CALIFORNIA STATE PERSONNEL BOARD

COMPLIANCE REVIEW REPORT

CALIFORNIA STATE LANDS COMMISSION

Compliance Review Unit
State Personnel Board
February 17, 2023

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INTRODUCTION

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

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

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

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

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

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

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well

as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California State Lands Commission (Commission) 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	Equal Employment Opportunity Questionnaires Were Not Separated from Applications
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts[1]
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs[2]
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Hire Above the Minimum Requests
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

[1] Repeat finding. The April 27, 2020, Commission Compliance Review Report identified the Commission did not notify unions prior to entering into the 10 PSC's reviewed.

[2] Repeat finding. The April 27, 2020, Commission Compliance Review Report identified 1 of 3 new supervisors did not receive basic supervisory training within 12 months of appointment. Additionally, 2 of 26 existing Commission supervisors, managers, and/or CEAs did not receive biennial leadership training.

Area	Severity	Finding
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay[3]
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees[4]

BACKGROUND

Established in 1938, the Commission manages four million acres of tide and submerged lands and the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits. These lands, often referred to as sovereign or Public Trust lands, stretch from the Klamath River and Goose Lake in the north to the Tijuana Estuary in the south, and the Colorado River in the east, and from the Pacific Coast three miles offshore in the west to Lake Tahoe in the east, and includes California's two longest rivers, the Sacramento and San Joaquin.

The Commission also monitors sovereign land granted in trust by the California Legislature to approximately 70 local jurisdictions that generally consist of prime waterfront lands and coastal waters. The Commission protects and enhances these lands and natural resources by issuing leases for use or development, providing public access, resolving boundaries between public and private lands, and implementing regulatory programs to protect state waters from oil spills and invasive species introductions.

[3] Repeat finding. The April 27, 2020, Commission Compliance Review Report identified two errors in the Commission's authorization of out-of-class pay.
[4] Repeat finding. The April 27, 2020, Commission Compliance Review Report identified 22 of 60 employees reviewed did not receive annual performance appraisals.

Through its actions, the Commission secures and safeguards the public's access rights to navigable waterways and the coastline and preserves irreplaceable natural habitats for wildlife, vegetation, and biological communities.

The Commission also protects state waters from marine invasive species introductions and prevents oil spills by providing the best achievable protection of the marine environment at all marine oil terminals in California and offshore oil platforms and production facilities.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the Commission's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes[5]. The primary objective of the review was to determine if the Commission's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the Commission's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the Commission provided, which included examination plans, examination bulletins, job analyses, and scoring results. The Commission did not conduct any permanent withhold actions during the compliance review period.

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

The Commission's appointments were also selected for review to ensure the Commission applied salary regulations accurately and correctly processed employees' compensation

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

and pay. The CRU examined the documentation that the Commission 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, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the Commission did not issue or authorize red circle rate requests, arduous pay, or bilingual pay.

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

The Commission'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 CEAs were provided leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

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

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

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

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

On February 6, 2023, an exit conference was held with the Commission to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the Commission's written response on February, 2, 2023, 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, January 1, 2022, through September 30, 2022, the Commission conducted five examinations. The CRU reviewed four of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Boundary Determination Officer	Open	Training and Experience (T&E)[7]	7/28/22	3
Marine Safety Inspector	Open	T&E	5/9/22	15
Public Land Management Specialist I	Open	T&E	2/9/22	2
Public Land Management Specialist III	Departmental Promotional	T&E	2/16/22	10

SEVERITY: VERY SERIOUS	FINDING NO. 1 EQUAL EMPLOYMENT OPPORTUNITY QUESTIONNAIRES WERE NOT SEPARATED FROM APPLICATIONS

Summary: Out of the four examinations reviewed, two examinations included applications where EEO questionnaires were not separated from the STD 678 employment application. Specifically, 6 of the 30 applications reviewed included EEO questionnaires that were not separated from the STD 678 employment application.

Criteria: Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a): for example, a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Applicants for employment in state civil service are asked to voluntarily provide ethnic data about themselves where such data is determined by the CalHR to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD 678) states, "This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions."

