No. 5 – Ethics Training Was Not Provided for All Filers.

Cause: Prior to July of 2022, all training was tracked by a single employee (Training Coordinator) using a manual system. Employees would forward any applicable training completion certificates to the Training Coordinator, and those documents were retained in a file only accessible by that individual. Entrusting one employee with all of the documentation and data toward mandatory training adherence resulted in paper format. The manual system was prone to error and vagaries of consistent reporting. The Council believes that the majority of staff members completed Ethics Training in a timely manner, however, during the period the audit was being conducted the Council was in the midst of an office move and a major document digitization effort and some records were not located.

Corrective Action: The Council recognizes the seriousness and sensitivity toward ensuring all filers complete their Ethics Training. A new learning management system (LMS) was launched in July of 2022, and will automate compliance training, tracking, establishing reminders, and will centralize transcripts. Advanced reporting will also be made available through this solution, and we are confident that our new LMS will eliminate any future incidents related to compliance training adherence. Furthermore, the Council implemented the NetFile Form 700 e-filing system, which also provides Ethics training reminders to filers.

This system is also monitored by the HR Office on a regular basis and will provide added assurance that mandated training modules are completed, when appropriate, by our filers.

Finding No. 6 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors.

Cause: Prior to July of 2022, all training was tracked by a single employee (Training Coordinator) using a manual system. Employees would forward any applicable training completion certificates to the Training Coordinator, and those documents were retained in a file only accessible by that individual. Entrusting one employee with all the documentation and data toward mandatory training adherence resulted in paper format. The manual system was prone to error and vagaries of consistent reporting. The Council believes that all our leadership team completed the Sexual Harassment Prevention training within the prescribed timeframes. However, during the period the audit was being conducted the Council was in the midst of an office move and a major document digitization effort and some records were not located.

Corrective Action: The Council acknowledges this finding and strives to ensure that our organization is compliant with Sexual Harassment training. A new LMS was launched in July of 2022, and will automate compliance training, tracking, establishing reminders, and will centralize transcripts. Advanced reporting will also be made available through this solution, and we are confident that our new LMS will eliminate any future incidents related to compliance training adherence.

Finding No. 7 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment.

Cause: Per the Council's inter-agency agreement with CAL FIRE, salary determinations were conducted by CalFire's Transactions team. Documentation supporting the determination of a salary was not made available to the Council in response to this audit request.

Corrective Action: The inter-agency agreement with CalFire ending on June 30, 2022, and the Council HR staff assumed responsibility for conducting salary determinations. All processes related to appointments have been established with a "checks and balances" format, to ensure at least two (2) employees are involved in any given process and verify one another's work. As the Council is now responsible for salary determinations, all calculations and methodology contributing to that final determination will be retained with the request for personnel action (RPA) package.

Finding No. 12 – Department Has Not Implemented A Monthly Internal Audit Process To Verify All Leave Input Is Keyed Accurately And Timely.

Cause: The Council was responsible for verifying timesheets against State Controller's

Office (SCO) reporting to ensure staff's time and leave were captured appropriately. However, reporting documents from SCO, the Attendance Report form 672, were not provided on a consistent basis, and the Council did not have access to SCO to verify leave inputs.

Corrective Action: As mentioned in "Finding 7", the veracity of employee compensation is critically important. Now that the Council is fully responsible for all personnel-related responsibilities, we have obtained access to the Form 672, necessary to verify timesheets and leave balances. A reconciliation of timesheets and leave balances has been conducted for all Council employees and going forward we have implemented an internal "checks-and-balances" process within our HR Office that utilizes SCO's STD. 672 on a monthly basis to verify timesheets against what is keyed within CLAS. The STD. 672's will then be reviewed by another HR employee utilizing the CalHR 139 form, Leave Activity and Correction Certification, who did not key any of the timesheets during the applicable pay period to ensure accuracy of the employee responsible for keying timesheets.

Thank you for the opportunity to respond to the draft Compliance Review Report. If you have any questions, please contact Nicholas Wehr, Personnel Officer, Human Resources Office, at (916) 902-6545 or at Nicholas.Wehr@deltacouncil.ca.gov.

Sincerely,



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