



COMPLIANCE REVIEW REPORT

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

Compliance Review Unit
State Personnel Board
March 11, 2022

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California High-Speed Rail Authority (Authority) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts ¹
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

¹ Repeat finding. The August 26, 2019, Authority Compliance Review Report identified unions were not notified prior to entering into 2 of 10 PSC's reviewed.

Area	Severity	Finding
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay ²
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Administrative Time Off Was Not Properly Documented
Leave	Very Serious	Incorrectly Posted Leave Usage and/or Leave Credit
Leave	Serious	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely ³
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

² Repeat finding. The August 26, 2019, Authority Compliance Review Report identified incorrect out-of-class pay for one of the four reviewed.

³ Repeat finding. The August 26, 2019, Authority Compliance Review report identified a monthly internal audit process had not been implemented.

Area	Severity	Finding
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ⁴

BACKGROUND

The Authority is responsible for the planning, designing, building, and operation of the nation’s first high-speed rail system. The Authority will connect the mega-regions of the state, contribute to economic development and a cleaner environment, create jobs, and preserve agricultural and protected lands. The Authority employs approximately 429 state employees and 345 contracted employees in locations across the state including Sacramento, Fresno, Los Angeles, and the Bay Area.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the Authority’s examinations, appointments, EEO program, PSC’s, mandated training, compensation and pay, leave, and policy and processes⁵. The primary objective of the review was to determine if the Authority’s personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the Authority’s examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the Authority provided, which included examination plans, examination bulletins, job analyses, and scoring results.

The Authority did not conduct any permanent withhold actions during the compliance review period.

Authority’s appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the Authority provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer

⁴ Repeat finding. The August 26, 2019, Authority Compliance Review Report identified 7 of the 29 employees reviewed did not receive annual performance appraisals.

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

movement worksheets, employment history records, correspondence, and probation reports.

The Authority did not conduct any unlawful appointment investigations or make any additional appointments during the compliance review period.

The Authority's appointments were also selected for review to ensure the Authority applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the Authority provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: hire above minimum (HAM) requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments.

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

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

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

The Authority's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the Authority's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the

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

department certified that all leave records have been reviewed and corrected if necessary. The CRU selected a small cross-section of the Authority's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the Authority employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of Authority positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

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

An exit conference was not held with the Authority to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the Authority's written response on February 18, 2022, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

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

average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, January 1, 2021, through September 30, 2021, the Authority conducted four examinations. The CRU reviewed all four examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Central Valley Deputy Regional Director	CEA	Statement of Qualifications (SOQ) ⁷	4/9/21	6
CEA A, Chief Accounting Officer	CEA	SOQ	4/7/21	7
CEA A, Northern California Deputy Regional Director	CEA	SOQ	2/18/21	7
CEA A, Southern California Deputy Regional Director	CEA	SOQ	3/11/21	21

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

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

Appointments

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

During the period under review, January 1, 2021, through September 30, 2021, the Authority made 77 appointments. The CRU reviewed 27 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 Administrator I (Supervisor)	Certification List	Permanent	Full Time	1
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	4
Attorney IV	Certification List	Permanent	Full Time	1
C.E.A.	Certification List	Permanent	Full Time	1
Information Officer I (Specialist)	Certification List	Permanent	Full Time	1
Information Officer II	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Principal Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Senior Land Surveyor	Certification List	Permanent	Full Time	1
Senior Management Auditor	Certification List	Permanent	Full Time	1
Staff Management Auditor	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	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Supervising Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	1
Information Officer I (Specialist)	Transfer	Permanent	Full Time	1
Supervising Environmental Planner	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1

IN COMPLIANCE	FINDING NO. 2 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The Authority measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 24 list appointments reviewed, the Authority ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

