



COMPLIANCE REVIEW REPORT

DEPARTMENT OF WATER RESOURCES

Compliance Review Unit
State Personnel Board
August 1, 2023

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INTRODUCTION

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

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Department of Water Resources (DWR) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ¹
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ Repeat finding. October 25, 2019, the DWR compliance review report identified 4 out of 40 new filers were not provided ethics training within 6 months of appointment.

Area	Severity	Finding
Compensation and Pay	In Compliance	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

BACKGROUND

The Department of Water Resources (DWR), established in 1956 by the California State Legislature, protects, conserves, develops, and manages much of California's water supply. This includes the State Water Project (SWP), the nation's largest state-built water conveyance program.

The SWP supplies water to an almost 27 million Californians and 750,000 acres of farmland. It spans more than 700 miles from Northern California to Southern California and includes 36 storage facilities, 21 pumping plants, 26 dams, 5 hydroelectric power plants, 4 pumping-generating plants, and approximately 700 miles of canals, tunnels, and pipelines. In addition to supplying high-quality water for California's cities, industries, and farms, the SWP also provides flood control, hydroelectric power generation, recreational opportunities, and ecosystem enhancements to protect fish and wildlife habitat.

Major responsibilities of the DWR include: overseeing the statewide process of developing and updating the California Water Plan; planning, designing, constructing, and maintaining the SWP; protecting and restoring the Sacramento-San Joaquin Delta; regulating dams, providing flood protection, and assisting in emergency management; working to preserve the natural environment and wildlife; educating the public about the importance of water, water conservation, and water safety; providing grants and technical assistance to service local water needs; and collecting, analyzing, and reporting data in support of the mission to manage and protect California's water resources.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DWR's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if the DWR'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 DWR'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 DWR provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the DWR's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

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

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

² Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

CRU examined the documentation that the DWR 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 DWR did not issue or authorize any red circle rate requests or arduous pay.

The review of the DWR'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 DWR's PSC's were also reviewed.³ It was beyond the scope of the compliance review to make conclusions as to whether the DWR's justifications for the contracts were legally sufficient. The review was limited to whether the DWR's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DWR'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 DWR'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 DWR's units to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the DWR'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 DWR employees who used Administrative Time Off (ATO) to ensure that ATO was appropriately administered. Further, the CRU reviewed a

³If 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.

selection of DWR 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 DWR's policies and processes concerning nepotism, workers' compensation, performance appraisals. The review was limited to whether the DWR's policies and processes adhered to procedural requirements.

The DWR declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DWR's written response on July 28, 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, March 1, 2021, through August 31, 2021, the DWR conducted 13 examinations. The CRU reviewed 13 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) B, Deputy Director, Security and Emergency Management Program	CEA	Statement of Qualifications (SOQ) ⁴	3/11/2021	12
CEA B, Deputy Director, Sustainable Groundwater Management	CEA	SOQ	2/5/2021	12
Chief of Utility Operations, Water Resources	Departmental Promotional	Training and Experience (T&E) ⁵	4/23/2021	4
Construction Supervisor I, Water Resources	Open	T&E	5/28/2021	3
Construction Supervisor III, Water Resources	Open	T&E	7/21/2021	3
Guide I, Historical Monument (Specialist)	Open	T&E	2/10/2021	10
Guide II, Historical Monument (Specialist)	Open	T&E	2/10/2021	6
Program Manager I	Open	T&E	4/14/2021	19
Program Manager II	Open	T&E	6/15/2021	19
Supervising Right of Way Agent	Open	T&E	6/14/2021	2
Utility Craftworker, Water Resources	Open Non-Promotional	Written ⁶	1/31/2021	43
Hydroelectric Plant Electrician II	Open Non-Promotional	Qualification Appraisal Panel (QAP) ⁷	3/26/2021	26

⁴ 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.

⁵ 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.

⁶ 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.

