



The California Labor Commissioner's Office

Inadequate Staffing and Poor Oversight Have
Weakened Protections for Workers

May 2024

REPORT 2023-104

PAYROLL

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May 29, 2024

2023-104

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office conducted an audit of the Department of Industrial Relations' Division of Labor Standards Enforcement, also known as the Labor Commissioner's Office (LCO), and its role in processing wage theft claims. We reviewed the backlog of wage claims submitted by workers from fiscal years 2017–18 through 2022–23, and determined that the LCO is not providing timely adjudication of wage claims for workers primarily because of insufficient staffing to process those claims.

According to the LCO's data, it had 47,000 backlogged claims at the end of fiscal year 2022–23. Its Wage Claims Adjudications Unit (Adjudications Unit) lacks a sufficient number of staff throughout its field offices and thus can neither process new wage claims in a timely manner nor efficiently reduce the extensive backlog of wage claims. Further, the LCO lacks complete and accurate data to enable it to provide proper oversight and ensure compliance with statutory requirements. We analyzed the LCO's staffing and available workload data, and estimated that it needs hundreds of additional positions under its existing process to resolve the backlog. The lack of adequate staffing is exacerbated by the fact that the LCO currently has a high vacancy rate, and an inefficient and lengthy recruitment process.

In addition to its delays in processing wage claims, the LCO has not been successful in collecting judgments from employers. For those workers who choose to have the LCO's Judgment Enforcement Unit (Enforcement Unit) attempt to collect payment, the Enforcement Unit was successful in collecting the entire amount owed in only 12 percent of cases from 2018 through November 2023. A possible factor contributing to its low collection rate is that the Enforcement Unit does not consistently use all of the methods available to it for collecting payments owed to workers.

Respectfully submitted,

A handwritten signature in black ink that reads 'Grant Parks'. The signature is stylized and cursive.

GRANT PARKS
California State Auditor

Selected Abbreviations Used in This Report

CalHR	California Department of Human Resources
DIR	Department of Industrial Relations
LCO	Labor Commissioner's Office

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Summary

When an employer does not pay wages due to an employee, that failure to pay is called *wage theft*. State law provides workers with a recourse for recovering these unpaid wages through the Division of Labor Standards Enforcement, also known as the Labor Commissioner's Office (LCO), an agency within the Department of Industrial Relations (DIR). The LCO is responsible for investigating and resolving wage theft claims (wage claims). However, the LCO is not providing timely recourse to thousands of workers and has an extensive backlog of wage claims. The primary cause of the agency's sometimes-years-long delays in resolving workers' wage claims is the inadequate staffing at the agency itself.

The LCO Often Takes Two Years or Longer to Process Wage Claims

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Although state law requires the LCO to issue a decision on a wage claim within a maximum of 135 days after it is filed, as of the end of fiscal year 2022–23, the agency had taken a median of 854 days to issue decisions—more than six times longer than the law allows. The backlog of claims had grown from 22,000 at the end of fiscal year 2017–18 to 47,000 at the end of fiscal year 2022–23. As of November 1, 2023, more than 2,800 claims had been open for five years or more; these claims equated to more than \$63.9 million in unpaid wages.

Field Offices Have Insufficient Staffing to Process Wage Claims

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As of June 2023, the majority of the LCO's Wage Claim Adjudication Unit's (Adjudication Unit) 17 field offices had staff vacancy rates equal to or greater than 10 percent, and 13 field offices had a vacancy rate of 30 percent or more.

We estimated that the LCO needs hundreds of additional positions under its existing processes to resolve its backlog. Contributing to the LCO's high vacancy rate is an ineffective and lengthy hiring process and non-competitive salaries for several LCO positions.

The LCO Has Not Always Provided Critical Training and Oversight to Its Field Offices

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The LCO has not ensured that new staff receive formal training in wage claim processing. It has only had a dedicated training unit since April 2022. Field office supervisors have not always assigned claims to staff for processing in a timely manner and are sometimes unaware of existing tools for doing so.

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The Enforcement Unit's Work Results in Only a Small Percentage of Successful Payments to Workers

Between January 2018 and November 2023, about 28 percent of employers did not make LCO-ordered payments. The LCO consequently obtained judgments against those employers. In roughly 24 percent of judgments during that time, or about 5,000 cases, the workers referred their judgments to the Enforcement Unit. The unit successfully collected the entire judgment amount in only 12 percent of those judgments, or in about 600 cases.

Agency Comments

DIR agreed with our recommendations, explained some actions it is already taking to implement them, and stated that it will provide updates at required intervals.

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Background

Wage theft occurs when an employer does not pay owed wages or benefits to an employee. Wage theft is a problem across the United States, and when it occurs in California, a worker may file a wage theft claim (w age claim) with the Department of Industrial Relations' (DIR) Division of Labor Standards Enforcement, also known as the Labor Commissioner's Office (LCO). The LCO is responsible for ensuring appropriate pay in every workplace in the State and for promoting economic justice by enforcing the State's labor laws.

The LCO's process for resolving wage claims begins when a worker files a claim. That claim provides the LCO with the potentially liable employer's name, the employer's business type, the claimed wage theft amount, and the time frame during which the claimed wage theft occurred. If necessary information is missing from a filed claim, the worker may experience a delay in its processing. In December 2021, the LCO launched a web-based claim filing system, which allows workers to file claims online. However, a worker may also file a claim by completing a form and submitting it at a local field office in person or by mailing or emailing the form to the LCO. In fiscal year 2022–23, the LCO received about 39,000 wage claims.

As Figure 1 shows, the LCO maintains several units that address wage theft. Its Wage Claims Adjudication Unit (Adjudication Unit) has 17 field offices throughout the State to receive and adjudicate wage claims. The work of the Judgment Enforcement Unit (Enforcement Unit) occurs after the adjudication process: the Enforcement Unit helps workers enforce judgments against employers to collect owed amounts. The Adjudication Unit had 286 authorized staff positions and a salaries and wages budget of \$124 million in fiscal year 2023–24.

The Adjudication Unit Processes, Investigates, and Rules on Wage Claims

The text box shows key Adjudication Unit staff who work in field offices on claims processing. Because the deputy labor commissioner classification includes three levels, each with unique duties, we refer to these classifications by the duties they perform: the field office supervisor, hearing officer, and deputy. The field office supervisor manages the workload of the office and its staff. Once the field office supervisor assigns a claim to a deputy, the deputy investigates the claim. The hearing officer holds hearings for claims to determine

Adjudication Unit Key Positions That Work on Claim Processing

Deputy Labor Commissioner III (field office supervisor)

- Reviews and assigns claims
- Conducts training
- Performs all tasks performed by hearing officers and deputies.

Deputy Labor Commissioner II (hearing officer)

- Conducts hearings
- Writes orders, decisions, or awards
- Facilitates settlements

Deputy Labor Commissioner I (deputy)

- Investigates claims
- Schedules and conducts settlement conferences

Industrial Relations Representative

- Analyzes filed claims
- Schedules and conducts settlement conferences

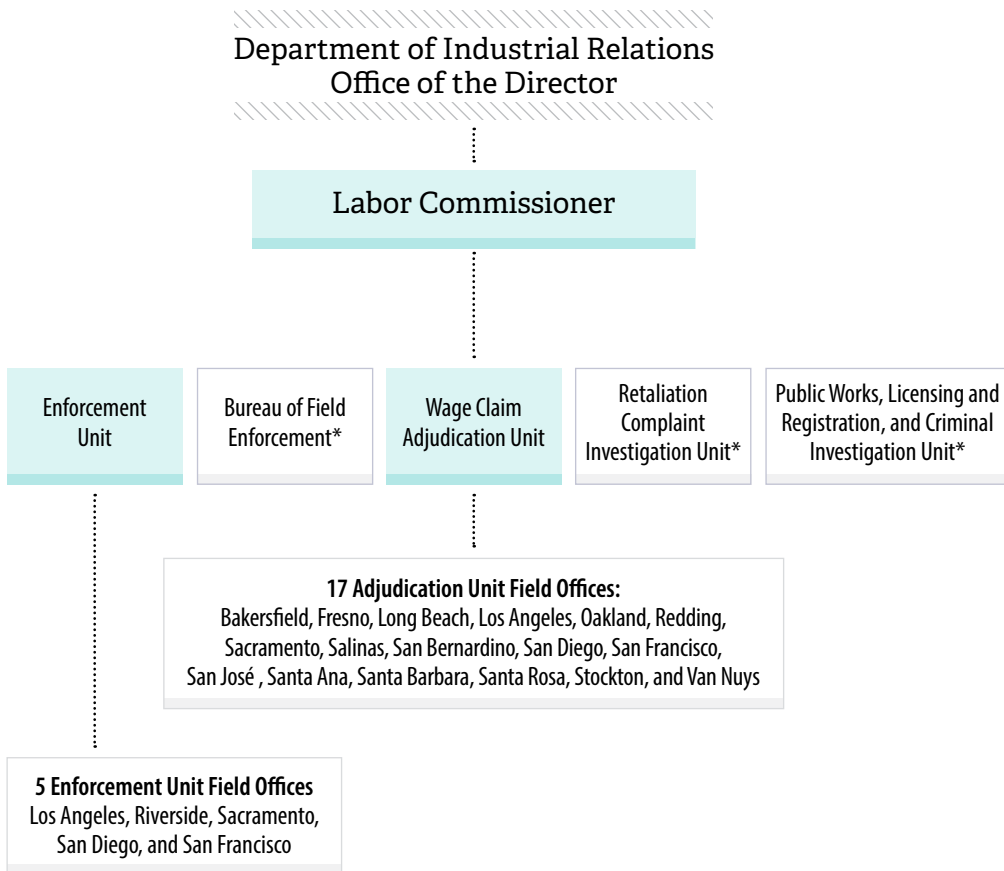
Office Technician

- Enters data
- Writes and processes correspondence

Source: DIR job classification duty statements.

whether a violation of labor law occurred, and the office technicians and industrial relations representatives review the claims and gather all information and supporting documentation. Regional managers oversee multiple field offices but generally do not supervise the daily processing of claims except in the most complex cases.

Figure 1
The LCO Operates as a Division Within DIR



Source: DIR organization charts.

* The Bureau of Field Enforcement; Retaliation Complaint Investigation Unit; Public Works, Licensing and Registration; and Criminal Investigation Unit do not handle the adjudication of wage claim cases and were therefore not subject to this audit.

Once assigned a claim to investigate, the deputy gathers relevant facts to determine whether the LCO will take further action on the claim. The deputy may determine that no further action will be taken for certain reasons, such as the LCO's not having jurisdiction. The field office supervisor must approve a deputy's determination to take no further action. For all other claims, the deputy attempts to facilitate a resolution to the claim with the worker and employer. The deputy may discuss the claim with the employer to resolve the claim or hold a settlement conference with the worker and the employer to settle the claim.

If the deputy cannot facilitate the claim's settlement with the worker and the employer, the deputy schedules a hearing with a hearing officer. As Figure 2 shows, state law requires the LCO to determine whether a hearing is required and notify the parties within 30 days of the claim's filing. In certain cases, claims may go directly to civil litigation, skipping the settlement conference and hearing steps. For example, the LCO filed lawsuits in August 2020 against two ride-sharing companies after the agency received thousands of complaints against the companies. These lawsuits were still ongoing as of March 2024.

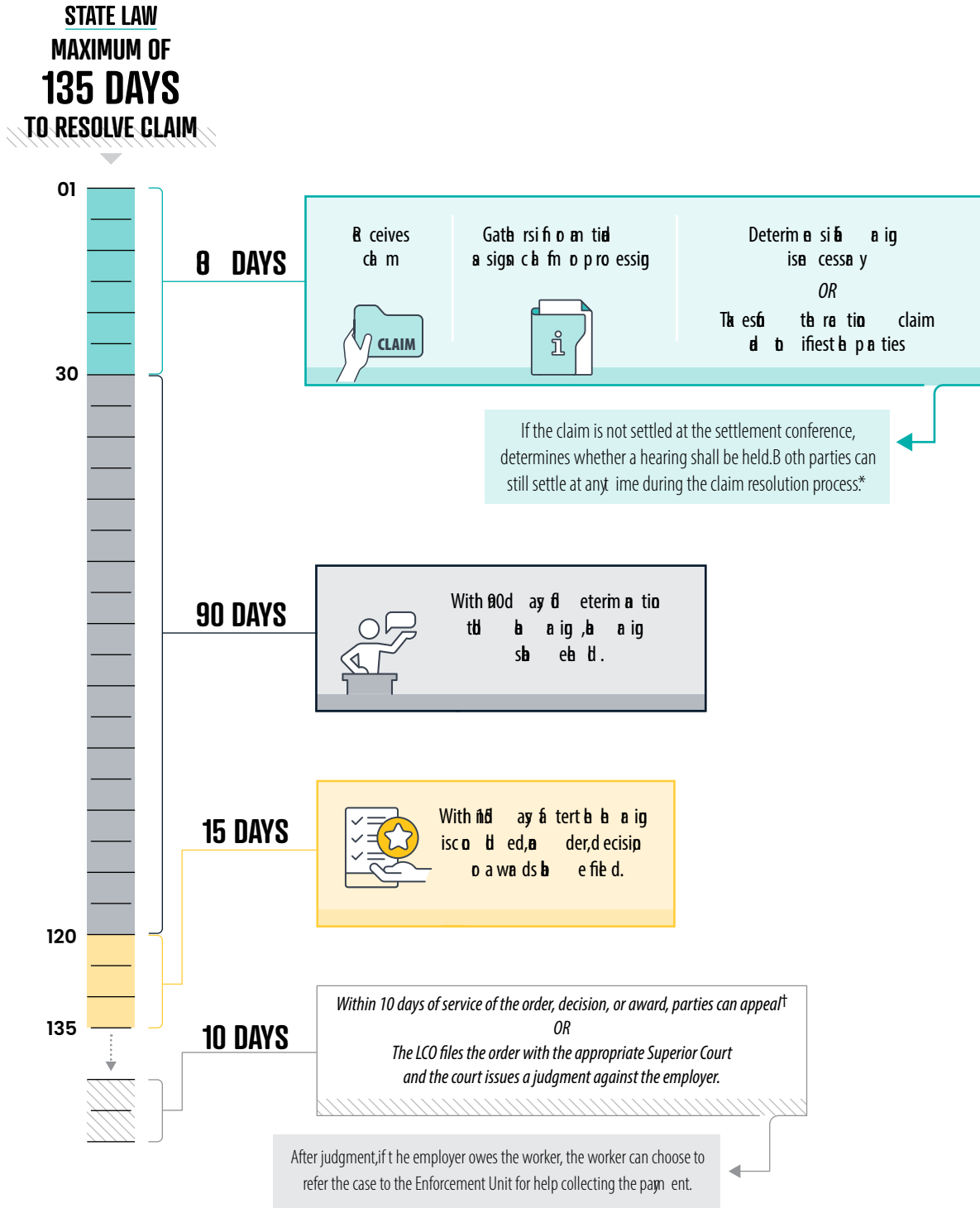
State law requires that the LCO hold a hearing within 90 days of determining that a hearing is required. The assigned hearing officer presides over the hearing and reviews all information presented. A hearing can last from a few hours to multiple days, depending on the complexity of the alleged violations under consideration, and state law requires that the LCO issue a decision within 15 days of the hearing's conclusion. After a hearing, the hearing officer issues a decision on the claim—commonly known as the *order, decision, or award*. Although the average amount awarded on a claim between 2018 and November 2023 was about \$1,900, the awards ranged from less than a dollar to more than \$507,000.