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

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

Equal Employment Opportunity

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

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

IN COMPLIANCE	FINDING NO. 3 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the Authority's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the Authority. The Authority also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person

performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC’s, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, January 1, 2021, through September 30, 2021, the Authority had 46 PSC’s that were in effect. The CRU reviewed 23 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notified?
BNSF	Engineering services	11/1/17-2/28/23	\$176,000,000	Yes	Yes
City of Fresno	Right of way support	9/13/18-12/31/21	\$1,525,978	Yes	No
City of Hanford	Right of way support	1/1/21-12/31/23	\$84,210	Yes	No
Continental Field Service	Right of way and real property services	6/7/21-8/31/22	\$1,438,327	Yes	Yes
Executive Maintenance	Janitorial services	1/31/21-1/31/22	\$75,210	Yes	No
Focus Language Group	Translation and interpreter	4/30/21-4/30/22	\$60,000	Yes	No
Greenberg Traung LLP	Legal analysis	11/4/15-12/31/22	\$1,500,000	Yes	No
HKA Global Inc.	Legal services	4/21/17-12/31/22	\$2,440,000	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notified?
Kadesh & Associates	Congressional and Administration Liaison and Strategic Advisory services	7/1/21-6/30/23	\$270,000	Yes	Yes
KPMG LLP	Financial advisory	1/1/21-9/30/24	\$36,000,000	Yes	Yes
KPMG LLP	Informational security	6/1/21-12/31/22	\$500,000	Yes	No
Mayer Brown LLP	Legal analysis	12/31/20-12/31/22	\$1,800,000	Yes	Yes
PCJPB/City of San Mateo	Engineering Consultants	6/30/21-12/31/21	\$84,000,000	Yes	No
Pestmaster Services, Inc.	Interior and exterior pest control services	7/1/21-6/30/23	\$9,694.78	Yes	No
PG&E	Engineering and permitting	1/9/17-1/30/24	\$36,034,000	Yes	No
PG&E	Reimbursement for staff support	6/24/20-6/30/23	\$1,959,000	Yes	No
Placeworks	Engineering Consultants	8/5/16-12/31/22	\$4,900,000	Yes	No
Remy Moose Manly LLP	Legal services	9/13/12-12/31/22	\$3,750,000	Yes	No
Sky Landscape, LLC	Non-chemical landscape services	8/1/21-7/31/23	\$42,524	Yes	No
Video Streaming Services	Audio/video services	4/15/21-6/30/22	\$100,000	Yes	No
Viking Shred LLC	On-site shredding	4/1/21-3/31/22	\$2,520	Yes	No
West Isle Line	Planning identifying risks	5/30/21-2/28/23	\$1,000,000	Yes	Yes
WSP	Program delivery & management	7/1/15-6/30/22	\$685,055,787	Yes	Yes

SEVERITY: SERIOUS	FINDING No. 4 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The Authority did not notify unions prior to entering into 15 of the 23 PSC’s reviewed. This is the second consecutive time this has been a finding for the Authority.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

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

Cause: The Authority states that notices were not consistently sent to unions due to human error as well as differing interpretations of existing regulations relating to contract notice requirements.

Corrective Action: It is the contracting department’s responsibility to identify and notify any unions whose members could potentially perform the type of work to be contracted prior to executing a PSC. Within 90 days of the date of this report, the Authority must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure ongoing conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as “filers”) because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months

of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

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

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

The CRU reviewed the Authority's mandated training program that was in effect during the compliance review period, October 1, 2019, through September 30, 2021.

SEVERITY: VERY SERIOUS	FINDING NO. 5 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The Authority did not provide ethics training to 4 of 124 existing filers. In addition, the Authority did not provide ethics training to 9 of 43 new filers within 6 months of their appointment.

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

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

Cause: The Authority states that their Human Resources Section diligently tracks, informs, and reminds impacted employees of the ethics training requirement. However, despite these measures, the

Authority acknowledges that not all employees complied with the training requirement.

Corrective Action: Within 90 days of this report, the Authority 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.