⁷ The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Hydroelectric Plant Technician Supervisor	Open Non-Promotional	QAP	3/8/2021	17

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed 1 departmental promotional and 12 open examinations which the DWR administered in order to create eligible lists from which to make appointments. The DWR published and distributed examination bulletins containing the required information for all examinations. Applications received by the DWR 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 DWR conducted during the compliance review period.

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority 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, March 1, 2021, through August 31, 2021, the DWR conducted five permanent withhold actions. The CRU reviewed five of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Associate Management Auditor	0PBCE	6/6/2021	6/6/2022	Failed to Meet Minimum Qualifications (MQs)
Senior Engineer Water Resources	8PB64	4/29/2021	4/29/2022	Failed to Meet MQs
Senior Engineer Water Resources	8PB64	1/29/2019	1/29/2020	Failed to Meet MQs
Senior Environmental Scientist (Specialist)	0PB DJ	3/1/2021	3/1/2022	Failed to Meet MQs
Senior Hydroelectric Plant Utility Engineer (Supervisor)	9BP45	6/2/2021	6/2/2022	Failed to Meet MQs

IN COMPLIANCE	FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive, 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.)

In instances where there is an urgent need for workers, appointing authorities may appointment individuals in an emergency capacity. Emergency appointments are appointments that are short in duration, i.e., no more than 60 days within a consecutive 12-month period (Gov. Code, § 19888.1; Cal. Code Regs., § 303); do not require appointments to be from an employment list (Gov. Code, § 19888.1); and do not require the incumbent to meet the minimum qualifications.

During the period under review, December 1, 2020, through May 31, 2021, the DWR made 339 appointments. The CRU reviewed 60 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
Administrative Officer II, Resources Agency	Certification List	Limited Term	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Associate Hydroelectric Power Utility Engineer	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Business Services Officer I (Specialist)	Certification List	Limited Term	Full Time	1
Chief of Utility Operations, Water Resources	Certification List	Permanent	Full Time	1
Electrical Engineer	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Engineer, Water Resources	Certification List	Permanent	Full Time	2
Environmental Program Manager II	Certification List	Permanent	Full Time	1
Environmental Scientist	Certification List	Permanent	Intermittent	1
Hydroelectric Plant Electrical Supervisor	Certification List	Permanent	Full Time	2
Hydroelectric Plant Electrician II	Certification List	Permanent	Full Time	1
Hydroelectric Plant Mechanic I	Certification List	Permanent	Full Time	1
Hydroelectric Plant Operator Apprentice	Certification List	Permanent	Full Time	2
Hydroelectric Plant Technician I	Certification List	Permanent	Full Time	1
Information Technology Manager I	Certification List	Permanent	Full Time	1
Legal Analyst	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Senior Engineer, Water Resources	Certification List	Permanent	Full Time	2
Senior Hydroelectric Power Utility Engineer (Supervisor)	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Manager II (Managerial)	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	1
Chief Field Division, Department of Water Resources	Emergency	Emergency	Full Time	1
Information Technology Manager I	Emergency	Emergency	Full Time	1
Senior Telecommunications Engineer	Emergency	Emergency	Full Time	1
Principal Hydroelectric Power Utility Engineer	Emergency	Emergency	Full Time	1
Staff Services Manager I	Emergency	Emergency	Full Time	1
Supervising Engineer, Water Resources	Emergency	Emergency	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Office Technician Typing	Permissive Reinstatement	Permanent	Intermittent	1
Student Assistant	Temporary Authorization Utilization (TAU)	Temporary	Intermittent	2
Student Assistant, Engineering & Architectural Sciences	TAU	Temporary	Intermittent	2
Utility Craftsworker, Water Resources	Training and Development (T&D)	Permanent	Full Time	1
Accounting Administrator II	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	3
Attorney III	Transfer	Permanent	Full Time	1
Engineer, Water Resources	Transfer	Permanent	Full Time	3
Hydroelectric Plant Mechanic Apprentice	Transfer	Permanent	Full Time	1
Senior Engineer, Water Resources	Transfer	Permanent	Full Time	2
Supervising Engineer, Water Resources	Transfer	Permanent	Full Time	1
Utility Craftsworker, Water Resources	Transfer	Permanent	Full Time	3

IN COMPLIANCE	FINDING NO. 3 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The DWR 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 33 list appointments reviewed, the DWR 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 15 DWR 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 DWR verified the eligibility of each candidate to their appointed class.

