



# **COMPLIANCE REVIEW REPORT**

  

## **CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE**

Compliance Review Unit  
State Personnel Board  
February 16, 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 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." The SPB and the 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 the 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, the 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's 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 Department of Food and Agriculture (CDFA)'s personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
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
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 <sup>1</sup>
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers <sup>2</sup>

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<sup>1</sup> Repeat finding. The November 2, 2020, CDFA compliance review report identified 7 of 19 new supervisors did not receive sexual harassment prevention training within 6 months of appointment, and 262 of 266 existing supervisors did not receive sexual harassment prevention training every 2 years.

<sup>2</sup> Repeat finding. The November 2, 2020, CDFA compliance review report identified 9 of 54 new filers who were not provided ethics training within 6 months of appointment.

Area	Severity	Finding
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines <sup>3</sup>
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Serious	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
Leave	Very Serious	Incorrect Application of State Service and Leave Transaction
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

<sup>3</sup> Repeat finding. The November 2, 2020, CDFA compliance review report identified 2 of 14 Alternate Range Movements with incorrect salary determinations resulting in underpayment.

Area	Severity	Finding
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees <sup>4</sup>

### **BACKGROUND**

The CDFA serves the citizens of California by promoting and protecting a safe, healthy food supply, and enhancing local and global agricultural trade through efficient management, innovation, and scientific methodology with a commitment to environmental stewardship. The CDFA's facilities are located in California, Arizona and Hawaii; including a central headquarters in Sacramento, 43 field offices, 11 laboratories, 16 border protection stations, 1 warehouse, 2 greenhouses, and 52 District Agricultural Associations. The CDFA has a diverse and inclusive workforce of over 2,000 employees in a wide variety of administrative and professional occupations; including scientists, veterinarians, investigators, inspectors, economists, and other employees in a variety of seasonal classifications.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CDFA's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>5</sup>. The primary objective of the review was to determine if the CDFA'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 CDFA'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 CDFA provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed

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<sup>4</sup> Repeat finding. The November 2, 2020, CDFA Compliance Review Report identified 17 of 50 employees who did not receive Performance Appraisals.

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

the CDFA's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CDFA'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 CDFA provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CDFA did not conduct any unlawful appointment investigations during the compliance review period.

Additionally, the CDFA did not make any additional appointments during the compliance review period.

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

During the compliance review period, the CDFA did not issue or authorize any red circle rate requests or arduous pay.

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

The CDFA's PSC's were also reviewed.<sup>6</sup> It was beyond the scope of the compliance review to make conclusions as to whether the CDFA's justifications for the contracts were

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

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

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

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

The CDFA declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CDFA's written response on November 30, 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, July 1, 2022, through December 31, 2022, the CDFA conducted 16 examinations. The CRU reviewed 14 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Insect Biosystematist	Open	Training and Experience <sup>7</sup>	10/31/22	22
Associate Seed Botanist	Open	Education and Experience <sup>8</sup>	9/9/22	2
Brand Inspector	Open	Supplemental Application <sup>9</sup>	8/12/22	13
CEA B, Deputy Secretary, Finance and Administration	CEA	Supplemental Application	8/3/22	3
Exhibit Representative II	Open	Education and Experience	10/7/22	1
Fairgrounds Aid	Open	Education and Experience	9/2/22	1

<sup>7</sup> 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.

<sup>8</sup> In an Education and Experience examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

<sup>9</sup> In a Supplemental Application examination, applicants are not required to present themselves in person at a predetermined time and place. Supplemental Applications are in addition to the regular application and must be completed to remain in the examination. Supplemental Applications are also known as "rated" applications.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
General Auditor II	Promotional	Supplemental Application	11/4/22	2
Maintenance Worker	Open	Supplemental Application	7/8/22	6
Marketing Specialist	Open	Education and Experience	10/7/22	1
Measurement Standards Specialist II	Open	Education and Experience	9/2/22	1
Senior Brand Inspector	Promotional	Supplemental Application	9/2/22	5
Senior Insect Biosystematist	Promotional	Education and Experience	7/1/22	1
Staff Services Analyst (General)	Open	Written <sup>10</sup>	7/22/22	8
Supervising Auditor, Milk Marketing	Promotional	Education and Experience	7/15/22	1

<b>IN COMPLIANCE</b>	<b>FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU reviewed one CEA, four departmental promotional, and nine open examinations, which the CDFA administered to create eligible lists from which to make appointments. The CDFA published and distributed examination bulletins containing the required information for all examinations. Applications received by the CDFA were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the CDFA conducted during the compliance review period.

### Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive

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<sup>10</sup> 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.

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, 2022, through December 31, 2022, the CDFA conducted 17 permanent withhold actions. The CRU reviewed 12 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	4/2/22	9/27/22	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	6/23/22	9/30/22	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	8/30/22	11/10/22	Failed to Meet Minimum Qualifications
Executive Assistant	0PBCX	9/13/22	10/28/22	Failed to Meet Minimum Qualifications
Executive Secretary I	OPBFE	2/24/22	9/28/22	Failed to Meet Minimum Qualifications
Maintenance Mechanic	0PBCT	1/30/21	7/15/22	Failed to Meet Minimum Qualifications
Pest Prevention Assistant I	9PB46	8/4/22	9/30/22	Failed to Meet Minimum Qualifications
Plant Quarantine Inspector	9PB65	6/15/22	08/04/22	Failed to Meet Minimum Qualifications
Plant Quarantine Inspector	9PB65	6/10/22	10/24/22	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Plant Quarantine Supervisor I	9PB66	3/10/22	9/22/22	Failed to Meet Minimum Qualifications
Research Data Specialist I	8PB39	5/3/22	7/27/22	Failed to Meet Minimum Qualifications
Research Data Specialist II	8PB40	10/29/22	12/28/22	Failed to Meet Minimum Qualifications

<b>IN COMPLIANCE</b>	<b>FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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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).)

