



COMPLIANCE REVIEW REPORT

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

Compliance Review Unit
State Personnel Board
December 18, 2024

TABLE OF CONTENTS

| | |
|------------------------------------|----|
| INTRODUCTION | 1 |
| EXECUTIVE SUMMARY | 2 |
| BACKGROUND | 4 |
| SCOPE AND METHODOLOGY | 4 |
| FINDINGS AND RECOMMENDATIONS..... | 6 |
| EXAMINATIONS..... | 6 |
| APPOINTMENTS..... | 8 |
| EQUAL EMPLOYMENT OPPORTUNITY | 10 |
| PERSONAL SERVICES CONTRACTS | 11 |
| MANDATED TRAINING | 14 |
| COMPENSATION AND PAY | 18 |
| LEAVE..... | 25 |
| POLICY AND PROCESSES..... | 30 |
| DEPARTMENTAL RESPONSE..... | 33 |
| SPB REPLY | 33 |

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 High-Speed Rail Authority (Authority) 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 |
| Examinations | In Compliance | Permanent Withhold Actions 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 ¹ |
| Mandated Training | Very Serious | Ethics Training Was Not Provided for All Filers ² |
| Mandated Training | Very Serious | Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs |
| Mandated Training | Very Serious | Sexual Harassment Prevention Training Was Not Provided for All Employees ³ |
| Compensation and Pay | Very Serious | Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment |

¹ Repeat finding. The Authority’s March 11, 2022, compliance review report identified unions were not notified prior to entering into 15 of 23 PSC’s reviewed. Additionally, the August 26, 2019, compliance review report identified that the Authority did not notify unions prior to entering into 2 of 10 PSC’s.

² Repeat finding. The Authority’s March 11, 2022, compliance review report identified that the Authority did not provide ethics training to 4 of 124 existing filers. In addition, the Authority did not provide ethics training to 9 of 43 new filers within 6 months of their appointment.

³ Repeat finding. The Authority’s March 11, 2022, compliance review report identified that the Authority did not provide sexual harassment prevention training to 5 of 24 new supervisors, 2 of 81 existing supervisors, and 13 of 85 new non-supervisors.

| Area | Severity | Finding |
|----------------------|---------------|--|
| Compensation and Pay | Very Serious | Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Compensation and Pay | In Compliance | Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Compensation and Pay | In Compliance | Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines |
| Compensation and Pay | In Compliance | Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines |
| Leave | In Compliance | Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave | In Compliance | Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave | Serious | Department Did Not Certify That All Leave Records Were Reviewed |
| Leave | In Compliance | Service and Leave Transactions 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 | Serious | Performance Appraisals Were Not Provided to All Employees ⁴ |

⁴ Repeat finding. The Authority's March 11, 2022, compliance review report identified that the Authority did not provide annual performance appraisals to 9 of 35 employees reviewed. In addition, the August 26, 2019, compliance review report identified that the Authority did not provide annual performance appraisals to 7 of 29 employees reviewed.

BACKGROUND

The Authority is responsible for planning, designing, building, and operating the nation's first high-speed rail system. The Authority will connect the state's mega-regions, contribute to economic development and a cleaner environment, create jobs, and preserve agricultural and protected lands. The Authority employs approximately 365 state employees and 453 contracted employees in locations across the state including Sacramento, Fresno, Los Angeles, and the Bay Area.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the Authority's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁵. The primary objective of the review was to determine if the Authority'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 Authority's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the Authority provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the Authority's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the Authority's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the Authority 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 Authority did not conduct any unlawful appointment investigations during the compliance review period.

⁵ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

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

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

The Authority's PSC's were also reviewed.⁶ It was beyond the scope of the compliance review to make conclusions as to whether the Authority's justifications for the contracts were legally sufficient. The review was limited to whether the Authority's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

The CRU reviewed the Authority'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 Authority'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 Authority'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 Authority employees who

⁶If 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.