Eligibility for T&D assignments are limited to employees who (1) have permanent status in their present class, or (2) who have probationary status and who previously have had permanent status and who, since such permanent status, have had no break in service due to a permanent separation. (Cal. Code Regs., tit. 2, § 438, subd. (a).) The CRU reviewed one T&D assignment and determined it to be in compliance with applicable civil service laws and Board rules.

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

Equal Employment Opportunity

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

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

IN COMPLIANCE	FINDING NO. 4 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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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 DWR’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 DWR. The DWR 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, March 1, 2021, through August 31, 2021, the DWR had 80 PSC’s that were in effect. The CRU reviewed 26 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified	Union Notification
Acoustical Corporation aka Bio-Acoustical	Audiometric, Pulmonary Function and Respiratory Fit Testing services	04/01/2021 03/31/2024	\$240,000	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified	Union Notification
Advanced Pumping Service, Inc.	Septic Tank Removal Services	08/15/2021 08/14/2022	\$9,999	Yes	Yes
Bishop Pack Outfitters	Horse/Mule Pack Guide Services	09/13/2021 09/12/2024	\$29,180	Yes	No
Commercial Door Company, Inc.	Roll Up and Sliding Door Services	08/01/2021 07/31/2024	\$600,000	Yes	No
DRS Marine, Inc.	Under Water Diving Services	03/31/2021 03/30/2023	\$5,000,000	Yes	No
Dudek	Workshops and Outreach	05/15/2021 07/14/2022	\$2,500,000	Yes	Yes
Eaton Interpreting Services, Inc.	Translation Services	09/15/2021 09/14/2024	\$30,000	Yes	Yes
Elevator Technology Inc.	Elevator Maintenance Services	07/01/2021 06/30/2026	\$113,000	Yes	Yes
FC Safety aka Mithril Enterprises	Medical Services- Training on AED Machines	07/01/2021 06/30/2024	\$400,000	Yes	No
Flagship Marketing	Median Buying Services	04/20/2021 06/30/2021	\$285,000	Yes	Yes
GHD Inc.	GSP Post Performance Monitoring	03/23/2021 04/30/2022	\$1,500,000	Yes	Yes
Industrial Waste Utilization, Inc.	Hazardous and Universal Waste Removal Services	06/01/2021 05/31/2023	\$250,000	Yes	Yes
Jerry's Carpet Care	Janitorial Services	05/01/2021 04/30/2024	\$149,999	Yes	Yes
JLK Commercial Cleaning	Janitorial Services	06/01/2021 06/30/2023	\$950,000	Yes	Yes
Lead With Intention	Training Services for Mentorship Program	05/03/2021 05/02/2022	\$49,999	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified	Union Notification
Media3Sixty, LLC	Advertising Services-Advanced Proprietary Imaging Software Training	08/23/2021 08/22/2024	\$149,000	Yes	No
Mary's Cleaning Services	Janitorial Services	08/10/2021 08/09/2022	\$77,231	Yes	Yes
Montague DeRose & Associates	Revenue Bond Financial Services	08/30/2021 08/29/2024	\$4,645,200	Yes	Yes
Patriot Environmental Services, Inc.	Industrial Hygienist	03/19/2021 03/18/2024	\$10,000,000	Yes	Yes
Ramboll US Consulting, Inc.	Airborne Electromagnetic Surveys and Related Services for Groundwater Basins.	04/12/2021 04/11/2024	\$20,000,000	Yes	Yes
Suez WTS Analytical Instruments, Inc.	Preventative Maintenance Services	06/01/2021 05/30/2023	\$66,928	Yes	No
UniFirst Corporation	Laboratory Coats and Laundry Services	03/01/2021 06/30/2024	\$32,000	Yes	Yes
Vine Advisors, LLP	Water and Power Utility Enterprise Risk Management Services	04/12/2021 04/11/2026	\$6,000,000	Yes	No
Weck Laboratories, Inc.	Laboratory Analysis Services	08/01/2021 07/31/2024	\$1,500,000	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified	Union Notification
Western Pump, Inc.	Maintenance, Repair and Testing Services for DWR Fuel Stations	06/10/2021 06/09/2024	\$149,000	Yes	No

