



COMPLIANCE REVIEW REPORT

DEPARTMENT OF JUSTICE

Compliance Review Unit
State Personnel Board
September 6, 2024

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Department of Justice (DOJ) 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	Very Serious	Candidates Who Did Not Meet the Minimum Qualifications Were Admitted into the Examination ¹
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Very Serious	Unlawful Appointments ²
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely ³
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements

¹ Repeat finding. The DOJ's November 03, 2020, compliance review report identified that the DOJ admitted one candidate who did not meet minimum qualifications into a promotional examination.

² Repeat finding. The DOJ's November 03, 2020, compliance review report identified four unlawful appointments where candidates did not meet the minimum qualifications at time of exam or appointment.

³ Repeat finding. The November 03, 2020, identified 14 missing probation reports out of the 103 appointment files reviewed. The DOJ's June 20, 2016, compliance review report identified 30 missing probation reports out of the 144 appointment files reviewed.

Area	Severity	Finding
Mandated Training	Substantial Compliance	Ethics Training Was Not Provided for All Filers ⁴
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 ⁵
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Substantial Compliance	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines ⁶
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Red Circle Rate Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Arduous Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	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

⁴ Repeat finding. The DOJ's November 20, 2020, compliance review report identified that the DOJ did not provide ethics training to 16 of 1098 existing filers and 52 of 145 new filers. The DOJ's June 20, 2016, compliance review report identified that the DOJ did not provide ethics training to 14 of 1083 existing filers and 32 of 169 new filers.

⁵ Repeat finding. The DOJ's November 20, 2020, compliance review report identified that the DOJ did not provide sexual harassment prevention training to 21 of 117 new supervisors and 306 of 498 existing supervisors. The DOJ's June 20, 2016, compliance review report identified that the DOJ did not provide sexual harassment prevention training to 7 of 124 new supervisors and 11 of 524 existing supervisors.

⁶ Repeat finding. The DOJ's November 03, 2020, compliance review report identified 8 incorrect alternate range movements of the 35 reviewed.

Area	Severity	Finding
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay ⁷
Leave	Serious	Positive Paid Temporary Employees' Work Exceeded Time Limitations ⁸
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	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
Policy	In Compliance	Administrative Hearing and Medical Interpreter Program Complied with Statutory Requirements

BACKGROUND

The Office of the Attorney General/DOJ is responsible for protecting and serving the people and interests of California through a broad range of duties performed by attorneys,

⁷ Repeat finding. The DOJ's November 03, 2020, compliance review report identified 3 errors in the 25 out-of-class assignments reviewed.

⁸ Repeat finding. The DOJ's November 03, 2020, compliance review report identified that 9 of 49 positive paid employees reviewed exceeded time limitations.

paralegals, sworn peace officers, investigators, criminalists, crime analysts, information technology specialists and various other professionals.

The Attorney General and DOJ employees provide leadership, information and education to ensure justice, safety, and liberty are available for all Californians. In doing so, the DOJ provides legal counsel to state officers, aids agencies in the administration of justice, and represents the people of California in civil and criminal matters. The DOJ also establishes and operates projects and programs that are dedicated to upholding California's integrity and safeguarding California's human, natural, and financial resources for current and future generations. The DOJ's scope of work includes, but is not limited to:

- Representing the People of California in civil and criminal matters before trial courts, appellate courts and the supreme courts of California and the United States.
- Serving as legal counsel to state officers and, with few exceptions, to state agencies, boards and commissions.
- Assisting district attorneys, local law enforcement and federal and international criminal justice agencies in the administration of justice.
- Strengthening California's law enforcement community by coordinating statewide firearms enforcement efforts, conducting officer involved shooting investigations, supporting criminal investigations, and providing forensic science services which includes identification and information services.
- Managing programs and special projects to detect and crack down on fraudulent, unfair and illegal activities that victimize consumers or threaten public safety.

The DOJ fulfills these obligations through the daily efforts of over 5,000 employees in the following nine statewide divisions: Directorate, Operations, Law Enforcement, Medi-Cal Fraud and Elder Abuse, California Justice Information Services, Civil Law, Criminal Law, Public Rights, and Office of General Counsel.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DOJ's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁹. The primary objective of the review was to determine if the DOJ's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines,

⁹ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the DOJ'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 DOJ provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the DOJ's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

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

The DOJ's appointments were also selected for review to ensure the DOJ applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DOJ 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: hire above minimum (HAM) requests, red circle rate requests, arduous pay, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments.

The review of the DOJ'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 DOJ's PSC's were also reviewed.¹⁰ It was beyond the scope of the compliance review to make conclusions as to whether the DOJ's justifications for the contracts were

¹⁰If 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.

legally sufficient. The review was limited to whether the DOJ's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DOJ'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 DOJ'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 DOJ'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 DOJ'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 DOJ employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of DOJ 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 DOJ's policies and processes concerning nepotism, workers' compensation, performance appraisals, and administrative hearing and medical interpreter program. The review was limited to whether the DOJ's policies and processes adhered to procedural requirements.

The CRU received and carefully reviewed the DOJ's written response on August 12, 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, July 1, 2023, through December 31, 2023, the DOJ conducted 25 examinations. The CRU reviewed 10 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Director of Research Services	CEA	Statement of Qualifications (SOQ) ¹¹	10/4/2023	8
CEA B, Principal Deputy Solicitor General, Office of the Solicitor General	CEA	SOQ	8/25/2023	2
CEA B, Senior Assistant Attorney General, Police Practices Section	CEA	SOQ	6/16/2023	10

¹¹ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Criminalist Supervisor	Open	Written ¹² & Qualification Appraisal Panel (QAP) ¹³	11/22/2023	39
Deputy Attorney General IV	Open	Training and Experience (T&E) ¹⁴	11/10/2023	10
Deputy Attorney General Supervisor	Open	T&E	9/22/2023	4
Deputy Attorney General V	Departmental Promotional	T&E	9/29/2023	214
Field Representative, DOJ	Open	T&E	10/19/2023	36
Latent Print Analyst I	Open	Performance ¹⁵ & QAP	12/4/2023	19
Special Agent, DOJ	Open	T&E	8/25/2023	13

SEVERITY: VERY SERIOUS	FINDING NO. 1 CANDIDATES WHO DID NOT MEET THE MINIMUM QUALIFICATIONS WERE ADMITTED INTO THE EXAMINATION
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Summary: The DOJ admitted one candidate who did not meet minimum qualifications into the Deputy Attorney General V examination and one candidate who did not meet minimum qualifications into the Field Representative, DOJ examination. This is the second consecutive time this has been a finding for the DOJ.

¹² A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

¹³ The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

¹⁴ The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

¹⁵ A Performance examination requires applicants to replicate/simulate job related tasks or duties.

Criteria: According to Human Resources Manual Section 3002, during the examination process and before appointment, information submitted in the application process from all candidates, except those who are on reemployment lists or who have reinstatement rights, must be evaluated for verification of meeting the minimum qualifications of the classification established by the Board.

Additionally, except as otherwise provided by law or regulation, any person who establishes that he or she satisfies the minimum qualifications for any state position, as defined in Government Code section 18522, is eligible, regardless of his or her age, to take any civil service examination given for that position. (Cal. Code Reg., tit. 2, § 171.2.)

Severity: Very Serious. Failure to verify minimum qualifications for candidates during the examination process may result in an unlawful appointment that wastes resources and incurs costs to the state.

Cause: The DOJ states that the Deputy Attorney General V admittance was a clerical error. In addition, the Field Representative, DOJ minimum qualification evaluation incorrectly allowed experience that was no longer applicable.

Corrective Action: The DOJ asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOJ must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure all candidates meet the minimum qualifications prior to admittance into an examination.