For the purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. (Cal. Code Regs., tit. 2, § 265.) In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1 (*Ibid.*) A Temporary Authorization Utilization (TAU) appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to

which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.)

During the period under review, October 1, 2021, through March 31, 2022, the CDFA made 302 appointments. The CRU reviewed 63 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	1
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Agricultural Pest Control Specialist	Certification List	Permanent	Full Time	1
Agricultural Pest Control Supervisor	Certification List	Permanent	Full Time	1
Agricultural Technician I (Seasonal)	Certification List	Intermittent	Temporary	1
Agriculture Program Supervisor I	Certification List	Permanent	Full Time	1
Agriculture Program Supervisor II	Certification List	Permanent	Full Time	1
Agriculture Program Supervisor III	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
Associate Seed Botanist	Certification List	Permanent	Full Time	1
Auditor I	Certification List	Permanent	Full Time	1
Brand Inspector	Certification List	Intermittent	Temporary	1
Emergency Services Coordinator, Office of Emergency Services	Certification List	Permanent	Full Time	1
Environmental Program Manager I (Supervisory)	Certification List	Permanent	Full Time	1
Environmental Scientist	Certification List	Permanent	Full Time	2
Event Coordinator, District Agricultural Association	Certification List	Permanent	Full Time	1
Exhibit Representative II	Certification List	Permanent	Full Time	1
General Auditor III	Certification List	Permanent	Full Time	1
Information Officer I (Specialist)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Information Technology Manager I	Certification List	Permanent	Full Time	1
Livestock Inspector	Certification List	Permanent	Full Time	1
Maintenance Worker, District Fairs	Certification List	Permanent	Full Time	1
Office Assistant (Typing)	Certification List	Permanent	Full Time	1
Personnel Technician I	Certification List	Permanent	Full Time	1
Pest Prevention Assistant I (Various Projects)	Certification List	Permanent	Full Time	2
Pest Prevention Assistant II (Various Projects)	Certification List	Permanent	Full Time	1
Plant Quarantine Inspector	Certification List	Permanent	Full Time	2
Plant Quarantine Supervisor I	Certification List	Permanent	Full Time	1
Program Manager III, Office of Emergency Services	Certification List	Permanent	Full Time	1
Program Technician II	Certification List	Permanent	Full Time	1
Research Data Specialist II	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Senior Emergency Services Coordinator, Office of Emergency Services	Certification List	Permanent	Full Time	1
Senior Environmental Scientist (Supervisory)	Certification List	Permanent	Full Time	2
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	1
Senior Personnel Specialist	Certification List	Permanent	Full Time	1
Special Assistant, Department of Food and Agriculture	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	2
Staff Services Manager I	Certification List	Permanent	Full Time	3
Veterinarian (General)	Certification List	Permanent	Full Time	1
Veterinarian Specialist (General)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Training and Development	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Certified Nursing Assistant	Training and Development	Permanent	Full Time	1
Pest Prevention Assistant II (Various Projects)	Training and Development	Permanent	Full Time	1
Accountant Trainee	Transfer	Permanent	Full Time	1
Agricultural Technician I (Seasonal)	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	2
Environmental Scientist	Transfer	Permanent	Full Time	1
Research Data Specialist I	Transfer	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Transfer	Permanent	Full Time	1
Special Investigator	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2

<b>SEVERITY: TECHNICAL</b>	<b>FINDING NO. 3 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME</b>
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**Summary:** Of the 63 appointments reviewed, the CDFA did not retain 11 NOPAs.

**Criteria:** As specified in section 26 of the Board’s Regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.)

**Severity:** Technical. Without documentation, the CRU could not verify if the appointments were properly conducted.

**Cause:** The CDFA states that internal confusion during the State Controller’s Office (SCO) transition to digital distribution of NOPAs resulted in the loss of NOPAs.

**Corrective Action:** The CDFA asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CDFA must submit

to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

**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	<b>FINDING NO. 4 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM          COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD          RULES</b>
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CDFA’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 CDFA. The CDFA 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, 2022, through December 31, 2022, the CDFA had 51 PSC’s that were in effect. The CRU reviewed 17 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Baron Services	Pest Control Service	\$2,700	Yes	Yes
Centela Capital, Inc. dba Dictate Express	Transcription services	\$149,999	Yes	Yes
CME Landscape Corp	Landscaping services	\$9,405	Yes	Yes
Commerce Printing Services	2023 Avian Calendars	\$119,890	Yes	Yes
Confidential Document Control, LLC	Confidential Document Destruction	\$44,656	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
EKC Enterprises, Inc.	Camera Station Installation	\$1,574	Yes	Yes
FirstElement Fuel, Inc.	Hydrogen Fuel Testing, Standard Development and Fabrication	\$203,612	Yes	Yes
Fontana Resources at Work dba Industrial Support Systems	Janitorial services	\$70,200	Yes	Yes
IEH-JL Analytical Services	Analytical Sample Testing	\$3,500	Yes	Yes
Leading Resources Inc.	Mentoring Program	\$39,000	Yes	Yes
Lexipol, LLC	Policy & Procedure development	\$9,995	Yes	Yes
Management Concepts	Training for Grant Analysts	\$12,376	Yes	Yes
Mother Lode Van & Storage	Moving Services	\$40,000	Yes	Yes
My Blue Home Services	Janitorial Services	\$14,608	Yes	Yes
Quality Sprayers, Inc.	Pesticide Applications	\$4,000,000	Yes	Yes
RELX, Inc.	Online database access	\$65,196	Yes	Yes
System Operation Services, Inc.	Water Testing Services	\$149,190	Yes	Yes

<b>IN COMPLIANCE</b>	<b>FINDING NO. 5 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS</b>
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The total dollar amount of all the PSC's reviewed was \$4,935,901. It was beyond the scope of the review to make conclusions as to whether the CDFA's justifications for the contract were legally sufficient. For all PSC's reviewed, the CDFA 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, the CDFA 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 CDFA's 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 CDFA’s mandated training program that was in effect during the compliance review period, January 1, 2021, through December 31, 2022.