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

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

The CRU received and carefully reviewed the Authority's written response on December 2, 2024, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

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

During the period under review, October 1, 2023, through June 30, 2024, the Authority conducted one examination. The CRU reviewed the examination, which is listed below:

| Classification | Exam Type | Exam Components | Final File Date | No. of Apps |
|-------------------------------------|-----------|--|-----------------|-------------|
| CEA B, Chief Administrative Officer | CEA | Statement of Qualifications ⁷ | 5/20/24 | 15 |

| | |
|----------------------|--|
| IN COMPLIANCE | FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES |
|----------------------|--|

The CRU reviewed one open examination which the Authority administered in order to create an eligible list from which to make appointments. The Authority published and distributed the examination bulletin containing the required information for the examination. Applications received by the Authority 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 examination that the Authority conducted during the compliance review period.

Permanent Withhold Actions

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

⁷ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

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

During the period under review, October 1, 2023, through June 30, 2024, the Authority conducted one permanent withhold action. The CRU reviewed the permanent withhold action, which is listed below:

| Exam Title | Exam ID | Date List Eligibility Began | Date List Eligibility Ended | Reason Candidate Placed on Withhold |
|--------------------|---------|-----------------------------|-----------------------------|---------------------------------------|
| Right of Way Agent | 4PB37 | 8/16/23 | 8/16/24 | Failed to Meet Minimum Qualifications |

| | | |
|----------------------|----------------------|--|
| IN COMPLIANCE | FINDING NO. 2 | PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES |
|----------------------|----------------------|--|

The CRU found no deficiencies in the permanent withhold action undertaken by the department during the compliance review period.

Appointments

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

During the period under review, October 1, 2023, through March 31, 2024, the Authority made 37 appointments. The CRU reviewed 15 of those appointments, which are listed below:

| Classification | Appointment Type | Tenure | Time Base | No. of Appts. |
|---|--------------------|-----------|-----------|---------------|
| CEA B, Director of Infrastructure | CEA | CEA | Full Time | 1 |
| Accounting Administrator I (Supervisor) | Certification List | Permanent | Full Time | 1 |
| Administrative Assistant I | Certification List | Permanent | Full Time | 1 |
| Associate Governmental Program Analyst | Certification List | Permanent | Full Time | 1 |
| Associate Management Auditor | Certification List | Permanent | Full Time | 1 |
| Information Officer I (Specialist) | Certification List | Permanent | Full Time | 1 |
| Information Technology Associate | Certification List | Permanent | Full Time | 1 |
| Information Technology Specialist I | Certification List | Permanent | Full Time | 1 |
| Personnel Specialist | Certification List | Permanent | Full Time | 1 |
| Senior Right of Way Agent | Certification List | Permanent | Full Time | 1 |
| Staff Management Auditor | Certification List | Permanent | Full Time | 1 |
| Staff Services Analyst | Certification List | Permanent | Full Time | 1 |
| Staff Services Manager II (Managerial) | Certification List | Permanent | Full Time | 1 |
| Supervising Transportation Planner | Certification List | Permanent | Full Time | 1 |
| Staff Services Manager II (Supervisory) | Transfer | Permanent | Full Time | 1 |

| | |
|----------------------|--|
| IN COMPLIANCE | FINDING NO. 3 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES |
|----------------------|--|

The Authority 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 14 list appointments reviewed, the Authority 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 one appointment 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 Authority verified the eligibility of the candidate to the appointed class.

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

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department’s EEO program. (Gov. Code, § 19795, subd. (a).)

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

| | |
|---------------|--|
| IN COMPLIANCE | FINDING NO. 4 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES |
|---------------|--|

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 Authority’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 Executive Director of the Authority. The Authority 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, October 1, 2023, through June 30, 2024, the Authority had 65 PSC’s that were in effect. The CRU reviewed 26 of those, which are listed below:

| Vendor | Services | Contract Amount | Justification Identified? | Union Notification? |
|-------------------------------------|--|-----------------|---------------------------|---------------------|
| American Society of Civil Engineers | Continuing Education and Technical Training | \$43,325 | Yes | Yes |
| California Reporting, LLC | Electronic Reporter and Transcription Services | \$10,000 | Yes | No |