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 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, July 1, 2023, through December 31, 2023, the DOJ conducted seven permanent withhold actions. The CRU reviewed five of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Associate Governmental Program Analyst	9PB04	3/23/2023	3/23/2024	Failed to Meet Minimum Qualifications
Crime Analyst Supervisor	9PB59	7/7/2023	7/7/2024	Failed to Meet Minimum Qualifications
Crime Analyst Supervisor	9PB60	2/15/2023	2/15/2024	Failed to Meet Minimum Qualifications
Crime Analyst Supervisor	9PB59	9/22/2022	9/22/2023	Failed to Meet Minimum Qualifications
Research Data Specialist I	8PB39	7/13/2023	7/13/2024	Failed to Meet Minimum Qualifications

IN COMPLIANCE	FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU found no deficiencies in the permanent withhold actions 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, January 1, 2023, through June 30, 2023, the DOJ made 572 appointments. The CRU reviewed 85 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Auditor I	Certification List	Permanent	Full Time	1
Crime Analyst I	Certification List	Permanent	Full Time	2
Crime Analyst I	Certification List	Limited Term	Full Time	1
Crime Analyst II	Certification List	Permanent	Full Time	2
Crime Analyst III	Certification List	Permanent	Full Time	1
Crime Analyst Supervisor	Certification List	Limited Term	Full Time	1
Crime Analyst Supervisor	Certification List	Permanent	Full Time	1
Criminalist	Certification List	Permanent	Full Time	2
Deputy Attorney General	Certification List	Permanent	Full Time	3
Deputy Attorney General III	Certification List	Permanent	Full Time	3
Deputy Attorney General IV	Certification List	Permanent	Full Time	4
Deputy Attorney General Supervisor	Certification List	Permanent	Full Time	2
Digital Print Operator II	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Field Representative, DOJ	Certification List	Permanent	Full Time	2
Information Technology Associate	Certification List	Permanent	Full Time	2
Information Technology Specialist I	Certification List	Limited Term	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Information Technology Supervisor II	Certification List	Permanent	Full Time	1
Investigative Auditor III, DOJ	Certification List	Permanent	Full Time	1
Latent Print Analyst I	Certification List	Permanent	Full Time	1
Legal Analyst	Certification List	Permanent	Full Time	1
Legal Assistant	Certification List	Permanent	Full Time	1
Legal Secretary	Certification List	Permanent	Full Time	3
Office Technician (General) Limited Examination and Appointment Program (LEAP)	Certification List	Limited Term	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	2
Program Technician II	Certification List	Permanent	Full Time	3
Program Technician II (LEAP)	Certification List	Limited Term	Full Time	1
Program Technician III	Certification List	Permanent	Full Time	2
Program Technician III (LEAP)	Certification List	Limited Term	Full Time	1
Senior Legal Analyst	Certification List	Permanent	Full Time	1
Senior Legal Typist	Certification List	Permanent	Full Time	2
Special Agent Supervisor, DOJ	Certification List	Permanent	Full Time	2
Special Agent, DOJ	Certification List	Permanent	Full Time	2
Special Agent-In-Charge, DOJ	Certification List	Permanent	Full Time	2
Staff Services Analyst	Certification List	Permanent	Full Time	3
Staff Services Manager I	Certification List	Permanent	Full Time	4
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	2
Supervising Program Technician III	Certification List	Permanent	Full Time	2
Associate Personnel Analyst	Compelling Management Need (CMN)	Permanent	Full Time	1
Staff Services Manager I	CMN	Limited Term	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Staff Services Manager II (Supervisory)	CMN	Permanent	Full Time	1
Training Officer I	CMN	Permanent	Full Time	1
Legal Assistant	Permissive Reinstatement	Permanent	Full Time	1
Associate Personnel Analyst	Transfer	Permanent	Full Time	1
Deputy Attorney General III	Transfer	Permanent	Full Time	1
Deputy Attorney General IV	Transfer	Permanent	Full Time	1
Field Representative, DOJ	Transfer	Permanent	Full Time	1
Investigative Auditor III, DOJ	Transfer	Permanent	Full Time	1
Program Technician II	Transfer	Permanent	Full Time	1
Special Investigator	Transfer	Permanent	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 3 UNLAWFUL APPOINTMENTS
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Summary: The CRU found three unlawful appointments during the course of its regular review. The following hired candidates did not meet the minimum qualifications for their appointed classifications:

1. Associate Governmental Program Analyst
2. Field Representative, DOJ
3. Special Agent, DOJ¹⁶

The appointments will stand as more than one year has elapsed and there is no evidence of other than good faith by the employees or the department. This is the second consecutive time this has been a finding for the DOJ.

Criteria: Pursuant to Government Code section 18931, subdivision (a), the Board shall establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. In accordance with California Code of Regulations, title 2, section 249.4, appointing powers shall verify that the candidate satisfies the minimum qualifications of the classification before the candidate is appointed.

¹⁶ On December 1, 2022, the Special Agent, DOJ class specification was revised. The classification now requires a Peace Officer Standards and Training certificate to meet the minimum qualifications for pattern I.

California Code of Regulations, title 2, section 243.2, provides that for appointments in effect for longer than one year, an unlawful appointment may be corrected only when either the employee and/or the appointing power did not act in good faith in accordance with California Code of Regulations, title 2, section 243.

Severity:

Very Serious. An unlawful appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Unlawful appointments which are not corrected also create appointment inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the unlawful appointment and may also be subject to disciplinary action. In this case, the appointments will stand as more than one year has elapsed and the candidates accepted the job offer in good faith.

Cause:

Associate Governmental Program Analyst: The DOJ disagrees with SPB and CalHR’s interpretation of the minimum qualifications. The DOJ determined that the candidates’ experience was correctly applied towards pattern II.

Field Representative, DOJ: The DOJ disagrees with SPB and CalHR’s interpretation of the minimum qualifications. The DOJ determined that the candidates’ experience was correctly applied towards pattern II.

Special Agent, DOJ: The DOJ states that the appointment was made in error. The Special Agent classification had been recently changed, which altered the training requirement.

SPB Response: The SPB reviewed additional documentation and analysis provided by the DOJ and consulted with CalHR on numerous occasions regarding the above appointments. Based on the documentation provided, the SPB does not agree with DOJ's analysis of the minimum qualifications.

Regarding the Field Representative, DOJ appointment, the DOJ demonstrated that the employee did work for a law enforcement agency; however, the duties performed were administrative rather than increasingly responsible experience performing criminal justice-related duties as required by pattern II of the minimum qualifications.

Regarding the Associate Governmental Program Analyst appointment, the DOJ demonstrated that the employee performed occasional analytical duties; however, the position did not perform overall planning and analysis a majority of the time as required by pattern II of the minimum qualifications.

Corrective Action: The DOJ asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOJ must submit to the SPB documentation which demonstrates the corrections the department has implemented to improve its hiring practices.

SEVERITY: SERIOUS	FINDING NO. 4 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY
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Summary: The DOJ did not provide 19 probationary reports of performance for 9 of the 85 appointments reviewed by the CRU. In addition, the DOJ did not provide 23 probationary reports of performance in a timely manner, as reflected in the table below. This is the third consecutive time this has been a finding for the DOJ.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Auditor I	Certification List	1	2
Crime Analyst II	Certification List	1	3
Deputy Attorney General IV	Certification List	1	2
Program Technician II	Certification List	2	3
Special Agent-In-Charge, DOJ	Certification List	2	3
Deputy Attorney General IV	Transfer	1	3
Field Representative, DOJ	Transfer	1	3

Classification	Appointment Type	No. of Appointments	Total No. of Late Probation Reports
Accounting Officer (Specialist)	Certification List	1	3
Associate Governmental Program Analyst	Certification List	1	2
Associate Personnel Analyst	Certification List	1	1
Deputy Attorney General IV	Certification List	1	1
Deputy Attorney General Supervisor	Certification List	1	1
Digital Print Operator II	Certification List	1	3
Field Representative, DOJ	Certification List	2	2
Information Technology Associate	Certification List	1	1
Office Technician (Typing)	Certification List	1	1
Program Technician II	Certification List	2	2
Special Agent-In-Charge, DOJ	Certification List	1	1
Staff Services Manager I	Certification List	1	2
Supervising Program Technician III	Certification List	1	3

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as

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

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

Cause: The DOJ states that they previously implemented a solution for tracking probationary reports and sending regular reminders to managers and supervisors. Unfortunately, this was a highly manual, decentralized process and it lacked consistency in its follow up with managers and supervisors.

Corrective Action: The DOJ asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOJ must submit to the SPB documentation which demonstrates the corrections the department has implemented to demonstrate conformity with the probationary requirements of Government Code section 19172 and California Code of Regulations, title 2, section 599.795.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in

accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department’s EEO program. (Gov. Code, § 19795, subd. (a).)

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. 5 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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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 DOJ’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 DOJ. The DOJ 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, July 1, 2023, through December 31, 2023, the DOJ had 465 PSC's that were in effect. The CRU reviewed 30 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
A.L. Ward Consulting	Private Investigator	\$145,000	Yes	Yes
Accent on Languages, Inc.	Interpreter Services	\$119,000	Yes	Yes
Accent on Languages, Inc.	Interpreter Services	\$100,000	Yes	Yes
Anast and Associates, Inc.	Legal Investigator	\$145,000	Yes	Yes
BSD Robotics PTY LTD	Preventative Maintenance	\$55,220	Yes	Yes
Cognitive Consultants International	Specialized Training	\$49,600	Yes	Yes
D&J Investigative Services	Private Investigator	\$145,000	Yes	Yes
David Cannon Consulting, Inc. dba Trial Innovations	Jury Consultant	\$85,000	Yes	Yes
David Cannon Consulting, Inc. dba Trial Innovations	Jury Consultant	\$80,000	Yes	Yes
Fernando Jimenez & Associates, Inc.	Legal Investigator	\$200,000	Yes	Yes
FranklinCovey Client Sales, Inc.	Expert Training	\$356,988	Yes	Yes
FranklinCovey Client Sales, Inc.	Leadership Development Training	\$126,480	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
HISE Financial Corporation	Legal Investigator	\$100,000	Yes	Yes
Kitching, Dale E.	Electronic Surveillance Certification Instructor	\$49,640	Yes	Yes
Litigation Tech LLC	Trial Services	\$148,943	Yes	Yes
Manuel S. Hernandez	Private Investigator	\$170,000	Yes	Yes
Med-Waste Systems, LLC	Biohazardous Waste Removal	\$159,990	Yes	Yes
Morimoto Investigations	Legal Investigator	\$145,000	Yes	Yes
On The Record, Inc.	Litigation Services	\$125,000	Yes	Yes
PARC Specialty Contractors	Hazardous Waste Storage and Destruction Services	\$67,907	Yes	Yes
RHEW Investigations	Investigative Services	\$145,000	Yes	Yes
Schneider Electric IT Corporation	Equipment Preventative Maintenance	\$114,679	Yes	Yes
Stephen J. Ramirez	Legal Investigator	\$100,000	Yes	Yes
TBK Electric Inc.	Electrical and Data Services	\$66,532	No ¹⁷	Yes
TBK Electric Inc.	Electrical Services	\$50,000	No ¹⁸	Yes
Team Legal, Inc.	Legal Services	\$49,999	Yes	Yes
The City of Sacramento	Parking Access Cards	\$1,787,400	Yes	Yes
Unity Courier Service, Inc.	Courier Services	\$317,000	Yes	Yes
Western Identification Network, Inc.	Access to Automated Fingerprint Identification System	\$50,000	Yes	Yes
Wind Dancer Moving Company	Moving Services	\$249,000	Yes	Yes

