



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT**

Compliance Review Unit  
State Personnel Board  
September 13, 2021

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## **INTRODUCTION**

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California Governor’s Office of Business and Economic Development (GO-Biz) personnel practices in the areas of examinations, appointments, EEO, PSC’s, mandated training, compensation and pay, leave, and policy and 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  | Serious       | Unions Were Not Notified of Personal Services Contracts <sup>1</sup>  |
| Mandated Training            | Very Serious  | Ethics Training Was Not Provided for All Filers <sup>2</sup>  |
| Compensation and Pay         | In Compliance | Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines        |
| Compensation and Pay         | In Compliance | Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |

<sup>1</sup> This is the second consecutive time this has been a finding for the GO-Biz. The August 21, 2018, GO-Biz compliance review report identified one missing union notification for the five PSC’s executed.

<sup>2</sup> This is the second consecutive time this has been a finding for the GO-Biz. The August 21, 2018, GO-Biz compliance review report identified 3 out of 10 new filers and 15 out of 19 existing filers did not complete ethics training timely.

| 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  | In Compliance | Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines            |
| 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 GO-Biz serves as the State of California’s leader for job growth, economic development and business assistance efforts. It offers a range of no-cost consultation services to business owners including: attraction, retention and expansion services, site selection, permit assistance, regulatory guidance, small business assistance, international trade development, assistance with state government, and much more.

GO-Biz’s teams are comprised of experts who span industries, geographies and business backgrounds and are happy to assist with economic development and job growth efforts.

**SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the GO-Biz’s examinations, appointments, EEO program, PSC’s, mandated training, compensation and pay, leave,

and policy and processes<sup>3</sup>. The primary objective of the review was to determine if the GO-Biz'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.

The GO-Biz's examinations were selected for review. The CRU examined the documentation that the GO-Biz provided, which included examination plans, examination bulletins, job analyses, and scoring results. The GO-Biz did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the GO-Biz's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the GO-Biz provided, which included Notice of Personnel Action forms, Request for Personnel Actions vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The GO-Biz did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the GO-Biz did not make any additional appointments during the compliance review period.

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

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

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

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

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

The CRU reviewed the GO-Biz'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 GO-Biz's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the GO-Biz's 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 GO-Biz's employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed the GO-Biz's 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 GO-Biz did not have any employees with non-qualifying pay period transactions.

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

On August 26, 2021, an exit conference was held with the GO-Biz to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the GO-Biz's written response on September 7, 2021, which is attached to this final compliance review report.

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

## 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, August 1, 2020, through April 30, 2021, the GO-Biz conducted two examinations. The CRU reviewed the two examinations, which are listed below:

| Classification   | Exam Type | Exam Components                                | Final File Date | No. of Apps |
|--|-----------|--|-----------------|-------------|
| CEA A, Deputy Director of External Affairs                 | CEA       | Statement of Qualifications (SOQ) <sup>5</sup> | 3/11/21         | 16          |
| CEA B, Deputy Director of Credit, Chief Compliance Officer | CEA       | SOQ  | 10/12/20        | 7           |

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



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| <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 two CEA examinations which the GO-Biz administered in order to create eligible lists from which to make appointments. The GO-Biz published and distributed examination bulletins containing the required information for all examinations. Applications received by the GO-Biz were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the GO-Biz conducted during the compliance review period.

### **Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) 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, July 31, 2020, through April 30, 2021, the GO-Biz made 22 appointments. The CRU reviewed nine 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 | 1             |
| Legal Assistant                        | Certification List | Permanent | Full Time | 1             |
| Motion Picture Production Analyst      | Certification List | Permanent | Full Time | 1             |

| Classification                          | Appointment Type   | Tenure       | Time Base | No. of Appts. |
|---|--------------------|--------------|-----------|---------------|
| Office Technician (Typing)              | Certification List | Permanent    | Full Time | 1             |
| Staff Services Analyst (General)        | Certification List | Limited Term | Full Time | 1             |
| Staff Services Manager I                | Certification List | Permanent    | Full Time | 1             |
| Staff Services Manager II (Supervisory) | Certification List | Permanent    | Full Time | 1             |
| Associate Governmental Program Analyst  | Transfer           | Permanent    | Full Time | 1             |
| Staff Services Analyst (General)        | Transfer           | Permanent    | Full Time | 1             |

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| <b>IN COMPLIANCE</b> | <b>FINDING NO. 2 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b> |
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The GO-Biz 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 seven list appointments reviewed, the GO-Biz 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 GO-Biz 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 GO-Biz verified the eligibility of each candidate to their appointed class.