| Vendor | Services | Contract Amount | Justification Identified? | Union Notification? |
|--|--|-----------------|---------------------------|---------------------|
| Cooperative Personnel Services dba CPS HR Consulting | Salary Survey Data and Analysis | \$3,962 | Yes | Yes |
| Cooperative Personnel Services dba CPS HR Consulting | Professional Development Training Services | \$40,000 | Yes | Yes |
| David S. Mason | Appraisal Review Services | \$200,915 | Yes | Yes |
| Ernst & Young, LLP | Enterprise Risk Management Services | \$6,389,655 | Yes | Yes |
| Geographic Technologies Group, Inc. | Geographical Information Systems Expert Services | \$950,000 | Yes | Yes |
| Guidehouse, Inc. | Expert Technical Resources in Support of LandPro Application | \$850,000 | Yes | No |
| HNTB Corporation | Environmental and Engineering Consulting Services | \$77,610,000 | Yes | Yes |
| Katch Environmental | Emergency Board Up and Water Removal of Property | \$2,850 | Yes | Yes |
| Lagestic, LLC | Emergency Trash Collection, Hauling, and Disposal Services | \$465,920 | Yes | Yes |
| Lagestic, LLC | Weed Abatement Services | \$1,380,659 | Yes | Yes |
| Miller Cleaning Services | Janitorial Services | \$57,576 | Yes | Yes |
| Motherlode Van and Storage | Office Furniture Moving Services | \$192,815 | Yes | Yes |
| Mullins Law Group (Assignment) | Railroad Regulatory Legal Support Services | \$1,500,000 | Yes | Yes |

| Vendor | Services | Contract Amount | Justification Identified? | Union Notification? |
|--------------------------------|---|-----------------|---------------------------|---------------------|
| North Ridge Consulting | IT Project Management and Business Solutions Analysis Support | \$995,000 | Yes | No |
| Nossaman, LLP | Legal Services | \$1,100,000 | Yes | Yes |
| O'Melveny & Meyers, LLP | Freight and Passenger Rail Companies Negotiation Assistance | \$7,200,000 | Yes | Yes |
| Pettinato Firm | Legal Services | \$580,000 | Yes | Yes |
| Rancho Tree Service | Tree and Vine Removal Services | \$712,647 | Yes | Yes |
| SDP, LLC | Weed Abatement Services | \$9,028 | Yes | Yes |
| Sener Engineering, Inc. | Environmental and Engineering Consulting Services | \$84,639,278 | Yes | Yes |
| Sky landscape, LLC | Landscape Services | \$93,725 | Yes | Yes |
| Spectrum Advanced Technologies | Salesforce Platform Subject Matter Expert | \$900,000 | Yes | No |
| Symsoft Solutions, LLC | Website Redesign and Content Migration | \$350,000 | Yes | Yes |
| WSP USA, Inc. | Integration, Program Delivery, and Program Management Consulting Services | \$838,532,229 | Yes | Yes |

| | |
|------------------------------|--|
| SEVERITY: SERIOUS | FINDING NO. 5 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS |
|------------------------------|--|

Summary: The Authority did not notify unions prior to entering into 4 of the 26 PSC's reviewed. This is the third consecutive time this has been a finding for the Authority.

Criteria: Before a state agency executes a contract or amendment to a contract for personal services conditions specified within Government Code section 19130, subdivision (b), the agency shall

notify all organizations that represent state employees who perform or could perform the type of work that is called for within the contract, unless exempted under Government Code section 19132, subdivision (b)(1). (Cal. Code Regs., tit. 2, § 547.60.2.)

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

Cause: The Authority states that union notification was not sent in a timely manner due to human error.

Corrective Action: Departments are responsible for notifying all organizations that represent state employees who perform or could perform the type of work to be contracted prior to executing a PSC. The PSC's reviewed during this compliance review involved several services and functions which various rank-and-file civil service classifications perform. The Authority asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Authority must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with the requirements of California Code of Regulations section 547.60.2.

Mandated Training

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual

harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) and (b), & 19995.4, subd. (b).) Additionally, the training must be successfully completed within the term of the employee’s probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).)