The worker or the employer may file an appeal with the relevant county Superior Court within 10 days of the date the notice of the decision was served. Parties have an extra 5 days to appeal if the decision is served by mail to an in-state address and an extra 10 days from the date of service if the decision is served to an out-of-state address. If the employer appeals the decision, the LCO may represent the worker at the worker's request as the worker may be unable to afford hiring legal counsel in the appeal proceedings. However, if the worker appeals the decision, the LCO does not participate in the appeal. Cases before a county Superior Court judge are no longer under the jurisdiction of the LCO. Workers have the choice to represent themselves or hire an attorney to represent them.

The LCO's Enforcement Unit Provides Judgment Collection Services Free of Charge

If a settlement conference or hearing results in the LCO ordering an employer to pay a worker, the employer has a limited time after service of the LCO's decision to file an appeal, as explained above. If the employer does not appeal within that period, the LCO files a certified copy of the decision with the appropriate Superior Court and obtains a judgment against the employer for the amount owed. As a matter of practice, the LCO does not request that the judgment be entered against employers who pay within the 10-day period before the judgment is considered final. When the LCO does request that the court enter the judgment against the employer, the worker can choose the option of referring the judgment to the LCO's Enforcement Unit for the unit to collect the judgment amount on behalf of the worker. The LCO offers this collection service free of charge, but the worker must choose to refer the judgment to the Enforcement Unit. Workers who choose not to refer the judgment to the Enforcement Unit may pursue collection on their own.

Figure 2
Every Stage of the LCO's Wage Claim Process Must Meet a Statutory Time Frame



Source: Analysis of state law and LCO's wage claim processing procedures.

* The LCO can litigate a claim immediately instead of holding a settlement conference or a hearing.

† Parties have an extra five days from the date the notice was served if it was served by mail to an in-state address and an extra 10 days from the date the notice was served if it was served to an out-of-state address.

The LCO's chief deputy and several LCO supervisors report that one or more of three factors may contribute to workers' decisions not to refer their cases to the Enforcement Unit. After LCO obtains a judgment, staff may not follow up with the worker to determine whether the worker would like to refer the case; the worker may not respond to communications required to complete a referral; or the worker may choose to ask external partners, such as private attorneys or advocacy groups, to help collect the judgment amount. When the worker chooses referral, the Adjudication Unit refers the case to the Enforcement Unit.

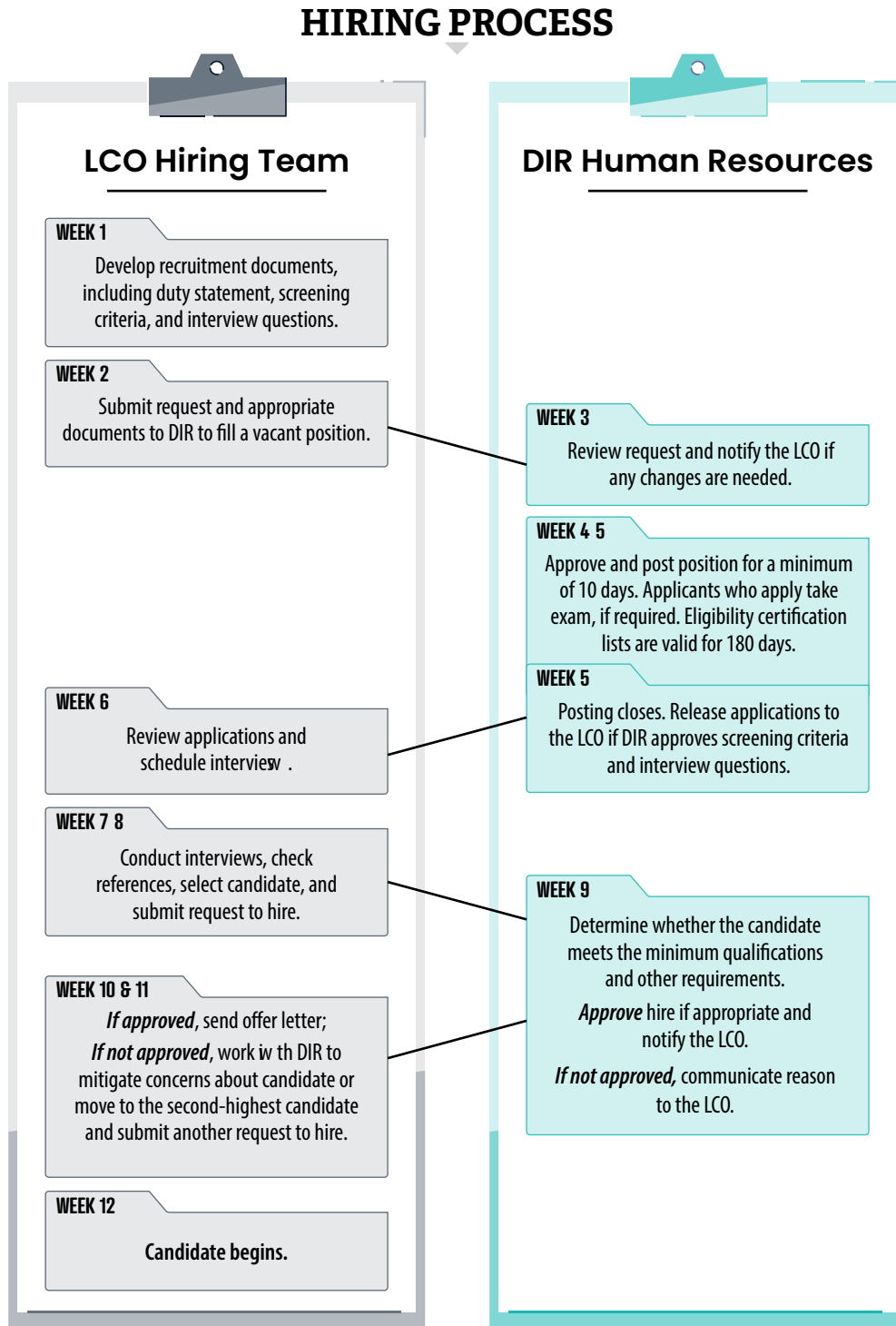
The Enforcement Unit uses a variety of means to collect judgment amounts, including levies against employers' bank accounts and liens on properties. The Enforcement Unit also calculates the interest accrued on any outstanding judgment amounts and includes that in the amount it tries to collect. In response to the unit's collection efforts, employers may send to the appropriate field office a payment, typically in the form of a check or money order made out to the worker. The field office staff then contact the worker and either mail the payment to the worker or arrange for the worker to pick up the payment from the field office.

DIR and the LCO Coordinate to Hire LCO Staff

When the LCO needs to fill a vacant position, it coordinates with DIR's Human Resources staff on the recruitment process. Figure 3 shows DIR's recruitment process, which ideally takes around 12 weeks. As the figure shows, hiring staff in the LCO must receive approval from DIR's Human Resources staff before LCO can interview and have the new employee start work. When the LCO identifies a need to fill a position, it submits a request to DIR. After DIR approves the request, it then opens a recruitment to fill the position. The assistant personnel officer of DIR explained that the human resources functions are divided in this way because LCO staff have the subject matter expertise to establish screening criteria, conduct effective interviews, and choose a candidate, and the DIR Human Resources staff have the expertise regarding merit-based civil service hiring.

As part of the application process, candidates generally must take a qualifying exam. DIR Human Resources staff then order a certification report of all candidates who are eligible. However, the certification report expires six months after it is generated for a specific recruitment. With rare exceptions, the LCO must fill the position within that time frame or else it must re-post the job and begin the recruitment process again. After the LCO identifies its top candidate for the position, DIR verifies that the candidate meets the minimum qualifications for the position. If the candidate fails to meet minimum qualifications, the LCO can move to the candidate that ranked second in its selection process. Field office supervisors generally fulfill LCO's responsibility to conduct interviews of potential candidates, and the LCO must make an offer to a candidate before the expiration of the eligibility certification list. If the LCO does not fill the position within that time, it cancels the recruitment and starts the process again from the beginning.

Figure 3
DIR's Hiring Process



Source: DIR's recruitment and hiring guidelines.

The LCO Often Takes Two Years or Longer to Process Wage Claims

Key Points

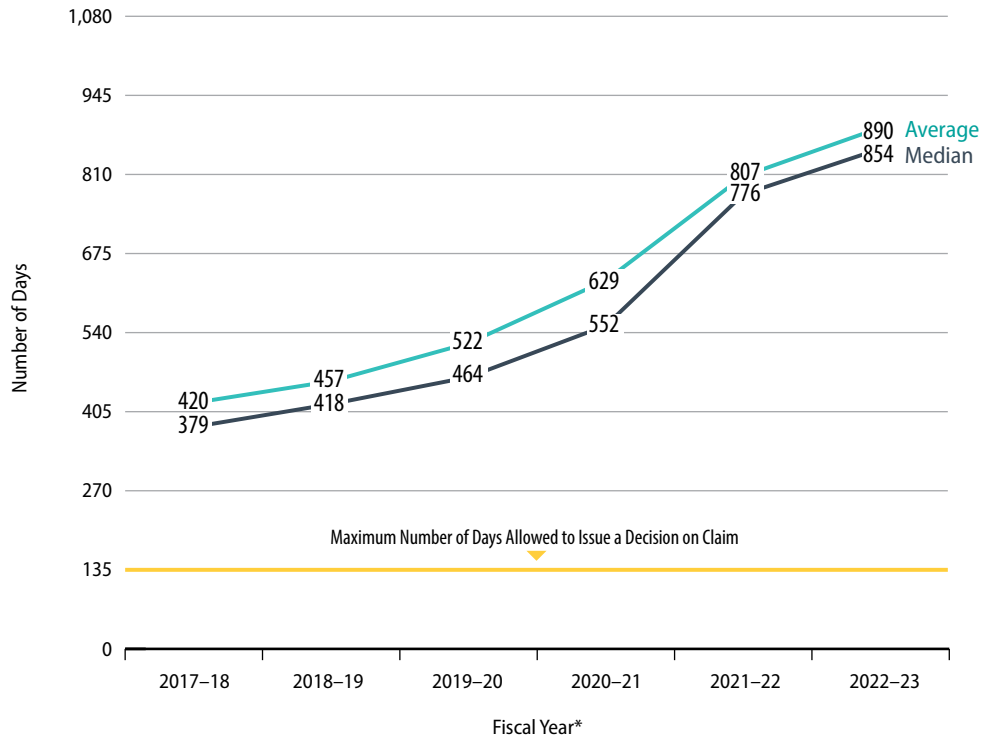
- State law requires the LCO to issue a decision on a claim within 135 days of the claim's filing. However, as of the end of fiscal year 2022–23, the LCO took a median time of 854 days to issue a decision, more than six times longer than statute allows.
- The delay in processing claims has created a large backlog of unprocessed claims, which more than doubled in the last five years from 22,000 claims in fiscal year 2017–18 to 47,000 claims at the end of fiscal year 2022–23.
- The LCO's use of settlement conferences to determine whether to hold a hearing on a claim contributed to the LCO's ongoing lack of statutory compliance and growing backlog because of significant delays in claim resolution.
- The LCO's lack of technological infrastructure and its incomplete and inaccurate data hinder its ability to monitor its compliance with statutory requirements and accurately analyze and assess the effectiveness of its wage claims processing.

The LCO Continues to Exceed the Statutory Time Frame for Processing Wage Claims, Resulting in a Large Backlog

From fiscal year 2017–18 through fiscal year 2022–23, the LCO has not complied with statutorily required claim processing times for issuing a decision after receiving a claim. As we discuss in the Introduction, state law requires that the LCO issue a decision on a claim within 135 days after it is filed. However, as Figure 4 shows, the LCO used a median time of 854 days to issue a decision on a claim during fiscal year 2022–23, which is more than six times longer than the maximum of 135 days allowed by law. Further, the median time to process claims has increased since fiscal year 2017–18, meaning the LCO has been taking longer to issue decisions for more than half the claims it processed during this time. In fact, the percentage of claims for which the LCO issued a decision within the statutorily required time over the years has steadily decreased. For example, the LCO issued decisions within 135 days for 157 of about 5,800 claims for which it issued decisions during fiscal year 2017–18. However, it issued decisions within 135 days for only two of more than 3,100 claims for which it issued decisions during fiscal year 2022–23.

Figure 4

The Average and Median Number of Days the LCO Takes to Issue a Decision on Claims Continues to Increase



Source: Analysis of LCO wage claim data.

Note: As Appendix B discusses, we found the LCO's data to be of undetermined reliability; however, the data were the best available source of information on wage claims.

* The number of claims for which the LCO issued a decision within a year ranged from about 5,800 claims in fiscal year 2017-18 to 3,100 in fiscal year 2022-23.

Although all Adjudication Unit field offices have generally taken more than the statutorily allowed time to process claims, six field offices took much longer than the statewide average of 890 days to process claims before issuing a decision during fiscal year 2022-23. As Table 1 shows, the Los Angeles field office issued a decision on a claim an average of 1,123 days after receiving a claim. It took the Oakland field office an average of 1,483 days to issue a decision after receiving a claim. Similarly, those who filed claims with the San Francisco field office waited an average of 1,435 days for a decision. During these long delays, workers may have gone without wages that they had counted on receiving months or years ago. The delays also increase the potential risk that the employers will have closed their businesses, filed for bankruptcy, or liquidated assets in the meantime, which would make recovering owed wages increasingly difficult.