SEVERITY: VERY SERIOUS	FINDING NO. 6 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The Authority did not provide sexual harassment prevention training to 2 of 81 existing supervisors every 2 years. In addition, the Authority did not provide sexual harassment prevention training to 5 of 24 new supervisors within 6 months of their appointment.

While the Authority did provide sexual harassment prevention training to all 74 existing non-supervisors every 2 years; the Authority did not provide sexual harassment prevention training to 13 of 85 new non-supervisors within 6 months of their appointment.

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

Severity: Very Serious. The department does not ensure that all new and existing employees are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

Cause: The Authority states that their Human Resources Section diligently tracks, informs, and reminds impacted employees of the sexual

harassment prevention training requirement. However, despite these measures, the Authority acknowledges that not all employees complied with the training requirement. In addition, the Authority identified training course tracking errors.

Corrective Action: Within 90 days of the date of this report, the Authority must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that all employees are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee’s salary rate⁸ upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

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

During the period under review, January 1, 2021, through September 30, 2021, the Authority made 77 appointments. The CRU reviewed 16 of those appointments to determine if the Authority 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

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

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	\$7,110
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$4,496
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,149
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,149
Information Officer I (Specialist)	Certification List	Permanent	Full Time	\$5,149
Information Technology Associate	Certification List	Permanent	Full Time	\$5,294
Information Technology Specialist I	Certification List	Permanent	Full Time	\$7,021
Principal Transportation Engineer, Caltrans	Certification List	Permanent	Full Time	\$14,939
Senior Land Surveyor	Certification List	Permanent	Full Time	\$9,766
Senior Management Auditor	Certification List	Permanent	Full Time	\$9,209
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$5,132
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,768
Staff Services Manager II	Certification List	Permanent	Full Time	\$7,815
Information Officer I (Specialist)	Transfer	Permanent	Full Time	\$5,676
Supervising Environmental Planner	Transfer	Permanent	Full Time	\$9,744

IN COMPLIANCE	FINDING NO. 7 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determinations that were reviewed. The Authority appropriately calculated and keyed the salaries for each appointment and

correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, January 1, 2021, through September 30, 2021, the Authority employees made two alternate range movements within a classification. The CRU reviewed all alternate range movements to determine if the Authority applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Personnel Specialist	A	B	Full Time	\$3,939
Staff Services Management Auditor	B	C	Full Time	\$4,936

SEVERITY: VERY SERIOUS	FINDING NO. 8 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
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Summary: The CRU found the following error in the Authority's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Staff Services Management Auditor	Incorrect range change date keyed, resulting in the employee being undercompensated.	Alternate Range Criteria 036

Criteria: Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained

while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

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

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

Cause: The Authority states that the alternate range error was the result of staff inexperience and human error.

Corrective Action: Within 90 days of the date of this report, the Authority must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The Authority 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 are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.⁹ (Gov. Code, § 19836, subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

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

During the period under review, January 1, 2021, through September 30, 2021, the Authority authorized nine HAM requests. The CRU reviewed six of those authorized HAM requests to determine if the Authority correctly applied Government Code section 19836

⁹ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

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

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Attorney III	Certification List	Permanent	\$9,463-\$12,140	\$12,140
Attorney III	Certification List	Permanent	\$9,463-\$12,140	\$12,140
Information Technology Specialist II	Certification List	Permanent	\$7,365-\$9,869	\$9,167
Information Technology Specialist II	Certification List	Permanent	\$7,700-\$10,318	\$10,165
Information Technology Supervisor II	Certification List	Permanent	\$7,263-\$9,731	\$9,000
Staff Management Auditor	Certification List	Permanent	\$6,723-\$8,770	\$7,235

IN COMPLIANCE	FINDING NO. 9 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM requests the Authority 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, January 1, 2021, through September 30, 2021, the Authority issued bilingual pay to one employee. The CRU reviewed the bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines. This is listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Information Officer I (Specialist)	R01	Full Time	1

IN COMPLIANCE	FINDING NO. 10 BILINGUAL PAY AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the bilingual pay authorized to the employee during the compliance review period satisfied civil service laws, Board rules and CalHR policies and guidelines.