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

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

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the Authority’s mandated training program that was in effect during the compliance review period, July 1, 2022, through June 30, 2024.

| | |
|-----------------------------------|--|
| SEVERITY: VERY SERIOUS | FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS |
|-----------------------------------|--|

Summary: The Authority did not provide ethics training for 1 of 62 existing filers. In addition, the Authority did not provide ethics training for 9 of 75 new filers within 6 months of their appointment. This is the second consecutive time this has been a finding for the Authority.

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 Authority states that despite diligently reminding filers to complete ethics training, not all filers complied with this requirement. In addition, the Authority identified errors in their manual training tracking system.

Corrective Action: The Authority asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Authority must submit to the SPB documentation which demonstrates the corrections the department has implemented to demonstrate conformity with Government Code section 11146.3.

| | |
|-----------------------------------|--|
| SEVERITY: VERY SERIOUS | FINDING NO. 7 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS |
|-----------------------------------|--|

Summary: The Authority provided supervisory training to its 12 new supervisors within 12 months of appointment. However, the Authority did not provide manager training to 10 of 14 new managers and did not provide CEA training to any of its 4 new CEAs within 12 months of appointment.

Criteria: Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. (Gov. Code, § 19995.4, subd. (e).)

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

Cause: The Authority states that despite diligently reminding supervisors to complete training, not all employees complied with this requirement. In addition, the Authority identified errors in their manual training tracking system.

Corrective Action: The Authority asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Authority must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that new supervisors, managers, and CEAs are provided leadership and development training within 12 months of appointment as required by Government Code section 19995.4.

| | |
|-----------------------------------|---|
| SEVERITY: VERY SERIOUS | FINDING NO. 8 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES |
|-----------------------------------|---|

Summary: The Authority did not provide sexual harassment prevention training to 8 of 28 new supervisors within 6 months of their appointment. In addition, the Authority did not provide sexual harassment prevention training to 11 of 79 existing supervisors and 3 of 61 existing non-supervisors every 2 years. This is the second consecutive time this has been a finding for the Authority.

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, subds. (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 Authority states that despite diligently reminding staff to complete training, not all employees complied with this requirement. In addition, the Authority identified errors in their manual training tracking system.

Corrective Action: The Authority asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Authority must submit to the SPB documentation which demonstrates the corrections the department has 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 rate⁸ 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, October 1, 2023, through March 31, 2024, the Authority made 37 appointments. The CRU reviewed eight of those appointments to determine if the Authority applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

⁸ "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) |
|---|--------------------|-----------|-----------|-----------------------|
| Administrative Assistant I | Certification List | Permanent | Full Time | \$4,726 |
| Associate Governmental Program Analyst | Certification List | Permanent | Full Time | \$5,684 |
| Associate Management Auditor | Certification List | Permanent | Full Time | \$6,983 |
| Information Officer I (Specialist) | Certification List | Permanent | Full Time | \$5,684 |
| Information Technology Associate | Certification List | Permanent | Full Time | \$5,589 |
| Information Technology Specialist I | Certification List | Permanent | Full Time | \$7,413 |
| Staff Services Analyst (General) | Certification List | Permanent | Full Time | \$3,978 |
| Staff Services Manager II (Supervisory) | Certification List | Permanent | Full Time | \$8,629 |

| | |
|-----------------------------------|--|
| SEVERITY: VERY SERIOUS | FINDING NO. 9 INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT |
|-----------------------------------|--|

Summary: The CRU found one error in the eight salary determinations reviewed:

| Classification | Description of Finding | Criteria |
|---|--|---|
| Staff Services Manager II (Supervisory) | Incorrect anniversary date resulting in the employee being undercompensated. | Cal. Code Regs., tit.2 section 599.683, subd. (a) |

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 Authority 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 Authority states that the error was the result of inexperienced staff and failure to implement a supervisory review process.

