

STATE OF CALIFORNIA  
**Budget Change Proposal - Cover Sheet**  
 DF-46 (REV 08/15)

Fiscal Year 2016-17	Business Unit 7501	Department HUMAN RESOURCES	Priority No. 6
Budget Request Name 7501-004-BCP-BR-2016-GB		Program 6205	Subprogram

Budget Request Description  
 Review of the Merit System Services Program

Budget Request Summary

This proposal requests one-year limited-term funding of \$115,000 in reimbursement authority in fiscal year 2016-17 to develop a strategy to transfer back state duties performed by Cooperative Personnel Services (CPS), the contractor that currently administers the Merit System Services (MSS) program on behalf of CalHR.

Requires Legislation <input type="checkbox"/> Yes <input type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance. <input type="checkbox"/> FSR <input type="checkbox"/> SPR Project No. Date:		

If proposal affects another department, does other department concur with proposal?  Yes  No  
 Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Nancy Craig	Date 12/29/2015	Reviewed By Joan Markoff <i>J-a. LLL</i>	Date 12/29/15
Department Director Richard Gillihan <i>[Signature]</i>	Date 12/29/15	Agency Secretary Marybel Batjer <i>[Signature]</i>	Date 12/31/15

**Department of Finance Use Only**

Additional Review:  Capital Outlay  ITCU  FSCU  OSAE  CALSTARS  Dept. of Technology

BCP Type:  Policy  Workload Budget per Government Code 13308.05

PPBA *[Signature]* Date submitted to the Legislature  
 1/7/16

## BCP Fiscal Detail Sheet

BCP Title: Review of the Merit System Services Program

DP Name: 7501-004-BCP-DP-2016-GB

### Budget Request Summary

	CY	BY	FY16			
			BY+1	BY+2	BY+3	BY+4
Salaries and Wages						
Earnings - Temporary Help	0	71	0	0	0	0
<b>Total Salaries and Wages</b>	<b>\$0</b>	<b>\$71</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Total Staff Benefits	0	35	0	0	0	0
<b>Total Personal Services</b>	<b>\$0</b>	<b>\$106</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Operating Expenses and Equipment						
5301 - General Expense	0	2	0	0	0	0
5304 - Communications	0	1	0	0	0	0
5320 - Travel: In-State	0	3	0	0	0	0
5346 - Information Technology	0	3	0	0	0	0
<b>Total Operating Expenses and Equipment</b>	<b>\$0</b>	<b>\$9</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total Budget Request</b>	<b>\$0</b>	<b>\$115</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### Fund Summary

Fund Source - State Operations						
0001 - General Fund	0	0	0	0	0	0
0995 - Reimbursements	0	115	0	0	0	0
<b>Total State Operations Expenditures</b>	<b>\$0</b>	<b>\$115</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total All Funds</b>	<b>\$0</b>	<b>\$115</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### Program Summary

Program Funding						
6205 - Local Government Services	0	115	0	0	0	0
<b>Total All Programs</b>	<b>\$0</b>	<b>\$115</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Personal Services Details

Salaries and Wages	CY	BY	BY+1	BY+2	BY+3	BY+4
TH00 - Temporary Help (Eff. 07-01-2016)(LT 06-	0	71	0	0	0	0
<b>Total Salaries and Wages</b>	<b>\$0</b>	<b>\$71</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Staff Benefits</b>						
5150350 - Health Insurance	0	10	0	0	0	0
5150450 - Medicare Taxation	0	1	0	0	0	0
5150500 - OASDI	0	5	0	0	0	0
5150600 - Retirement - General	0	18	0	0	0	0
5150800 - Workers' Compensation	0	1	0	0	0	0
<b>Total Staff Benefits</b>	<b>\$0</b>	<b>\$35</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total Personal Services</b>	<b>\$0</b>	<b>\$106</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## Analysis of Problem

### A. Budget Request Summary

This proposal requests one-year limited-term funding of \$115,000 in reimbursement authority in fiscal year 2016-17 to develop a strategy to transfer back state duties performed by Cooperative Personnel Services (CPS), the contractor that currently administers the Merit System Services (MSS) program on behalf of CalHR.

### B. Background/History

Since 1939, the federal government has required the state to ensure that counties are administering a merit based personnel system for programs receiving federal funds such as Medi-Cal, Child Support Services, and Cal-Fresh. Prior to 1970, predecessors of the current Department of Social Services (DSS) and Department of Health Care Services (DHCS) ensured county compliance with the merit system requirements on a program-by-program basis (i.e. the DSS had oversight over ensuring county welfare departments had merit-based civil service systems for county employees working in these programs). However, in 1970 Government Code section 19800 et seq. was adopted and responsibility for administering all MSS programs was consolidated and transferred to the State Personnel Board (SPB). The SPB thereafter managed this program until 1985 when the entirety of the actual program operation work was contracted out to CPS.