¹⁷ Public works contracts do not require justification or union notification.

¹⁸ Public works contracts do not require justification or union notification.

IN COMPLIANCE	FINDING NO. 6 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC’s reviewed was \$5,503,378. It was beyond the scope of the review to make conclusions as to whether DOJ justifications for the contract were legally sufficient. For all PSC’s reviewed, the DOJ provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, DOJ complied with proper notification to all organizations that represent state employees who perform or could perform the type or work contracted as required by California Code of Regulations section 547.60.2. Accordingly, the DOJ PSC’s complied with civil service laws and board rules.

Mandated Training

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) and (b), & 19995.4, subd. (b).) Additionally, the training must be successfully completed within the term of the employee’s probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).)

Within 12 months of the initial appointment of an employee to a management or 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 DOJ’s mandated training program that was in effect during the compliance review period, January 1, 2022, through December 31, 2023.

SUBSTANTIAL COMPLIANCE	FINDING NO. 7 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The DOJ did not provide ethics training to 19 of 1,492 existing filers. In addition, the DOJ did not provide ethics training to 26 of 332 new filers within 6 months of their appointment. This is the third consecutive time this has been a finding for the DOJ.

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

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

SEVERITY: VERY SERIOUS	FINDING NO. 8 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The DOJ did not provide basic supervisory training to 5 of 89 new supervisors within 12 months of appointment; did not provide manager training to 5 of 16 new managers within 12 months of appointment; and did not provide CEA training to 3 of 7 new CEAs within 12 months of appointment.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. (Gov. Code, § 19995.4, subd. (b).)

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 DOJ states that these findings are due to workload, human error, scheduling conflicts, classes being at maximum capacity, post-pandemic related disruptions, lack of communication, and lack of outreach upon initial promotion/appointment outlining training requirements.

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

SEVERITY: VERY SERIOUS	FINDING NO. 9 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The DOJ did not provide sexual harassment prevention training to 15 of 65 new supervisors within 6 months of their appointment. In addition, the DOJ did not provide sexual harassment prevention training to 35 of 738 existing supervisors every 2 years. This is the third consecutive time this has been a finding for the DOJ.

The DOJ did not provide sexual harassment prevention training to 2 of 105 existing non-supervisors every 2 years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years and non-supervisory employees one hour of sexual harassment prevention training every two years. New employees must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, 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 DOJ states that employees did not complete sexual harassment and abusive conduct prevention training due to several factors: the employee leaving the department before completing the training, being on an extended leave of absence and returning after their training deadline, or failing to set aside time to complete their training even after multiple reminders.

SPB Response: New Supervisors: The DOJ acknowledged that training was not completed timely at the time of the compliance review. Three employees did leave DOJ; however, two separated after the training due date and one separated one day before the due date which was a state holiday.

Existing Supervisors: The DOJ acknowledged that training was not completed timely at the time of the compliance review. Two former DOJ employees separated after training was due. Separately, the DOJ reported two former employees did not complete training timely. The separation dates were not provided for these two employees. Additionally, the DOJ identified that three employees were on a leave of absence; however, the DOJ failed to demonstrate that the employees were on leave for all of the 2022-2023 training window.

Non-Supervisory: The DOJ acknowledged that training was not completed timely at the time of the compliance review. One former DOJ employee separated after training was due.

Corrective Action: The DOJ asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOJ 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 rate¹⁹ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, January 1, 2023, through June 30, 2023, the DOJ made 572 appointments. The CRU reviewed 39 of those appointments to determine if the DOJ

¹⁹ "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).

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

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$5,089
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,518
Crime Analyst I	Certification List	Limited Term	Full Time	\$4,205
Crime Analyst II	Certification List	Permanent	Full Time	\$5,150
Crime Analyst II	Certification List	Permanent	Full Time	\$5,120
Crime Analyst III	Certification List	Permanent	Full Time	\$5,838
Crime Analyst Supervisor	Certification List	Permanent	Full Time	\$6,128
Criminalist	Certification List	Permanent	Full Time	\$4,281
Deputy Attorney General III	Certification List	Permanent	Full Time	\$11,320
Deputy Attorney General IV	Certification List	Permanent	Full Time	\$13,774
Deputy Attorney General Supervisor	Certification List	Permanent	Full Time	\$15,989
Digital Print Operator II	Certification List	Permanent	Full Time	\$3,596
Field Representative, DOJ	Certification List	Permanent	Full Time	\$5,838
Information Technology Associate	Certification List	Permanent	Full Time	\$5,761
Information Technology Specialist	Certification List	Permanent	Full Time	\$8,398
Information Technology Supervisor II	Certification List	Permanent	Full Time	\$7,893
Investigative Auditor III, DOJ	Certification List	Permanent	Full Time	\$6,150
Investigative Auditor III, DOJ	Certification List	Permanent	Full Time	\$5,647
Legal Secretary	Certification List	Permanent	Full Time	\$3,810
Legal Secretary	Certification List	Permanent	Full Time	\$3,810
Office Technician (Typing)	Certification List	Permanent	Full Time	\$4,050
Program Technician II	Certification List	Permanent	Full Time	\$3,373
Program Technician III	Certification List	Permanent	Full Time	\$3,905
Program Technician III	Certification List	Limited Term	Full Time	\$3,774
Special Agent Supervisor, DOJ	Certification List	Permanent	Full Time	\$11,642
Special Agent, DOJ	Certification List	Permanent	Full Time	\$6,956
Special Agent, DOJ	Certification List	Permanent	Full Time	\$6,956

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Special Agent-In-Charge, DOJ	Certification List	Permanent	Full Time	\$12,787
Special Agent-In-Charge, DOJ	Certification List	Permanent	Full Time	\$12,787
Staff Services Analyst	Certification List	Permanent	Full Time	\$4,588
Staff Services Analyst	Certification List	Permanent	Full Time	\$4,588
Staff Services Manager I	Certification List	Permanent	Full Time	\$7,331
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$8,950
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$7,598
Supervising Program Technician III	Certification List	Permanent	Full Time	\$4,338
Associate Personnel Analyst	Transfer	Permanent	Full Time	\$5,518
Field Representative, DOJ	Transfer	Permanent	Full Time	\$5,838
Investigative Auditor III, DOJ	Transfer	Permanent	Full Time	\$7,394
Program Technician	Transfer	Permanent	Full Time	\$4,277

IN COMPLIANCE	FINDING NO. 10 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determinations that were reviewed. The DOJ 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, January 1, 2023, through June 30, 2023, the DOJ employees made 176 alternate range movements within a classification. The CRU reviewed 20 of those alternate range movements to determine if the DOJ applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Business Services Assistant (Specialist)	B	C	Full Time	\$3,897
Crime Analyst I	A	B	Full Time	\$4,785
Criminalist	A	B	Full Time	\$5,600
Criminalist	B	C	Full Time	\$6,746
Deputy Attorney General	A	B	Full Time	\$7,812
Deputy Attorney General	B	C	Full Time	\$8,584
Deputy Attorney General	C	D	Full Time	\$9,130
Information Technology Associate	A	B	Full Time	\$4,979
Information Technology Associate	A	B	Full Time	\$6,355
Information Technology Associate	B	C	Full Time	\$6,985
Information Technology Associate	C	D	Full Time	\$5,968
Information Technology Specialist I	A	B	Full Time	\$6,901
Information Technology Specialist I	A	B	Full Time	\$6,926
Legal Secretary	A	B	Full Time	\$4,893
Legal Secretary	A	B	Full Time	\$4,201
Personnel Specialist	B	C	Full Time	\$4,839
Special Agent, DOJ	A	B	Full Time	\$8,380
Staff Services Analyst	A	B	Full Time	\$4,649
Staff Services Analyst	A	B	Full Time	\$4,096
Staff Services Analyst	B	C	Full Time	\$5,028

SUBSTANTIAL COMPLIANCE	FINDING NO. 11 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
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Summary: The CRU found 2 errors in the 20 alternate range movements reviewed. This is the second consecutive time this has been a finding for the DOJ.