Pay Differentials

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

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

During the period under review, January 1, 2021, through September 30, 2021, the Authority authorized 19 pay differentials.¹⁰ The CRU reviewed 14 of these pay differentials

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

to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Principal Transportation Engineer, Caltrans	433	5.5%
Principal Transportation Engineer, Caltrans	433	5.5%
Principal Transportation Engineer, Caltrans	433	5.5%
Principal Transportation Engineer, Caltrans	433	5.5%
Senior Transportation Electrical Engineer (Specialist)	433	4%
Senior Transportation Electrical Engineer (Specialist)	261	\$300
Senior Transportation Engineer, Caltrans	433	5.5%
Senior Transportation Engineer, Caltrans	433	4%
Senior Transportation Engineer, Caltrans	433	4%
Staff Management Auditor	126	\$4,800
Supervising Transportation Engineer, Caltrans	433	5.5%
Supervising Transportation Engineer, Caltrans	433	3%
Supervising Transportation Engineer, Caltrans	433	4%
Supervising Transportation Engineer, Caltrans	433	4%

IN COMPLIANCE	FINDING NO. 11	PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differentials that the Authority authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

For excluded¹¹ and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

¹¹ “Excluded employee” means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

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

During the period under review, January 1, 2021, through September 30, 2021, the Authority issued OOC pay to three employees. The CRU reviewed the three 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
Principal Transportation Engineer, Caltrans	M09	Exempt/Central Valley Regional Director	01/2021-02/2021
Staff Services Manager I	S01	Staff Services Manager II	01/2021-04/2021
Supervising Transportation Engineer, Caltrans	M09	Principal Transportation Engineer, Caltrans	03/2021-08/2021

SEVERITY: VERY SERIOUS	FINDING NO. 12 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRU found two errors in the Authority’s authorization of OOC pay, as noted below. This is the second consecutive time this has been a finding for the Authority.

Classification	Out-of-Class Classification	Description of Findings	Criteria
Principal Transportation Engineer, Caltrans	Exempt/Central Valley Regional Director	Incorrect calculation of OOC pay which resulted in the employee being overcompensated.	Pay Differential 101

Classification	Out-of-Class Classification	Description of Findings	Criteria
Supervising Transportation Engineer, Caltrans	Principal Transportation Engineer, Caltrans	The department inappropriately included the 9.23 percent Personal Leave Program (PLP) reduction when determining the OOC pay rate after the reduction no longer applied which resulted in the employee being undercompensated.	Pay Differential 101

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

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

Severity: Very Serious. The Authority failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in

civil service employees receiving incorrect and/or inappropriate compensation.

Cause: The Authority states that the two out of class pay calculations were incorrect due to a miscalculation of the 2020 PLP reduction. The Authority further states this was due to inexperience, human error, and increased computational complexity due to the PLP reductions.

Corrective Action: Within 90 days of the date of this report, the Authority must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave

Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days¹² worked and paid absences¹³, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

¹² For example, two hours or ten hours count as one day.

¹³ For example, vacation, sick leave, compensating time off, etc.

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).)

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

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.¹⁴

At the time of the review, the Authority had 13 positive paid employees whose hours were tracked. The CRU reviewed 10 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Associate Governmental Program Analyst	Retired Annuitant	7/1/20-6/30/21	574 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/20-6/30/21	483 Hours
Associate Governmental Program Analyst	Retired Annuitant	7/1/20-6/30/21	952.75 Hours
Attorney IV	Retired Annuitant	7/1/20-6/30/21	1846 Hours
Information Technology Manager I	Retired Annuitant	7/1/20-6/30/21	724.5 Hours
Senior Right of Way Agent	Retired Annuitant	7/1/20-6/30/21	1717 Hours
Senior Right of Way Agent	Retired Annuitant	7/1/20-6/30/21	698 Hours
Supervising Environmental	Retired Annuitant	7/1/20-6/30/21	1264 Hours

¹⁴ However, Executive Order N-25-20, signed by Governor Newsom on March 12, 2020, suspended work hour limitations on retired annuitants' hours due to the Covid-19 emergency.