The contract has been "sole sourced" to CPS because they are a joint powers authority. For the current fiscal year, the contract amount is approximately \$2.3 million. The current contract with CPS expires on June 30, 2016.

The Department of General Services (DGS) has questioned this contract for as long as it has been administered by SPB because the nature of the work performed by CPS encompasses functions that are typically performed by civil service employees including personnel selection, appointments, workforce reductions, disciplinary actions, and other personnel related issues. While DGS has continued to approve the contract, increasingly it has done so with reservations based on the contracting-out prohibitions contained in Government Code 19130.

When the program was transferred from SPB to CalHR on January 1, 2014, as part of GRP 1 (2012), the CalHR Legal Division researched the federal legal requirements and discovered that although the federal law changed significantly in the mid-1990's affording increased flexibility to the states, California did not revise the existing regulations to take advantage of the streamlined oversight program permitted by the new federal law. The federal law changes were specifically intended to: "Minimize Federal intervention in State and local personnel administration" and to, "Effect cost savings by eliminating the need for dual personnel systems that the existing standards have led some State and local governments to maintain." The updated federal regulations simply require that states ensure that local personnel operations are consistent with six high-level principles of merit-based personnel management:

1. Recruiting, selecting, and advancing employees on the basis of their ability.
2. Providing equitable and adequate compensation.
3. Training employees as needed.
4. Retaining employees on the basis of adequacy of their performance.
5. Ensuring non-discrimination and fair treatment.
6. Ensuring employees are protected against coercion for partisan political purposes.

In reviewing the existing program, CalHR discovered that the governing regulations resulted in many counties running dual merit systems; MSS employees governed by state rules administered by CPS on behalf of the state, and non-MSS employees governed by a separate set of county rules administered by the county. The existing state rules are outdated, cumbersome, and overly proscriptive. As a result, the CalHR Legal Division immediately began the process of working with the counties to draft revised regulations that will streamline program administration by replacing the cumbersome state regulations

## Analysis of Problem

with the new streamlined regulations which meet federal legal requirements. These regulations are currently moving through the Office of Administrative Law process.

Under the current program, counties can either request to independently run their own merit system pursuant to county ordinances, in which case they are subject to state audit, or they can have the state administer their personnel system for MSS program employees, in which case they are subject to the existing state regulations. For counties electing to have CalHR administer the county personnel system for their MSS program employees, the new regulations place greater emphasis on the employing county practices, even though CalHR will be doing the oversight work. This new regulations will enable all employees within the county to be treated similarly regardless of the funding for their positions.

CalHR anticipates that the revised regulations will encourage additional counties to manage their own merit system program employees independently. Over time, we believe this shift will shrink the state's role in the operation of merit based personnel systems for MSS employees in the counties.

### C. State Level Considerations

To ensure the ongoing receipt of funds for counties to run Social Security Act programs, state law requires CalHR to continue its oversight role; ensuring that the county merit-based systems conform to the updated federal principles. Merit-based personnel systems have become the rule in all 58 counties and changes in the federal law now permit the state to likewise revise state regulations to encourage county autonomy while realizing resource efficiencies for both the state and counties. Finally, CalHR's efforts to update the regulations and resume in-house operation of the MSS Program is consistent with Goal #1 of our Strategic Plan, which requires CalHR to streamline its human resources services by appropriate delegation of responsibilities.

### D. Justification

Increasing scrutiny of the state's use of an outside contractor for a function that is similar to state operations, and could be performed by state employees, makes it imperative that CalHR prepare to assume these duties or be able to explain why the duties are so unique that a contractor can be utilized consistent with the law. Since it is in essence personnel management, the MSS program lends itself to in-house operation by CalHR. Efforts to understand in detail how CPS operates the program have proved ineffective because CPS's approach to the program has been in effect for so long that the rationale for the current operational approach has been lost. In the same way, asking about possible efficiencies such as the use of on-line examinations, requires a thorough analysis and evaluation. By understanding and documenting current operations as well as possible efficiencies, CalHR can ultimately prepare a well-grounded, realistic follow-up proposal to assume all of CPS's current duties. This is the best approach to effectuate the transfer of 30 years of skills, knowledge, and experience gained by CPS and provides a seamless transition for the counties served by CalHR.

CPS directly operates merit-based civil service systems for the MSS program employees in 28 of the 58 California counties and conducts audits of the remaining 30 counties who are approved to operate their own systems. CalHR currently has one half-time position dedicated to administration of the CPS contract. This half-time position is insufficient to analyze core CPS operations and then develop a plan to move the operations to CalHR.