Classification	Description of Findings	Criteria
Business Services Assistant (Specialist)	Incorrect salary and anniversary date determined resulting in the employee being overcompensated.	Cal. Code Regs., tit. 2, sections 599.608 and 599.674, subd. (b)
Information Technology Associate	Incorrect anniversary date determined resulting in the employee being overcompensated.	Cal. Code Regs., tit. 2, section 599.608

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

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a

candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.²⁰ (Gov. Code, § 19836, subd. (b). Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

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

During the period under review, January 1, 2023, through June 30, 2023, the DOJ authorized 84 HAM requests. The CRU reviewed 27 of those authorized HAM requests to determine if the DOJ correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

²⁰ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	New to State	\$5,518 - \$6,907	\$5,794
Associate Personnel Analyst	Certification List	New to State	\$5,518 - \$6,907	\$6,417
Criminalist	Certification List	New to State	C \$6,746 - \$9,010	\$9,010
Criminalist	Certification List	New to State	B \$5,600 - \$7,475	\$6,240
Criminalist	Certification List	New to State	C \$6,746 - \$9,010	\$8,400
Deputy Attorney General	Certification List	New to State	C \$7,506 - \$9,439	\$8,676
Deputy Attorney General	Certification List	New to State	D \$8,448 - \$10,836	\$8,695
Deputy Attorney General	Certification List	New to State	B \$8,454 - \$10,848	\$9,200
Deputy Attorney General III	Certification List	New to State	\$10,225 - \$13,118	\$12,547
Deputy Attorney General III	Certification List	New to State	\$10,225 - \$13,118	\$13,118
Deputy Attorney General IV	Certification List	New to State	\$11,296 - \$14,503	\$14,388
Deputy Attorney General IV	Certification List	New to State	\$11,305 - \$14,518	\$12,429
Deputy Attorney General IV	Certification List	New to State	\$11,296 - \$14,503	\$12,429
Digital Print Operator II	Certification List	New to State	\$3,596 - \$4,503	\$4,200
Information Officer I (Specialist)	Certification List	New to State	\$5,518 - \$6,907	\$6,667
Information Officer II	Certification List	Former State Employee	\$6,862 - \$8,527	\$8,458
Information Technology Specialist I	Certification List	New to State	C \$7,197 - \$9,643	\$9,643
Information Technology Specialist I	Certification List	New to State	C \$7,197 - \$9,643	\$9,643
Information Technology Specialist I	Certification List	New to State	C \$7,197 - \$9,643	\$9,453
Information Technology Specialist II	Certification List	New to State	\$7,893 - \$10,576	\$10,000

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Investigative Auditor II, DOJ	Transfer	Current State Employee	\$6,082 - \$7,998	\$7,998
Latent Print Analyst I	Certification List	New to State	\$5,477 - \$7,154	\$6,317
Personnel Specialist	Certification List	New to State	B \$4,037 - \$5,061	\$4,451
Personnel Specialist	Certification List	New to State	B \$4,037 - \$5,061	\$4,239
Security Officer I, DOJ	Certification List	New to State	\$4,015 - \$5,115	\$5,115
Senior Legal Analyst	Certification List	New to State	\$5,793 - \$7,256	\$7,256
Senior Legal Analyst	Certification List	New to State	\$5,793 - \$7,257	\$6,700

IN COMPLIANCE	FINDING NO. 12 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM requests the DOJ made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Red Circle Rates

A red circle rate is a rate of pay authorized for an individual above the maximum salary for his or her class. (Gov. Code, § 19837.) Departments may authorize a red circle rate in the following circumstances: management initiated change²¹, lessening of

²¹ Any major change in the type of classes, organizational structure, and/or staffing levels in a program.

abilities²², downward reclassification,²³ split-off,²⁴ allocation standard changes,²⁵ or changes in salary setting methods.²⁶ (*Ibid.*)

If a salary reduction is the result of split-off, changes in allocation standards, changes in salary setting methods, or a downward reclassification initiated by SPB or CalHR staff determination, the affected employee may receive a red circle rate regardless of the employee's state service total. The employee may retain it until the maximum salary of his or her class equals or exceeds the red circle rate. (Classification and Pay Guide Section 260.)

If an employee is moved to a position in a lower class because of management-initiated changes, he or she may receive a red circle rate provided he or she has a minimum of ten years' state service²⁷ and has performed the duties of the higher class satisfactorily²⁸. The length of the red circle rate resulting from a management-initiated change is based on the affected employee's length of state service. The red circle rate ends when the maximum salary of the class equals or exceeds the red circle rate or at the expiration of eligibility. (*Ibid.*)

An employee whose position is blanketed into the state civil service from another public jurisdiction may receive a red circle rate regardless of the length of service in the other jurisdiction. (Cal. Code Regs., tit. 2, § 275.) The employee may retain the red circle rate until the maximum salary of the class to which the employee's position is allocated equals or exceeds the red circle rate.

Additionally, a red circle rate may be authorized for a former CEA appointee who is reinstating to a civil service classification, a CEA with no prior civil service in a promotional exam and is being appointed from a list without a break in service, or a CEA appointee

²² Refers to an employee who, after many years of satisfactory service, no longer possess the ability to perform the duties and responsibilities of his/her position.

²³ Downward reclassification is when, as a result of SPB action or a CalHR (or its predecessor, the Department of Personnel Administration) staff determination, an incumbent's position is moved to a lower class without the duties being changed.

²⁴ Split off is when one class is split into two or more classes, one of which is at a lower salary level than the original class.

²⁵ Allocation standards for two or more classes may change to the degree that a position originally allocated to one class may be reallocated to a class with a lower salary without a change in duties.

²⁶ Revised valuation standards applied in setting the salary for a class may result in reducing the salary of a class.

²⁷ As calculated by the State Service and Seniority Unit at CalHR. An employee with nine years' state service qualifies if the employee had been laid off or had been on a leave of absence for one or more years to reduce the effect of a layoff (CCR § 599.608).

²⁸ The latter requirement is normally satisfied by the successful completion of a probationary period, unless there is compelling evidence to suggest otherwise.

who is being reduced to a lower CEA salary rate (Classification and Pay Guide Section 440). An employee who has ten years of service, one year of which is under a career executive assignment, shall receive a red circle rate in unless the termination was voluntary or based on unsatisfactory performance. (Cal. Code of Regs., tit. 2, § 599.993.) If the termination was voluntary and performance was satisfactory, a red circle rate is permissive. (*Ibid.*) This rate is based on the CEA salary rate received at the time of the termination. Government Code section 13332.05 limits the funding of the red circle rate to no more than 90 calendar days following termination of a CEA appointment.

As of April 1, 2005, departments have delegated authority to approve red circle rates for general civil service employees and CEA positions for up to 90 days. Current Bargaining Unit agreements also provide guidelines and rules on red circle rates that may supersede applicable laws, codes, rules and/or CalHR policies and guidelines.

During the period under review, January 1, 2023, through June 30, 2023, the DOJ authorized one red circle request. The CRU reviewed the red circle request, listed below, to determine if the DOJ correctly verified, approved and documented the red circle authorization process:

Classification	Prior Classification	Red Circle Rate	Reason for Red Circle Rate
CEA B	Investigative Auditor IV (Supervisor), DOJ	\$3,252	Voluntary Demotion

IN COMPLIANCE	FINDING NO. 13 RED CIRCLE RATE AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the red circle rate request the DOJ authorized during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Arduous Pay

Effective July 1, 1994, appointing authorities were provided the discretion to provide additional compensation for employees exempt from the Fair Labor Standards Act (FLSA) who perform arduous work that exceeds the normal demands of state service employment. (Human Resources Manual Section 1702.) The work must be extraordinarily demanding, time consuming, and significantly exceed employees’ normal workweek. The employee cannot be entitled to receive any other sort of compensation such as overtime.

Eligible employees are FLSA-exempt employees who do not receive compensation in recognition of hours worked in excess of 40 hours per week. The duration of the arduous period must be at least two weeks or more. (*Ibid.*)

Excluded and represented employees who are FLSA-exempt and assigned to Work Week Group E are eligible to receive up to four (4) months of pay per fiscal year, or per event for emergencies, if the following conditions are met:²⁹

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

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

Although departments have delegated authority to approve arduous pay,³⁰ they are required to fill out CalHR Form 777, documenting the circumstances, assessment and rationale behind all arduous pay approvals. A new Form 777 should be filled out for every employee receiving the pay differential, every time an employee is approved to receive a new pay differential, and every time an employee wants to extend their arduous pay. Extensions are only granted in rare circumstances. Departments must keep the Form 777 on file and retain the form for five years after the approval date. (*Ibid.*)

During the period under review, January 1, 2023, through June 30, 2023, the DOJ issued arduous pay to 22 employees. The CRU reviewed 11 of those arduous pay authorizations, listed below, to ensure compliance with applicable CalHR policies and guidelines:

²⁹ Applicable Memorandum of Understandings or Bargaining Unit Agreements detail other specific criteria.