Corrective Action: The Authority asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Authority must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that employees are compensated correctly. The Authority 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, October 1, 2023, through March 31, 2024, the Authority employees made three alternate range movements within a classification. The CRU reviewed three of those alternate range movements to determine if the Authority 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 Specialist I | B | C | Full Time | \$9,500 |
| Information Technology Specialist I | B | C | Full Time | \$7,413 |
| Staff Services Management Auditor | B | C | Full Time | \$5,211 |

| | |
|-----------------------------------|--|
| SEVERITY: VERY SERIOUS | FINDING NO. 10 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES |
|-----------------------------------|--|

Summary: The CRU found one error in the three alternate range movements reviewed:

| Classification | Description of Finding | Criteria |
|-------------------------------------|--|----------|
| Information Technology Specialist I | Employee was moved into Range C before meeting the alternate range criteria resulting in the employee being overcompensated. | ARC 484 |

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

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

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

Cause: The Authority states that the alternate range error was the result of inexperienced staff and failure to implement a supervisory review process.

Corrective Action: The Authority asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Authority must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that employees are compensated correctly. The Authority must establish an audit system to correct current compensation transactions as well as future transactions.

Bilingual Pay

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

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

During the period under review, October 1, 2023, through March 31, 2024, the Authority issued bilingual pay to four employees. The CRU reviewed the four bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

| Classification | Bargaining Unit | Time Base | No. of Appts. |
|--|-----------------|-----------|---------------|
| Associate Governmental Program Analyst | R01 | Full Time | 1 |
| Information Technology Specialist I | R01 | Full Time | 2 |
| Staff Services Manager I | E48 | Full Time | 1 |

| | | |
|----------------------|-----------------------|--|
| IN COMPLIANCE | FINDING NO. 11 | BILINGUAL PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES |
|----------------------|-----------------------|--|

The CRU found that the bilingual pay authorized to employees during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies,

or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

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

During the period under review, October 1, 2023, through March 31, 2024, the Authority authorized 20 pay differentials.⁹ The CRU reviewed 16 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

| Classification | Pay Differential | Monthly Amount |
|---|------------------|----------------|
| Principal Transportation Engineer, Caltrans (2 positions) | 433 | 5.5% |
| Senior Land Surveyor (2 positions) | 433 | 5.5% |
| Senior Transportation Engineer, Caltrans | 433 | 2% |
| Senior Transportation Engineer, Caltrans (2 positions) | 433 | 5.5% |
| Supervising Land Surveyor | 433 | 5.5% |
| Supervising Transportation Engineer, Caltrans (8 positions) | 433 | 5.5% |

| | |
|----------------------|--|
| IN COMPLIANCE | FINDING NO. 12 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES |
|----------------------|--|

The CRU found no deficiencies in the pay differentials that the Authority authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

⁹ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Out-of-Class Assignments and Pay

For excluded¹⁰ 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, October 1, 2023, through March 31, 2024, the Authority issued OOC pay to two employees. The CRU reviewed the two OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

| Classification | Bargaining Unit | Out-of-Class Classification | Time Frame |
|---|-----------------|---|--------------------|
| Supervising Transportation Engineer, Caltrans | M09 | Principal Transportation Engineer, Caltrans | 10/1/23 – 1/22/24 |
| Staff Services Manager I | E48 | Staff Services Manager II (Managerial) | 10/1/23 – 10/25/23 |

¹⁰ “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.

| | |
|---------------|--|
| IN COMPLIANCE | FINDING NO. 13 OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES |
|---------------|--|

The CRU found no deficiencies in the OOC pay assignments that the Authority authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee’s time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days¹¹ worked and paid absences¹², are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

¹¹ For example, two hours or ten hours count as one day.

¹² For example, vacation, sick leave, compensating time off, etc.

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

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

At the time of the review, the Authority had 13 positive paid employees whose hours were tracked. The CRU reviewed 10 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 Accounting Analyst | Retired Annuitant | 7/1/23-6/30/24 | 436 Hours |
| Associate Governmental Program Analyst | Retired Annuitant | 7/1/23-6/30/24 | 561.75 Hours |
| Associate Governmental Program Analyst | Retired Annuitant | 7/1/23-6/30/24 | 950.75 Hours |
| Associate Governmental Program Analyst | Retired Annuitant | 7/1/23-6/30/24 | 883.25 Hours |
| Attorney IV | Retired Annuitant | 7/1/23-6/30/24 | 950 Hours |
| Principal Transportation Engineer, Caltrans | Retired Annuitant | 7/1/23-6/30/24 | 959 Hours |
| Senior Right of Way Agent | Retired Annuitant | 7/1/23-6/30/24 | 883 Hours |
| Senior Right of Way Agent | Retired Annuitant | 7/1/23-6/30/24 | 907 Hours |
| Staff Services Manager I | Retired Annuitant | 7/1/23-6/30/24 | 957 Hours |
| Student Assistant | Temporary | 7/1/23-6/30/24 | 724 Hours |

| | |
|----------------------|--|
| IN COMPLIANCE | FINDING NO. 14 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
|----------------------|--|