To assess and understand the staffing and approach CPS utilizes to operate the program, CalHR will need a temporary help position to gather information and plan for the assumption of CPS's duties by CalHR. This position will work with the counties and CPS to evaluate the work CPS performs and to develop an implementation plan for assuming these duties. Developing this plan will require CalHR to gain a thorough understanding of CPS's current operations, and to work with counties to develop new, less duplicative, and more efficient practices. For example, on-line examinations for some of the more commonly used classifications may be possible and would substantially reduce the amount of personnel and staff time necessary to create an "eligible list."

## Analysis of Problem

In sum, the resource requested in this proposal will evaluate CPS's current operations and design an implementation plan for CalHR to assume and modernize the duties of CPS. This plan will specify the number and classifications of positions that will be required to effectuate the transfer of duties performed by CPS to CalHR. Bringing the operation of the MSS Program back under CalHR will enable the Administration to realize efficiencies and comply with state law prohibiting contracting out functions that may be performed by state employees.

### E. Outcomes and Accountability

(1) Completion of a study and evaluation of CPS's current operations and design of an implementation plan and schedule for assuming these responsibilities and operating the program in-house as efficiently as possible.

(2) Prepare a proposal for consideration in the 2017-18 Governor's Budget that will bring the MSS program under CalHR's authority and operation.

### F. Analysis of All Feasible Alternatives

#### **Alternative 1: Approve the request.**

Pro: This proposal prepares CalHR to operate the program consistent with federal requirements and with increased efficiency. This proposal is an essential preliminary step in transferring the contractor's current knowledge and experience to CalHR, so that CalHR may assume sole responsibility for operating this program.

Con: If approved, there would be a temporary increase to the state's workforce.

#### **Alternative 2: Hire an outside contractor.**

Pro: This alternative will not increase the state workforce.

Con: Hiring a contractor to assess the workload currently being completed by CPS would be more costly than alternative one. Additionally, current state civil service labor agreements, and Government Code section 19130, require that the state make every effort to hire, utilize, and retain state employees before resorting to the use of outside contractors.

#### **Alternative 3: Do not approve this request.**

Pro: Continuing with the status quo will not grow the state workforce temporarily. The program could continue to operate via CPS as the vendor and CalHR's oversight would continue to consist of a half time position.

Con: Having CPS continue with this work will mean that CalHR potentially contravenes Government Code section 19130 which prohibits the state from contracting out for services that could be performed by civil service employees unless specific conditions exist. If CalHR is unable to explain the current work CPS is conducting on its behalf, CalHR remains vulnerable to a legal challenge for contracting out state work, which could result in disruption of services, and the resulting threat to continued federal funding for the programs.

### G. Implementation Plan

The temporary help position will evaluate how CalHR can assume MSS audit responsibilities going forward. Generally, CPS performs up to four audits per year. Eventually, CalHR will assume responsibility for those four annual audits. The position would obtain data to allow CalHR to determine what new positions would need to be added in order to meet the yearly audit schedule. Additionally, CalHR's will evaluate the work CPS currently performs administering the MSS program in counties that have not been approved to operate their own merit-based civil service system with the intent to design an approach which would enable the state to assume a more cost effective in-house operation of the entire MSS program in the future.

## Analysis of Problem

### H. Supplemental Information

See attached Workload Matrix.

### I. Recommendation

Approve Alternative 1. This proposal will allow CalHR to begin an in depth evaluation so that CalHR can assume the duties performed by CPS, the vendor that currently administers the MSS program on behalf of CalHR. CalHR has been working with the counties and CPS to streamline operations of the MSS program. Now CalHR proposes to study the current operations with the goal of designing and implementing a more efficient operation in-house. This proposal implements the first step in transferring from CPS to CalHR.

DEPARTMENT OF HUMAN RESOURCES  
 2016-2017 BUDGET YEAR  
 BUDGET CHANGE PROPOSAL  
 WORKLOAD MATRIX

**DIVISION: Merit System Services**  
**POSITION TITLE: Staff Services Manager I**

Position(s) Requested	Workload	Workload Standard	Basis for Standard
<p><b>Staff Services Manager I: 1.0</b></p>	<p><b>Tasks:</b>            Independently perform personnel management review and analysis of CPS activities to gain a thorough understanding of CPS's current operations. Prepare a plan to assume the duties of CPS which would include the implementation of streamlining methodologies. Assist in the preparation of a future BCP to obtain sufficient funds and personnel to effectuate the proposed plan.</p> <p>Assign MSS exam and merit appeals to appropriate units within CalHR. Coordinate all communication between appellants, counties, and CalHR. Serve as point person at CalHR to administer this program.</p> <p>Continue the work that has already been accomplished with the counties to implement and advise on the new regulations.</p>	<p><b>Total Hours: 1,776</b></p>	<p>Time estimate is based on workload using job descriptions involving similar duties in existing or past positions at CalHR.</p>
<p><b>Total Positions: 1.0</b></p>		<p><b>Total Hours: 1,776</b></p>	