³⁰ Pay Letter 94-32 established Pay Differential 62 regarding arduous pay for Bargaining Units 1, 7, 9, 17, 19, and 21, and Excluded employees.

Classification	Bargaining Unit ³¹	Time Base	Total Compensation	No. of Months Received
Assistant Bureau Chief, Division of Law Enforcement, DOJ (Non-Peace Officer)	M07	Full Time	\$1,200	1
CEA	M01	Full Time	\$900	1
Research Data Supervisor II	S01	Full Time	\$600	1
Research Data Supervisor II	S01	Full Time	\$3,600	3
Special Agent-In-Charge, DOJ	M07	Full Time	\$4,800	4
Staff Services Manager I	S01	Full Time	\$1,200	1
Staff Services Manager I	S01	Full Time	\$1,200	1
Staff Services Manager I	S01	Full Time	\$1,200	1
Staff Services Manager II (Supervisory)	S01	Full Time	\$1,200	1
Staff Services Manager II (Supervisory)	S01	Full Time	\$600	1
Staff Services Manager II (Supervisory)	S01	Full Time	\$1,200	2

IN COMPLIANCE	FINDING NO. 14 ARDUOUS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the arduous pay authorizations that the DOJ made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

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,

³¹ All positions are Work Week Group E

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, January 1, 2023, through June 30, 2023, the DOJ issued bilingual pay to 59 employees. The CRU reviewed 24 of these 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	2
Auditor I	R01	Full Time	1
Deputy Attorney General	R02	Full Time	2
Deputy Attorney General III	R02	Full Time	6
Deputy Attorney General IV	R02	Full Time	1
Investigative Auditor II, DOJ	R01	Full Time	1
Investigative Auditor IV (Specialist), DOJ	R01	Full Time	1
Office Technician (Typing)	R04	Full Time	1
Security Officer I, DOJ	R07	Full Time	1
Special Agent Supervisor, DOJ	R07	Full Time	1
Special Agent, DOJ	R07	Full Time	2
Special Agent-In-Charge, DOJ	M07	Full Time	2
Staff Services Analyst	R01	Full Time	2
Staff Services Manager I	S01	Full Time	1

IN COMPLIANCE	FINDING NO. 15 BILINGUAL PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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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, January 1, 2023, through June 30, 2023, the DOJ authorized 242 pay differentials.³² The CRU reviewed 25 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Assistant Bureau Chief, Division of Law Enforcement, DOJ	47	\$350
CEA	71	10%
CEA	71	5%
Criminalist	209	\$300
Criminalist Supervisor	209	\$300
Criminalist Supervisor	293	7.5%
Criminalist Supervisor	293	7.5%
Executive Secretary Research Advisory Panel	269	\$2,000
Information Technology Associate	13	5%
Information Technology Specialist I	13	5%
Legal Secretary	141	2 Step
Legal Secretary	141	1 Step
Legal Support Supervisor I	141	1 Step
Legal Support Supervisor II	141	2 Step
Office Technician (Typing)	441	\$250
Security Officer II, DOJ	244	\$120
Senior Criminalist	209	\$300
Special Agent Supervisor, DOJ	244	\$240
Special Agent Supervisor, DOJ	244	\$240
Special Agent Trainee, DOJ	244	\$250
Special Agent, DOJ	244	\$120
Special Agent, DOJ	245	5%

³² For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Special Agent-In-Charge, DOJ	47	\$250
Special Agent-In-Charge, DOJ	47	\$250
Special Agent-In-Charge, DOJ	245	7%

IN COMPLIANCE	FINDING NO. 16 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differentials that the DOJ authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

For excluded³³ and most rank-and-file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

During the period under review, January 1, 2023, through June 30, 2023, the DOJ issued OOC pay to 42 employees. The CRU reviewed 20 of these OOC assignments to ensure

³³ “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.

compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	5/4/23-6/30/23 5/4/23-9/4/23 (Total OOC)
Associate Governmental Program Analyst	R01	Staff Services Manager I	1/1/23-1/31/23 12/1/22-1/31/23 (Total OOC)
Associate Personnel Analyst	R01	Staff Services Manager I	1/1/23-3/13/23 11/14/22-3/13/23 (Total OOC)
Deputy Attorney General III	R02	Supervising Deputy Attorney General	1/1/23-1/9/23 9/12/2-1/9/23 (Total OOC)
Deputy Attorney General III	R02	Supervising Deputy Attorney General	4/17/23-5/12/23
Deputy Attorney General IV	R02	Supervising Deputy Attorney General	6/19/23-6/30/23
Deputy Attorney General IV	R02	Supervising Deputy Attorney General	1/1/23-2/28/23
Deputy Attorney General Supervisor	S02	CEA, B	5/30/23-6/30/23
Deputy Attorney General Supervisor	S02	CEA, B	2/1/23-2/28/23
Deputy Attorney General Supervisor	S02	CEA, B	3/1/23-3/31/23
Deputy Attorney General V	R02	Supervising Deputy Attorney General	1/1/23-2/28/23
Information Technology Specialist I	R01	Information Technology Supervisor II	1/1/23-3/31/23
Legal Support Supervisor II	S04	Staff Services Manager I	5/1/23-4/30/24
Office Technician (Typing)	R04	Staff Services Analyst	4/1/23-6/30/23
Office Technician (Typing)	R04	Staff Services Analyst	1/1/23-2/14/23 10/17/22-2/14/22 (Total OOC)
Personnel Specialist	R01	Staff Services Analyst	1/31/23-5/30/23

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Research Data Specialist II	R01	Research Data Supervisor II	5/17/23-6/30/23 5/17/23-9/14/23 (Total OOC)
Staff Services Analyst	R01	Associate Personnel Analyst	6/1/23-6/30/23
Staff Services Analyst	R01	Associate Personnel Analyst	6/1/23-6/30/23
Staff Services Manager I	S01	Staff Services Manager II	2/6/23-4/30/23

SEVERITY: VERY SERIOUS	FINDING NO. 17 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRU found 6 errors in the 20 OOC pay assignments reviewed. This is the second consecutive time this has been a finding for the DOJ.

Classification	Out-of-Class Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	Staff Services Manager I	OOO exceeded 120-day limitation.	Pay Differential 91
Associate Governmental Program Analyst	Staff Services Manager I	Incorrect OOC rate calculated resulting in the employee being undercompensated.	Pay Differential 91
Legal Support Supervisor II	Staff Services Manager I	Incorrect OOC rate calculated resulting in the employee being undercompensated.	Pay Differential 101
Office Technician (Typing)	Staff Services Analyst	Incorrect OOC rate calculated resulting in the employee being overcompensated. OOO exceeded 120-day limitation.	Pay Differential 91
Research Data Specialist II	Research Data Supervisor II	OOO exceeded 120-day limitation.	Pay Differential 91
Staff Services Manager I	Staff Services Manager II	Incorrect OOC rate calculated resulting in the employee being overcompensated.	Pay Differential 101

Criteria: An employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120)

calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment is of unusual urgency, nature, volume, location, duration, or other special characteristics; and, cannot feasibly be met through use of other civil service or administrative alternatives. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid using existing eligibility lists created as the result of a civil service examination.

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

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. €.) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, § 599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, sub€ (e).)

Severity:

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

Cause: The DOJ states that the OOC errors were the result of miscalculations by the DOJ consultants.

Corrective Action: The DOJ asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOJ must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differentials 91 and 101.

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 days³⁴ worked and paid absences³⁵, 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).)

³⁴ For example, two hours or ten hours count as one day.