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The Authority 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, April 1, 2023, through March 31, 2024, the Authority authorized one ATO transaction. The CRU reviewed the ATO transaction to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which is listed below:

| Classification | Time Frame | Amount of Time on ATO |
|---|------------------|-----------------------|
| Supervising Transportation Engineer, Caltrans | 6/5/23 – 6/13/23 | 56 Hours |

| | |
|----------------------|--|
| IN COMPLIANCE | FINDING NO. 15 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
|----------------------|--|

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

Leave Accounting

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, January 1, 2024, through March 31, 2024, the Authority reported 120 units. The CRU reviewed 30 units within 3 pay periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

| | |
|------------------------------|---|
| SEVERITY: SERIOUS | FINDING NO. 16 DEPARTMENT DID NOT CERTIFY THAT ALL LEAVE RECORDS WERE REVIEWED |
|------------------------------|---|

Summary: The Authority uses a Leave Activity and Correction Certification form only if errors have been identified for a unit/pay period; therefore, it was difficult to determine if all units and pay periods were reviewed by the Authority.

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 Authority states that the Leave Activity and Correction Certification form was not utilized if no errors were identified.

Corrective Action: The Authority asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the Authority must submit to the SPB documentation which demonstrates the

corrections the department has implemented to ensure that their monthly internal audit process is documented and that all leave input is keyed accurately and timely. The Authority must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected.

State Service

The state recognizes two different types of absences while an employee is on pay status, paid or unpaid. The unpaid absences can affect whether a pay period is a qualifying or non-qualifying pay period for state service and leave accruals.

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.¹³ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁴ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

¹³ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

¹⁴ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

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

During the period under review, October 1, 2023, through June 30, 2024, the Authority had two employees with qualifying and non-qualifying pay period transactions. The CRU reviewed six transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

| Type of Transaction | Time base | No. Reviewed |
|---------------------------|-----------|--------------|
| Qualifying Pay Period | Full Time | 1 |
| Non-Qualifying Pay Period | Full Time | 5 |

| | |
|----------------------|--|
| IN COMPLIANCE | FINDING NO. 17 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
|----------------------|--|

The CRU determined that the Authority ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

Policy and Processes

Nepotism

It is the policy of the State of California to hire, transfer, and promote all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of “nepotism” as an employee’s use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of “personal relationship” as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as

defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

| | |
|----------------------|---|
| IN COMPLIANCE | FINDING NO. 18 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
|----------------------|---|

The CRU verified that the policy was disseminated to all staff and emphasized the Authority’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the Authority’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.*)

| | |
|----------------------|---|
| IN COMPLIANCE | FINDING NO. 19 WORKERS’ COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
|----------------------|---|

The CRU verified that the Authority 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 Authority 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 55 permanent Authority employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

| | |
|------------------------------|---|
| SEVERITY: SERIOUS | FINDING NO. 20 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES |
|------------------------------|---|

Summary: The Authority did not provide annual performance appraisals to 10 of 55 employees reviewed after the completion of the employee's probationary period. This is the third consecutive time this has been a finding for the Authority.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

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

Cause: The Authority states that despite diligently tracking and reminding managers to complete performance appraisals, not all managers complied with this requirement.

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

DEPARTMENTAL RESPONSE

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

SPB REPLY

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



Gavin Newsom
GOVERNOR

Ian Choudri
CHIEF EXECUTIVE OFFICER



December 2, 2024

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

Dear Ms. Ambrose:

The High-Speed Rail Authority (Authority) appreciates the opportunity to provide our response to the SPB Compliance Review (CR) Report findings. The Authority is fully committed to complying with all statutory and regulatory requirements, and hereby provides the following cause for each of the findings presented by SPB.