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 6 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS</b>
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**Summary:** The CDFA did not provide basic supervisory training to 12 of 25 new supervisors within 12 months of appointment; did not provide manager training to 3 of 4 new managers within 12 months of appointment; and did not provide CEA training to 1 of 2 new CEAs within 12 months of appointment.

**Criteria:** Each department must provide its new supervisors with 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 CDFA states that the divisions within the CDFA were granted access to the CDFA’s Learning Management system; however, decentralizing responsibilities of training functions across multiple divisions has proven to be ineffective due to staff turnover. Additionally, evaluating the effectiveness of the automated system was not conducted regularly.

**Corrective Action:** The CDFA asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CDFA 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.

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 7    SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES</b>
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**Summary:** Although the CDFA did provide sexual harassment prevention training to 25 of 25 new supervisors within 6 months of their appointment, the CDFA did not provide sexual harassment prevention training to 297 of 439 existing supervisors every 2 years. In addition, the CDFA did not provide sexual harassment prevention training to 423 of 1,651 existing non-supervisors every 2 years. This is the third consecutive time this has been a finding for the CDFA.

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

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

**Cause:** The CDFA states that the divisions within the CDFA were granted access to the CDFA’s Learning Management system; however, decentralizing responsibilities of training functions across multiple divisions has proven to be ineffective due to staff turnover. Additionally, evaluating the effectiveness of the automated system was not conducted regularly.

**Corrective Action:** The CDFA asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CDFA 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.

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 8 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS</b>
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**Summary:** Although the CDFA did provide ethics training to 109 of 109 existing filers, the CDFA did not provide ethics training to 112 of 490 new filers within 6 months of their appointment. This is the third consecutive time this has been a finding for the CDFA.

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

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

**Cause:** The CDFA states that it uses an automated filing system, known as eDisclosure. Decentralizing responsibilities of training functions across multiple divisions has proven to be ineffective due to staff turnover. In addition, evaluating the effectiveness of the automated system was not conducted regularly.

**Corrective Action:** The CDFA asserts it has taken steps to ensure compliance in this area. Within 90 days of this report, the CDFA must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>11</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, October 1, 2021, through March 31, 2022, the CDFA made 302 appointments. The CRU reviewed 28 of those appointments to determine if the CDFA applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accountant Trainee	Certification List	Permanent	Full Time	\$3,966
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$4,701
Agricultural Pest Control Specialist	Certification List	Permanent	Full Time	\$3,512
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,383
Auditor I	Certification List	Permanent	Full Time	\$4,164
Environmental Scientist	Certification List	Permanent	Full Time	\$4,145
Environmental Scientist	Certification List	Permanent	Full Time	\$4,145
Information Officer I (Specialist)	Certification List	Permanent	Full Time	\$5,383
Office Assistant (Typing)	Certification List	Permanent	Full Time	\$3,047
Personnel Technician I	Certification List	Permanent	Full Time	\$2,946
Pest Prevention Assistant II	Certification List	Permanent	Full Time	\$3,235

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<sup>11</sup> "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Plant Quarantine Inspector	Certification List	Permanent	Full Time	\$3,512
Plant Quarantine Supervisor I	Certification List	Permanent	Full Time	\$4,307
Program Technician II	Certification List	Permanent	Full Time	\$3,567
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$5,442
Senior Personnel Specialist	Certification List	Permanent	Full Time	\$5,552
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,476
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,491
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,487
Veterinarian (General)	Certification List	Permanent	Full Time	\$8,448
Accountant Trainee	Permissive Reinstatement	Permanent	Full Time	\$4,164
Agricultural Technician (Seasonal)	Transfer	Temporary	Intermittent	\$15.72/hour
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$6,739
Research Data Specialist I	Transfer	Permanent	Full Time	\$6,901
Senior Environmental Scientist (Specialist)	Transfer	Permanent	Full Time	\$8,088
Special Investigator	Transfer	Permanent	Full Time	\$6,263
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,476
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,722

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 9 INCORRECT APPLICATION OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT</b>
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**Summary:** The CRU found 1 error in the 28 salary determinations reviewed:

Classification	Description of Finding(s)	Criteria
Research Data Specialist I	Incorrect anniversary date, which resulted in the employee being undercompensated.	Cal. Code Regs., § 599.674(c)



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

**Severity:** Very Serious. In one circumstance, the CDFA failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with the CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

**Cause:** The CDFA states that five of its nine Personnel Specialists were new employees and the error can be attributed to inexperienced staff and/or human error.

**Corrective Action:** The CDFA asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CDFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The CDFA must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

#### Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, October 1, 2021, through March 31, 2022, the CDFA employees made 27 alternate range movements within a classification. The CRU reviewed 16 of those alternate range movements to determine if the CDFA 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)
Agricultural Pest Control Specialist	A	B	Full Time	\$3,872
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	A	B	Full Time	\$5,037
Information Technology Associate	C	D	Full Time	\$7,293
Personnel Specialist	A	B	Full Time	\$3,939
Personnel Specialist	A	B	Full Time	\$3,939
Plant Quarantine Inspector	A	B	Full Time	\$3,827
Plant Quarantine Inspector	A	B	Full Time	\$3,872
Plant Quarantine Inspector	A	B	Full Time	\$3,872
Special Investigator	A	B	Full Time	\$5,758
Special Investigator	A	B	Full Time	\$5,758
Staff Services Analyst (General)	A	B	Full Time	\$4,196
Veterinarian (General)	C	D	Full Time	\$8,488

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 10 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES</b>
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**Summary:** The CRU found 2 errors in the 16 alternate range movements reviewed. This is the second consecutive time this has been a finding for the CDFA.