The CRU found no deficiencies in the appointments that the GO-Biz initiated during the compliance review period. Accordingly, the CRU found that the GO-Biz’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).)

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| <b>IN COMPLIANCE</b> | <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 GO-Biz’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 GO-Biz. The GO-Biz 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, August 1, 2020, through April 30, 2021, the GO-Biz had five PSC's that were in effect. The CRU reviewed the five PSC's, which are listed below:

| Vendor                                | Services                        | Contract Dates     | Contract Amount  | Justification Identified? | Union Notification? |
|---------------------------------------|---------------------------------|--------------------|------------------|---------------------------|---------------------|
| Enovity, Inc.                         | Engineering Consulting Services | 8/17/20 - 6/30/23  | \$200,000        | Yes                       | No                  |
| Hilltop Securities, Inc.              | Investment Advisory Services    | 7/1/20 - 6/30/23   | \$150,000        | Yes                       | No                  |
| Lamont Financial Services Corporation | Financial Advisory Services     | 7/1/20 - 6/30/22   | \$200,000        | Yes                       | Yes                 |
| Lendistry                             | Intermediary                    | 12/18/20 - 8/31/21 | \$108,125,000.12 | Yes                       | N/A <sup>6</sup>    |
| Miriam Wrobel Consulting LCC          | Financial Advisory Services     | 7/1/20 - 6/30/22   | \$100,000        | Yes                       | Yes                 |

|                              |  |
|------------------------------|--|
| <b>SEVERITY:<br/>SERIOUS</b> | <b>FINDING NO. 4 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS</b> |
|------------------------------|--|

**Summary:** The GO-Biz did not notify unions prior to entering into two of the five PSC's reviewed. This is the second consecutive time this has been a finding for GO-Biz.

<sup>6</sup> This PSC was an emergency contract, which does not require union notification pursuant to Government Code section 19132, subdivision (b)(1).

**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 GO-Biz states that they inadvertently missed notifying the union prior to entering into two of the five PSC's reviewed due to an oversight by their program staff and manager.

**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 the PSC. Within 90 days of the date of this report, the GO-Biz must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **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 supervisors 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 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 GO-Biz’s mandated training program that was in effect during the compliance review period, May 1, 2019, through April 30, 2021. The GO-Biz’s sexual harassment prevention training was found to be in compliance, while the GO-Biz’s ethics training was found to be out of compliance.

|   |  |
|---|--|
| <b>SEVERITY:</b><br><b>VERY SERIOUS</b> | <b>FINDING No. 5 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS</b> |
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**Summary:** The GO-Biz did not provide ethics training to 2 of 43 existing filers. In addition, the GO-Biz did not provide ethics training to 1 of 14 new filers within 6 months of their appointment. This is the second consecutive time this has been a finding for GO-Biz.

**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 GO-Biz states that although they require all filers to attend ethics training, there was a lack of administrative training reminders caused by heavy workload issues in their Human Resources Unit.

**Corrective Action:** Within 90 days of this report, the GO-Biz must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant

documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **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, July 31, 2020, through April 30, 2021, the GO-Biz made 22 appointments. The CRU reviewed eight of those appointments to determine if the GO-Biz 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 | \$5,149               |
| Legal Assistant                         | Certification List | Permanent | Full Time | \$3,963               |
| Motion Picture Production Analyst       | Certification List | Permanent | Full Time | \$5,149               |
| Office Technician (Typing)              | Certification List | Permanent | Full Time | \$3,114               |
| Staff Services Manager I                | Certification List | Permanent | Full Time | \$6,124               |
| Staff Services Manager II (Supervisory) | Certification List | Permanent | Full Time | \$7,090               |
| Associate Governmental Program Analyst  | Transfer           | Permanent | Full Time | \$5,406               |
| Staff Services Analyst                  | Transfer           | Permanent | Full Time | \$3,936               |

<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).

| Classification | Appointment Type | Tenure | Time Base | Salary (Monthly Rate) |
|----------------|------------------|--------|-----------|-----------------------|
| (General)      |                  |        |           |                       |

|                      |   |
|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING No. 6 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---|