[7] 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.

Severity: Very Serious. The applicants' protected classes were visible, subjecting the agency to potential liability.

Cause: The Commission states that the requirement to detach EEO pages from applications was not disseminated to all new staff that handle the collection and processing of applications. The Commission further states that the applications with the EEO pages attached remained in their Human Resources (HR) Office and were not viewed by any hiring unit or exam panel members outside of HR.

Corrective Action: Within 90 days of the date of this report, the Commission must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that future EEO questionnaires are separated from all applications. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, December 1, 2021, through August 31, 2022, the Commission made 37 appointments. The CRU reviewed 15 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Marine Safety Supervisor	Certification List	Permanent	Full Time	1
Office Assistant (Typing)	Certification List	Permanent	Full Time	1
Public Land Management Specialist III	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Senior Process Safety Engineer (Supervisor)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Marine Safety Specialist I	Temporary	Temporary	Full Time	1
Public Land Management Specialist I	Temporary	Termporary	Full Time	1
Attorney	Transfer	Permanent	Full Time	1
Senior Personnel Specialist	Transfer	Permanent	Full Time	1

IN COMPLIANCE	FINDING NO. 2 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES

The Commission measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 11 list appointments reviewed, the Commission ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

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

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

Equal Employment Opportunity

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

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

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

IN COMPLIANCE	FINDING NO. 3	EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the Commision'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

Commission. The Commission 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, January 1, 2022, through September 30, 2022, the Commission had 18 PSC's that were in effect. The CRU reviewed 12 of those, which are listed below:

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
CPS HR Consulting	Compensation Study of Classifications	5/10/22 - 5/9/25	$15,500	Yes	No
Dudek	Chevron Shell Mounds Assessment	4/20/22 - 6/30/23	$200,955	Yes	No
Dudek	Grover Beach Subsea Fiber Optic Cables Project	9/12/22 - 6/30/25	$19,356	Yes	No

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
Environmental Services Associates	SF Bay and Delta Sand Mining Supplemental Environmental Impact Report	7/1/22 - 12/31/25	$769,934	Yes	Yes
Greater Valley Conservation Corps	Abandoned Homeless Camp Cleanup	10/1/22 - 9/30/23	$75,000	Yes	No
ICF Consulting LLC	On-call Lab Services	4/15/22 - 6/30/25	$10,000	Yes	No
Indoor Environmental Services	Regular AC Maintenance for Sacramento Server Room	7/1/19 - 6/30/24	$7,041	Yes	No
J&K Court Reporting Services	Court Reporting and Transcription Services	2/1/22 - 1/31/24	$10,000	Yes	Yes
Moffett and Nichol	Alternative Port Assessment to Support Offshore Wind	8/1/22 - 7/31/23	$200,000	Yes	No
P2S	On-call/Electrical Audit for Oil and Gas Platforms	4/20/22 - 12/31/24	$350,000	Yes	Yes
TAIT Environmental Services	Huntington Beach Oil Tank Maintenance	7/1/22- 6/30/25	$15,015	Yes	No
TruePoint Solutions	Commission's Leasing Database Upgrade to Azure Cloud Server	6/20/22 - 6/19/25	$6,600	Yes	No

SEVERITY: SERIOUS	FINDING NO. 4 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS

Summary: The Commission did not notify unions prior to entering into 9 of the 12 PSC's reviewed. This is the second consecutive time this has been a finding for the Commission.

Criteria: Before a state agency executes a contract or amendment to a contract for personal services conditions specified within

Government Code section 19130, subdivision (b), the agency shall notify all organizations that represent state employees who perform or could perform the type of work that is called for within the contract, unless exempted under Government code section 19132, subdivision (b)(1). (Cal. Code Regs., tit. 2, § 547.60.2.)

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

Cause: The Commission states the union notification errors were the result of new contract analysts in training.