Classification	Description of Finding(s)	Criteria
Environmental Scientist	Incorrect anniversary date	Cal. Code Regs., § 599.673
Plant Quarantine Inspector	Incorrect anniversary date, which resulted in the employee being undercompensated.	Cal. Code Regs., § 599.674(b)

**Criteria:** Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range

as though each range were a separate classification. (Classification and Pay Guide Section 220.)

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

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

**Cause:** The CDFA states that five of its nine Personnel Specialists were new employees and the two errors can be attributed to inexperienced staff and/or human error.

**Corrective Action:** The CDFA asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CDFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The CDFA must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### 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.<sup>12</sup> (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, October 1, 2021, through March 31, 2022, the CDFA authorized three HAM requests. The CRU reviewed those three authorized HAM requests to determine if the CDFA correctly applied Government Code section 19836 and

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<sup>12</sup> 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.

appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Assistant Agricultural Economist	Certification List	New to State	\$4,476 – \$5,604	\$5,383
Senior Environmental Scientist (Specialist)	Certification List	New to State	\$6,816 – \$8,479	\$8,088
Veterinarian Specialist (General)	Certification List	New to State	\$8,817 – \$10,994	\$9,721

<b>IN COMPLIANCE</b>	<b>FINDING NO. 11 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found that the HAM requests the CDFA 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, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, October 1, 2021, through May 31, 2022, the CDFA issued bilingual pay to 49 employees. The CRU reviewed 25 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.
Agricultural Pest Control Specialist	R11	Full Time	1
Agricultural Pest Control Supervisor	S11	Full Time	1
Agricultural Technician I (Seasonal)	R01	Intermittent	1
Agricultural Technician II (Seasonal)	R01	Intermittent	1
Agricultural Technician III	R01	Intermittent	1
Agricultural Program Supervisor I	S01	Full Time	1
Associate Governmental Program Analyst	R01	Full Time	1
Environmental Scientist	R10	Full Time	3
Fruit and Vegetable Quality Control Inspector	R01	Full Time	1
Management Services Technician	R01	Full Time	1
Pest Prevention Assistant I (Various Projects)	R10	Full Time	2
Pest Prevention Assistant II (Various Projects)	R10	Full Time	2
Pest Prevention Assistant III (Various Projects)	R10	Full Time	1
Program Technician II	R04	Full Time	1
Senior Environmental Scientist (Supervisory)	S10	Full Time	1
Senior Environmental Scientist (Specialist)	R10	Full Time	1
Senior Livestock Inspector (Specialist)	R07	Full Time	1
Special Investigator	R07	Full Time	2
Staff Services Analyst (General)	R01	Full Time	1
Veterinarian Specialist (Meat Inspection)	R10	Full Time	1

<b>IN COMPLIANCE</b>	<b>FINDING NO. 12 BILINGUAL PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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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, to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, October 1, 2021, through March 31, 2022, the CDFA authorized 82 pay differentials.<sup>13</sup> The CRU reviewed 30 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount	No. of Positions
Research Scientist II (Epidemiology/Biostatistics)	Advanced Education	\$177.78	1
Research Scientist II (Epidemiology/Biostatistics)	Advanced Education	\$166.24	1
Research Scientist III (Epidemiology/Biostatistics)	Advanced Education	\$287.52	1
Senior Plant Taxonomist	Advanced Education	\$264.81	1
Veterinarian (General)	Advanced Education	\$279.42	1
Veterinarian (General)	Advanced Education	\$231.39	1
Veterinarian Specialist (General)	Advanced Education	\$308.04	1
Veterinarian Specialist (General)	Advanced Education	\$291.63	1
Veterinarian Specialist (General)	Advanced Education	\$322.89	1
Veterinarian Specialist (Meat Inspection)	Advanced Education	\$277.74	1
Agricultural Pest Control Specialist	Geographic Recruitment and Retention	\$250	1
Agricultural Pest Control Supervisor	Geographic Recruitment and Retention	\$250	1
Agriculture Program Supervisor I	Geographic Recruitment and Retention	\$250	1
Agricultural Technician II	Geographic Recruitment and Retention	\$250	6

<sup>13</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount	No. of Positions
Agricultural Technician III (Seasonal)	Geographic Recruitment and Retention	\$250	1
Event Coordinator, District Agricultural Association	Geographic Recruitment and Retention	\$250	1
Event Coordinator, District Agricultural Association	Geographic Recruitment and Retention	\$250	1
Maintenance Worker, District Fairs	Retention and Recruitment	\$228.45	1
Staff Services Analyst (General)	Geographic Recruitment and Retention	\$250	1
Environmental Scientist	Staff Specialist Compensation Differential	\$264.45	1
Senior Environmental Scientist (Specialist)	Staff Specialist Compensation Differential	\$360	1
Senior Insect Biosystematist (Specialist)	Staff Specialist Compensation Differential	\$385.40	1
Senior Insect Biosystematist (Specialist)	Staff Specialist Compensation Differential	\$417.10	1
Senior Plant Pathologist (Diagnostician) (Specialist)	Staff Specialist Compensation Differential	\$397.20	1
Veterinarian (General)	Staff Specialist Compensation Differential	\$513.40	1