Table 1
Some Adjudication Unit Field Offices Exceeded the Statewide Average Times for Claim Processing Benchmarks During Fiscal Year 2022-23

FIELD OFFICE	# OF CLAIMS RECEIVED (% OF STATEWIDE)	STAGE 1: 30 DAYS ALLOWED		STAGE 2: 90 DAYS ALLOWED		STAGE 3: 15 DAYS ALLOWED		135 DAYS MAXIMUM ALLOWED
		# OF CONFERENCES SCHEDULED (% OF STATEWIDE)	AVERAGE # OF DAYS TO DETERMINE IF HEARING NEEDED	# OF HEARINGS SCHEDULED (% OF STATEWIDE)	AVERAGE # OF DAYS TO HOLD HEARING AFTER DETERMINATION MADE	# OF DECISIONS ISSUED (% OF STATEWIDE)	AVERAGE # OF DAYS FROM END OF HEARING TO DECISION ISSUED	AVERAGE # OF DAYS TO ISSUE A DECISION AFTER CLAIM RECEIVED
Statewide	39,336 (100%)	22,100 (100%)	386	26,229 (100%)	636	3,107 (100%)	111	890
Bakersfield	2,331 (6%)	1,058 (5%)	176	1,267 (5%)	238	59 (2%)	184	574
Fresno	2,060 (5%)	1,029 (5%)	200	1,191 (5%)	235	107 (3%)	181	538
Long Beach	2,957 (8%)	1,662 (8%)	448	2,120 (8%)	865	140 (5%)	79	972
Los Angeles	3,494 (9%)	2,054 (9%)	677	2,559 (10%)	666	537 (17%)	153	1,123
Oakland	2,964 (8%)	1,666 (8%)	549	2,557 (10%)	1091	201 (6%)	53	1,483
Redding	1,159 (3%)	528 (2%)	184	558 (2%)	314	80 (3%)	23	491
Sacramento	3,308 (8%)	1,797 (8%)	369	1,841 (7%)	285	349 (11%)	26	591
Salinas	747 (2%)	367 (2%)	333	423 (2%)	410	64 (2%)	42	563
San Bernardino	4,644 (12%)	3,240 (15%)	379	3,666 (14%)	785	272 (9%)	67	974
San Diego	3,162 (8%)	1,746 (8%)	293	1,952 (7%)	709	246 (8%)	285	863
San Francisco	1,151 (3%)	345 (2%)	555	610 (2%)	1,034	88 (3%)	183	1,435
San Jose'	2,076 (5%)	1,061 (5%)	422	1,130 (4%)	408	179 (6%)	59	708
Santa Ana	2,678 (7%)	1,954 (9%)	333	2,364 (9%)	836	196 (6%)	122	1,167
Santa Barbara	1,358 (3%)	894 (4%)	203	943 (4%)	260	77 (2%)	138	585
Santa Rosa	1,198 (3%)	649 (3%)	334	746 (3%)	415	113 (4%)	11	635
Stockton/Lodi	1,791 (5%)	545 (2%)	427	580 (2%)	546	136 (4%)	73	645
Van Nuys	2,258 (6%)	1,505 (7%)	360	1,722 (7%)	364	263 (8%)	48	722

Source: Analysis of LCO fiscal year 2022–23 wage claim data.

Notes: Rounding of numbers may prevent percentages from totaling 100.

As Appendix B discusses, we found the LCO’s data to be of undetermined reliability; however, the data were the best available source of information on wage claims.

Continuous delays in processing claims have resulted in a corresponding increase in the backlog of unresolved claims—claims open more than the statutorily allowed 120 days between the LCO’s receiving a claim and holding a hearing—each fiscal year.¹ As Table 2 shows, the LCO closed fewer claims from fiscal years 2017–18 through 2022–23 than it received in all but one fiscal year. Consequently, the number of open claims has generally increased over the years. The pandemic that affected

¹ Because a claim may settle at or prior to a hearing, we calculated the backlog using the 120-day requirement to hold a hearing as opposed to the 135-day requirement to issue a decision regarding a claim, as the latter would have resulted in understated backlog numbers.

fiscal year 2020–21 sharply reduced the number of claims the LCO received to 15,000 claims, compared to the usual average of about 30,000 claims per fiscal year. However, in the following fiscal year, the number of claims that the LCO received returned to the previous average after the LCO launched the online claim portal in English and Spanish and reopened claims that had been closed because of extenuating circumstances stemming from the pandemic. The LCO's backlog increased significantly, from 28,000 claims at the beginning of fiscal year 2020–21 to 47,000 claims at the end of fiscal year 2022–23, further emphasizing the fact that the LCO struggles to resolve new wage claims and those in its backlog in the time frames set by state law.

Table 2
The Statewide Backlog of Wage Claims Has Increased During the Previous Six Fiscal Years

WAGE CLAIM ADJUDICATION STATEWIDE	FISCAL YEAR					
	2017–18	2018–19	2019–20	2020–21	2021–22	2022–23
Backlog at the Beginning of the Year*	18,000	21,000	24,000	28,000	28,000	32,000
New Claims Received During the Year	31,000	29,000	30,000	15,000	29,000	39,000
Total Claims Open During the Year†	49,000	51,000	54,000	43,000	57,000	71,000
Claims Closed During the Year	27,000	27,000	25,000	21,000	18,000	24,000
Claims Open at the End of the Year	22,000	24,000	29,000	22,000	39,000	47,000

Source: Analysis of LCO wage claim data. Amounts rounded to nearest thousand.

Note: As Appendix D discusses, we found the LCO's data to be of undetermined reliability; however, the data were the best available source of information on wage claims.

* This includes all claims that were not closed at the end of the prior fiscal year and were open for more than 120 days. Therefore, this number may differ from the claims that were open at the end of the prior year, which includes all claims that were open regardless of when they were received.

† Totals may not match the sum of individual categories due to rounding.

Our review of the LCO's claims processing data found that nearly 33,000 claims have been part of the LCO's backlog for a minimum of three years as of November 2023. Between January 2018 and November 2023, the LCO had processed and closed almost 2,400 claims that had remained unresolved for five years or more. However, more than 2,800 claims that were in the LCO's backlog for five years or more were still open as of November 2023. This part of the backlog represents 2,600 workers who may be owed more than \$63.9 million in unpaid wages, an average of more than \$24,000 per worker. As Table 3 shows, all 17 field offices experienced an increase in backlog ranging from 7 percent to more than 1,900 percent from the beginning of fiscal year 2017–18 through the beginning of fiscal year 2023–24. Although the Redding and Van Nuys field offices managed to reduce their backlogs of claims from fiscal years 2017–18 through 2022–23, both had larger backlogs at the beginning of fiscal year 2023–24 than they had at the beginning of fiscal year 2017–18. In fact, as of November 1, 2023, the LCO's Van Nuys field office had 28 new claims that had not been scheduled for a conference or hearing, despite having been received between 2017 and 2021.

Table 3
Some Adjudication Unit Field Offices Experienced a Greater Increase In Backlogged Claims Than Others

FIELD OFFICE	FISCAL YEARS								TOTALS FROM 2017-18 THROUGH 2023-24	PERCENT INCREASE IN BACKLOG FROM 2017-18 TO 2023-24	PERCENT OF STATEWIDE BACKLOG FROM 2017-18 THROUGH 2023-24
	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24				
Bakersfield	432	1,133	1,372	976	929	826	1,710	7,378	296%	4%	
Fresno	463	762	560	721	722	687	1,002	4,917	116	2	
Long Beach	1,530	1,656	2,041	2,387	2,886	2,837	3,708	17,045	142	9	
Los Angeles	2,330	2,713	3,238	4,566	4,620	5,336	7,040	29,843	202	15	
Oakland	1,351	1,929	2,477	2,715	2,775	2,956	4,081	18,284	202	9	
Redding	447	228	211	153	162	189	592	1,982	32	1	
Sacramento	1,341	1,611	1,426	1,289	1,423	1,841	3,251	12,182	142	6	
Salinas	32	134	228	261	277	390	654	1,976	1944	1	
San Bernardino	869	1,598	2,247	2,525	2,314	3,279	5,345	18,177	515	9	
San Diego	628	660	870	1,113	1,225	1,550	2,662	8,708	324	4	
San Francisco	1,100	1,495	1,873	2,479	2,445	2,566	2,987	14,945	172	8	
San Jose	1,312	1,215	1,454	2,216	1,930	1,710	2,370	12,207	81	6	
Santa Ana	1,135	1,182	1,919	2,320	2,151	2,159	3,150	14,016	178	7	
Santa Barbara	760	719	645	665	692	1,027	1,609	6,117	112	3	
Santa Rosa	201	398	447	619	497	678	1,173	4,013	484	2	
Stockton/Lodi	738	906	802	1,027	742	1,071	2,100	7,386	185	4	
Van Nuys	3,269	2,752	2,364	2,330	2,308	2,657	3,509	19,189	7	10	
Statewide	17,938	21,091	24,174	28,362	28,098	31,759	46,943	198,365	162%	100%	

Source: Analysis of LCO wage claim data.

Note: As Appendix B discusses, we found the LCO's data to be of undetermined reliability; however, the data were the best available source of information on wage claims.

Backlog is as of the beginning of each fiscal year.

The lengthy delays and backlog mean that workers must wait months, if not years, to receive owed wages, potentially undermining the timelines outlined in California law. In one egregious example, a worker filed a claim with the Van Nuys field office in September 2014. According to LCO's case management system's data, the Van Nuys field office held the first settlement conference in January 2015 but did not schedule a hearing for another four years until July 2019. The delay extended even further when the LCO improperly served the notice of hearing and held another settlement conference before scheduling the hearing. The LCO subsequently rescheduled the hearing an additional four years later, in August 2023, but the case management notes do not provide a reason for the extensive delay in rescheduling the hearing. Then, because of the assigned hearing officer's unavailability, the LCO canceled the hearing and instead facilitated a third conference on the hearing date. The worker offered to settle the claim for less than half of what the LCO identified as owed to the worker; however, the defendant refused the settlement offer at the conference. The LCO had yet to reschedule the hearing as of March 2024. According to LCO's case management notes, the worker, who served as a caregiver for clients who are since deceased, has more than \$71,000 in outstanding claims—not including interest—for unpaid overtime, unpaid mileage

reimbursements, and for wages that were paid at a rate less than the minimum wage. Almost 10 years after filing the claim for unpaid wages, the worker still has not received a decision on the claim. We discuss the factors contributing to such delays later in this report.

The LCO's Current Process for Determining the Need for a Hearing Is Inefficient and Ineffective

The LCO's process for scheduling the settlement conference makes it impossible for it to comply with the statutory requirement to determine whether a hearing is necessary. State law requires the LCO to determine whether a hearing is to be held for a claim and notify the parties within 30 days of the claim's filing. Although not required by state law, the LCO requires staff to hold a settlement conference to determine whether a hearing is needed. In order to determine within 30 days whether a hearing is needed, the LCO would have to hold a settlement conference within 30 days of receiving the claim. However, the LCO expects its staff to notify the involved parties of the scheduled settlement conference between 45 days and 60 days before the date of the conference. Providing 45 to 60 days' notice makes it impossible for the LCO to hold a settlement conference within 30 days of receiving a claim.

Moreover, the LCO's data show that settlement conferences often do not yield intended results. Although holding settlement conferences can potentially decrease the need for holding a hearing because a settlement between the parties eliminates the need for a hearing to decide the claim, the LCO's data show that nearly 40 percent of scheduled conferences result in an absence by either one or both parties to the claim. According to the LCO's guidance for workers filing claims, if the employer does not attend the settlement conference, the claim still proceeds to a hearing. If the worker fails to attend the settlement conference and cannot show good cause for not attending, the LCO will close the worker's claim.

Additionally, the LCO data show that settlement conferences result in a small percentage of settlements and thus often do not prevent claims from requiring a hearing. The LCO scheduled settlement conferences for approximately 130,000 claims between July 2018 and November 2023 to determine whether a hearing was required. However, the LCO data show that only 21,000 claims, or 16 percent of claims for which the LCO scheduled settlement conferences, were actually settled during the conference, which suggests that settlement conferences do not result in significantly fewer hearings. Further, nothing prevents the parties to the claim from settling before a hearing, even in the absence of a settlement conference. In fact, in more than 9,400 of the claims for which deputies determined that a hearing was necessary, the claims were settled before the hearing or at the hearing. These data show that the LCO can continue to attempt to settle claims without requiring that staff hold a settlement conference before making a determination about the necessity of a hearing.

The LCO lacks the Technological Infrastructure and Staffing Necessary to Effectively Oversee and Improve Its Data and Wage Claim Process

The LCO began using the Salesforce platform in 2016 to host the LCO's cloud-based database and case management system for all wage claims. The LCO uses this case management system to track and monitor the progress of each claim and the various stages of claim processing. This system allows the LCO to customize the database and reports to fit its needs. The database allows field office supervisors, regional managers, and LCO leadership to generate various reports for overseeing field offices' claims processing efforts and aligning staff availability with claim processing efforts. However, the database does not use key data fields to support statutory compliance, and the existing data is incomplete and some of it is inaccurate. Significantly, the agency lacks a process for ensuring the accuracy of the data placed into its database. These weaknesses hamper the LCO management's ability to provide proper oversight of the claims process.

Currently, the Adjudication Unit does not use fields in its case management system that, if used consistently and accurately, would allow the LCO to readily track and monitor compliance with all statutory requirements for claims as they are processed. Our review of the data fields available in Salesforce for case management identified nearly 30 data fields that exist on the platform and would greatly improve the Adjudication Unit's oversight of the claims process, yet the Adjudication Unit does not use those fields. For example, the Adjudication Unit's case management system does not include a field to capture the date on which the LCO notified parties of whether a hearing is needed. However, there are several data fields in Salesforce, currently used by another unit within the LCO, that the Adjudication Unit could use to capture various data, including the date when the LCO notifies parties that it has determined that a hearing is necessary. Without this date, the LCO cannot track whether it complied with the requirement to determine within 30 days of receiving a complaint whether a hearing is needed. In fact, because the LCO lacks data to determine the LCO's compliance with this requirement, we had to use the settlement conference date to measure its backlog.

Furthermore, the date that the LCO received claims was sometimes missing or incorrect, which impedes the LCO's ability to readily identify and track key claim processing benchmarks. For example, we identified nearly 6,000 claims of more than 200,000 (about three percent) for which the claim-received date was missing. Without this date, the LCO can neither track how long these claims have been active nor track how long these claims have taken to move through each stage of the claim process. The LCO staff speculated that these errors were likely caused by the migration of data from an old database system to the new case management system and were not a result of human error. However, when we reviewed 48 randomly selected claims that the LCO received after the completion of the data migration, we found that the claim-received dates for 20 claims occurred *after* the dates those claims were closed. The LCO confirmed that only four of these 20 errors were a result of data migration. The LCO attributed the incorrect dates for the remaining 16 claims to staff incorrectly entering dates into the database. Upon reviewing the 48 claims, the LCO further determined that the case closure dates for eight claims were entered incorrectly. Although the LCO took steps in June 2023 to require

that the claim-received date be entered and to ensure that the field is automatically populated for claims filed online, the missing or incorrect claim-received date is just one example of the significant concerns regarding data accuracy and completeness that we identified during the course of this audit.

Also of concern is that the LCO lacks a process to ensure the accuracy of claims data. This absence of a quality control for its data significantly impairs the agency's ability to precisely identify and track backlogged claims. For example, we identified a claim for \$3,300 that the LCO received in June 1996 and closed in August 2022, appearing to have been in the backlog for 26 years. However, upon further review, we found that the claim was actually filed in March 2022 and was open for only five months. LCO staff had incorrectly entered the worker's date of birth as the date the claim was received. The LCO corrected these errors after we made LCO management aware of them. The LCO failed to catch these errors because it does not have a process to review and correct data entry errors on an ongoing basis. The lack of accurate and complete data impedes the LCO's ability to ensure statutory compliance and to monitor the effectiveness of its claims processing.

Moreover, although the case management system provides the LCO with data entry and reporting functions for each stage of the claim process, the reports it generates do not allow the LCO to track and monitor each wage claim across the life cycle of the claim. Although the LCO has the ability to extract all data for every claim, the case management system ineffectively generates duplicate records in certain report formats: we found that it requires considerable time, effort, and knowledge to derive reliable data from those reports for further analysis. Currently, if LCO staff generate a report that captures data from all conferences and hearings on a claim, the case management system will create multiple records that require further filtering for data analysis. For example, the LCO created a report for us with all data related to all claims between July 2017 and November 2023. However, when we extracted the data from the report for further analysis, the extracted data contained multiple rows of data for the same claims. Specifically, we identified more than 150,000 duplicate claims from approximately 525,000 claims that were closed after July 2017 or were still open as of November 2023. The LCO has not yet determined whether the issue is inherent to the design of the case management system and whether it is correctable.