Corrective Action: Departments are responsible for notifying all organizations that represent state employees who perform or could perform the type of work to be contracted prior to executing a PSC. The PSCs reviewed during this compliance review involved several services and functions which various rank-and-file civil service classifications perform. Within 90 days of the date of this report, the Commission must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of California Code of Regulations section 547.60.2. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Mandated Training

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

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*.) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial basis. (*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 Commission's mandated training program that was in effect during the compliance review period, October 1, 2020, through September 30, 2022. The Commission's ethics training was found to be in compliance, while the Commission's supervisory training and sexual harassment prevention training were found to be out of compliance.

SEVERITY: VERY SERIOUS	**FINDING NO. 5**	**SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS**

Summary: The Commission provided basic supervisory training to four new supervisors within 12 months of appointment; provided manager training to one new manager within 12 twelve months of appointment; and provided CEA training to one new CEA within 12 months of appointment. However, the Commission did not provide biennial leadership training to 3 of 23 existing supervisors, managers, and/or CEAs. This is the second consecutive time this has been a finding for the Commission.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subds. (b) and (c.).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (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. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (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 Commission states that their HR Office diligently tracks, informs, and reminds employees of the requirement to complete mandatory supervisory and leadership training. However, despite these measures, the Commission acknowledges that not all employees complied with the leadership training requirement.

Corrective Action: Within 90 days of the date of this report, the Commission must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new

supervisors, managers, and CEAs are provided leadership and development training within twelve months of appointment, and that thereafter, they receive a minimum of 20 hours of leadership training biennially, as required by Government Code section 19995.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: VERY SERIOUS	FINDING NO. 6 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS

Summary: The Commission provided sexual harassment prevention training to seven new supervisors within six months of their appointment. In addition, the Commission provided sexual harassment prevention training to 60 non-supervisors every 2 years. However, the Commission did not provide sexual harassment prevention training to 1 of 37 existing supervisors every 2 years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors 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 supervisors 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 Commission states that their HR Office diligently tracks, informs, and reminds employees of the requirement to complete mandatory sexual harassment prevention training. However, despite these measures, the Commission acknowledges that not all employees complied with the training requirement.

Corrective Action: Within 90 days of the date of this report, the Commission must submit to the SPB a written corrective action response which addresses the

corrections the department will implement to ensure that all employees are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate[8] 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, December 1, 2021, through August 31, 2022, the Commission made 37 appointments. The CRU reviewed seven of those appointments to determine if the Commission applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Accounting Analyst	Certification List	Permanent	Full Time	$5,179
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	$5,884
Public Land Management Specialist III	Certification List	Permanent	Full Time	$5,652
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	$5,518
Staff Services Manager I	Certification List	Permanent	Full Time	$7,252

[8] "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Attorney	Transfer	Permanent	Full Time	$8,901
Senior Personnel Specialist	Transfer	Permanent	Full Time	$5,793

IN COMPLIANCE	FINDING NO. 7	SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES

The CRU found no deficiencies in the salary determinations that were reviewed. The Commission 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, December 1, 2021, through August 31, 2022, the Commission made two alternate range movements within a classification. The CRU reviewed the two alternate range movements to determine if the Commission 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)
Attorney	C	D	Full Time	$8,794
Information Technology Specialist I	B	C	Full Time	$8,776

IN COMPLIANCE	FINDING NO. 8	ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES

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

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 are in 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.[9] (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

[9] 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.

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, December 1, 2021, through August 31, 2022, the Commission authorized two HAM requests. The CRU reviewed the two authorized HAM requests to determine if the Commission correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Associate Boundary Determination Officer	Certification List	New to State	$8,756 - $10,956	$10,400
Staff Services Analyst (SSA) (General)	Certification List	New to State	$4,588 - $5,744	$4,700

SEVERITY: VERY SERIOUS	**FINDING NO. 9 INCORRECT AUTHORIZATION OF HIRE ABOVE THE MINIMUM REQUEST**

Summary: The CRU found one error in the Commission's processing of HAM requests:

Classification	Description of Finding	Criteria
SSA (General)	The justification of the HAM did not indicate that the applicant possesses the extraordinary qualifications required to receive a HAM.	Government Code section 19836 and HR Manual section 1707

Criteria: CalHR may authorize payment at any step above the minimum salary limit to classes or positions in order to meet recruiting problems, to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.)