Finding No. 5 – Unions Were not Notified of Personal Services Contracts

Cause – Due to human error, notice was not sent timely on four occasions to the unions. This has been addressed with staff training and implementation of a process that includes a staff checklist and management approval of all personal services contracts prior to contract execution.

Finding No. 6 – Ethics Training Was Not Provided for All Filers

Cause – The Authority's Human Resources Section diligently tracks, informs, and reminds impacted employees of the ethics training requirement. However, despite these measures, not all employees complied with this requirement. In addition, some errors were identified in the manual tracking system. This has been addressed with staff corrections, training, and oversight, as appropriate. An enhanced tracking mechanism has been developed and tested to better track current and future due dates more accurately to help ensure better escalation of upcoming due dates for trainings prior to becoming non-compliant and past the due date. The Authority's Human Resources Section will continue to emphasize the importance of complying with this requirement and strive for 100% compliance.

Suzanne Ambrose
Page 2
December 2, 2024

Finding No. 7 – Supervisory Training Was Not Provided for All Supervisors, managers, and CEAs

Cause – The Authority’s Human Resources Section diligently tracks, informs, and reminds impacted employees of the supervisory training requirement. However, despite these measures, not all employees complied with this requirement. In addition, some errors were identified in the manual tracking system. This has been addressed with staff corrections, training, and oversight, as appropriate. An enhanced tracking mechanism has been developed and tested to better track current and future due dates more accurately to help ensure better escalation of upcoming due dates for trainings prior to becoming non-compliant and past the due date. The Authority’s Human Resources Section will continue to emphasize the importance of complying with this requirement and strive for 100% compliance.

Finding No. 8 – Sexual Harassment Prevention Training Was Not Provided for All Employees

Cause – The Authority’s Human Resources Section diligently tracks, informs, and reminds impacted employees of the sexual harassment prevention training requirement. However, despite these measures, not all employees complied with this requirement. In addition, some errors were identified in the manual tracking system. This has been addressed with staff corrections, training, and oversight as appropriate. An enhanced tracking mechanism has been developed and tested to better track current and future due dates more accurately to help ensure better escalation of upcoming due dates for trainings prior to becoming non-compliant and past the due date. The Authority’s Human Resources Section will continue to emphasize the importance of complying with this requirement and strive for 100% compliance.

Finding No. 9 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment

Cause – In one instance, an incorrect anniversary date caused a salary determination error due to a combination of staff inexperience and failure of a supervisory review process. This error has since been corrected and has been addressed with training and oversight as appropriate to prevent future errors.

Finding No. 10 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause – In one instance, an alternate range error was due to a combination of staff inexperience and failure of a supervisory review process. The employee has been notified of the alternate range error and the Authority is in the process of investigating this matter. The error will be corrected after the investigation is complete. Additionally, staff have been trained and will continue to receive oversight as appropriate to prevent future errors.

Suzanne Ambrose
Page 3
December 2, 2024

Finding No. 16 – Department Did Not Certify That All Leave Records Were Reviewed

Cause – The Authority’s Human Resources Section diligently reviews time and attendance records for each employee utilizing a monthly auditing process to verify all leave input is keyed accurately and timely. Use of the Leave Activity and Correction Certification form had not previously been utilized to document if there were no errors; however, the Authority will implement this as a practice moving forward per SPB’s direction.

Finding No. 20 – Performance Appraisals Were Not Provided to All Employees

Cause – The Authority’s Human Resources Section diligently tracks, informs, and reminds impacted managers of the performance appraisal requirement. However, despite these measures, not all managers complied with this requirement. The Authority’s Human Resources Section will continue to emphasize the importance of complying with this requirement and strive for 100% compliance.

Please note, responses were not required for findings 1, 2, 3, 4, 11, 12, 13, 14, 15, 17, 18, and 19, since the Authority was determined to be in compliance.

If you have any questions, please feel free to contact me at Mahsa.McManus@hsr.ca.gov or (916) 832-4281.

Sincerely,



Mahsa McManus
Chief Administrative Officer