Classification	Tenure	Time Frame	Time Worked
Planner			
Student Assistant, Engineer & Architectural Sciences	Temporary	3/10/20-3/1/21	1296 Hours
Student Assistant, Engineer & Architectural Sciences	Temporary	3/9/20-3/1/21	1228.5 Hours

IN COMPLIANCE	FINDING NO. 13 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The Authority provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

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

During the period under review, July 1, 2020, through June 30, 2021, 44 transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Accounting Administration I (Specialist)	5/27/21	2.5 Hours
Accounting Officer (Specialist)	8/18/20-8/19/20	2 Hours
Accounting Officer (Specialist)	1/21/21-1/29/21	21.5 Hours
Associate Accounting Analyst	4/15/21	1.5 Hours
Associate Accounting Analyst	8/17/20-8/19/20	6 Hours
Associate Accounting Analyst	4/15/21	2.5 Hours
Associate Governmental Program Analyst	1/4/21-1/15/21	80 Hours
Associate Governmental Program Analyst	4/8/21	7 Hours
Associate Governmental Program Analyst	4/19/21	8 Hours
Associate Governmental Program Analyst	5/11/21-5/12/21	16 Hours

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	4/9/21	1.5 Hours
Associate Governmental Program Analyst	5/20/21	2.5 Hours
Attorney III	2/18/21-2/24/21	5 Days
Attorney IV	7/1/20-9/30/20	66 Days
CEA	3/16/21-4/5/21	15 Days
Central Valley Regional Director	12/21/20-12/31/20	64 Hours
Chief Operating Officer	5/24/21-5/29/21	40 Hours
Chief Operating Officer	6/1/21-6/8/21	48 Hours
Director of Environmental Services	10/2/20-11/1/20	23 Days
Information Officer I (Specialist)	5/10/21	2.5 Hours
Principal Transportation Engineer	12/2/20-12/15/20	80 Hours
Senior Accounting Officer, Specialist	8/17/20	2 Hours
Senior Accounting Officer, Specialist	8/17/20-8/19/20	3 Hours
Senior Accounting Officer, Specialist	1/6/21 & 1/8/21	11 Hours
Senior Accounting Officer, Specialist	1/21/21-1/28/21	56 Hours
Senior Accounting Officer, Specialist	5/17/21	2.5 Hours
Senior Accounting Officer, Specialist	4/22/21-4/23/21	13.5 Hours
Senior Personnel Specialist	2/26/21-3/4/21	5 Days
Senior Personnel Specialist	5/4/21	2.5 Hours
Senior Right of Way Agent	1/19/21-1/29/21	72 Hours
Senior Transportation Engineer, Caltrans	4/2/21 & 4/26/21	16 Hours
Senior Transportation Engineer, Caltrans	5/13/21	2.5 Hours
Staff Services Analyst	1/6/21-1/8/21	24 Hours
Staff Services Analyst	5/17/21	8 Hours
Staff Services Analyst	8/19/20	1 Hour
Staff Management Auditor	10/26/20-10/27/20	16 Hours
Staff Management Auditor	1/27/21	1 Day
Staff Management Auditor	9/28/20	1 Day
Staff Services Management Auditor	5/6/21	2.5 Hours
Staff Services Manager I	11/23/20-11/25/20	24 Hours
Staff Services Manager I	1/27/21	1 Day
Staff Services Manager II	5/12/21	1 Day
Supervising Transportation Engineer, Caltrans	9/1/20-9/3/20	24 Hours
Supervising Transportation Engineer, Caltrans	4/14/21-4/15/21	16 Hours

SEVERITY: SERIOUS	FINDING NO. 14 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED
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Summary: The Authority did not grant ATO in conformity with the established policies and procedures. Of the 44 ATO authorizations reviewed by the CRU, 2 were found to be out of compliance for failing to document justification for ATO. In addition, the Authority did not obtain approval from CalHR prior to authorizing ATO in excess of 30 days for one employee.