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

Cause: The Commission states that their HR Office reviewed the HAM criteria and assessed the candidate to have extraordinary qualifications for the SSA classification based on the candidate's experience and education. The Commission acknowledges that a more rigorous application of the HAM standard must occur in the future.

SPB Reply: HR Manual section 1707 provides that, "In most cases, entry level classifications would not be considered appropriate for a HAM." The SSA position is an entry level analytical position.

Furthermore, the position is in HR working on recruiting, classification, compensation, and exams. While the incumbent had HR experience outside of state service, this position is his first state position. He has a bachelor's degree in Exercise Science with a minor in Business Administration; neither of these degrees are extraordinary. Lastly, CalHR agreed with the CRU in that the justification provided by the Commission was insufficient to warrant the HAM.

Corrective Action: Within 90 days of the date of this report, the Commission must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Gov. Code, § 19836 and HR Manual 1707 moving forward. Copies of relevant documentation demonstrating that the corrective action

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

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

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

During the period under review, December 1, 2021, through August 31, 2022, the Commission authorized 10 pay differentials. [10] The CRU reviewed eight of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Mineral Resources Inspector II	441	$250
Mineral Resources Inspector II	441	$250
Mineral Resources Inspector II	441	$250
Petroleum Production Engineer	433	5.5%
Senior Engineer, Petroleum Structures (Specialist)	433	5.5%
Supervising Boundary Determination Officer	433	5.5%
Supervising Mineral Resources Engineer	433	5.5%

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

Classification	Pay Differential	Monthly Amount
Supervising Mineral Resources Engineer	433	5.5%

IN COMPLIANCE	FINDING NO. 10 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES

The CRU found no deficiencies in the pay differentials that the Commission 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 excluded[11] 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, December 1, 2022, through August 31, 2022, the Commission issued OOC pay to one employee. The CRU reviewed the OOC assignment

[11] "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.

to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines, which is listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Management Services Technician	R01	Personnel Specialist	1/1/22 – 2/28/22

SEVERITY: VERY SERIOUS	FINDING NO. 11 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY

Summary: The CRU found one error in the Commission's authorization of OOC pay. This is the second consecutive time this has been a finding for the Commission.

Classification	Out-of-Class Classification	Description of Finding	Criteria
Management Services Technician	Personnel Specialist	Incorrect calculation of OOC pay resulting in the employee being undercompensated.	Pay Differential 91

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.

Severity: Very Serious. The Commission 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 Commission states that they hired a temporary employee to assist with payroll functions and the OOC pay error was the result of inexperience or human error.

Corrective Action: Within 90 days of the date of this report, the Commission must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 91. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave

Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days[12] worked and paid absences[13], are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. *(Ibid.)* The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. *(Ibid.)* The employee shall serve no longer than 189 days in a 12 consecutive month period. *(Ibid.)* A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. *(Ibid.)*

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

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months

[12] For example, two hours or ten hours count as one day.
[13] For example, vacation, sick leave, compensating time off, etc.

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

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

Classification	Tenure	Time Frame	Time Worked
Chief Mineral Resources Management Division State Lands Commission, CEA	Retired Annuitant (RA)	7/1/21 – 6/30/22	503 Hours
Environmental Program Manager I (Supervisory)	RA	7/1/21 – 6/30/22	561 Hours
Petroleum Production Engineer	RA	7/1/21 – 6/30/22	600 Hours
Public Land Manager II	RA	7/1/21 – 6/30/22	478 Hours
Senior Personnel Specialist	RA	7/1/21 – 6/30/22	562.75 Hours
Staff Services Manager I	RA	7/1/21 – 6/30/22	510.25 Hours

IN COMPLIANCE	FINDING NO. 12	POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The Commission provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