<b>IN COMPLIANCE</b>	<b>FINDING NO. 13 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the pay differentials that the CDFA 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<sup>14</sup> 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

<sup>14</sup> "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.



current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

During the period under review, October 1, 2021, through March 31, 2022, the CDFA issued OOC pay to six employees. The CRU reviewed five of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Agriculture Program Supervisor III	S01	Agriculture Program Supervisor IV	3/2/22 – 3/1/23
Plant Quarantine Supervisor I	S11	Plant Quarantine Supervisor II	10/1/21 – 5/31/22
Plant Quarantine Supervisor I	S11	Agriculture Program Supervisor II	9/1/21 – 11/24/21
Plant Quarantine Supervisor II	S11	Agriculture Program Supervisor I	11/30/21 – 2/28/22.
Plant Quarantine Supervisor II	S11	Agriculture Program Supervisor I	9/1/21 – 11/24/21

<b>IN COMPLIANCE</b>	<b>FINDING NO. 14 OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the OOC pay assignments that the CDFA authorized during the compliance review period. The OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and

responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

## Leave

### Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days<sup>15</sup> worked and paid absences<sup>16</sup>, 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).)

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),

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<sup>15</sup> For example, two hours or ten hours count as one day.

<sup>16</sup> For example, vacation, sick leave, compensating time off, etc.

regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the CDFA had 339 positive paid employees whose hours were tracked. The CRU reviewed 28 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 <sup>17</sup>
Agricultural Aide (Seasonal)	Temporary	12/2/21 – 12/1/22	843.25
Agricultural Technician I (Seasonal)	Temporary	7/31/21 – 7/30/22	1,194
Agricultural Technician I (Seasonal)	Retired Annuitant	7/1/21 – 6/30/22	754.25
Agricultural Technician I (Seasonal)	Temporary	11/16/21 – 11/15/22	1,621.7
Agricultural Technician I (Seasonal)	Temporary	4/16/21 – 4/15/22	1,677.75
Agricultural Technician I (Seasonal)	Temporary	7/31/21 – 7/30/22	1,361
Agricultural Technician II (Seasonal)	Temporary	1/2/21 – 1/1/22	1,432
Agricultural Technician II (Seasonal)	Temporary	10/1/21 – 9/30/22	1,730
Agricultural Technician II (Seasonal)	Temporary	10/11/21 – 10/10/22	1,421.5
Agricultural Technician III (Seasonal)	Temporary	1/27/21 – 1/26/22	11
Agricultural Technician III (Seasonal)	Temporary	3/1/21 – 2/28/22	1,607
Brand Inspector	Retired Annuitant	7/1/21 – 6/30/22	216.75
Brand Inspector	Retired Annuitant	7/1/21 – 6/30/22	471.75
Brand Inspector	Retired Annuitant	7/1/21 – 6/30/22	193
Information Technology Specialist I	Retired Annuitant	7/1/21 – 6/30/22	2
Information Technician Specialist II	Retired Annuitant	7/1/21 – 6/30/22	953
Information Technology Supervisor II	Retired Annuitant	7/1/21 – 6/30/22	803

<sup>17</sup> The five positive paid employees who are over the 1500 limit had their hours calculated utilizing the 189-day working limit per California Code of Regulations, title 2, section 265.1, subdivision (b).

Classification	Tenure	Time Frame	Hours Worked <sup>17</sup>
Measurement Standards Specialist III	Retired Annuitant	7/1/21 – 6/30/22	366.25
Scientific Aid	Temporary	10/29/21 – 10/28/22	854.75
Scientific Aid	Temporary	8/16/21 – 8/15/22	1,240
Scientific Aid	Temporary	1/6/21 – 1/5/22	1,422
Scientific Aid	Temporary	11/15/21 – 11/14/22	1,031.5
Special Investigator	Retired Annuitant	7/1/21 – 6/30/22	376
Special Investigator	Retired Annuitant	7/1/21 – 6/30/22	115
Special Investigator	Retired Annuitant	7/1/21 – 6/30/22	954
Special Investigator	Retired Annuitant	7/1/21 – 6/30/22	556
Supervising Auditor II	Retired Annuitant	7/1/21 – 6/30/22	144
Technician I (Seasonal)	Temporary	4/16/21 – 4/15/22	1,501

<b>IN COMPLIANCE</b>	<b>FINDING NO. 15 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CDFA 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, October 1, 2021, through September 30, 2022, the CDFA authorized 783 ATO transactions. The CRU reviewed 44 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Hours of ATO
Agricultural Biological Technician	11/1/21 & 11/5/21	1.5
Agricultural Technician I (Seasonal)	1/1/22	8