Upon further review, we also found that many of these duplicate records were related to settlement conferences and were erroneously entered by field office deputies. Specifically, according to LCO staff, some deputies created multiple entries in the case management system for rescheduled conferences instead of revising the entry for the original conference. The LCO asserts that these erroneous entries are not consistent with the training and procedures that deputies receive. However, the erroneous settlement conference entries present additional data accuracy concerns. The LCO has limited ability to review the claim process to identify staffing needs or identify bottlenecks in the process that contribute to long wait times and the growing backlog.

The LCO recently began a business process improvement initiative to redesign the case management system to improve the quality of claim data collected when workers file claims and to increase training resources for the LCO staff to improve

user experiences. However, the labor commissioner stated that the LCO has not had a formal technology business team as part of its infrastructure to support the LCO's rollout and use of the case management system and to provide timely technical support to the LCO staff. The LCO instead had relied on a team of experienced users to provide support and ad hoc training to others, under the leadership of a former LCO assistant chief who retired in 2023. The labor commissioner intends to add resources in the LCO headquarters to provide ongoing support and training to staff and work with DIR staff to fix system issues.

Ultimately, the lack of sufficient technology resources and infrastructure, coupled with inaccurate and incomplete data, limits the LCO's ability to manage and improve its wage claim process. The LCO cannot efficiently respond to inquiries on claims, and its management team is hindered in its oversight of wage claim processing at the field office level. Further, the lack of quality data limits the LCO's ability to assess its workload and staffing for resolving claims within statutory time limits, which we discuss later.

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Field Offices Have Insufficient Staffing to Process Wage Claims

Key Points

- High vacancy rates that range from 10 percent to 45 percent in most field offices are the primary reason for the many delays in processing claims. Existing staff workloads are high, preventing supervisors from assigning claims and scheduling conferences and hearings in a timely manner.
- The LCO has performed limited staffing analysis. However, drawing on our analysis of available data, we estimate that the LCO needs additional positions to resolve the backlog.
- Salaries for key positions in the Adjudication Unit are not comparable to similar state and local government positions. These low wages contribute to the agency's retention problems and difficulty filling positions.
- The hiring process takes too long, resulting in numerous canceled recruitments for the LCO that exacerbate the vacancy rate and wage claim backlog.

Inadequate Staffing Is the Primary Reason for the LCO's Delays in Processing Wage Claims

Since the LCO's case management system does not include any global data on the reasons that claim processing was delayed, we judgmentally selected 40 claims that were closed more than 135 days after the office received them, five each from field offices in Los Angeles, Oakland, Long Beach, Sacramento, San Diego, San Bernardino, Stockton, and Santa Rosa. We selected the Los Angeles, Oakland, and Long Beach field offices because they had the highest backlog of claims in calendar year 2022, the most recent complete year available at the time of our review, and those field offices had the highest average number of days from receipt of the claim to the claim closure date. We selected the field offices in Sacramento, San Bernardino, San Diego, Santa Rosa, and Stockton because they had the highest percentage increase in backlog of claims in the past three years. Although these offices had processed some claims within the required 135 days, the vast majority of the claims these offices closed between 2018 and November 2023 had been open for more than 135 days.

Our review found that field offices did not hold settlement conferences and did not make decisions about whether the LCO would take further action on claims in a timely manner for the claims we reviewed. In accordance with the LCO's process, 34 of the 40 claims we reviewed required a settlement conference, the first step in resolving a claim and one that helps to determine whether a hearing is necessary. State law requires the LCO to make the determination to hold a hearing and notify the parties of that decision within 30 days of receiving the claim. However, for all 34 claims we reviewed that required a settlement

conference, the assigned deputies did not hold settlement conferences within 30 days to determine whether a hearing was necessary. For 20 of these 34 claims, the assigned deputies did not hold a settlement conference within 135 days, which is the maximum statutory deadline for completely resolving a claim and issuing a decision. Of the 40 claims we reviewed, seven were closed due to various reasons. A field office can take no further action on a claim for certain procedural reasons, such as the LCO not having jurisdiction. However, field offices were also late in making these determinations—from 510 to 1,631 days after the seven claims were received. In one claim that the LCO did not assign to a deputy until 438 days after receiving it, the worker died before the hearing. Consequently, the claim was closed.

According to the field office staff responsible for processing the claims we reviewed, lack of staff was the primary factor for delays in adjudicating claims. For nine claims at five of the eight field offices we reviewed, the respective field office supervisor did not assign a deputy to the claim for more than 100 days, generally because the field office had too few deputies. For instance, for one of the claims we reviewed at the Sacramento field office, the field office supervisor assigned a deputy to the claim 370 days—more than a year—after the claim was received. The supervisor stated that the delay in assigning the claim to a deputy occurred because all deputies maintained substantial workloads at the time.

At the Oakland field office, a claim was reassigned multiple times, which added to the delay. The field office supervisor explained that the claim was initially assigned to a deputy who was then promoted to hearing officer, which reduced the number of available deputies. The field office supervisor noted that she could not immediately reassign the claim because there was an insufficient number of deputies available. In December 2023, at the same field office, which receives some of the highest numbers of claims of any field office each year, the office's only deputy retired. As a result, the Oakland office did not have a deputy to process claims as of February 2024, when the field office supervisor stated that the office had more than 3,000 unassigned claims. To remedy the situation, the field office supervisor began monitoring the claims to close them or to determine the potential next steps. However, also in February 2024, the field office supervisor transferred to another department. LCO management stated that as of March 2024, a request to hire for a deputy position was currently pending. Management explained that it also plans to use an expedited time frame to re-hire a retired deputy for that office as a retired annuitant and is recruiting for additional deputy positions for the Oakland field office. However, the workers whose claims are unassigned will face a long delay in having their claims heard and may face financial hardship in the interim.

Significant delays also occurred in holding the hearing for the claims that deputies had determined required a hearing. State law requires the LCO to hold a hearing within 90 days of determining that a hearing is necessary, a determination that generally occurs after the settlement conference, according to the LCO's process. Of the 34 claims we reviewed for which the field offices held a settlement conference, 21 required a hearing. However, deputies did not schedule a hearing for these claims until 48 days to 1,589 days after they had determined that a hearing was necessary. For six of these 21 claims, the deputies scheduled the hearing more than 500 days after determining that a hearing was necessary. For example, the San Diego field

office did not hold a hearing for one of the claims for 921 days after the settlement conference. The Long Beach field office held a hearing for a claim 895 days after the settlement conference. In the most extreme case, the Oakland field office did not hold a hearing until 1,589 days after the settlement conference.

Just as field staff explained that claims processing was delayed because of the shortage of deputies to process claims, field office staff also explained that the hearing officer shortage was the reason for the delays in holding hearings. For instance, the Long Beach field office took more than 300 days after the settlement conference to hold a hearing for two claims we reviewed. The field office supervisor explained that the office lacked an adequate number of hearing officers at that time, which created delays. The former supervisor for the Oakland field office, which did not hold a hearing for one of the claims we reviewed for more than 1,500 days after the settlement conference, stated that the primary cause for the delay was lack of staffing.

Other field office staff we interviewed also pointed to inadequate staffing as the primary cause for delays in processing claims. We selected 20 field office staff to interview about various topics related to the audit, including the wage claim backlog and delays in processing claims. We chose five office technicians, four industrial relations representatives, five deputies, and six hearing officers from seven field offices. When we asked these staff for their perspectives on the cause of the backlog, several pointed to insufficient staffing. For example, an industrial relations representative noted that their field office was supposed to have five office technicians but that all five positions were vacant. A deputy at a different field office explained that having too few office technicians made it difficult to process claims more effectively and assign them quickly. A hearing officer at another field office told us that having insufficient staffing resulted in existing staff's having to perform the duties of multiple positions.

Several staff also stated that answering calls from workers who had already filed claims or from those who had questions about doing so and providing information to the public consumed an inordinate amount of their time. For example, a deputy explained that they could not concentrate on conducting conferences because they divide much of their time across administrative tasks, including answering phones. Although deputies are expected to perform some public information duties, some of the deputies we interviewed said that they had to devote so much time to this task that it interfered with their other duties. One deputy explained that when staff leave the department, the public information duties for remaining staff, such as answering calls, increases. Another deputy believed that a separate unit should handle those duties.

The LCO's data show that most field offices have high vacancy rates. As Table 4 shows, the vacancy rates for the field offices we reviewed ranged from 44 percent at Sacramento to 33 percent at San Bernardino and San Diego, as of June 2023. Only Santa Rosa had no vacancies, as of June 2023. In fact, the number of statewide vacancies for the Adjudication Unit has steadily increased from 12 positions of 196 in fiscal year 2017–18 to 91.5 positions of 274.5 in fiscal year 2022–23, an increase in vacant positions of more than 600 percent. Field offices with high vacancy rates also have large backlogs, as Table 4 shows.

Table 4
The Adjudication Unit Field Offices Generally Had High Vacancy Rates, As of June 2023

FIELD OFFICE	AUTHORIZED POSITIONS*	VACANT POSITIONS*	VACANCY RATE	BACKLOG
Bakersfield	10	1	10%	1,710
Fresno	13	5	38	1,002
Long Beach†	26	9	35	3,708
Los Angeles†	38.5	13.5	35	7,040
Oakland†	19.5	7.5	38	4,081
Redding	8	3	38	592
Sacramento†	19.5	8.5	44	3,251
Salinas	3	1	33	654
San Bernardino†	18	6	33	5,345
San Diego†	18	6	33	2,662
San Francisco	12	4	33	2,987
San José	21	7	33	2,370
Santa Ana	22	10	45	3,150
Santa Barbara	7	1	14	1,609
Santa Rosa†	6	–	0	1,173
Stockton/Lodi†	10	4	40	2,100
Van Nuys	23	5	22	3,509
Totals‡	274.5	91.5	33%	46,943

Source: Budget data provided by DIR for the fiscal year ending June 30, 2023.

* These positions include upper management, regional management, and other support staff who may not be directly involved in the day-to-day processing of wage claims. As a result, these numbers do not agree with the numbers in Table 5 and Table A.

† We reviewed wage claims for these field offices to determine the reasons for delays.

‡ The LCO assigns authorized positions to a specific reporting location, such as a field office. These totals do not include positions that were authorized for the Adjudication Unit but were not assigned to a field office as of June 30, 2023.

These vacancies include all the key positions in the Adjudication Unit, particularly deputies, as Table 5 shows. Specifically, 38 percent of the deputy positions in the Adjudication Unit were vacant as of the end of fiscal year 2022–23. Although the Santa Rosa field office had no vacancies at that point, that office still had a backlog of wage claims. Later in the report, we discuss the number of filled positions the LCO would need to process both the backlog and new claims. Appendix A presents additional detailed information on the numbers of vacant and filled positions at each field office.

Table 5
Key Positions in the Adjudication Unit Had a High Vacancy Rate

POSITION	FISCAL YEAR 2022-23		
	AUTHORIZED	VACANT	VACANCY RATE
Field Office Supervisor	25	5	20%
Hearing Officer	71	22	31
Deputy	76	29	38
Industrial Relations Representative	21	7	33
Office Technician*	75	26	35
Total†	268	89	33%

Source: Analysis of LCO budget data as of June 30, 2023.

Note: The deputy and hearing officer positions are responsible for investigating the claim and holding hearings for claims to determine if a violation of labor law occurred.

* The office technician category includes the positions of office technician, office assistant, and management services technician, all of which perform clerical duties.

† Although field offices have other positions, such as regional managers who oversee multiple field offices, this table only shows positions that are primarily involved in processing claims. As such, the totals on this table do not match the totals on Table 4.

Insufficient staffing affects the workload each deputy carries and affects the availability of those deputies to focus on processing claims. As the text box shows, the LCO has developed workload expectations for various staff positions in the Adjudication Unit; these expectations include the number of conferences or hearings that staff should schedule each month. LCO management explained that field office supervisors are expected to monitor and track the number of conferences and hearings that staff have scheduled each month. However, field office staff stated that they have more claims assigned than they are expected to process or can handle. One deputy stated that they currently have more than 700 claims assigned to them in different stages of the wage claim adjudication process. Another deputy stated they were managing more than 300 claims. These caseloads far exceed the 40 to 50 settlement conferences for which a deputy should be responsible at any given point. The high workloads affect other staff as well. An office technician we interviewed stated that the work became very overwhelming and that the field office had to switch the technician’s duties with those of a more experienced office technician.

**Monthly Workload Expectations
for Adjudication Unit Staff**

Industrial relations representative

- 35 settlement conferences for less complex claims

Deputy

- 40 to 50 settlement conferences depending on complexity of claims

Hearing officer

- 30 to 40 hearings related to wage theft claims
- 1 to 2 citations hearings

Source: 2022 DIR Adjudication Unit expectations memo.

The LCO has made some efforts to reduce the backlog in field offices with significant numbers of backlogged claims, but not all efforts have been successful. For example, the LCO piloted a strategy in May 2022 that focused on expediting claims for low-wage workers at four field offices. However, LCO management explained that low staffing levels and an inconsistent categorization of cases as “low-wage” meant that deputies had

to spend time determining whether a case was properly designated as a low-wage case and, if not, reassign the case. The backlog of non-low-wage cases also grew as a result of this effort. LCO management stated that it subsequently determined that the four field offices did not have the staff capacity to ensure the success of the effort at this time. The LCO noted that statistics showed that low-wage claims did get processed faster and that although it put the project on hold, LCO management plans to continue it in the future.

The LCO initiated another program in May 2022 at the San Bernardino and San Diego field offices that has been more successful. This program involved scheduling conferences for claims that were not complex in nature during a very short period. For example, LCO management stated that in August 2022, 665 conferences were held at the two field offices. The conferences were expanded during 2023 to additional field offices, including Oakland. According to LCO management, the pilot program helped to decrease the backlog of wage claims by 60 percent for claims awaiting a conference. For example, the LCO stated that the San Bernardino field office had approximately 5,000 claims with pending conferences, the oldest claim having been filed in 2019. The LCO told us that after the pilot program closed, there were approximately 2,000 claims left in the backlog, the oldest having been received in August 2022. LCO management stated that it plans to perform additional concentrated conferences in the future as the LCO refines the process and that it has already conducted multiple conferences for claims involving employers with multiple claims filed against them.

The LCO Has Not Adequately Identified Staffing Needs for Balancing Staff Workload

Although insufficient staffing is the primary reason for delays in processing claims, the LCO has performed limited analysis to determine the estimated workload for its existing staff who are currently processing wage claims and to support the Budget Change Proposals it submitted to the Department of Finance requesting additional staff. The LCO said that it required a number of additional staff to resolve new claims in the time frame required by state law and to resolve its backlogged claims. Using its limited analysis, the LCO has requested and received approval for additional staff positions since fiscal year 2016–17; however, many authorized positions remain vacant as of fiscal year 2022–23. As a result, as we discuss earlier, the LCO is still struggling to resolve claims within statutory time frames, resulting in longer wait times and a rapidly growing backlog of claims.