IN COMPLIANCE	FINDING NO. 5 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC’s reviewed was \$54,726,536. It was beyond the scope of the review to make conclusions as to whether DWR’s justifications for the contract were legally sufficient. For all PSC’s reviewed, the DWR 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, DWR complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the DWR 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.)

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 DWR’s mandated training program that was in effect during the compliance review period, September 1, 2019, through August 31, 2021. The DWR’s ethics training was found to be out of compliance, while the DWR’s sexual harassment prevention training was found to be in compliance.

SEVERITY: VERY SERIOUS	FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The DWR did not provide ethics training to 6 of 154 new filers within 6 months of their appointment. This is the second consecutive time the department has had this finding.

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 DWR states the ethics training process can be confusing for staff to complete as it has multiple aspects, certificates, and utilizes two training systems. The DWR agrees that 6 of 154 new filers did not complete the required ethics training within 6 months of their appointment and acknowledges that this is the second time DWR has had this finding.

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

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, December 1, 2020, through May 31, 2021, the DWR made 339 appointments. The CRU reviewed 29 of those appointments to determine if the DWR 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	\$3,125
Accounting Officer Specialist	Certification List	Permanent	Full-Time	\$4,496
Associate Accounting Analyst	Certification List	Permanent	Full-Time	\$5,406
Associate Governmental Program Analyst	Certification List	Permanent	Full-Time	\$4,956
Associate Governmental Program Analyst	Certification List	Permanent	Full-Time	\$5,149
Attorney	Certification List	Permanent	Full-Time	\$6,946
Business Service Officer I (Specialist)	Certification List	Limited Term	Full-Time	\$4,281
Electrical Engineer	Certification List	Permanent	Full-Time	\$6,344
Engineer, Water Resources	Certification List	Permanent	Full-Time	\$5,540

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)
Engineer, Water Resources	Certification List	Permanent	Full-Time	\$7,337
Environmental Scientist	Certification List	Permanent	Intermittent	\$3,851
Hydroelectric Plant Operator Apprentice	Certification List	Permanent	Full-Time	\$4,040
Hydroelectric Plant Electrician II	Certification List	Permanent	Full-Time	\$9,561
Hydroelectric Plant Technician I	Certification List	Permanent	Full-Time	\$5,931
Hydroelectric Plant Mechanic I	Certification List	Permanent	Full-Time	\$7,345
Information Technology Manager I	Certification List	Permanent	Full-Time	\$10,362
Legal Analyst	Certification List	Permanent	Full-Time	\$4,496
Office Technician (Typing)	Certification List	Permanent	Full-Time	\$3,144
Senior Engineer, Water Resources	Certification List	Permanent	Full-Time	\$12,223
Senior Engineer, Water Resources	Certification List	Permanent	Full-Time	\$9,766
Staff Services Analyst, General	Certification List	Permanent	Full-Time	\$4,281
Staff Services Manager II, (Managerial)	Certification List	Permanent	Full-Time	\$7,988
Staff Services Manager III	Certification List	Permanent	Full-Time	\$8,875
Office Technician (Typing)	Reinstatement	Permanent	Full-Time	\$3,935
Student Assistant-Engineering and Architectural Sciences	TAU	Temporary	Intermittent	\$3,125
Student Assistant-Engineering and Architectural Sciences	TAU	Temporary	Intermittent	\$3,125
Engineer, Water Resources	Transfer	Permanent	Full-Time	\$8,700