³⁵ 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 DOJ had 266 positive paid employees whose hours were tracked. The CRU reviewed 25 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Hours Worked
Associate Governmental Program Analyst	Retired Annuitant	7/1/22-6/30/23	960
Associate Governmental Program Analyst	Retired Annuitant	7/1/22-6/30/23	957.5
Associate Governmental Program Analyst	Retired Annuitant	7/1/22-6/30/23	182
Business Service Assistant (Specialist)	Retired Annuitant	7/1/22-6/30/23	954.5
Information Technology Associate	Retired Annuitant	7/1/22-6/30/23	954.5
Legal Secretary	Retired Annuitant	7/1/22-6/30/23	952
Special Agent, DOJ	Retired Annuitant	7/1/22-6/30/23	957
Special Agent, DOJ	Retired Annuitant	7/1/22-6/30/23	955.5
Special Agent, DOJ	Retired Annuitant	7/1/22-6/30/23	959
Staff Administrative Analyst Accounting Systems	Retired Annuitant	7/1/22-6/30/23	960
Graduate Student Assistant	Temporary	09/01/22-08/31/23	957
Graduate Student Assistant	Temporary	09/01/22-08/31/23	954.5
Seasonal Clerk	Temporary	03/01/22-02/28/23	957.5
Seasonal Clerk	Temporary	11/01/22-10/31/23	182
Seasonal Clerk	Temporary	06/01/22-05/31/23	954.5
Seasonal Clerk	Temporary	06/01/22-05/31/23	1,517
Seasonal Clerk	Temporary	03/01/22-02/28/23	1,486
Seasonal Clerk	Temporary	07/01/22-06/30/23	1,484.5
Seasonal Clerk	Temporary	08/01/22-07/31/23	1,500
Student Assistant	Temporary	12/01/22-11/30/23	960

Classification	Tenure	Time Frame	Hours Worked
Student Assistant	Temporary	12/01/22-11/30/23	1,509
Student Assistant	Temporary	07/01/22-06/30/23	960
Student Assistant	Temporary	03/01/22-02/28/23	952
Student Assistant	Temporary	06/01/22-05/31/23	1,538.95
Youth Aid	Temporary	06/01/22-05/31/23	959

SEVERITY: SERIOUS	FINDING NO. 18 POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS
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Summary: The DOJ did not consistently monitor the actual number of days and/or hours worked to ensure that positive paid employees did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period. This is the second consecutive time this has been a finding for the DOJ.

Specifically, the following employees exceeded the 1,500-hour limitation:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Seasonal Clerk	Temporary	06/01/22-05/31/23	1,517	17
Student Assistant	Temporary	12/01/22-11/30/23	1,509	9
Student Assistant	Temporary	06/01/22-05/31/23	1,538.95	38.95

Criteria: If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art. VII, § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Severity: Serious. The number of days or hours an individual may work in a temporary appointment is limited in the state civil service. TAU

appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list.

Cause: The DOJ states that the maintenance of the TAU manual tracking system was incomplete due to high turnover and a lack of understanding.

Corrective Action: The DOJ asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOJ must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 21224, and California Code of Regulations, title 2, section 599.665, and/or applicable Bargaining Unit agreement(s).

Administrative Time Off

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

During the period under review, October 1, 2022, through September 30, 2023, the DOJ authorized 58 ATO transactions. The CRU reviewed 24 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	11/8/2022	8 Hours
Associate Governmental Program Analyst	11/1/2022	1.5 Hours
Associate Governmental Program Analyst	3/1/2023	9 Hours
CEA	3/17/2023 - 4/14/2023	19 Days
CEA	2/4/2023 - 2/24/2023	14 Days
Crime Analyst I	6/15/2023	1.75 Hours
Criminalist	6/15/2023	1.5 Hours
Information Technology Manager I	11/8/2022	8 Hours
Legal Secretary	11/8/2022	1 Hour
Office Technician (Typing)	3/13/2023 - 3/15/2023	27 Hours

Classification	Time Frame	Amount of Time on ATO
Office Technician (Typing)	12/20/2022 - 2/17/2023	42 Days
Office Technician (Typing)	2/28/2023 - 3/7/2023	6 Days
Research Data Analyst II	2/28/2023 - 3/3/2023 3/8/2023	4 Days 1 Day
Research Data Analyst II	6/29/2022 - 2/28/2023	245 Days
Seasonal Clerk	10/6/2022	1 Hour
Senior Criminalist	12/22/2022	2 Hours
Special Agent	9/6/2023 - 9/21/2023	90 Hours
Special Agent	1/9/2023	10 Hours
Special Agent	8/25/2023 - 10/26/2023 ³⁶	45 Days
Special Agent Supervisor	9/12/2023 - 9/15/2023	4 Days
Special Agent Trainee	8/29/2023 - 9/6/2023	5 Days
Staff Services Analyst	1/9/2023 - 1/10/2023	16 Hours
Staff Services Manager I	3/1/2023	1 Day
Staff Services Manager I	8/8/2022 - 12/6/2022	80 Days

IN COMPLIANCE	FINDING NO. 19 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The DOJ 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

³⁶ ATO ended outside review period.

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, July 1, 2023, through September 30, 2023, the DOJ reported 280 units comprised of 5,149 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
September 2023	117	26	26	0
September 2023	241	14	14	0
September 2023	241	1	1	0
September 2023	318	12	12	0
September 2023	320	26	26	0
September 2023	738	12	12	0
September 2023	824	6	6	0
September 2023	986	6	6	0

IN COMPLIANCE	FINDING NO. 20 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The DOJ kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous

service.³⁷ (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 employees³⁸ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, July 1, 2023, through December 31, 2023, the DOJ had 15 employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 18 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Non-Qualifying Pay Period	Full Time	10
Qualifying Pay Period	Full Time	7
Qualifying Pay Period	Part Time	1

³⁷ 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.

³⁸ 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.

IN COMPLIANCE	FINDING NO. 21 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU determined that the DOJ 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. 22 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the DOJ’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the DOJ’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 this case, the DOJ did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 23 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the DOJ 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 DOJ 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 78 permanent DOJ employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

IN COMPLIANCE	FINDING NO. 24 PERFORMANCE APPRAISAL POLICY AND PROCESSES COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the performance appraisals selected for review. Accordingly, the DOJ's performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

Administrative Hearing and Medical Interpreter Program

According to Government Code section 11435.15, specific state agencies shall provide language assistance in adjudicative proceedings. "Language assistance" means oral interpretation or written translation into English of a language other than English or of English into another language for a party or witness who cannot speak or understand English or who can do so only with difficulty. (Gov. Code, § 11435.05.)

The hearing, or any medical examination conducted for the purpose of determining compensation or monetary award, shall be conducted in English. (Gov. Code, § 11435.20, subd. (a).) If a party or the party's witness does not proficiently speak or understand English and before commencement of the hearing or medical examination requests language assistance, an agency subject to the language assistance requirement of this article shall provide the party or witness an interpreter. (Gov. Code, § 11435.20, subd. (b).)

An interpreter used in a hearing shall be certified pursuant to Government Code section 11435.30. However, if an interpreter certified pursuant to section 11435.30 cannot be present at the hearing, the hearing agency shall have discretionary authority to provisionally qualify and use another interpreter. (Gov. Code, § 11435.55, subd. (a).)

An interpreter used in a medical examination shall be certified pursuant to Government Code section 11435.35. However, if an interpreter certified pursuant to section 11435.35 cannot be present at the medical examination, the physician provisionally may use another interpreter if that fact is noted in the record of the medical evaluation. (Gov. Code, § 11435.55, subd. (b).)

IN COMPLIANCE	FINDING NO. 25 ADMINISTRATIVE HEARING AND MEDICAL INTERPRETER PROGRAM COMPLIED WITH STATUTORY REQUIREMENTS
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The CRU found no deficiencies in the Administrative Hearing and Medical Interpreter Program. Accordingly, the DOJ Administrative Hearing and Medical Interpreter Program complied with statutory requirements.

DEPARTMENTAL RESPONSE

The DOJ response is attached as Attachment 1.

SPB REPLY

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



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August 12, 2024

Suzanne Ambrose
Executive Director
State Personnel Board
801 Capitol Mall
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Re: SPB Compliance Review Audit- Department of Justice Response

Dear Ms. Ambrose:

The Department of Justice (DOJ) would like to thank the State Personnel Board (SPB)'s Compliance Review Unit (CRU) for undertaking the 2024 DOJ Compliance Review Audit. The Executive Summary section of the DOJ Compliance Review Report created by SPB summarizes 25 findings. Of these, 9 findings (36%) were deemed very serious or serious issues of non-compliance. It is worth noting that this is a significant improvement from DOJ's 2020 SPB Compliance Review Audit which identified 17 deficient findings out of 28 total findings (60%). Over the last four years, DOJ has made positive strides to improve many of our processes and procedures and we believe the 2024 Compliance Review Report reflects our efforts.

Despite our efforts to become more efficient, many of the deficient findings identified involve manual processes where human error is inherent. DOJ implemented Workday Human Capital Management (HCM), with a focus on time and absence reporting, in November 2022 as part of a technology-focused effort to improve and streamline processes, increase efficiency, and minimize errors. Adoption of this new technology created some challenges, however further development is significantly improving data management and reporting processes and will assist many units across the department in tracking, storing, and sharing applicable human resources-related data.

As discussed throughout the DOJ Compliance Review Report and this response on behalf of DOJ, the SPB's findings of non-compliance involve very few transactions in the total scope of the audit. For reference, hundreds of records from the 2022 and 2023 calendar years were gathered and submitted to SPB for review, however very few

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records were deemed as deficient. Because of this, the DOJ requests that the Executive Summary section of the DOJ Compliance Review Report reflect and quantify the extent of non-compliance.

The DOJ has reviewed the report and provides the following information for your consideration regarding the findings:

Finding No. 1- Candidates Who Did Not Meet The Minimum Qualifications Were Admitted Into The Examination

Cause: The DOJ admitted one candidate who did not meet minimum qualifications into the Deputy Attorney General V exam, and one candidate who did not meet minimum qualifications into the Field Representative, DOJ exam.