Further, according to the LCO, claims have become more complex because of new laws, and the claims' increasing complexity has resulted in more workers' claims being referred to a hearing and in an increase in employer appeals of field enforcement citations. The LCO explained that such developments can affect its ability to hold timely hearings on all claims. For example, a law that became effective in January 2003 requires certain employers to provide written notices 60 days in advance of mass layoffs, relocations, or terminations to employees and various public agencies. Under the provisions of Assembly Bill 1601 specific to call center workers, which became effective January 1, 2023, investigations of employers' call center relocation violations can require the LCO staff to spend significant time to analyze the call center's call volume to determine whether a violation occurred. Assembly Bill 1601 also increased the LCO's authority to issue citations for violations of the notice requirements. Under existing law,

employers can contest citations by requesting an informal hearing, which the LCO's Adjudication Unit hearing officers conduct. The LCO is also statutorily required to issue a decision on the citation appeal within 15 days of the hearing's conclusion.

In a different example, existing law permits an employee to accrue and use paid sick days for certain purposes, including caring for an employee's family member. Effective in January 2023, the definition of "family member" expanded to include a *designated person*, which is defined as a person identified by the employee at the time the employee requests paid sick days. This means that an additional person who is not otherwise already identified in statute can be the employee's designated person for purposes of using paid sick leave. The LCO expects that the new law could increase the complexity of the claims, some of which are already complex, requiring additional time and staff resources to process.

The LCO asserted that regardless of staffing, it may not be able to meet required time frames for processing all claims because of the complexities of some claims. However, the LCO does not have the necessary data to quantify the affect these new laws have had or will have on its workload. However, the LCO does not identify which claims are complex, and it has not performed any analysis to support its assertion. Although some claims' complexities resulting from changes in laws will affect the LCO's ability to process those claims within the required time frames, the LCO cannot quantify the extent to which it cannot meet required time frames because it lacks data. Drawing on available data, we estimated the number of staff that the LCO currently needs to resolve all claims. To determine whether the LCO has the required number of staff to process all claims in a timely manner, we obtained from the LCO its estimate of the average number of hours that staff in each position spend on different activities related to processing each claim and on activities not related to processing claims. We then multiplied these estimated hours for various activities by the number of existing and new claims to determine the total number of hours needed, by position, to resolve those claims. Using 1,776 hours that the State identifies as hours that a staff in a full-time position works during a year, we determined the total number of staff needed to process all claims by position classification. We determined the number of field office supervisors and management by using a ratio prescribed by the California Department of Human Resources (alHR).

Our analysis of the LCO's staffing and workload data determined that its Adjudication Unit, as currently staffed, does not have the capacity to resolve claims in a timely fashion nor to provide adequate levels of supervision to monitor and track claim processing. We estimate that the LCO needs at least 892 total full-time positions to resolve the backlog and new claims and provide appropriate supervisory coverage, as Table 6 shows. Further, we estimate that the LCO would need 209 deputies to address backlog and new claims as of November 1, 2023. It currently has 80 authorized positions for deputies. Thus, it would need an additional 129 deputy positions. We estimate that the LCO needs 64 additional hearing officers to hear existing claims and 140 additional field office supervisors and regional manager positions. Our analysis did not include the approximately 36 IT staff and IT supervisors that the LCO estimates are needed to create technology infrastructure and provide technical support related to its case management system.

Table 6
Estimated Number of LCO Adjudication Unit Staff Needed to Resolve Existing Backlog and New Claims

ESTIMATED ADJUDICATION UNIT STAFFING NEEDED UNDER CURRENT PROCESS				
POSITION CLASSIFICATION	ACTIVITY HOURS* NEEDED AND SUPERVISOR ALLOCATIONS	TOTAL NUMBER OF POSITIONS NEEDED (1 POSITION =1,776 HOURS PER YEAR [†])	CURRENT NUMBER OF AUTHORIZED POSITIONS*	ESTIMATED ADDITIONAL POSITIONS NEEDED BEYOND CURRENT AUTHORIZATION
Office technician	200,953	113	59	54
Management services technician	200,953	113	19	94
Industrial relations representative-intake	98,046	55	32	23
Industrial relations representative	172,732	97	24	73
Deputy	370,682	209	80	129
Hearing officer	242,089	136	72	64
Field office supervisor	One per 5 field office staff [‡]	145	25	120
Regional manager	One per 6 field office supervisors [§]	24	4	20
Totals	1,285,455	892	315	577

— OR —

ESTIMATED ADJUDICATION UNIT STAFFING NEEDED WITHOUT REQUIREMENT FOR SETTLEMENT CONFERENCE				
POSITION CLASSIFICATION	ACTIVITY HOURS* NEEDED AND SUPERVISOR ALLOCATIONS	TOTAL NUMBER OF POSITIONS NEEDED (1 POSITION =1,776 HOURS PER YEAR [†])	CURRENT NUMBER OF AUTHORIZED POSITIONS*	ESTIMATED ADDITIONAL POSITIONS NEEDED BEYOND CURRENT AUTHORIZATION
Office technician	163,072	92	59	33
Management services technician	163,072	92	19	73
Industrial relations representative - intake	98,046	55	32	23
Industrial relations representative	117,326	66	24	42
Deputy	226,615	128	80	48
Hearing officer	242,089	136	72	64
Field office supervisor	One per 5 field office staff [‡]	114	25	89
Regional manager	One per 6 field office supervisors [§]	19	4	15
Totals	1,010,220	702	315	387

Source: Analysis of the LCO's claim resolution process, new claims, current backlog of claims, staff activity hours by position classification, duty statements, and case status, and CalHR guidance on supervisor allocations.

* The activity hours are LCO's estimates based on backlogged and new claims as of November 1, 2023. The number of current authorized positions is based on authorized positions for fiscal year 2024–25.

[†] Based on CalHR guidance. The ratios of professional staff to supervisors reflect the level of oversight and monitoring required to improve the LCO's claim resolution and ensure statutory compliance. One full-time position is equal to 1,176 hours.

[‡] CalHR's guidance states that there should be one field office supervisor for every three to five industrial relations representatives, deputies, or hearing officers. However, field office supervisors oversee the work of all field office staff, which also include office technicians and management services technicians. As such, we applied the maximum ratio of one field office supervisor for every five staff, including office technicians and management services technicians.

[§] CalHR's guidance states that there should be one regional manager for every six to 12 field office supervisors. We applied the minimum ratio of one regional manager for every six field office supervisors to arrive at a maximum number of required positions.

By assessing its current procedures for processing claims, however, the LCO may be able to reduce the number of staff required. As we describe earlier, the LCO's current procedure of requiring a settlement conference before deciding whether a hearing is needed contributes to the delays in processing claims. If the LCO were to remove the requirement to hold a settlement conference before determining whether to hold a hearing, the agency could significantly reduce the number of staff and supervisors needed from 892 to 702, as Table 6 shows.

The director of DIR asserts that the LCO must fill its 159 current vacant positions before requesting additional position authorizations through a budget change proposal. However, our analysis of the backlog, new claims, existing staffing structure, and staff workloads shows that the LCO's need for additional staff and appropriate supervisor allocations to resolve new claims in a timely manner in addition to resolving the existing backlog is urgent and should not be tied solely to the filling of existing vacancies.

Low Salaries May Contribute to the LCO's High Staff Vacancy Rates

Several job classifications within the Adjudication Unit likely lack competitive salaries, contributing to retention problems. According to data from DIR, the LCO's Adjudication Unit has a low employee retention rate, with more than 19 percent of new employees hired since July 2018 leaving the LCO within an average of just more than one year.

DIR began conducting exit interviews in August 2022. Although only 16 employees had completed an exit survey as of January 2024, the responses indicated that 85 percent of those staff left to pursue other employment opportunities with better pay and benefits. Half of the 20 field office staff we interviewed believe that the salary for their position is not comparable to others with similar work and workload. The LCO management stated that staff have also sought promotions and transfers to other divisions within the LCO and DIR due to low salaries.

To determine whether salaries for LCO positions are competitive, we identified other job positions comparable to LCO positions. We examined four positions with direct involvement in the wage claim adjudication process that had high vacancy rates: office technician, industrial relations representative, deputy, and hearing officer. After identifying the minimum qualifications and general duties of each position, we identified comparable positions with similar duties in the public sector at four specific locations throughout the State. Although LCO management believed that the duties for industrial relations representatives and deputies may be more complex than positions that may appear comparable, for all four positions, we reviewed education and years of experience required to work in each position and further examined the level of specialized knowledge, interpersonal skills, or level of supervision involved with their respective duties. The text box shows the job positions that we used for our comparison.

Positions Used for Salary Comparison

Hearing Officer

- *Attorney III and Administrative Law Judge* positions with state government
- *Child Support Services Attorney II* positions with county government

Deputy

- *Veterans Claims Representative II, Associate Governmental Program Analyst, and Attorney I* positions with state government
- *Child Support Services Attorney I* positions with county government

Industrial Relations Representative

- *Veterans Claims Representative I* position with state government
- *Community Services Coordinator* positions with county government

Office Technician

- *Administrative Assistant* positions at city and county government and in private industry

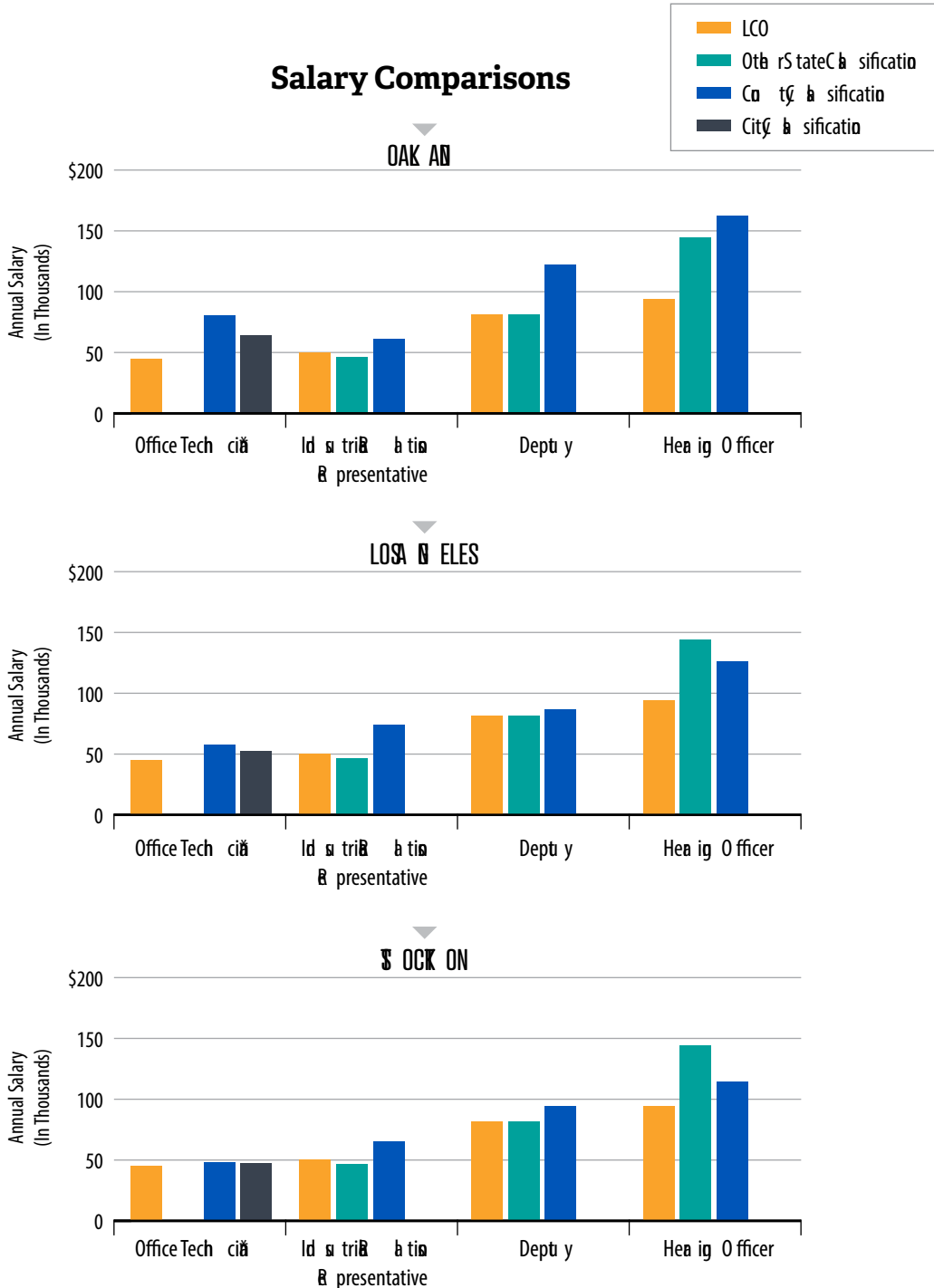
Source: Analysis of duty statements.

Our review showed that not all positions' salaries for the Adjudication Unit are competitive. As Figure 5 shows, the LCO salaries for some positions are lower than similar state government positions or those in county or city government in the same location as the field office. In particular, the hearing officer's salary was lower than similar positions at the state level. Specifically, hearing officers' duties are similar to that of an administrative law judge with the State. Both positions are responsible for presiding over hearings, listening to witnesses, and issuing decisions. However, the salary for a hearing officer is \$4,000 per month less than that of an administrative law judge. In fact, we found that hearing officers may hold law degrees, as do administrative law judges, and perform comparable work. In response, the labor commissioner reported that the LCO has efficient hearing officers performing that work who are not attorneys.

DIR is taking limited steps to address complaints about low salaries, but employee retention in the LCO has been a problem for many years, and DIR and the LCO have not acted with the urgency that the situation warrants. DIR did not enter into a contract until 2022 for a classification study to examine the industrial relations representatives position and all three positions within the deputy labor commissioner series—deputy, hearing officer, and field office supervisor. The administrative chief of DIR stated that he expects the consultant to complete the classification study in summer of 2024. Because the study will likely change specifications to adjust minimum qualifications and better reflect work performed, the consultant will conduct a compensation analysis for the industrial relations representative position and the three positions in the deputy labor commissioner series after the classification study is complete.

However, according to a labor relations manager at DIR, implementing the resulting proposed changes from the classification and compensation studies can take several years to complete. Meanwhile, the department may continue to struggle with vacancies, and workers will continue to experience long delays in the processing of their claims. If the LCO determines that it does need to adjust the salaries of certain positions, it would need to submit a request to CalHR to do so. DIR's Human Resources Department informed the LCO that CalHR would require a significant amount of data, such as vacancy rates and salaries of comparable positions, for any such analyses and thus it would be a time intensive process. According to DIR, if CalHR approves the request, the proposal would also have to go through the collective bargaining process with the unions representing the employees. Requests for pay differentials for employees—for example, a geographic pay differential that provides higher salaries for positions located in areas with a higher cost of living—could also be incorporated into this process. Although some positions in the Adjudication Unit, specifically office technicians and industrial relations representatives in certain locations, are already eligible for geographic pay differentials, the positions in the deputy labor commissioner series are not.

Figure 5
LCO Staff Salaries in Some Classifications Cannot Compete With Salaries for Similar Positions in the Public Sector



Source: State pay scales; State Classification Requirements and Duties for office technician, industrial relations representative, deputy, hearing officer, veteran's claim representative 1 and 2, administrative law judge; and job postings for similar positions obtained from city and county websites.