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Supervising Engineer, Water Resources	Transfer	Permanent	Full-Time	\$12,834
Utility Craftsworker, Apprentice, Water Resources	Transfer	Permanent	Full-Time	\$3,938

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 DWR appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, December 1, 2020, through May 31, 2021, the DWR employees made 42 alternate range movements within a classification. The CRU reviewed 15 of those alternate range movements to determine if the DWR 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)
Engineering Geologist	B	C	Full Time	\$7086.41
Engineer, Water Resources	B	C	Full Time	\$7564.77

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Engineer, Water Resources	B	C	Full Time	\$7337.00
Environmental Scientist	B	C	Full Time	\$5923.00
Hydroelectric Plant Apprentice	B	C	Full Time	\$4407.00
Hydroelectric Plant Apprentice	D	E	Full Time	\$4667.39
Hydroelectric Plant Electrician Apprentice	F	G	Full Time	\$5333.45
Hydroelectric Plant Electrician Apprentice	D	E	Full Time	\$4667.39
Hydroelectric Plant Mechanic Apprentice	B	C	Full Time	\$4000.23
Hydroelectric Plant Mechanic Apprentice	F	G	Full Time	\$5876.00
Mechanical Engineer	B	C	Full Time	\$6666.15
Personnel Specialist	B	C	Full Time	\$3953.03
Staff Services Analyst (General)	A	B	Full Time	\$3571.00
Student Assistant-Engineering and Architectural Sciences	B	D	Full Time	\$3125.00
Utility Craftworker Apprentice, Water Resources	B	C	Full Time	\$3849.56

IN COMPLIANCE	FINDING NO. 8 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU determined that the alternate range movements the DWR made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources

Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section 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

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.

comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (*Ibid.*)

During the period under review, December 1, 2020, through May 31, 2021, the DWR authorized three HAM requests. The CRU reviewed each of those authorized HAM requests to determine if the DWR correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Attorney	Certification List	New to State Service	\$9463-\$12,140	\$12,000
Construction Supervisor I, Water Resources	Certification List	New to State Service	\$5804-\$7266	\$7,266
Engineer, Water Resources	Certification List	New to State Service	\$8293-\$10,377	\$9,695

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 DWR 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, December 1, 2020, through May 31, 2021, the DWR issued bilingual pay to four employees. The CRU reviewed four of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Time Base
Attorney III	R01	Full Time
Information Officer II	S01	Full Time
Senior Hydroelectric Power Utility Engineer (Specialist)	R09	Full Time
Senior Right of Way Agent	S01	Full Time

SEVERITY: VERY SERIOUS	FINDING NO. 10 INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRU found two errors in the DWR's authorization of bilingual pay:

Classification	Description of Finding(s)	Criteria
Senior Right of Way Agent	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Information Officer II		

Criteria: For any state agency, a "qualified" bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296, subd. (a)(3).) an individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

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

Cause: The DWR states, although these two employees were appropriately authorized to receive bilingual pay, it did not retain current documentation for these long-time DWR employees who have continuously provided bilingual services for DWR.

Corrective Action: The DWR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DWR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 7296, and/or Pay Differential 14.

Pay Differentials

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

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

During the period under review, December 1, 2020, through May 31, 2021, the DWR authorized 19 pay differentials.¹⁰ The CRU reviewed all of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	# of Employees	Pay Differential	Monthly Amount
Electrical Engineer	3	261	\$300.00
Senior Engineer Water Resources	1	433	3% of base pay
Water Resources Engineering Associate (Specialist)	1	189	5% of base pay
Water Resources Technician II	10	272	\$424.00
Water Resources Technician II	4	216	5% base pay

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 DWR 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).)