Classification	Time Frame	Hours of ATO
Agricultural Technician I	9/08/22 – 9/09/22	11
Agricultural Technician I (Seasonal)	1/1/22 & 1/20/22	1.5
Agricultural Technician I (Seasonal)	2/1/22 & 2/16/22	2.5
Agricultural Technician II	6/7/22	8
Agricultural Technician II	12/26/21	8
Agricultural Technician II (Seasonal)	10/1/21	1.25
Associate Governmental Program Analyst	11/8/21 – 11/16/21	48
Associate Governmental Program Analyst	5/1/22 & 5/19/22	2
Associate Personnel Analyst	10/11/2021	1
Environmental Scientist	1/1/22 & 1/5/22 – 1/19/22	80
Environmental Scientist	11/1/21 & 11/12/21	1.5
Environmental Scientist	8/1/22 & 8/2/22 – 8/12/22	72
Environmental Scientist	1/1/22 & 1/10/22 – 1/21/22	5
Environmental Scientist	11/23/2021	1
Environmental Scientist	1/1/22 & 1/26/22	5
Environmental Scientist	1/1/22 & 1/10/22 – 1/13/22	40
Fruit and Vegetable Quality Control Inspector	8/18/22 – 8/31/22	80
Fruit and Vegetable Quality Control Inspector	9/8/2022 & 9/15/22 – 9/20 20/22	40
Information Technology Supervisor I	1/6/22	8
Office Technician (Typing)	1/1/22	2.25
Personnel Specialist	5/1/22	4.5
Personnel Specialist	8/25/22 – 8/30/22	32
Pest Prevention Assistant II	9/8/22	10
Pest Prevention Assistant II (Various Projects)	9/1/2022 & 9/12/22 – 9/22/22	80
Plant Quarantine Inspector	12/28/21	8
Plant Quarantine Inspector	1/2/22 – 1/17/22	80
Plant Quarantine Inspector	9/8/22 – 9/13/22	48
Plant Quarantine Inspector	5/1/22 & 5/15/22 – 5/17/22	23.5
Plant Quarantine Inspector	1/1/2022 & 1/9/22 – 1/13/22	40
Plant Quarantine Inspector	2/1/22	8
Plant Quarantine Investigator	5/14/22 & 5/18/22 – 6/4/22	120
Plant Quarantine Investigator	7/30/22 – 8/1/22 8/4/22	32

Classification	Time Frame	Hours of ATO
Plant Quarantine Investigator	6/26/22 – 9/30/22	392
Plant Quarantine Supervisor I	5/17/22 – 6/07/22	120
Plant Quarantine Supervisor I	2/8/22 – 2/15/22	40
Plant Quarantine Supervisor I	7/31/22 – 8/04/22	40
Plant Quarantine Supervisor I	12/27/21 – 12/28/21	16
Plant Quarantine Supervisor II	5/17/2022 – 6/9/22	768
Special Investigator	4/5/22 – 4/15/22	72
Staff Services Analyst (General)	7/1/22	8
Staff Services Analyst (General)	1/20/22 – 1/28/22	56
Staff Services Analyst (General)	12/28/21 – 12/30/21	27

<b>IN COMPLIANCE</b>	<b>FINDING NO. 16 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CDFA 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, July 1, 2022, through September 30, 2022, the CDFA reported 287 units comprised of 2,047 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
July 2022	011	5	5	0
July 2022	100	6	6	0
July 2022	351	15	15	0
July 2022	722	6	6	0
July 2022	472	9	9	0
July 2022	767	6	6	0
July 2022	434	9	9	0
August 2022	011	5	5	0
August 2022	100	6	6	0
August 2022	351	15	15	0
August 2022	722	16	16	0
August 2022	472	10	10	0
August 2022	767	10	10	0
August 2022	434	6	6	0

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 17 DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY</b>
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**Summary:** The CDFA failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely and to certify that all leave records have been reviewed and corrected if necessary.

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

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

**Cause:** The CDFA states that although it implemented a monthly internal audit process; there were audits that were not completed within the established monthly timeframe. The CDFA relied on the Personnel Specialists to print and submit timesheets to the auditor which resulted in late printing and therefore late auditing as well.

**Corrective Action:** The CDFA asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CDFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that their monthly internal audit process was documented and that all leave input is keyed accurately and timely. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### 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.<sup>18</sup> (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.

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<sup>18</sup> 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.



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 employees<sup>19</sup> 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, April 1, 2022, through September 30, 2022, the CDFA had 15 employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 28 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	18

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 18</b>	<b>INCORRECT APPLICATION OF STATE SERVICE AND LEAVE TRANSACTION</b>
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**Summary:** The CRU found 1 error in the CDFA’s 28 state service transactions:

Type of Transaction	Time Base	Leave Accrual Incorrectly Posted
Qualifying Pay Period	Full Time	1

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<sup>19</sup> 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.

**Criteria:** In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: (1) has had 11 or more working days of service in a monthly pay period; or (2) would have had 11 or more working days of service in a monthly pay period but was laid off or on a leave of absence for the purpose of lessening the impact of an impending layoff. (Cal. Code Regs., tit.2, § 599.608.) Absences from state service resulting from permanent separation for more than 11 consecutive working days which fall into two consecutive pay periods shall disqualify one of the pay periods. (*Ibid.*)

Hourly or daily rate employees working in a state agency 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.) When an employee has a break in service or changes to full-time, any combination of time worked which does not equal one qualifying month of full-time service shall not be accumulated or counted. (*Ibid.*)

**Severity:** Very Serious. For audit purposes, accurate and timely attendance reporting is required of all departments. If the length of an informal leave results in a non-qualifying pay period, a state service transaction must be processed. Inappropriately authorizing state service credits and leave accruals to employees who did not earn them results in a monetary loss for the department.

**Cause:** The CDFA states that five of its nine Personnel Specialists were new employees and the error can be attributed to inexperienced staff and/or human error.

**Corrective Action:** Within 90 days of the date of this report, the CDFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure state service transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **Policy and Processes**

### **Nepotism**

It is the policy of the State of California to 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.*)

<b>IN COMPLIANCE</b>	<b>FINDING NO. 19 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the policy was disseminated to all staff and emphasized the CDFA's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the CDFA'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 CDFA did not employ volunteers during the compliance review period.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 20 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the CDFA 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 CDFA 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 100 permanent CDFA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 21 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES</b>
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**Summary:** The CDFA did not provide annual performance appraisals to 37 of 92 employees reviewed after the completion of the employee's

probationary period. This is the second consecutive time this has been a finding the CDFA.