The CRU found no deficiencies in the salary determinations that were reviewed. The GO-Biz appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, July 31, 2020, through April 30, 2021, the GO-Biz made two alternate range movements within a classification. The CRU reviewed the two alternate range movements to determine if the GO-Biz 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) |
|----------------------------------|-------------|---------------|-----------|-----------------------|
| Information Technology Associate | A           | B             | Full Time | \$4,646               |
| Staff Services Analyst (General) | A           | B             | Full Time | \$3,639               |



|               |   |
|---------------|---|
| IN COMPLIANCE | <b>FINDING NO. 7 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|---------------|---|

The CRU determined that the alternate range movements the GO-Biz made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

**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 days<sup>8</sup> worked and paid absences<sup>9</sup>, 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

<sup>8</sup> For example, two hours or ten hours count as one day.

<sup>9</sup> For example, vacation, sick leave, compensating time off, etc.

may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

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

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

| Classification                 | Tenure            | Time Frame       | Time Worked  |
|--------------------------------|-------------------|------------------|--------------|
| Executive Assistant            | Retired Annuitant | 7/1/19 – 6/30/20 | 885 hours    |
| Office Technician (Typing)     | Retired Annuitant | 7/1/19 – 6/30/20 | 599 hours    |
| Staff Air Pollution Specialist | Retired Annuitant | 7/1/19 – 6/30/20 | 960 hours    |
| Student Assistant              | Temporary         | 7/1/19 – 6/30/20 | 1381.5 hours |

|                      |                      |   |
|----------------------|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 8</b> | <b>POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|----------------------|---|

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The GO-Biz 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, February 1, 2020, through January 31, 2021, the GO-Biz placed 11 employees on ATO. The CRU reviewed the 11 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 |
|--|--------------------|-----------------------|
| Associate Governmental Program Analyst | 8/17/20            | 2 hours               |
| Associate Governmental Program Analyst | 8/18/20 – 8/19/20  | 4 hours               |
| Associate Governmental Program Analyst | 11/23/20 – 12/8/20 | 80 hours              |
| Management Services Technician         | 8/19/20            | 2 hours               |
| Management Services Technician         | 12/3/20 – 12/16/20 | 80 hours              |
| Motion Picture Production Analyst      | 11/16/20 – 12/1/20 | 80 hours              |
| Office Technician (Typing)             | 8/17/20 – 8/19/20  | 6 hours               |
| Senior Accounting Officer (Specialist) | 12/28/20 – 1/8/21  | 72 hours              |
| Staff Services Analyst                 | 11/30/20           | 7 hours               |
| Staff Services Manager I               | 1/19/21 – 1/29/21  | 80 hours              |
| Staff Services Manager I               | 8/17/20 – 8/19/21  | 6 hours               |

|                      |   |
|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 9 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---|

The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The GO-Biz provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave 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, November 1, 2020, through January 31, 2021, the GO-Biz reported 8 units comprised of 124 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 |
|------------------------|---------------|---------------------|-------------------------------|------------------------------|
| November 2020          | 103           | 16                  | 16                            | 0                            |
| December 2020          | 101           | 12                  | 12                            | 0                            |
| January 2021           | 104           | 3                   | 3                             | 0                            |
| January 2021           | 108           | 8                   | 8                             | 0                            |

|                      |  |
|----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 10 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|--|

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 GO-Biz 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.

## **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.*)

|                      |   |
|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 11 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
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The CRU verified that the policy was disseminated to all staff and emphasized the GO-Biz’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the GO-Biz’s nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

### **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.*)

|                      |   |
|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 12 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---|

The CRU verified that the GO-Biz provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. The GO-Biz did not receive any workers' compensation claims during the review period.

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 30 permanent GO-Biz employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

|                      |   |
|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 13 PERFORMANCE APPRAISAL POLICY AND PROCESSES COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---|

The CRU found no deficiencies in the 30 performance appraisals selected for review. Accordingly, the GO-Biz performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

**DEPARTMENTAL RESPONSE**

The GO-Biz's response is attached as Attachment 1.

## **SPB REPLY**

Based upon the GO-Biz's written response, the GO-Biz 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.



GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT  
STATE OF CALIFORNIA ♦ OFFICE OF GOVERNOR GAVIN NEWSOM

September 7, 2021

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

Dear Ms. Ambrose,

SUBJECT: Compliance Review Report Response

The Governor's Office of Business and Economic Development (GO-Biz) submits this letter in response to the State Personnel Board's (SPB) compliance review of GO-Biz 's personnel practices for the period May 1, 2019, through April 30, 2021. GO-Biz appreciates SPB's review and the opportunity to respond to its findings.

GO-Biz agrees with SPB's findings and has taken or will take immediate steps to develop and submit a Corrective Action Plan within 90 days of the release of the report to address the deficiencies identified.

**FINDING NO. 4 – Union Were Not Notified of Personal Services Contracts (PSC)**

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

**Department's Response:** This was due to inadvertent oversight of both the staff and the manager that is no longer with GO-Biz in our Admin team; GO-Biz has updated our Contract File Checklist form to include in our contracts folders. To prevent this from happening in the future, we added a checkbox on the form to Notify HR when any Personal Services Contracts are being processed for Union Notification to make sure this is not missed in the future.

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**FINDING NO. 5 – Ethics Training Was Not Provided for All Filers**

**Cause:** GO-Biz requires all filers to attend the ethics training, but inadvertently missed 2 of 43 existing filers and 1 of 14 new filers within six months of their appointment.



**Department's Response:** This was due to the lack of administrative reminders caused by heavy workload issues in HR. HR does have a tracking process in place to remedy this situation in the future.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Amarpal George". The signature is fluid and cursive, with a large initial "A" and "G".

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

The Corrective Action Response (CAR) is an opportunity for departments to demonstrate necessary steps have been implemented to correct the non-compliant Findings (deficiency) found as a result of the Compliance Review.

For each non-compliant Finding, refer to the Corrective Action section of that Finding in the review report. Copies of relevant documentation demonstrating that the Corrective Action has been or is in the process of being corrected must be included with the CAR. Examples include, but are not limited to, updated internal policies or procedures (should be included for most findings), a training log for mandated training, and/or any new or updated forms, plans, or documents that have been implemented.

## CORRECTIVE ACTION RESPONSE

|  |  |
|--|--|
| DEPARTMENT:<br><b>Governor's Office of Business and Economic Development (GO-Biz)</b>    | BRANCH/DIVISION/PROGRAM:<br><b>N/A</b>                     |
| CONTACT PERSON (NAME AND TITLE):<br><b>Amarpal George, Personnel Officer, HR Manager</b> | CORRECTIVE ACTION RESPONSE DATE:<br><b>October 1, 2021</b> |

| FINDING (DEFICIENCY)<br>BY NUMBER  | ACTION ITEM(S) ALREADY OR TO BE COMPLETED  | TIMEFRAME(S)                        | POLICY/PROCEDURE                                       |
|--|--|-------------------------------------|--|
| Finding as stated in the report, by number                                   | Description of 1) completed or planned corrective action(s) and 2) of supporting documentation   | Actual or Estimated Completion Date | Is a copy of the updated Policy or Procedure Included? |
| <b>FINDING No. 4 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS</b> | GO-Biz inadvertently missed notifying the union prior to entering into two of five PCS's it executed. This was due to inadvertent oversight of both the staff and the manager that is no longer with GO-Biz in our Admin team; GO-Biz has updated our Contract File Checklist form to include in our contracts folders. To prevent this from happening in the future, we added a checkbox on the form to Notify HR when any Personal Services Contracts are being processed for Union Notification to make sure this is not missed in the future. Please see attached procedure checklist. | 9/1/2021                            | Checklist attached- it is the last item on the list.   |

| FINDING (DEFICIENCY)<br>BY NUMBER                                    | ACTION ITEM(S) ALREADY OR TO BE COMPLETED   | TIMEFRAME(S) | POLICY/PROCEDURE  |
|--|---|--------------|---|
| <b>FINDING NO. 5 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS</b> | <p>GO-Biz requires all filers to attend the ethics training, but inadvertently missed 2 of 43 existing filers and 1 of 14 new filers within six months of their appointment.</p> <p>This was due to the lack of administrative reminders caused by heavy workload issues in HR. HR does have a tracking process in place to remedy this situation in the future. As well as hiring additional help in HR.</p> | 09/01/2021   | Log attached. Hiring is in process of additional staff. |