* Because Office Technician is a common state classification, we did not compare it with other state positions.

The Inefficiency of the Hiring Process Hampers the LCO's Ability to Reduce Its Vacancy Rate

Over the past five years, the LCO has been unsuccessful in filling many open positions. For example, beginning in fiscal year 2018–19, the LCO's Adjudication Unit had 48 authorized deputy positions and 41 filled, leaving it with a vacancy rate of 15 percent. In the five years from fiscal year 2018–19 to 2023–24, the Legislature approved multiple new deputy positions, bringing the total number of authorized deputy positions to 81. However, LCO data show that as of June 2023, the Adjudication Unit had only 47 employees in its deputy positions and a vacancy rate that had grown to 38 percent. Other positions in the Adjudication Unit also had high vacancy rates, including 31 percent for hearing officers and 35 percent for office technicians, as of June 2023. In fiscal year 2022–23, the LCO hired 47 employees, but the Adjudication Unit still had 91.5 vacant positions in the field offices, including regional managers and other support staff, by the end of June 2023.

DIR and the LCO have not been able to meet DIR's expected timeline for recruitment. As we describe in the Introduction, DIR manages some aspects of the hiring process, such as approving the posting of a vacant position and providing final approval of the selected candidate. The LCO takes the lead on other aspects, including interviewing and selecting candidates. DIR's recruitment and hiring guidelines indicate that it expects a recruitment to only take eight weeks from the time a job is posted to hiring a successful candidate. The process accounts for the steps involving the LCO's submitting various required documentation to DIR for review and approval. However, the 13 recruitments we reviewed showed that delays often occurred in this review process and resulted in many recruitments failing to produce a successful candidate within DIR's expected timeline.

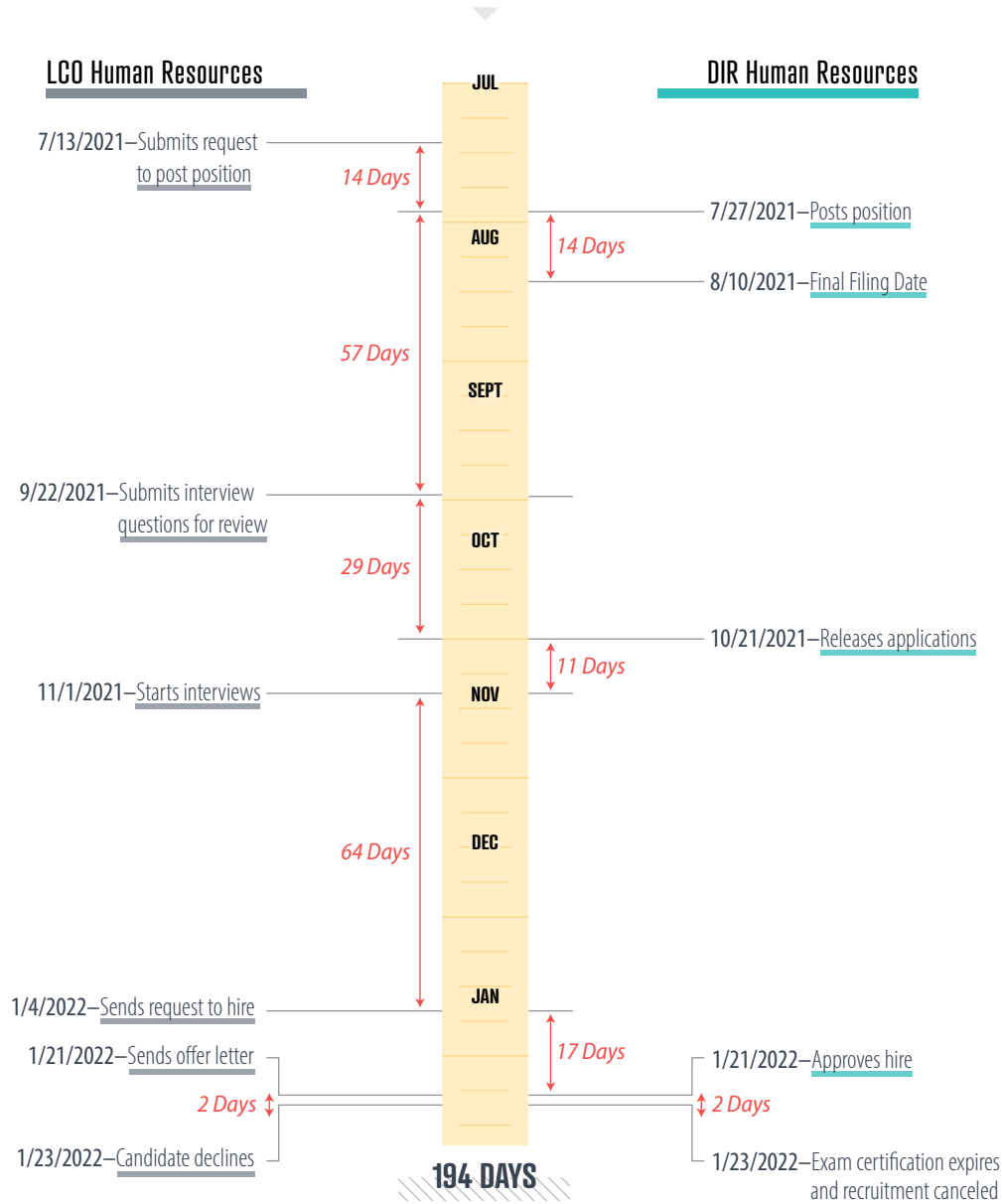
Many of the LCO's recruitment efforts to fill the Adjudication Unit positions have been unsuccessful, often due to the delays in the hiring process. DIR's data show that the LCO has conducted more than 300 recruitments for the Adjudication Unit since April 2021, and of these recruitments, the LCO canceled 135. We found that the canceled recruitments were generally unsuccessful because the process took more than six months. As the Introduction explains, a recruitment expires six months after the eligibility certification list is established. To assess the recruitment process, we selected 13 recruitments posted between February 2021 and November 2023, including five canceled recruitments and five successful recruitments. The remaining three recruitments were still in process. However, in all five of the canceled recruitments we reviewed, DIR and the LCO were not able to successfully hire a candidate within six months. In four of these five recruitments, the exam certifications either expired before the LCO selected a candidate or the selected candidate withdrew shortly before the certification expired, leaving the LCO no time to select another candidate.

Figure 6 demonstrates that in one recruitment for a deputy position, DIR's and the LCO's combined delays in reviewing applications, submitting the required interview questions, completing interviews, and selecting a candidate left the LCO with only one business day to make an offer to the selected candidate before the recruitment expired. Available documentation showed that at least two candidates had already accepted a position elsewhere or had withdrawn by this time. Once DIR and the LCO completed the required steps, including completing a reference check on the selected candidate, and approved the candidate, the LCO made an offer to the selected candidate on the

last business day—a Friday—before the six-month recruitment certification expired. When the candidate declined the position, there was no time to formalize the offer to another candidate before the LCO had to cancel the recruitment.

Figure 6
A Recruitment for a Deputy Position Took Much Longer Than the Time Frames Established in DIR’s Hiring Guidelines

Example of a Canceled Recruitment for a Deputy Position



Source: Analysis of recruitment documents for deputy position.

One common cause for the delays in the recruitments we reviewed was the LCO's practice of holding interviews for multiple positions at once, which required more time to interview all candidates. The chief deputy labor commissioner explained that the LCO posted multiple positions through a single recruitment for five of the 13 recruitments we reviewed. When posting multiple recruitments, it uses the same interview panel and questions for all candidates and often must wait until it has interviewed candidates for all the locations as the same candidate may apply for multiple locations. The LCO then compares the top scoring candidates for each location before selecting a candidate.

Because DIR verifies that a candidate meets minimum qualifications *after* receiving the request from the LCO to hire the candidate, a lengthy recruitment often leaves very little time to identify additional candidates if DIR determines that the selected candidate fails to meet the minimum qualifications for the position. We reviewed data from DIR showing that from January 2021 through May 2023, candidates for 29 recruitments for deputy positions did not meet minimum qualifications. Some candidates for other positions, such as the industrial relations representative, also failed to meet minimum qualifications after the LCO had already conducted interviews. For example, in a recruitment for a deputy, the candidate did not meet the minimum qualifications but was approved for a training and development position to improve their skills to prepare them for the promotion. The approval from DIR came only two days before the certification expired. The candidate declined and the LCO canceled the recruitment.

DIR staff suggested that the reason so many candidates fail the minimum qualifications is that the specifications for industrial relations representative, deputy, hearing officer, and field office supervisor positions are written very narrowly. For instance, a candidate for the industrial relations representative position who does not possess a college degree but meets specific work experience requirements may qualify by having six months of experience as a management services technician, another state-level classification. Because the specification requires experience as a management services technician, a candidate with years of experience in a different but similar position would not meet the minimum qualifications for the position.

As we discuss above, DIR is currently conducting a classification study, and the process will include a reconsideration of minimum qualifications. The assistant personnel officer stated that after the classification study concludes, DIR intends to implement, with approval from CalHR, any recommendations that could possibly expand the candidate pool, including any recommendations to revise the minimum qualifications for the industrial relations representative and deputy series. However, revising classifications is a lengthy process, and in the interim, unless DIR and the LCO are able to develop a better process, the LCO may continue selecting candidates who then fail the minimum qualifications.

Even for the LCO's successful recruitments, the process still generally took a long time. We found that the LCO took an average of more than five months to fill the five successful recruitments we reviewed. In one recruitment for a hearing officer, after the position had been posted and candidates had applied, 69 days then passed between the date the LCO submitted to DIR a request to hire and the date DIR

approved the hire. After receiving the LCO's request, DIR initially determined that the candidate did not meet the minimum qualifications for the position. In such instances, candidates have 10 days to submit additional proof that they meet the qualifications. After this candidate submitted the required proof, DIR determined the candidate did meet the minimum qualifications and, 46 days after receiving the request to hire, notified the LCO that it would move forward with the request. However, 15 days later, DIR notified the LCO that because this candidate had not been the highest-scoring candidate and because the LCO's original justification to hire the candidate was insufficient, the LCO needed to submit to DIR a justification for its choice of this candidate over the one with a higher score. The LCO submitted the revised justification three days later, and DIR gave the LCO the clearance to hire the candidate five days after that. By this point, the LCO only had 21 days left until the recruitment expired.

Our review of recruitments identified other instances in which DIR required the LCO to make corrections to various hiring documents. For example, in a recruitment for a field office supervisor, it took 42 days to get the position posted. Specifically, when the LCO submitted documentation to DIR, including a duty statement, DIR identified necessary edits to the duty statement. This revision process consumed 13 days. DIR also required the LCO to make revisions to documents for screening and interviewing the applicants before it would release the applications for the LCO's review. As in other examples above, both DIR and the LCO contributed to the delays in the recruitment. A manager at DIR explained that the frequent edits and time-consuming back-and-forth between DIR and the LCO may have resulted from training issues and a lack of knowledge and consistent coaching for the LCO staff conducting the recruitments. The manager explained that DIR now meets weekly with the LCO to discuss recruitments, and the LCO staff may use the time to ask any questions they may have.

The Human Resources teams in both the LCO and DIR have faced challenges in the past affecting their ability to hire candidates and manage the timeliness of the recruitment process. DIR came under scrutiny in 2018 for its hiring practices, including allegations of nepotism, and according to its Human Resources assistant deputy director, it subsequently lost its delegated authority to hire staff in April 2019. According to DIR's Human Resources assistant personnel officer, CalHR had to approve any hiring decisions for the agency for 23 months. She stated that DIR did not regain its delegated authority until it implemented required recruitment and hiring procedures and trained its staff on them. The department regained its hiring authority in March 2021. In the interim, hiring declined at the LCO, which filled only six positions in its Adjudication Unit in fiscal year 2019–20, down from the 47 positions it filled in fiscal year 2018–19.

Both DIR and the LCO have added Human Resources staff in the past year. DIR hired a manager, two supervisors, and six staff in 2023. As of June 2022, the LCO only had two staff and one retired annuitant to assist in filling 88 open positions in the Adjudication Unit. Furthermore, the staff member who had the most experience resigned in July 2022, leaving only one staff and a retired annuitant for a few months. In 2023 the LCO hired a manager, a supervisor, and four staff-level positions for

its Human Resources team to better support hiring. These positions support the Adjudication Unit and all other LCO programs. However, it is too soon to determine the effect this extra staff will have on the hiring process.

Although the LCO has taken action to increase the number of staff to help with recruitment, the lengthy recruitment process and many failed recruitments are only exacerbating the wage claim backlog. For many years now, the LCO has had additional positions authorized to help clear the backlog and process claims, but it has failed to fill them. Field office supervisors generally conduct candidate interviews, taking time away from their work processing claims. The LCO often canceled recruitments after it went through the process of interviewing and selecting candidates, which can be discouraging for the field office supervisors, who then have to go through the entire process again.

The LCO Has Not Always Provided Critical Training and Oversight to Its Field Offices

Key Points

- The LCO recently began centralizing and standardizing training for Adjudication Unit staff; however, field office supervisors often remain responsible for providing informal staff training, leading to inconsistent instruction.
- The LCO could not always demonstrate whether employees received training because its recordkeeping is decentralized and inconsistent.
- The LCO has not provided field office supervisors with guidance about how to assign claims or monitor staff workloads. Consequently, claims remain unassigned or may be processed inefficiently, leaving workers waiting for a resolution to their claims.

New Adjudication Unit Staff Received Inconsistent Training

LCO staff explain that the LCO only recently established a unit dedicated to training—in April 2022—and has since introduced training standards for new staff. The chief deputy, who served as an assistant chief for the LCO between 2019 and 2022, was unsure why the LCO did not previously have a dedicated training unit. He explained that the LCO did have some training in place for staff in the past, including a training on standard operating procedures provided by field office supervisors and subject matter experts that the LCO began in 2019. The LCO also had a contract with the University of California College of Law, San Francisco to provide some training on negotiation and mediation, beginning in 2021. However, this training did not necessarily correspond with a new staff person's start date.

As part of our interviews with field office staff, we asked whether they had received training when they were hired or promoted into their current position. Several staff, including an office technician, industrial relations representatives, deputies, and hearing officers, stated that they had received some on-the-job training or materials to read but had not received formal training. For example, one deputy stated that upon starting the job, the deputy received training from two different supervisors, who gave inconsistent answers to questions the deputy asked for clarification about the manual for processing claims that the deputy had been directed to read. The deputy also stated that they were expected to arrange to shadow more experienced deputies, but not all experienced deputies were willing to allow shadowing. Similarly, an industrial relations representative stated that the training had been informal, consisting of reading a manual and receiving some training on using the case management system.

We reviewed additional training records to determine the adequacy of the training that the LCO provides, but the LCO does not maintain training records in a central location, and we found that field offices maintain training records inconsistently or not at all. After determining through interviews that new staff appeared to be receiving inadequate training, we selected 10 staff members who were either newly hired or were newly promoted to their positions in the Adjudication Unit between January 2018 and December 2023 to determine whether they had received new hire training. When we requested training records for the 10 employees from their respective field office supervisors, the records we received sometimes consisted of a list of email messages between the supervisor and the staff referencing training topics, as opposed to certifications or some other documentation that supported the completion of specific training topics. For two employees, the field office supervisors could not locate any training records. Consequently, for six of the 10 employees, the field offices were unable to identify whether the employees had received any new hire training, as Table 7 shows. Because we identified such significant gaps in most employees’ training records and because of the overall lack of a consistently documented training program, we determined that selecting additional employees for training records review would yield similar results.