Criteria: Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they “have delegated authority to approve up to 30 calendar days.” (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. (*Ibid.*) In most cases, if approved, the extension will be for an additional 30 calendar days. (*Ibid.*) The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. (*Ibid.*)

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. (*Ibid.*) ATO may not be used and will not be granted for an indefinite period. (*Ibid.*) If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. (*Ibid.*)

Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (*Ibid.*)

Severity: Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Cause: ATO was not properly documented due to human error and the increased usage of ATO during the Covid-19 pandemic. In the

instance where ATO exceeded 30 days, the Authority states it was the result of a keying error.

Corrective Action: Within 90 days of the date of this report, the Authority must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19991.10 and Human Resources Manual Section 2121. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

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

During the period under review, April 1, 2021, through June 30, 2021, the Authority reported 12 units comprised of 264 active employees during April 2021 pay period, 12 units comprised of 276 active employees during May 2021 pay period, and 12 units comprised of 287 active employees during June 2021 pay period. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2021	200	36	36	0
April 2021	300	47	47	0

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
May 2021	160	9	9	0
June 2021	140	11	11	0
June 2021	150	12	12	0

SEVERITY: VERY SERIOUS	FINDING NO. 15 INCORRECTLY POSTED LEAVE USAGE AND/OR LEAVE CREDIT
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Summary: The Authority did not correctly enter 5 of 83 timesheets into the Leave Accounting System during the April 2021 pay period. As a result, five employees retained their prior leave balance despite having used leave credits.

Criteria: Departments shall create a monthly internal audit process to verify that all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) 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.*)

Severity: Very serious. Errors in posting leave usage and/or leave credits puts the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Cause: The Authority states that leave corrections were inadvertently overlooked due to staff shortages, high workload volumes, and staff inexperience.

Corrective Action: Within 90 days of the date of this report, the Authority must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Human Resources Manual Section 2101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: SERIOUS	FINDING NO. 16 DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY
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Summary: The Authority 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. Specifically, Holiday Informal Time Off was not properly documented in the Leave Accounting System and on the timesheets for two employees. This is the second consecutive time this has been a finding for the Authority.

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

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

Cause: The Authority states that although leave auditing was being conducted, the appropriate CalHR form was not being used to document the process.

SPB Reply: While the Authority may have a leave auditing process established; there were still errors in leave being properly documented in the Leave Accounting System.

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

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. *(Ibid.)* Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. *(Ibid.)* Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. *(Ibid.)* All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. *(Ibid.)*

IN COMPLIANCE	FINDING NO. 17 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the Authority’s policy was disseminated to all staff and emphasized its commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the Authority’s nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers’ Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers’ compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall

include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee’s “personal physician,” as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

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

In this case, the Authority did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 18 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the Authority provides notice to their employees to inform them of their rights and responsibilities under California’s Workers’ Compensation Law. Furthermore, the CRU verified that when the Authority received workers’ compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must “prepare performance reports.” Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

The CRU selected 35 permanent Authority employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 19 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The Authority did not provide annual performance appraisals to 9 of 35 employees reviewed after the completion of the employee’s probationary period. This is the second consecutive time this has been a finding for the Authority.

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

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

Cause: The Authority states that their Human Resources Section diligently tracks, informs, and reminds impacted managers of the performance appraisal requirement. However, despite these measures, the Authority acknowledges that not all managers complied with this requirement.

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

DEPARTMENTAL RESPONSE

The Authority’s response is attached as Attachment 1.