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-

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

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.

term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

During the period under review, December 1, 2020, through May 31, 2021, the DWR issued OOC pay to 15 employees. The CRU reviewed all 15 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	11/2/2020 12/24/2020
Associate Governmental Program Analyst	R01	Administrative Officer II	04/14/2021 - 5/17/2021
Chief Hydroelectric Plant Operator	S12	Hydroelectric Plant Superintendent	3/16/2021- 5/14/2021
Environmental Program Manager I (Supervisory)	S10	Environmental Program Manager II (Specialist)	9/24/2020- 1/21/2021
Environmental Scientist	R10	Environmental Program Manager I (Supervisory)	2/1/2021 – 3/1/2021
Hydroelectric Plant Electrician I	R12	Hydroelectric Plant Electrician II	2/1/2021- 4/30/2021
Hydroelectric Plant Electrician I	R12	Hydroelectric Plant Electrician II	2/1/2021- 7/31/2021
Hydroelectric Plant Electrician II	R12	Hydroelectric Plant Electrical Supervisor	7/6/2020- 7/5/2022
Hydroelectric Plant Mechanic I	R12	Hydroelectric Plant Mechanic II	3/2/2021- 8/31/2021
Hydroelectric Plant Mechanic I	R12	Hydroelectric Plant Mechanic II	3/1/2021 - 8/18/2021
Hydroelectric Plant Mechanic I	R12	Hydroelectric Plant Mechanic II	4/1/2021 – 1/4/2022
Hydroelectric Plant Mechanic II	R12	Hydroelectric Plant Mechanical Supervisor	8/19/2019 - 8/01/2020
Senior Environmental Scientist (Supervisory)	S10	Environmental Program Manager I (Specialist)	11/16/2020 – 2/21/2021
Hydroelectric Plant Technician II	R12	Hydroelectric Plant Technician III	3/10/2021- 9/9/2021

Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Safety Engineering Technician	R11	Associate Safety Engineer	9/8/2020-12/09/2020

IN COMPLIANCE	FINDING NO. 12	OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the OOC pay assignments that the DWR authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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.

At the time of the review, the DWR had 114 positive paid employees whose hours were tracked. The CRU reviewed 40 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
Attorney IV	Retired Annuitant	7/1/2020-6/30/2021	544 hours
Chief Of Utility Operations, Water Resources	Retired Annuitant	7/1/2020-6/30/2021	830 hours
Environmental Program Manager I (Supervisor)	Retired Annuitant	3/10/2020-6/30/2021	238.5 hours
Environmental Program Manager I (Supervisor)	Retired Annuitant	3/7/2020-6/30/2021	951 hours
Principal Engineer, Water Resources	Retired Annuitant	7/1/2020-6/30/2021	960 hours
Principal HEP Utility Engineer	Retired Annuitant	7/1/2020-6/30/2021	960 hours
Senior Environmental Scientist (Specialist)	Retired Annuitant	11/16/2020-6/30/2021	634 hours
Senior Environmental Scientist (Specialist)	Retired Annuitant	7/1/2020-6/30/2021	808.5 hours