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

weather preventing safe travel to work, states of emergency, voting, and when employees need time off to attend special events. *(Ibid.)*

During the period under review, July 1, 2021, through June 30, 2022, the Commission authorized 133 ATO transactions. The CRU reviewed 45 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
Accountant Trainee	1/13/22	1.5 hours
Administrative Assistant I	8/17/21-8/23/21	5 days
Associate Governmental Program Analyst	12/9/21	1 hour
Associate Mineral Resources Engineer	7/22/21	4 hours
Business Service Officer I (Specialist)	5/23/22-5/27/22	28 hours
Environmental Scientist	12/10/21	1 hour
Executive Secretary I	8/2/21 & 8/3/21	18 hours
General Auditor III	7/26/21-7/29/21	36 hours
Information Technology Specialist I	2/23/22-2/28/22	4 days
Marine Safety Specialist I	1/20/22-1/23/22	32 hours
Marine Safety Specialist I	8/8/21-8/11/21	40 hours
Office Assistant (Typing)	1/10/22 & 1/27/22	5 hours
Office Assistant (Typing)	1/10/22	3 hours
Office Assistant (Typing)	1/27/22	3.5 hours
Office Assistant (Typing)	7/2/21 & 7/6/21	6.5 hours
Office Assistant (Typing)	4/29/22	4 hours
Office Assistant (Typing)	5/2/22-5/10/22	7 days
Office Services Supervisor I (Typing)	7/6/21	1 day
Office Services Supervisor I (Typing)	1/27/22	4 hours
Office Services Supervisor I (Typing)	7/20/21-7/30/21	48 hours
Office Technician (Typing)	7/6/21	1 day
Office Technician (Typing)	1/10/22 & 1/11/22	14 hours
Office Technician (Typing)	1/10/22 & 1/18/22-1/20/22	31.5 hours
Office Technician (Typing)	1/18/22-1/21/22	30 hours
Office Technician (Typing)	1/6/22-1/11/22	40 hours
Office Technician (Typing)	1/13/22-1/14/22	20 hours
Office Technician (Typing)	7/30/201	8 hours
Office Technician (Typing)	9/24/21-9/30/21	5 days
Personnel Specialist	6/6/22-6/15/22	32.75 hours
Personnel Specialist	12/8/21-12/16/21	7 days
Personnel Supervisor II	12/6/21-12/14/21	7 days
Personnel Supervisor II	9/1/21-9/3/21	5.75 hours

Classification	Time Frame	Amount of Time on ATO
Public Land Management Specialist I	12/9/21	1.5 hours
Public Land Management Specialist II	5/11/22-5/12/22	10 hours
Public Land Management Specialist II	12/10/21	1.75 hours
Public Land Management Specialist II	7/1/21-7/22/21	40 hours
Public Land Management Specialist III	6/14/22-6/20/22	35.5 hours
Public Land Management Specilalist II	1/10/22	1 hour
Senior Accounting Officer (Specialist)	2/2/22	2 hours
Senior Accounting Officer (Specialist)	1/7/22	1 hour
Senior Accounting Officer (Specialist)	2/4/22	2 hours
Senior Boundary Determination Officer (Specialist)	8/5/21	9 hours
Senior Environmental Scientist (Specialist)	8/31/21-9/1/21	20 hours
Senior Environmental Scientist (Specialist)	5/10/22-5/13/22	21 hours
SSA	12/17/21	2 hours

IN COMPLIANCE	FINDING NO. 13 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES

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

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)
Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. *(Ibid.)* If an employee's attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. *(Ibid.)* Attendance records shall be corrected by the pay period following the pay period in which the error occurred. *(Ibid.)* Accurate and timely attendance reporting is required of all departments and is subject to audit. *(Ibid.)*

During the period under review, April 1, 2022, through June 30, 2022, the Commission reported 20 units comprised of 212 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2022	500	10	10	0
April 2022	581	10	10	0
May 2022	506	22	22	0
May 2022	523	7	7	0
June 2022	527	4	4	0
June 2022	582	4	4	0

IN COMPLIANCE	FINDING NO. 14 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES

The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The Commission kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

Policy and Processes

Nepotism

It is the policy of the State of California to 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. 15	NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES

The CRU verified that the policy was disseminated to all staff and emphasized the Commission's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the Commission's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers' Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers' compensation coverage is not mandatory for volunteers as it is for employees. *(Ibid.)* This is specific to the legally uninsured state departments participating in the Master Agreement. *(Ibid.)* Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. *(Ibid.)*

IN COMPLIANCE	FINDING NO. 16	WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES

The CRU verified that the Commission 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 Commission 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 52 permanent Commission employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 17 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES

Summary: The Commission did not provide annual performance appraisals to 2 of 52 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time this has been a finding for the Commission.

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

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

Cause: The Commission states that their HR Office diligently tracks, informs, and reminds management of the requirement to complete employee performance appaisals. However, despite these measures, the

Commission acknowledges that not all management complied with providing staff a performance appraisal.

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

DEPARTMENTAL RESPONSE

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

SPB REPLY

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

CALIFORNIA STATE LANDS COMMISSION
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Established in 1938

February 2, 2023

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

Subject: **Response to Audit Findings**

Dear Suzanne Ambrose,

The California State Lands Commission (Commission) appreciates the opportunity to respond to the State Personnel Board's (SPB) Compliance Review Report. The Commission regards the audit process with a high degree of respect and views this process as a productive collaborative effort with the SPB to ensure the Commission and its Human Resources (HR) office obtain its goal of full compliance with established requirements and best practices.

The following is the Commission's explanation of causes related to the 2022 audit findings noted in the Compliance Review Report.

FINDING NO. 1 – EQUAL EMPLOYMENT OPPORTUNITY QUESTIONNAIRES WERE NOT SEPARATED FROM APPLICATIONS

Cause: The requirement to detach this EEO page from the State application was not disseminated to all new staff that handle the collection and processing of these applications. Applications with EEO pages attached remained with the HR Office and were not viewed by any hiring unit or exam panel members outside of HR. The Commission acknowledges that the requirement to remove the EEO page from the application was not met.

FINDING NO. 4 – UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS

Cause: During the compliance review period, the Commission was training new contract analyst buyers. The union notification errors made were during the new buyer's training period.

FINDING NO. 5- SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS

Cause: The Commission's HR Office diligently tracks, informs, and reminds employees of the requirement to complete mandatory supervisory and leadership training. However, despite these measures, the Commission acknowledges that not all employees complied with the leadership training requirement.

FINDING NO. 6 – SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS

Cause: The Commission's HR Office diligently tracks, informs, and reminds impacted employees of the requirement to complete mandatory sexual harassment prevention training. However, despite these measures, the Commission acknowledges that not all employees complied with the training requirement.

FINDING NO. 9 – INCORRECT AUTHORIZATION OF HIRE ABOVE THE MINIMUM REQUEST

Cause: The Commission's HR Office reviewed the HAM criteria and assessed the candidate to have extraordinary qualifications at the Staff Services Analyst (SSA) classification based on them having a degree and 17 months of recruiting and policy experience which directly related to the key job responsibilities of the position. The Commission acknowledges that a more rigorous application of the HAM standard must occur in the future.

FINDING NO. 11 – INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY

Cause: The error in calculating Out-of-Class (OOC) pay occurred during a staffing shortage in the Commission's HR Office. A temporary employee was hired to assist with payroll functions and the OOC pay calculation mistake occurred due to inexperience or human error.

FINDING NO. 17 – PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES

Cause: The Commission's HR Office diligently tracks, informs, and reminds management of the requirement to complete employee performance appraisals. However, despite these measures, the Commission acknowledges that not all management complied with providing staff a performance appraisal.

CONCLUSION

The Commission appreciates the opportunity to address the findings in this report.

Please let me know if we can provide any additional information related to the audit findings. I can be reached at (916) 574-1912 or anne.kerri@slc.ca.gov.

Sincerely,

Anne Kerri, Personnel Officer
Human Resources Office