Table 7
We Were Unable to Determine Whether Most of the Employees Whose Records We Reviewed Received New or Ongoing Training

FIELD OFFICE	CLASSIFICATION	EFFECTIVE YEAR OF EMPLOYMENT	RECORDS DEMONSTRATE THAT ALL REQUIRED NEW HIRE TRAINING WAS PROVIDED
Employees 1-7 were hired before the establishment of the Adjudication Unit Training Section (training unit)			
1 Bakersfield	Deputy	2019	No
2 San Francisco	Hearing Officer	2020	No
3 Long Beach	Office Technician	2021	Yes
4 Stockton	Hearing Officer	2021	No
5 Sacramento	Office Technician	2022	No
6 Santa Ana	Industrial Relations Representative	2022	Yes
7 San Francisco	Industrial Relations Representative	2022	No
8 Sacramento	Office Technician	2023	No
9 Long Beach	Deputy	2023	Yes
10 Van Nuys	Hearing Officer	2023	N/A*

Source: Review of training records of selected employees.

* The hearing officer previously held the position of a field office supervisor before his resignation. Upon his reinstatement as a hearing officer, it was determined that new hire training for him was not necessary.

Although the LCO created a training unit in April 2022, it still could not demonstrate that staff consistently received or completed training since that time. The training unit staff explained that they created training plans that describe the training for new staff or for those promoted to new staff positions, and they created acknowledgment forms for these staff to certify that they received the training. The LCO now expects

that staff receive the training developed by the training unit within four months of being hired or promoted into a new position. Five of the 10 employees whose training records we reviewed were hired after April 2022. Although the training unit was established at that time, it took several months for outlines of training for each classification to become available for new hires and promoted staff members. Nevertheless, the LCO could not demonstrate that two of these five employees received the training that its training unit developed.

Moreover, although the LCO has established its training unit, the training unit staff are not dedicated solely to providing and monitoring training. Although three Adjudication Unit staff members are assigned to the training unit, they are expected to still work on wage claims and perform the duties related to their classifications. For instance, the training unit supervisor confirmed that a deputy who is assigned to the training unit continues to process wage claims and carry a full-time workload of wage claims and that a hearing officer assigned to the unit continues to hold hearings.

The training unit supervisor stated that the LCO had initially planned to gradually reduce the wage claim workloads for each training unit staff member and expected that they could eventually dedicate 100 percent of their time to training. However, at the time of our review—nearly two years after the establishment of the training unit—none of the staff were working solely on training. As a result, field office supervisors are still expected to train staff members when the training unit is unable to conduct the training, which will likely result in continued inconsistencies in the training provided and the training unit's inability to ensure that all staff receive the required training. The training unit supervisor also stated that the unit does not have the staff needed to train all new hires and promoted employees. Moreover, although the LCO has taken steps to address training issues, it still lacks a centralized repository for training records or process to verify that staff receive required training.

Field Office Supervisors lack Specific Guidance on Assigning and Monitoring Workloads

Despite field office supervisors in the Adjudication Unit having the responsibility to make workload assignments, the LCO has not ensured that all supervisors receive training on how to use available data to manage their respective office's workload. A field office supervisor is responsible for planning, organizing, directing, and coordinating the work of a field office. As part of this responsibility, field office supervisors' duties include making equitable workload assignments to assure adequate workflow balance. Inadequate staffing can hamper a supervisor's ability to assign claims and makes it even more critical that the supervisor uses all available resources to help ensure that staff can process claims in a timely manner. However, during our claims review at eight field offices and our interviews with various staff, we found that some field office supervisors are struggling with managing workload for their respective field offices.

Several staff reported in our interviews that their supervisors were not assigning them claims. For example, one deputy stated that instead of the field office supervisor assigning claims, the deputies in the office have been assigning claims to themselves out of a pool of pending claims. Similarly, a hearing officer at the same field office told us that the field office supervisor did not always assign claims for hearings and that the hearing officer had to ask for assignments. Further, a hearing officer at a different field office also stated that, at times, the hearing officer had to request claims to be assigned because the field office supervisor had not assigned any. In another example, we reviewed a claim that had not been processed in a timely manner and found that the deputy who worked on the claim had been promoted to a hearing officer position in January 2020. She told us that she had specifically asked the field office supervisor to reassign the claims to another deputy. However, according to the hearing officer, as of December 2023—nearly three years later—many of the claims that she worked on as a deputy had still not been reassigned to another deputy.

Moreover, some field office supervisors were unaware of or did not know how to use tools available to them for monitoring workloads and assigning claims. The case management system includes a dashboard and reports that field office supervisors can use to manage staffs' workload. For example, field office supervisors can view a dashboard showing all their staff and can see the number of claims assigned to each. However, not all supervisors appear to be aware of the dashboard. One field office supervisor explained that when they were promoted to that position, they did not receive any training in how to use the dashboard and found it confusing. Another stated that they did not use the dashboard because the dashboard contains statewide statistics and the supervisor never received training on how to show statistics specific to the field office. Although one supervisor stated that they received an informal overview of the dashboard from their regional manager, they explained that they only review the data on the dashboard and are unsure of how it can be used to resolve issues. However, other supervisors stated that they used the dashboard and reports on a regular basis.

The LCO has developed training for supervisors on how to monitor workloads. The chief deputy stated that in the summer of 2023, the LCO trained field office supervisors specifically on creating a monthly report that is the primary tool for supervisors to track the number of conferences and hearings that are scheduled and held. The chief deputy explained that regional managers are supposed to meet with field office supervisors for regular check-ins to discuss the workloads of staff at the supervisor's field office and review how the supervisor is monitoring the workload and assigning claims to staff. Further, the chief deputy stated that the LCO is in the process of developing a training on assigning cases. Ensuring that all supervisors have access to and understand such available tools would help LCO management identify any potential problems with how field office supervisors assign claims.

The Enforcement Unit's Work Results in Only a Small Percentage of Successful Payments to Workers

Key Points

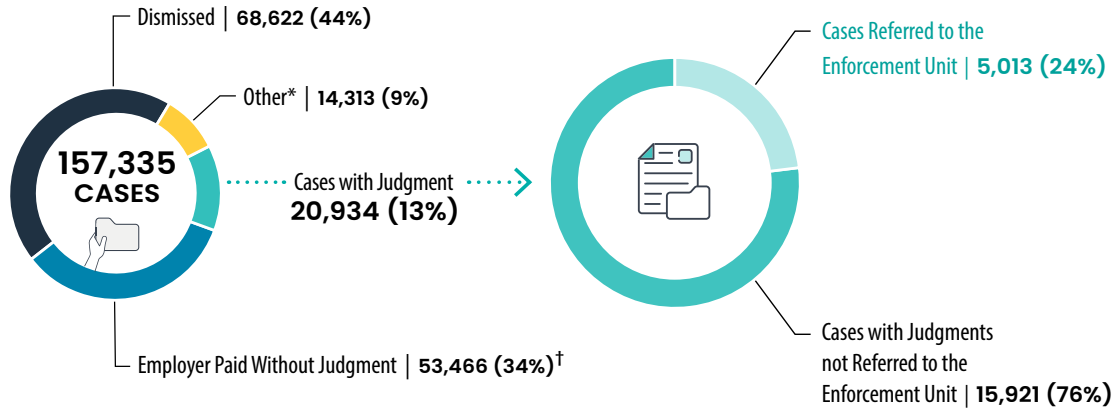
- Only a small number of workers—24 percent, or roughly 5,000 cases—chose to have the Adjudication Unit refer their cases to the Enforcement Unit for payment collection between January 2018 and November 2023. During this same period, the Enforcement Unit succeeded in collecting the entire amount owed to the worker only 12 percent of the time, or in roughly 600 cases.
- The Enforcement Unit has a backlog of 2,200 unassigned cases. It also has staff vacancies that prevent the unit from addressing all cases in a timely manner and from pursuing all potential avenues to collect payment. The unit also lacks specific procedures, so deputies also use inconsistent methods to collect payment, causing correspondingly inconsistent levels of success in collecting payment.
- If the LCO were to take some actions earlier in the wage claim process—such as identifying liable individuals to track assets and place liens before judgments—it may have greater success collecting payment.

A Large Backlog and Insufficient Staffing Have Contributed to the Enforcement Unit's Collecting Only a Small Percentage of Judgments

As Figure 7 illustrates, of the 21,000 cases for which the LCO obtained a judgment against employers between January 2018 and November 2023, the Adjudication Unit referred 24 percent to the Enforcement Unit. As we discuss in the Introduction, not all workers choose to have their cases referred. The LCO's data show that when ordered to pay wages, employers for most workers do pay within 10 days of the decision. According to state law, the LCO can file an order with the appropriate Superior Court so that the court may issue a judgment against the employer 10 days following the decision, if the decision is not appealed. Of the nearly 75,000 claims for which the LCO ordered employers to pay workers or for which employers settled with workers, the LCO obtained a judgment against almost 21,000 employers, or about 28 percent. In other words, the remaining 72 percent of the employers paid the full amount settled upon or ordered by the LCO, so filing a judgment was not necessary. Staff in the Adjudication Unit handle obtaining a judgment and may refer workers to the Enforcement Unit for payment collection.

Figure 7

Only a Small Percentage of Workers Go on to Refer Their Cases to the Enforcement Unit Between January 2018 and November 2023



Source: Analysis of LCO wage claims and judgment referral data.

Note: As Appendix B discusses, we found the LCO's data to be of undetermined reliability; however, the data were the best available source of information on wage claims.

* Other cases are those that the LCO had not adjudicated or dismissed, including those that were in an inactive status.

† In many cases, the employer pays owed wages immediately after the LCO issues its decision. If the parties have not appealed within 10 days of the decision, the LCO can obtain a judgment from the appropriate Superior Court. As a matter of practice, the LCO does not obtain judgments when the employer pays the award within 10 days.

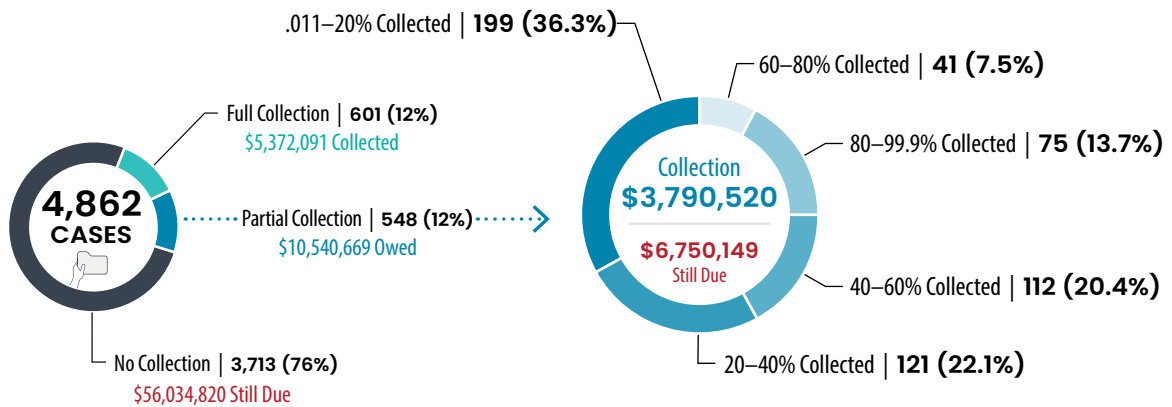
For those cases referred to the Enforcement Unit, available data show that from January 2018 through November 2023, the Enforcement Unit did not collect any payments for 76 percent of the cases it received during that period, as Figure 8 shows. The Enforcement Unit collected 100 percent of the judgment amount for only about 600 of the about 5,000 cases that were referred to the Enforcement Unit. Although the Enforcement Unit collected some amount for nearly 550 cases, it collected less than 40 percent of the judgment amounts for more than 300 of these cases.

The Enforcement Unit stated that it did not collect any judgment amount for 76 percent of cases largely because the Enforcement Unit has not yet begun enforcing many of these cases. Deputies begin enforcement when a supervisor assigns them the referral. Our review of the LCO's data showed that as of November 2023, 2,200 of the nearly 4,600 outstanding referrals, or 50 percent, remain unassigned.

The LCO has made efforts to increase the unit's staffing to increase its capacity and reduce its backlog. The chief deputy reported that he has been reallocating positions from another unit, the Bureau of Field Enforcement, to the Enforcement Unit. In fiscal year 2018–19, the Enforcement Unit had 13 authorized positions, and there were 31 positions authorized by fiscal year 2023–24—an increase of nearly 140 percent. However, like the Adjudication Unit, the Enforcement Unit has had fairly high vacancy rates—23 percent in fiscal year 2018–19 and 35 percent by fiscal year 2023–24. The Enforcement Unit's management stated that they believed they faced the same hiring challenges that face the Adjudication Unit—long hiring times and canceled recruitments—but on a smaller scale because of the smaller size of

the unit. However, Enforcement Unit management stated that their most recent analysis indicated that the unit would need at least 277 additional staff, excluding supervisors and administrative staff, to address the ongoing demand and that the unit would need additional staff to address its existing backlog.

Figure 8
The Enforcement Unit Did Not Collect Any Wages in Most of the Cases Referred to It From January 2018 Through November 2023



Source: Analysis of judgment-referral data from the LCO's Enforcement Unit.

Note: Judgments accrue interest at a rate of 10 percent annually until paid in full. The interest accrual can add a significant amount to the judgment against an employer over time. The Enforcement Unit staff manually calculate and track the interest periodically when ordering employers to pay. Therefore, the amounts due are understated in this figure because the interest is only calculated at time of payment. Further, we excluded 151 cases because of illogical data, such as negative balances owed. Accordingly, the total cases do not match the total referred in Figure 7. Additionally, as Appendix B discusses, we found the LCO's data to be of undetermined reliability; however, the data were the best available source of information on wage claims.

Lack of adequate staffing not only means that referrals go unassigned but that deputies have less time to spend on each referral. The Enforcement Unit management explained that the more time spent researching the assets of those named on a judgment, the greater the chances that deputies will be able to identify an employer's assets, thus increasing the percentage of successful collections. The Enforcement Unit management stated that because each case is unique, the average time that staff spend researching employers is difficult to estimate. However, because the Enforcement Unit believes that researching an employer's finances can increase the chances of collection, it seems likely that reducing a deputy's workload would increase the unit's collection success rate.

The Enforcement Unit does not have set expectations for the number of referrals that should be assigned to a deputy at one time. Because deputies generally do not close a judgment unless the full amount is collected, the case is settled, or collection has been determined to be infeasible, deputies may have many judgments assigned to them that they are not actively working. In addition, for those cases that are closed following full collection, the Enforcement Unit's case management system does not record a closure date. Therefore, it is impossible to track the time it takes a deputy to complete the enforcement of a judgment. Enforcement Unit management

explained that supervisors meet with deputies on a bi-weekly basis to discuss the deputies' workloads and determine the number of new referrals a deputy can accept. As the next section discusses, the Enforcement Unit has also been inconsistent in the methods it applies to collection, which also contributes to the low collection success rate.