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

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

**Cause:** The CDFA states that while it actively pursues the completion of performance appraisals, it is the responsibility of supervisors, managers, and CEAs to ensure appraisals are completed. However, due to a significant number of new supervisors, managers, and CEAs not being compliant in their initial State-mandated training; they were likely unaware of their responsibility and its importance.

**Corrective Action:** Within 90 days of the date of this report, the CDFA 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 CDFA's departmental response is attached as Attachment 1.

### **SPB REPLY**

Based upon the CDFA's written response, the CDFA 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 DEPARTMENT OF  
FOOD & AGRICULTURE

Karen Ross, Secretary

January 10, 2024

Ms. Suzanne M. Ambrose  
Executive Director  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

Subject: California Department of Food and Agriculture's (CDFA) Response to the Draft State Personnel Board (SPB) Compliance Review Report

Dear Ms. Ambrose:

This letter is in response to the draft SPB Compliance Review Report (Report) submitted to CDFA on November 7, 2023. CDFA has reviewed the Report and prepared a cause and action plan for each finding found to be non-compliant.

During the periods under review there were areas found to be in compliance with applicable laws and rules, therefore, no corrective actions are addressed for Findings No. 1, 2, 4, 5, 11, 12, 13, 14, 15, 16, 19, and 20.

The CDFA has prepared the following responses related to findings found to be very serious, serious, and technical in severity.

### **Finding No. 3 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time**

Summary: During the review period from October 1, 2021, through March 31, 2022, of the 63 appointments reviewed, CDFA did not retain 11 Notice of Personnel Actions (NOPAs).

Severity: Technical

Cause: During the pandemic, the State Controller's Office (SCO) transitioned to digital distribution of the NOPAs. Prior to the transition there was internal confusion within



CDFA on when the NOPAs would no longer be printed and sent to departments. As a result, there was a loss of NOPAs during the transition period.

Response: CDFA acknowledges the finding and is committed to addressing any internal confusion that may have contributed to the issue. Due to SCO no longer printing the NOPAs, CDFA has implemented a completely digital process to ensure that all NOPAs are saved and stored for the required retention period. Procedures were implemented to reflect that the Personnel Supervisor or Senior Personnel Specialist will download NOPAs from SCO's Mobius system application and save each in a secure shared drive accessible to designated Human Resources Branch (HRB) employees. The Personnel Specialist (PS) will send a copy of the NOPA to the employee and overwrite the original file once the signed NOPA is returned. This ensures that even if an employee fails to return the signed copy, CDFA will have a copy saved.

### **Finding No. 6 – Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs**

Summary: During the review period from January 1, 2021, through December 31, 2022, CDFA did not provide basic supervisory training to 12 of 25 new supervisors within 12 months of appointment; did not provide manager training to 3 of 4 new managers within 12 months of appointment; and did not provide CEA training to 1 of 2 new CEAs within 12 months of appointment.

Severity: Very Serious

Cause: CDFA's Training Office (TO) initiates automatic enrollment of new supervisors, managers, and CEAs to the California Department of Human Resources' (CalHR) CalLearns Initial Leadership Training. The TO directs Unit Training Coordinators (UTCs) to remind new supervisors, managers, and CEAs of the requirement to complete these trainings within 12 months of their appointment. Quarterly compliance reports are distributed to division directors (DD). DDs are also provided with real time access to compliance reports via CDFA's Learning Management System (LMS). These efforts have not been effective due to the TO delegating responsibility for compliance to a 3<sup>rd</sup> party (UTC or DD) rather than directly and frequently following up with, and ensuring training compliance for new supervisors, managers, and CEAs.

Response: CDFA acknowledges this very serious finding. In anticipation of this finding, CDFA's TO has recently added real time reporting capabilities to the LMS for the TO to regularly run mandatory training compliance reports. The TO will reach out directly to new supervisors, managers, and CEAs, as well as their DDs, to communicate the status of their State-mandated trainings and the required timelines to complete them. The TO

has also added monthly reminders to its LMS which will be emailed directly to any attendee who has not completed the course.

For new supervisors, managers, and CEAs nearing their deadline to complete the mandatory trainings, CDFA's Personnel Officer will email the employee and include their DD, as well as CDFA's Deputy Director of Administration and Finance to compel the employee to complete their training before the end of the 12-month period.

### **Finding No. 7 – Sexual Harassment Prevention Training Was Not Provided for All Employees**

Summary: During the review period from January 1, 2021, through December 31, 2022, CDFA did not provide sexual harassment prevention (SHP) training to 297 of 439 existing supervisors every two years. In addition, CDFA did not provide SHP training to 423 of 1,651 existing non-supervisors every two years. This is the third consecutive time this has been a finding for CDFA.

Severity: Very Serious

Cause: Same as cause to Finding No. 6.

Response: Same as response to Finding No. 6.

### **Finding No. 8 – Ethics Training Was Not Provided for All Filers**

Summary: During the review period from January 1, 2021, through December 31, 2022, CDFA did not provide ethics training to 112 of 490 new filers within six months of their appointment. This is the third consecutive time this has been a finding for CDFA.

Severity: Very Serious

Cause: CDFA uses an automated filing system, known as eDisclosure. This system is designed to email filers as to the requirement to complete the ethics training upon their appointment, and every two years thereafter. Current filers are emailed three months prior to the expiration date of their Ethics certificate. Late filers also receive reminders each month, including after the deadline to complete has passed. CDFA has filing officials housed in each division who are responsible for working closely with the Filing Officer (FO) tasked with auditing the status of their filer's training – with direction to make sure they are enrolled and to remind them to complete the training before the deadline. CDFA understands the importance of this training and have implemented these processes to ensure all filers receive notification of their training requirements. These efforts have not been effective due to the FO delegating responsibility for compliance to the filing official rather than directly and frequently following up with, and ensuring training compliance, of filers.