Classification	Tenure	Time Frame	Time Worked
Supervising Architect	Retired Annuitant	7/1/2020-6/30/2021	100.5 hours
Fish & Wildlife Scientific Aid	Temporary	05/11/20 - 05/10/21	182 hours
Fish & Wildlife Scientific Aid	Temporary	03/02/20 - 03/01/21	157 hours
Fish & Wildlife Scientific Aid	Temporary	10/19/20 - 10/18/21	178 hours
Fish & Wildlife Scientific Aid	Temporary	05/17/21 - 05/16/22	66 hours
Lead Snow Gauger	Temporary	03/02/20 - 03/01/21	2 hours
Senior Environmental Scientist (Specialist)	Temporary	9/1/2021-9/30/2021	134 hours
Snow Gauger	Temporary	01/23/20 - 01/22/21	46 hours
Snow Gauger	Temporary	08/01/20 - 07/31/21	19 hours
Snow Gauger	Temporary	01/23/20 - 01/22/21	66 hours
Snow Gauger	Temporary	01/10/20 - 01/09/21	14 hours
Snow Gauger	Temporary	01/10/20 - 01/09/21	12 hours
Student Assistant	Temporary	8/29/2020-08/28/2021	1482.25 hours
Youth Aid	Temporary	6/9/2021-12/31/2021	484 hours
Youth Aid	Temporary	6/7/2021-12/31/2021	439 hours
Youth Aid	Temporary	6/17/2021-12/31/2021	290 hours
Office Assistant (General)	Permanent	1/1/2021-12/31/2021	926.25 hours
Office Assistant (Typing)	Permanent	1/1/2021-12/31/2021	945 hours
Office Technician (Typing)	Permanent	1/1/2021-12/31/2021	1119 hours
Staff Services Analyst (General)	Permanent	1/1/2021-12/31/2021	963.25 hours
Student Assistant	TAU	02/18/20 - 02/17/21	844 hours
Student Assistant	TAU	02/24/20 - 02/23/21	1031 hours
Senior Engineer, Water Resources	Retired Annuitant	7/1/2020-6/30/2021	888 hours
Senior Engineer, Water Resources	Retired Annuitant	7/1/2020-6/30/2021	958 hours
Senior Engineer, Water Resources	Retired Annuitant	7/1/2020-6/30/2021	449 hours
Senior Engineer, Water Resources	Retired Annuitant	7/1/2020-6/30/2021	197.5 hours
Associate Corrosion Engineer	Retired Annuitant	7/1/2020-6/30/2021	35.5 hours
Mechanical Engineer	Permanent	07/05/20 - 07/04/21	410 hours
Hydroelectric Plant Technician III	Retired Annuitant	7/1/2020-6/30/2021	635.5 hours
Information Technology Specialist II	Retired Annuitant	7/1/2020-6/30/2021	98 hours
Student Assistant	TAU	06/02/21 - 06/01/22	255.5 hours

Classification	Tenure	Time Frame	Time Worked
Student Assistant	TAU	8/5/2020-8/4/2021	622.5 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 DWR 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, June 1, 2020, through May 31, 2021, the DWR authorized 720 ATO transactions. The CRU reviewed 25 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Government Program Analyst	1/27/21 - 1/27/21	7 hours
Associate Government Program Analyst	7/17/20 - 7/30/20	74 hours
Associate Government Program Analyst	4/1/21 - 4/22/21	4 hours
Bookbinder II	6/1/20 - 6/2/20	16 hours
Business Services Assistant (Specialist)	6/25/20 - 6/25/20	2.25 hours
Digital Composition Specialist II	8/17/20 - 8/18/20	1 hours
Environmental Program Manager I (Supervisor)	8/19/20 - 8/21/20	24 hours
Hydroelectric Plant Electrician I	9/9/20 - 9/11/20	24 hours
Hydroelectric Plant Electrician, Supervisor	9/9/20 - 9/24/20	96 hours
Materials & Stores Specialist	6/1/20 - 6/2/20	16 hours
Materials & Stores Specialist	8/17/20 - 8/19/20	3 hours
Office Assistant (Typing)	6/2/20 - 6/2/20	3 hours

Classification	Time Frame	Amount of Time on ATO
Office Assistant (Typing)	8/18/2020 - 8/18/20	1.5 hours
Office Assistant (Typing)	3/18/21 - 4/14/21	7 hours
Office Technician (Typing)	3/17/21 - 3/24/21	41.5 hours
Program Manager II	10/20/20 - 12/31/20	392 hours
Program Manager II	1/4/21 - 1/15/21	80 hours
Senior Engineering, Geologist	5/13/21 - 5/21/21	56 hours
Staff Environmental Scientist	11/2/20 - 11/3/20	16 hours
Staff Environmental Scientist	4/15/21 - 4/15/21	2 hours
Staff Services Analyst (General)	5/25/21 - 5/28/21	32 hours
Utility Craftsworker, Water Resources	5/18/21 - 5/18/21	6 hours
Utility Craftsworker, Water Resources	6/12/20 - 9/9/20	502 hours
Utility Craftsworker, Water Resources	5/19/21 - 5/19/21	6 hours
Youth Aid	6/2/20 - 6/2/20	8 hours