- The DOJ acknowledges that the Deputy Attorney General V admittance was a clerical error. This was a particularly large examination to administer, and the exam material for 215 applicants was accurately reviewed and processed.
- The Field Representative, DOJ minimum qualification evaluation that was found to be incorrect was tied to the candidate's experience as a Property Controller II. The DOJ had reclassified several Property Controllers II to Crime Analysts I, Range B, and at the time of reclassification the salaries were comparable. Through subsequent salary adjustments, at the time of the examination, the salary of the Property Controller II was no longer comparable in pay to the Crime Analyst I, Range B.

Corrective Action: The DOJ is a medium-sized department with a significant examination workload. In 2023, DOJ administered 42 exams and reviewed 1,046 examination applications for minimum qualifications. As examination workload is largely driven by manual processes, human error is inevitable despite our best attempts to ensure accuracy, train our employees, and update our resources. We will continue to identify and implement risk-mitigating measures, but the following specific actions are either planned or have already been taken:

- The Exams team has been provided with additional training on specific classifications, and this training will be provided on an ongoing basis.
- The Exams supervisor administered a minimum qualifications refresher training to Exam team staff and will continue this process on an annual basis.
- Minimum qualifications tools (e.g., 511Bs) for departmental continuous file exams will be reviewed and updated annually to capture salary adjustments made throughout the year.

Finding No. 2- Permanent Withhold Actions Complied With Civil Service Laws And Board Rules

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No response is needed since the DOJ was found to be in compliance.

Finding No. 3- Unlawful Appointments

Cause: The SPB found three unlawful appointments during the course of its regular review. The three individuals hired did not meet the minimum qualifications for their appointed classifications. We, however, disagree with SPB because:

- Associate Governmental Program Analyst (AGPA) - this appears to be a difference in interpretation of the minimum qualifications' terms between SPB and DOJ. In reviewing the candidate's application materials, the Exam supervisor determined that the duties would be considered equivalent to what Staff Services Analysts within state service would be required to do.
- Field Representative, DOJ - this also appears to be a difference in interpretation of the minimum qualifications' terms between SPB and DOJ. In reviewing the candidate's application materials, the Exam analyst determined that the duties were both in law enforcement and increasingly responsible criminal justice-related duties.
- Special Agent, DOJ - the Special Agent appointment was made in error. The Special Agent classification had been recently changed, which altered when a specific training requirement should have been checked and confirmed.

Corrective Action: When determining whether a position is at a specific level, the Examination team reviews applications, resumes, and duty statements, and works with departmental Subject Matter Experts, online resources and other materials to make a determination regarding whether or not a candidate meets the minimum qualifications. The Examination team regularly discusses minimum qualification determinations to ensure consistency in their approach.

For the AGPA and Field Representative, DOJ, the Examination team made determinations that the SPB was not in agreement with, even after DOJ provided a Subject Matter Expert analysis supporting DOJ's determination. The Examination team has discussed this outcome due to the difference in interpretation and plans to reach out to both SPB and CalHR to ask for more detailed definitions on the AGPA minimum qualifications. We hope to obtain more resources to aid us in our interpretations.

Finding No. 4- Probationary Evaluations Were Not Provided For All Appointments Reviewed And Some That Were Provided Were Untimely

Cause: DOJ's policy requires all managers and supervisors to provide probationary reports to employees after the end of each probationary period and submit the reports to the Office of Human Resources. We previously implemented a solution for tracking probationary reports in SharePoint and a process for sending regular reminders to managers and supervisors. Unfortunately, this was a highly manual, decentralized process and it lacked consistency in its follow up with managers and supervisors. The DOJ planned to leverage Workday HCM to automate the process, but probationary period management was pushed to a later phase.

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Corrective Action: The DOJ recognizes the importance of managers and supervisors completing and submitting their staff's probationary reports in a timely manner. It is worth noting that 85 probationary reports were requested in total. Of those 85 reports, only 19 reports were missing for 9 employees. Further, of those reports, only 23 were submitted late for 15 employees.

The DOJ continues to educate managers and supervisors on the importance of managing an employee's probationary period to ensure timely submission of reports. DOJ is currently in the process of leveraging Workday HCM to provide probationary period management and improve compliance. As of July 25, 2024, the initiative does not have an implementation date yet, however, DOJ is striving for 2025.

Finding No. 5- Equal Employment Opportunity Program Complied With All Civil Service Laws And Board Rules

No response is needed since the DOJ was found to be in compliance.

Finding No. 6- Personal Services Contracts Complied With Procedural Requirements

No response is needed since the DOJ was found to be in compliance.

Finding No. 7- Ethics Training Was Not Provided For All Filers

Cause: Despite filers being provided a notice with information and instructions for the Ethics Training, as well as multiple subsequent reminders, the cause for this finding is either failure on the part of the employee to take the course or failure to forward a completed training certificate to the Ethics Training Filing Officer.

Corrective Action: DOJ agrees with the need to ensure that designated filers are aware of prohibitions related to their official position and influence. However, to say that DOJ "did not provide" Ethics Training is not entirely accurate, as the Ethics Training team made a good faith effort to notify employees of their obligation to take Ethics Training that resulted in 92.2% of new filers (306 out of 332) and 98.7% (1,453 out of 1,472) of existing filers completing their training on time.

Out of the 26 new filers who did not complete training on time, 17 completed their training late and two are no longer with DOJ. One of the filers who was late was out on leave. Of the 19 existing filers who did not complete training on time, four of them state they completed the training but could not locate a certificate. Eight of the 14 who completed their training late missed their deadline by less than 30 days. Only one filer out of 1,472 existing filers has failed to respond.

The Ethics Training team actively reaches out to all non-compliant employees and provides detailed instructions including deadlines, statutory requirement information, an e-mail address to contact if the employee has questions, and the link to DOJ's Ethics Training course.

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All non-compliant employees have been notified to complete the online ethics course and/or forward a copy of the completion certificate to the ethics training Filing Officer immediately. To further increase compliance with Government Code section 1114.3(b), DOJ will increase monitoring of designated filers for completion of ethics training and shorten the period prior to escalation to the filer's management. The Ethics Training Filing Officer will continue to send monthly reminders to new filers during their six-month period, with the reminder within one month of training being due, and any subsequent late notices remaining to include the filer's manager.

Below is a summary of actions already taken, initiated, or planned:

- In October 2023, a specialized role, business process, and reports were developed in the Workday HCM for the Ethics Training team. Leveraging Workday employee data should improve timely and accurate identification of newly-designated employees who need their initial ethics training.
- In February 2024, the Ethics Training team migrated from Access to Smartsheet for documenting filer status. Smartsheet's features will enable more effective and timely notice and follow up with filers.
- New process initiated in June 2024: For new filers within the initial six-month filing period, in addition to the previously provided monthly reminders, the Filing Officer is including the filer's management on the monthly reminder at the five-month mark, to remind and alert the filer and their management that the six-month deadline is approaching.
- New process initiated in June 2024: For all filers who have not completed their filing within the initial six-month filing period, the manager of the filing officer is reaching out directly to the employee and to the employee's supervisor notifying the employee of their obligation to file.
- To be completed in August-December 2024: For existing filers in the current biennial period, the Filing Officer will provide monthly reminders to the employee beginning in August. For employees who have not completed their training by December 1, 2024, notices to both the employee and their manager will be sent for those filers who have not yet completed the training.
- Estimated in 2025: The Ethics Training team is actively exploring database interface solution options with automation features to further improve process efficiencies.

Finding No. 8- Supervisory Training Was Not Provided For All Supervisors, Managers And CEAs

Cause: DOJ recognizes the importance of completing mandatory supervisory training in a timely manner and is committed to ensuring that all leaders receive the necessary training to succeed and lead effective teams. DOJ acknowledges the audit findings, indicating our failure to meet the statutory training requirements for new supervisors, managers, and Career Executive Assignments (CEAs) as mandated by Government Code, Section 19995.4. The DOJ Office of Professional development (OPD) attributes these findings to workload, human error,

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scheduling conflicts, classes being at maximum capacity, post-pandemic related disruptions, lack of communication, and lack of outreach upon initial promotion/appointment outlining training requirements.

Corrective Action: Moving forward, to ensure timely completion of the mandatory training for the new supervisors, managers, and CEAs, DOJ/OPD intends to immediately implement the following:

- Identify supervisors, managers, and CEAs who need training, upon initial promotion/appointment.
- Encourage early enrollment by informing respective supervisors and managers about training requirements, enrollment processes, and due dates.
- Make SDP more available by increasing the number of classes offered.
- Provide regular reminders and compliance reports to supervisors, division chiefs, and training coordinators to encourage early registration and improved compliance.

Finding No. 9- Sexual Harassment Prevention Training Was Not Provided For All Employees

Cause: The fact that 52 DOJ employees did not complete sexual harassment and abusive conduct prevention training by their deadline was due to several factors: the employee leaving the department before completing the training, being on an extended leave of absence and returning after their training deadline, or failing to set aside time to complete their training even after multiple reminders to them and their supervisor via email two to three months in advance by DOJ's Division Training Coordinators and then, as the training deadline approached, by equal employment opportunity (EEO) staff and management.