Response: CDFA acknowledges this finding. In anticipation of this finding, CDFA's FO recently added real time reporting capabilities to eDisclosure for the FO to regularly run compliance reports. The FO will reach out directly to filers, as well as their filing officials, to communicate the status of their ethics training and the required timelines to complete it, offering assistance where needed.

For filers nearing their deadline to complete the mandatory training, CDFA's Personnel Officer will email the filer directly to compel the filer to complete their training before the deadline and offer any assistance necessary.

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

Summary: During the period of October 1, 2021, through March 31, 2022, the Compliance Review Unit (CRU) found 1 error in the 28 salary determinations reviewed.

Severity: Very Serious

Cause: Five of CDFA's nine Personnel Specialist were new employees, and the error can be attributed to inexperienced staff and/or human error.

Response: CDFA acknowledges the finding. While CDFA places great importance on accurately calculating employees' salary rates and anniversary dates, as noted in the cause, this can be attributed to inexperienced staff and/or human error. To mitigate further errors, CDFA previously required any senior staff (PS, Range C or D) to review the salary determinations for accuracy. Going forward, CDFA will require the Transactions Supervisor or Senior PS reviews all salary determinations, including anniversary dates.

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

Summary: During the review period of October 1, 2021, through March 31, 2022, the CRU found 2 errors in the 16 alternate range movements reviewed. This is the second consecutive time this has been a finding for CDFA.

Severity: Very Serious

Cause: Same as cause to Finding No. 9.

Response: CDFA acknowledges the finding. While CDFA places great importance on accurately tracking and keying employees' range changes, as noted in the cause, this can be attributed to inexperienced staff and/or human error. CDFA previously required any senior staff (PS, Range C or D) to review. In order to mitigate any future errors, going forward, CDFA will require that the review be completed by the Transactions Supervisor or Senior PS (Transactions Lead).

**Finding No. 17 – Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely**

Summary: During the review period of July 1, 2022, through September 30, 2022, CDFA failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely, and to certify that all leave records have been reviewed and corrected if necessary.

Severity: Serious

Cause: Although CDFA has implemented a monthly internal audit process, there were audits that were not completed within the established monthly timeframe. During the pandemic, CDFA had to pivot our processes to electronic platforms and adapt to remote work and ensure the continuity of essential operations, which included digital timekeeping. During the transition, timesheets and STD 672s were stored in a digital location that was inaccessible to the auditor. CDFA relied on the PS to print those and submit them to the auditor. This new process resulted in late printing and therefore late auditing as well.

Response: CDFA acknowledges the finding. CDFA has reviewed and adjusted its processes to change storage location and accessibility of timesheets and STD 672s by the reviewer performing the audit. CDFA has also created Standard Operating Procedures for this process as well.

**Finding No. 18 – Incorrect Application of State Service and Leave Transaction**

Summary: During the review period of April 1, 2022, through September 30, 2022, the CRU found 1 error in the CDFA's 28 state service transactions.

Severity: Very Serious

Cause: Same as cause to Finding No. 9.

Response: CDFA acknowledges the findings. CDFA places great importance on accurate calculations and credits regarding state service. The minimal number of findings can be attributed to the inexperience and/or human error of the PS. CDFA will continue to train on processes when receiving amended timesheets and/or late dock to ensure state service is accurately credited. CDFA will add additional auditing steps when there is an appointment keyed late, or a state service transaction in regard to qualifying pay periods, to ensure that the state service is credited to the California Leave Accounting System (CLAS) accurately.

### **Finding No. 21 – Performance Appraisals Were Not Provided to All Employees**

Summary: During the review period for the calendar year of 2022, CDFA did not provide annual performance appraisals to 37 of 92 employees reviewed after the completion of the employee's probationary period. This is the second time this has been a finding for CDFA.

Severity: Serious

Cause: CDFA acknowledges that it did not provide performance appraisals to their non-probationary permanent employees. While CDFA is very active in pursuing the completion of Performance Appraisals, it is the responsibility of the supervisors, managers, and CEAs to ensure the appraisal is completed. However, due to a significant number of new supervisors, managers, and CEA's not being compliant in their initial State-mandated training, they were likely unaware of this responsibility, nor its importance.

Response: CDFA acknowledges the severity of the findings and understand the importance of complete and timely annual evaluations ensuring employee development and accountability. CDFA's current practice is to send an annual email notification to supervisors, managers, and CEAs reminding them of the obligation to assess employee performance. Included with that email is the CDFA policy "Performance Appraisals, Individual Development Plans, and Annual Training/Policy Review" explaining the review process and emphasizing the importance thereof. Since the last evaluation CDFA has also implemented two additional email reminders as the annual deadline approaches.

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January 10, 2024  
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The Administrative Services Division Director regularly mentions the Performance Appraisal due dates at CDFA's bi-weekly meetings with the Department's top management and executives. In addition to the above process, CDFA has recently established a Performance Management Unit within HRB, responsible in part for providing guidance to managers, supervisors, and CEAs on annual performance evaluations. This unit is currently in the process of developing training for all supervisors, managers, and CEAs regarding how to complete probationary and annual appraisal reports. Lastly, the Performance Management analysts will be establishing and meeting with Division Directors on a quarterly basis and will utilize this meeting as an additional opportunity to remind the Directors of the obligation to comply with the policy.

CDFA appreciated the opportunity to respond to the findings. We take the audit findings very seriously and will take immediate action to rectify the non-compliance.

Sincerely,

Jody Lusby on behalf of Arima Kozina  
Deputy Secretary of Administration and Finance

Enclosure

cc: Jody Lusby, Director, Administrative Services Division  
Laurie Shortridge, Personnel Officer, Human Resources Branch