IN COMPLIANCE	FINDING NO. 14 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The DWR 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, March 1, 2021, through May 31, 2021, the DWR reported 9 units comprised of 3396 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2021	840-100	81	81	0
May 2021	840-100	81	79	0
April 2021	840-105	16	15	0
May 2021	840-105	16	15	0
April 2021	840-110	37	37	0
May 2021	840-110	36	36	0

IN COMPLIANCE	FINDING NO. 15 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records from six different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The DWR kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

State Service

The state recognizes two different types of absences while an employee is on pay status: paid or unpaid. The unpaid absences can affect whether a pay period is considered to be 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.¹⁴ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who

¹⁴ 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.

work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁵ 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, December 1, 2020, through May 31, 2021, the DWR had four employees with qualifying and non-qualifying pay period transactions. The CRU reviewed seven transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Qualifying Pay Period	Full Time	5
Non-Qualifying Pay Period	Full Time	2

¹⁵ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

IN COMPLIANCE	FINDING NO. 16 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU determined that the DWR ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

Policy and Processes

Nepotism

It is the policy of the State of California to 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 policy was disseminated to all staff and emphasized the DWR’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the DWR’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 DWR 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 DWR 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 DWR 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 95 permanent DWR employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

IN COMPLIANCE	FINDING NO. 19 PERFORMANCE APPRAISAL POLICY AND PROCESSES COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the 95 performance appraisals selected for review. Accordingly, the DWR’s performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

DEPARTMENTAL RESPONSE

The DWR’s response is attached as Attachment 1.

SPB REPLY

Based upon the DWR’s written response, the DWR 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.

Memorandum

Date: July 28, 2023

To: Diana Campbell, Compliance Manager
Policy & Compliance Review Division
State Personnel Board
801 Capitol Mall
Sacramento, California 95814

From: Department of Water Resources

Subject: DWR Compliance Review Report Response

The State Personnel Board's Compliance Review Unit conducted a routine compliance review of the Department of Water Resources (DWR) personnel practices in the areas of examinations, appointments, equal employment opportunity, personnel services contracts, mandated training, compensation and pay, leave, and policy and processes. DWR has reviewed the draft compliance report and have provided the following responses to the compliance review findings.

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

Cause: DWR agrees that 6 of 154 new filers did not complete the required ethics training within 6 months of their appointment and acknowledges that this is the second time DWR has had this finding. DWR continuously reviews its current processes to find better ways to track compliance. The Ethics Training process can be confusing for staff to complete as it has multiple aspects, certificates, and utilizes two training systems – Department of Justice Training and DWR's learning management system (LMS). We have found that the automated emails from the LMS are difficult to understand. DWR has begun the process to improve Ethics training by digitizing the process through DocuSign. By using DocuSign, we can create an automated process with all required forms and signatures and can reduce confusion and the use of multiple systems. Filers will no longer log into the LMS to review training instructions, download, and sign multiple forms, and then submit the application forms through another system, which is manually entered and uploaded by a DHR staff. New filers will receive a monthly notification to complete their training through DocuSign. DHR will also set up a recurring reminder to complete the training before the 6-month deadline.

DWR acknowledges the importance of staff completing Ethics training within 6 months of their appointment and understands the severity of the finding.

State Personnel Board

July 28, 2023

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Finding No. 10 – Incorrect Authorization of Bilingual Pay

Cause: Although these 2 employees were appropriately authorized to receive bilingual pay, DWR acknowledges that for the 2 positions identified we did not retain current documentation for these long-time DWR employees that have continuously provided bilingual services for DWR. DHR is developing a procedure to provide direction for DHR and program staff on the retention and maintenance of bilingual pay documentation.

Thank you for the opportunity to respond to the draft Compliance Review Report. If you have any questions or would like to discuss further, please contact me at (916) 820-7555 or Jennifer.Dong@water.ca.gov.

Jennifer Dong Kawate

Jennifer Dong Kawate, Personnel Officer
Division of Human Resources