Corrective Action: For employees who complete their training, they receive an email confirmation of their completion, a link to download their training certificate, a reminder that they will be due to take training again in two years, and an Outlook invitation to add the next training due date to their calendars, which some employees have chosen not to add to their calendars.

DOJ's EEO personnel generates and distributes monthly reports of overdue sexual harassment and abusive conduct prevention training to the Division's Training Coordinators who then notify the employees that are coming due for training within the next two to three months. As the employee's training date approaches, EEO personnel send those employees an email reminding them to complete DOJ's sexual harassment and abusive conduct prevention live webinar training or to immediately complete the California Civil Rights Department's online sexual harassment prevention training. For employees that still do not comply, DOJ's EEO Officer confers with the employee's Division Chief. These approaches to notification have resulted in a significant decline in the number of overdue employees and is assessed quarterly by EEO personnel for process improvement.

EEO personnel, in collaboration with DOJ's information technology team, are improving their email reminder system with an auto-push notification system to remind an employee to complete

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DOJ's live webinar training or the California Civil Rights Department's online sexual harassment prevention training six months leading up to their due date. DOJ's information technology team is also designing an in-house learning management system that will track all employee training to ensure state and federal training compliance. For continuous engagement with the Division Training Coordinators, EEO personnel will begin attending these Division meetings to stay up-to-date on their activities and remind the coordinators of the importance of compliance with sexual harassment and abusive conduct prevention training. Additionally, EEO personnel that currently serve as divisional liaisons will provide training tracking assistance to the Division Training Coordinators, when needed.

DOJ supervisors are required to conduct annual (calendar year) discussions with their staff regarding the prevention of discrimination, harassment (including sexual harassment), and EEO retaliation. To ensure the required discussions take place, a written summary of each division's adherence to DOJ's policy is forwarded, under the division head's signature, to the EEO office by January 31st of each year. In addition, a toolkit to guide supervisors with these discussions was created by EEO personnel. Stressing the importance of timely sexual harassment and abusive conduct prevention training completion will be added to the toolkit, as well as to the annual DOJ reminders on adherence to EEO and workplace violence and prevention policies and the posting of EEO and state and federal labor law posters.

Finding No. 10- Salary Determinations Complied With Civil Service Laws, Board Rules and CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 11- Alternate Range Movements Did Not Comply With Civil Service Laws, Rule and CalHR Policies and Guidelines

Cause: The SPB found two errors in the 20 alternate range movements reviewed:

- Business Services Assistant (Specialist)- The error was caused when our specialist keyed the range change (335 action) on 6/20/2023 and failed to reset the anniversary date to June 2024.
- Information Technology Associate (ITA)- The error was caused when our specialist keyed the range change (335 action) on 4/20/2023 and made a calculation error by considering April as a qualifying pay period, when the range change was effective on 4/18/2023 (non-qualifying pay period).

Corrective Action:

- Business Services Assistant (Specialist) - The DOJ has corrected the error and reset the employee's anniversary date to align with their range movement from the 6/1/2023 effective date. We will be re-training staff on correctly keying anniversary dates when a range change is effectuated.

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- ITA - The DOJ has corrected the error and reset the employee's anniversary date to align with their range movement from the 4/18/23 effective date and fixed the anniversary date from that transaction to May 2024. We will be re-training staff on correctly keying anniversary dates when a range change is effectuated.

Finding No. 12- Hire Above Minimum Requests Complied With Civil Service Laws, Board Rules, And CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 13- Red Circle Rate Authorizations Complied With Civil Service Laws, Board Rules, and CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 14- Arduous Pay Authorizations Complied With Civil Service Laws, Board Rules, And CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 15- Bilingual Pay Authorizations Complied With Civil Service Laws, Board Rules, And CalHR Policies and Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 16- Pay Differential Authorizations Complied With Civil Service Laws, Board Rules, And CalHR Policies and Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 17- Incorrect Authorization Of Out-Of-Class Pay

Cause: The SPB found six errors in the 20 out-of-class (OOC) assignments reviewed:

- AGPA (1) - The consultant miscalculated the maximum time frame the OOC would be effectuated.
- AGPA (2) – The consultant made an error when they did not factor the Staff Services Manager I (SSM I) entrance rate as part of the OOC calculation rate.
- Legal Support Supervisor II (LSS II) - The consultant made an error when they did not factor the SSM I entrance rate as part of the OOC calculation rate.
- Office Technician (Typing) (OTT) - The consultant miscalculated the maximum time frame the OOC would be effectuated as well as made a technical error on the OOC rate.
- Research Data Specialist II (RDS II) - The consultant miscalculated the maximum time frame the OOC would be effectuated which ended up exceeding 120 calendar days.

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- SSM I – The consultant made an error when calculating the OOC rate and did not pro-rate the amount when the OOC timeframe was less than a full month.

Corrective Action:

- AGPA (1) - The DOJ recognizes the error and moving forward will use a date-to-date calculator when determining OOC end dates. We have also implemented a supervisor review of the OOC dates to ensure accuracy.
- AGPA (2) - The DOJ has corrected the salary determination and OOC rate. We have also implemented a peer review for OOC salary determinations to ensure accuracy.
- LSS II - The DOJ has corrected the salary determination and OOC rate. We have also implemented a peer review for OOC salary determinations to ensure accuracy.
- OTT - The DOJ recognizes the error and moving forward will use a date-to-date calculator when determining OOC dates. We have also implemented a supervisor review of the OOC dates to ensure accuracy of the dates as well as a peer review for OOC salary determinations.
- RDS II - The DOJ recognizes the error and corrected how we forecast the end date not to exceed 120 calendar days when applicable through a date-to-date calculator that factors in the end date in the total calculation. We have also implemented a supervisor review of the OOC dates to ensure accuracy.
- SSM I - The DOJ recognizes the error and will ensure our dates are accurately accounted for when an OOC is pro-rated in the future. We have also implemented a peer review for OOC salary determinations to ensure accuracy.

Finding No. 18- Positive Paid Temporary Employees' Work Exceeded Time Limitations

Cause: The SPB has identified three employees out of the 25 that were audited whose work hours exceeded the time limitations. This was primarily due to a loss of knowledge within the unit tied to high turnover of the Personnel Specialist classification. Additionally, in late 2022 the DOJ implemented a time tracking system (Workday HCM) with the intent to also utilize this system as our primary tracking method for TAU hours. During the implementation period, our staff were required to maintain a manual tracking system for all TAU employees. Due to repeated vacancies and a lack of understanding, the maintenance of our TAU manual tracking system was incomplete.

Corrective Action: Like many other departments, the DOJ has historically had a high turnover rate in the Personnel Specialist classification. CalHR has been made aware of the high turnover rate. In response, adjustments have been made to the recruitment and retention bonuses and plans are underway to revise the Personnel Specialist classification minimum qualifications. However, despite these positive changes, turnover among the Personnel Specialist classification has remained relatively high. Additionally, despite the hours being reported, the DOJ's Workday system did not have a process in place to proactively track and monitor the days and/or hours worked to ensure that positive paid TAU employees did not exceed the 1,500-hour limitation in any 12-consecutive month period. In August 2023, we implemented a second-round review of

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our manual tracking system to ensure both entitlements and work hour limitations were monitored consistently and correctly. As a result of the audit, we have also implemented a process for the Personnel Specialist to notify the lead analyst and supervisor when a TAU employee is within 300 hours of the maximum hours. These employees will be monitored by both the Personnel Specialist and the lead analyst each month to ensure the maximum hours are not exceeded for the year. In addition, Workday reports will be used to monitor paid time totals on an ongoing basis and custom alerts will be developed in the future.

Finding No. 19- Administrative Time Off Authorizations Complied With Civil Service Laws, Board Rules, And/Or CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 20- Leave Auditing And Time Keeping Complied With Civil Service Laws, Board Rules, And/Or CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 21- Service And Leave Transactions Complied With Civil Service Laws, Board Rules, Ans/Or CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 22- Nepotism Policy Complied With Civil Service Laws, Board Rules, And/Or CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 23- Workers' Compensation Process Complied With Civil Service Laws, Board Rules, And/Or CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 24- Performance Appraisal Policy And Processes Complied With Civil Service Laws, Board Rules, And CalHR Policies And Guidelines

No response is needed since the DOJ was found to be in compliance.

Finding No. 25- Administrative Hearing And Medical Interpreter Program Complied With Statutory Requirements

No response is needed since the DOJ was found to be in compliance.

The DOJ would like to thank SPB for providing us the opportunity to respond to this report. If you have any questions or need additional information regarding this audit response, you may contact me at (916) 210-6244.

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Sincerely,

Christine Allison

Christine Allison
Director, Office of Human Resources

For ROB BONTA
Attorney General

Cc: Chris Ryan, Chief, Division of Operations