SPB REPLY

Based upon the Authority's written response, the Authority will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified, must be submitted to the CRU.

February 18, 2022

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

Dear Ms. Ambrose:

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

Finding No. 4 – Unions Were Not Notified of Personal Services Contracts

Cause – Due to a different interpretation of the current regulations related to noticing requirements for contracts, as distinguished from contract amendments, as well as human error, notice was not sent consistently to the unions. This has since been addressed with the adoption of SPB's interpretation of the applicable legal authority training and oversight as appropriate.

Finding No. 5 – Ethics Training Was Not Provided for All Filers

Cause – The Authority's Human Resources Section diligently tracks, informs, and reminds impacted employees of the ethics training requirement. However, despite these measures that are in place, not all employees complied with this requirement. We will be emphasizing the importance of complying with this requirement and escalating non-compliant situations to executive staff.

Finding No. 6 – Sexual Harassment Prevention Training Was Not Provided for All Employees

Cause – The Authority's Human Resources Section diligently tracks, informs, and reminds impacted employees of the sexual harassment prevention training requirement. However, despite these measures that are in place, not all employees complied with this requirement.

Additionally, some training course tracking errors occurred due to human error. This has since been addressed with staff corrections, training and oversight as appropriate. We

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will be emphasizing the importance of complying with this requirement and escalating non-compliant situations to executive staff.

Finding No. 8 – Alternate Range Movements Did Not Comply with Civil Services Laws, Rules, and CalHR Policies and Guidelines

Cause – In one instance, an alternate range error was due to a combination of staff inexperience and human error. This error has since been corrected and has been addressed with training and oversight as appropriate.

Finding No. 12 – Incorrect Authorization of Out-Of-Class Pay

Cause – Two out of class pay calculations were incorrectly calculated due to a miscalculation of the 2020 Personal Leave Program (PLP) reduction. This can be contributed to both inexperience, human error and increased complexity in the calculation due to the PLP program reductions. The two errors have since been corrected and addressed with training and oversight as appropriate.

Finding No. 14 – Administrative Time Off Was Not Properly Documented

Cause – In one instance where ATO exceeded 30 days, the department's intent was not to approve 31 days of ATO, but due to a keying error this accidentally was keyed beyond the 30 days of ATO approved. This has since been corrected and addressed with training, and oversight as appropriate.

In one instance where ATO was not keyed, the increase of ATO usage due to the variety of ATO leaves available during the COVID-19 pandemic, caused an increased workload for ATO tracking. Due to human error, the usage was not processed timely. This has since been addressed with training and oversight as appropriate.

Finding No. 15 – Incorrectly Posted Leave Usage and/or Leave Credit

Cause – Due to staff shortages, high workload volumes and staff inexperience, correction to the leave was inadvertently overlooked. These errors have since been corrected. Internal leave auditing practices and oversight have been revised to ensure these steps occur timely and regularly, regardless of other deadlines.

Finding No. 16 – Department has not Implemented an Monthly Internal Audit Process to Verify All leave Input is Keyed Accurately and Timely

Cause – Due to a misinterpretation of the documentation process, leave audits were being conducted, however the proper CalHR forms were not being used to document the process. Internal leave auditing practices and oversight have been revised to ensure these steps occur in the future.

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Finding No. 19 – Performance Appraisals Were Not Provided to All Employees

Cause – The Authority’s Human Resources Section diligently tracks, informs, and reminds impacted managers of the performance appraisals requirement. However, despite these measures that are in place, not all managers complied with this requirement. We will be emphasizing the importance of complying with this requirement and escalating non-compliant situations to executive staff.

Please note that responses were not required for findings 1, 2, 3, 7, 9, 10, 11, 13, 17, and 18, since the Authority was determined to be in compliance.

If you have any questions, please feel free to contact me at Jeannie.Jones@hsr.ca.gov or (916) 669-6628.

Sincerely,

Jeannie Jones

Jeannie Jones
Chief Administrative Officer