When the LCO cannot collect the maximum amount of a judgment on behalf of the worker, it limits the effectiveness of the entire wage-claim process. The goal of the wage-claim process is to ensure that workers collect the money they are owed. Although expecting the Enforcement Unit to be successful in collecting the entire amount in a judgment all the time is unreasonable, a collection success rate of 12 percent to 24 percent for all judgments referred to it and the numerous referrals that remain unassigned defeat the purpose of the entire, often lengthy, process that came before—the workers still have not received the money that they earned.

Examples of Methods Available to the Enforcement Unit for Collecting Owed Payments

Lien: When a lien is placed on property, the judgment creditor may be paid when the property is sold or refinanced.

Levy: A levy directly gains possession of an asset. For example, the LCO can deliver a notice of levy to access money in the bank accounts of employers.

Stop Order: The LCO can issue a stop order to an employer prohibiting the use of employee labor until the employer pays an outstanding final judgment arising from the employer's nonpayment of wages.

Contractor License Suspension: The Enforcement Unit can coordinate with the Contractors State License Board to suspend a contractor's license.

Source: Analysis of Enforcement Unit manual, state law, and Judicial Council of California website

The Enforcement Unit Has Not Consistently Used All Methods Available for Collecting Payments

State law grants the Enforcement Unit extensive authority to collect judgment amounts owed to workers. Specifically, state law authorizes the LCO to collect the judgment amount from the employer or individuals named on the judgment by seizing their financial assets, such as bank accounts and customer payments. Although county sheriffs can assist with judgment collection efforts, the law grants the Enforcement Unit additional authority to enforce judgments that are unique to it. There are more than 50 collection methods that the unit can employ. The text box lists a selection of these methods. As just one example of possible judgment collection efforts, the unit can work with the Contractors State License Board to suspend an employer's contractor license.

State law requires the LCO to make every reasonable effort to ensure that judgments are satisfied. The LCO interprets the law as requiring the Enforcement Unit to use a demand letter, file a lien, and issue a levy for every judgment it enforces. The demand letter is a letter that the Enforcement Unit sends to those listed on the judgment to demand that they pay the wage judgment, obtain a bond, or cease doing business immediately. The letter also lists the judgment amount, provides directions for payment, and includes a mandatory asset questionnaire. The Adjudication Unit can file a lien at the same time it files for a judgment in the county of the employer's address, so this action can generally occur before the judgment is referred to the Enforcement Unit.

In 2021 the LCO made a strategic decision to prioritize referrals for 17 low-wage industries, such as agriculture, housekeeping, and the garment industry, because of the large backlog of total cases. Under this approach, case referrals for workers who did not work in a low-wage industry receive support only through the demand letter, a lien, and a levy. Only low-wage industry workers' cases receive more intensive enforcement support, which can include researching employers' assets and pursuing enforcement methods beyond the demand letter, lien, and levy. Specifically, deputies within the Enforcement Unit perform investigations to identify the assets of the party named on the judgment and consider additional enforcement methods as appropriate.

To review the unit's collection efforts, we selected 50 cases enforced by the unit from 2018 through 2023. We chose 24 cases for which zero payments had been made to the worker and seven cases from which the worker received 100 percent of the principal balance of the judgment. The remaining 19 cases had variable success, collecting between 1 and 99 percent of the amount owed. We expected that the unit would not employ every method on every case since not every collection method is applicable to each case. For example, collection methods can be industry-specific, such as suspension of a contractor's license if the contractor does not pay the judgment amount. This method renders the employing contractor ineligible to legally operate a business in the State, but this method is only applicable to the construction industry. Other methods the unit could use to seize employers' property require knowledge of where the property is held. If the worker and deputy cannot find the location of an employer's assets, the Enforcement Unit cannot attempt to seize the assets. For example, deputies need to know which banks employers use in order to seize money from bank accounts. Thus, depending on the available information, the Enforcement Unit may not employ all methods for collecting judgment.

However, the Enforcement Unit does not consistently employ all relevant collection methods available to it, even in cases involving a low-wage industry. In fact, as Table 8 shows, the Enforcement Unit did not use the three enforcement methods of lien, levy, and demand letter on every case, despite the fact that these are the methods it considers to constitute a "reasonable effort" under state law. Specifically, of the 50 cases we reviewed, deputies used all three methods in only nine cases. Although the use of more than one method would be unnecessary if the first method the Enforcement Unit used proved successful, as Table 8 shows, for those cases in which the Enforcement Unit used only a lien, it collected only an average of 16 percent of the judgment. By not using all available methods, the Enforcement Unit likely missed opportunities to collect more on these judgments.

Table 8
The Enforcement Unit Used Basic Collection Methods Inconsistently

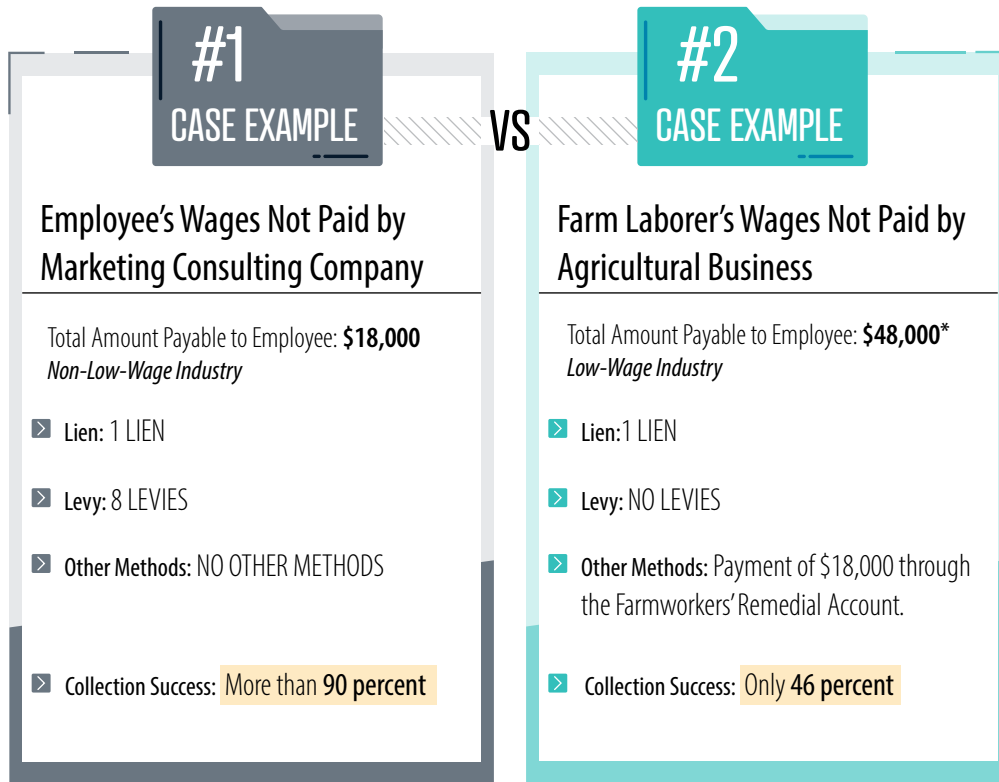
ENFORCEMENT METHOD	NUMBER OF CASES	AVERAGE PERCENT COLLECTED	
Levy and Demand Letter Sent	Total	9	43.64%
	Low-Wage Industry	3	33.33
	Non-Low-Wage Industry	6	48.79
Levy Filed and Demand Letter Sent	Total	17	22.91%
	Low-Wage Industry	10	23.15
	Non-Low-Wage Industry	7	22.57
Levy Filed and Levy Issued	Total	7	27.25%
	Low-Wage Industry	3	33.33
	Non-Low-Wage Industry	4	22.68
Only Levy Filed	Total	8	16.42%
	Low-Wage Industry	3	14.29
	Non-Low-Wage Industry	5	17.70
Only Demand Letter Sent	Total	3	0.17%
	Low-Wage Industry	1	0.00
	Non-Low-Wage Industry	2	0.26
Total	44	28.22%	

Source: Analysis of 50 judgments that the Enforcement Unit enforced between January 2018 and November 2023.

Note: Although we reviewed 50 judgments, six judgments included mechanic's liens to which the enforcement methods shown in this table are not applicable. We do not include these six judgments in the table.

As Figure 9 shows, in one case we reviewed, a deputy decided to issue eight levies and was able to collect 90 percent of the judgment for the worker. However, in the other example that the figure shows, the deputy chose not to pursue levies, although the worker was still owed \$26,000 on the judgment. The deputy might have been able to collect the remaining amount on this judgment had levies been pursued. However, the deputy stated that because the worker had received some payment and because of the Enforcement Unit's limited capacity, the deputy chose not to pursue further collection. According to Enforcement Unit staff, the deputies use their own discretion to determine how far to pursue collection and what methods to use. Consequently, workers receive inconsistent treatment—some have their cases pursued extensively, while others do not.

Figure 9
 The Enforcement Unit Has Not Consistently Used Available Methods That Might Have Been Successful in Collecting Payments



Source: Analysis of judgment case files.

* The employer paid \$4,000 before the Enforcement Unit began attempting to collect the judgment, leaving \$44,000 for the unit to collect.

The Enforcement Unit's lack of standard procedures for determining the enforcement methods to use for a case is the primary reason for the inconsistent collection methods. The Enforcement Unit has a manual describing definitions of some enforcement methods, but the manual does not include procedures describing how to assess which methods are best for each case or how far to pursue collection efforts. Consequently, staff members use their discretion when determining the appropriate collection methods to enforce a judgment and when to stop pursuing payments on a case.

The Enforcement Unit's field office supervisors assign referrals by the availability of staff. The unit has enacted some strategic protocols to provide enforcement for unassigned cases. In 2023 the unit developed a support initiative in which staff from other LCO units, such as the Bureau of Field Enforcement, may provide support for unassigned cases by employing certain methods, such as sending demand letters or issuing levies. Further, because a judgment is only eligible for enforcement for 10 years from when the judgment is issued, unless renewed, the Enforcement Unit developed another initiative in 2023, a screening process to review judgments after

five years to ensure that the unit has taken basic enforcement actions, such as making reasonable effort to identify assets. However, because of the unit's backlog, it has only been performing this review for judgments nearing expiration.

The Enforcement Unit also takes a long time to take action on cases after it receives the referrals. In our review of 50 cases, the Enforcement Unit did not take action to enforce 17 cases for 52 days and as many as 2,463 days after it received them, with an average of more than 1,000 days. Even with the unit's support initiatives in place, some cases have not received attention for years. For example, in one case we reviewed, the Adjudication Unit referred a judgment to the Enforcement Unit in 2019. Although the LCO had placed a lien on the employer's assets before the judgment was referred to the Enforcement Unit, the Enforcement Unit did not take further action until October 2023—1,679 days after the Enforcement Unit received the referral—when it sent a demand letter to the employer. The Enforcement Unit has not used any levy or other enforcement methods for this judgment and, as of November 2023, the case remained unassigned and the worker has not received any payment. Enforcement Unit staff explained that this case was part of the initiative discussed above in which staff from other LCO units took limited actions on the case.

Having Additional Authority Could Aid the Enforcement Unit in Collecting Payments

Collection methods only work if the individual or the company named in the judgment have any assets against which to collect. The Enforcement Unit management stated that one of the primary difficulties in collecting payments resulted from the lack of assets in the name of the defendant. This may occur because the business closed down, it purposely hid its assets, or it is simply unable to pay. For example, in 2017 the Enforcement Unit received a referral for a case against a small courier distribution business. The Enforcement Unit attempted to collect the judgment through a lien and levy. According to Enforcement Unit staff, they found no bank accounts to seize or property on which to place a lien in order to pressure the employer to pay, perhaps because all assets had been hidden or did not exist. As a result, the worker has not received any payments as of December 2023, five years after the case was referred to the Enforcement Unit.

Further, according to the Enforcement Unit staff, many judgments are primarily against companies and not individuals, which makes it difficult for the Enforcement Unit to collect payments from individual participants of wage theft. For example, for a judgment that the Enforcement Unit processed, it began researching the company named on a judgment but found no assets or income. As a result, the Enforcement Unit was unable to collect judgment from the company. However, upon investigation, the Enforcement Unit staff determined that the owners of the company had previously committed wage theft under a different company name and then individually filed for bankruptcy. To hold individuals accountable, the LCO's legal team pursued further legal actions and obtained a judgment against the individuals involved to prevent them from discharging through bankruptcy the debt related to the judgment. However, the legal staff stated that pursuing legal actions to find individuals liable is much lengthier and more resource intensive than doing

so through the wage claim process. The LCO's Enforcement Unit staff estimate that pursuing legal actions to hold individuals liable after a judgment is issued takes the LCO's legal team roughly 500 hours. However, they noted that naming an individual on a claim before a judgment is issued requires roughly 15 hours. Thus, it is important for the LCO to name individuals on a claim as early in the process as possible.

Ensuring that all appropriate parties are named in the judgment is key in ensuring that the Enforcement Unit can collect as much of the judgment amount as possible on behalf of the worker. State law provides varying statutes of limitations to find different entities liable for the theft of wages, depending on the type of claim. Because wage-claim processing often takes several years, and the Enforcement Unit has an additional backlog, cases are often not reviewed with sufficient time to allow the Enforcement Unit to file a new action against a new defendant who was not named in the initial judgment. Legal staff is providing training to LCO staff to ensure that any individuals liable for wage theft are named on claims so that these individuals do not have to be identified later if the claim goes to judgment.

Moreover, the Enforcement Unit believes that the ability to place a lien against the employer when a claim is filed would also improve its success in collecting any judgment against the employer later. For some claims related to the construction industry, the Enforcement Unit is able to place liens on the property worked on by the worker before a judgment is filed. This method is referred to as a *mechanic's lien*. According to the LCO's legal staff, mechanic's liens are typically very successful because quickly placing liens minimizes the time for bad-faith employers to either close businesses or transfer assets. Specifically, the lien affects the property owner, if other than the employer, and the property owner may place additional pressure on the employer to pay the judgment. In six of the 50 cases we reviewed, the Enforcement Unit had placed a mechanic's lien against a property, and in four of these six cases workers received the full amount of the judgment. The Enforcement Unit agreed that the expansion of its authority to include more pre-judgment liens for judgments related to other industries would likely improve collection success rates.

There have been some unsuccessful attempts to change statute to obtain the authority to complete additional pre-judgment collection methods. In the 2013–14 legislative session, members introduced two bills allowing for pre-judgment liens, but they did not pass. Business groups argued that the bills would have negative impact on California businesses and markets. The LCO reports that other states have passed laws allowing pre-judgment liens. According to a report by the University of California, Los Angeles' Labor Center, some states, including Washington, Ohio, and Alaska, have enacted laws to allow their respective labor agencies to place pre-judgment liens on employers within some industries, and such actions may increase chances for a successful legislative proposal. However, there have not been any recent efforts to work with the Legislature to pursue this authority.

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Recommendations

Legislature

To monitor the LCO's progress in reducing its backlog of claims and filling vacant positions, the Legislature should require the LCO to report annually to the Legislature on its progress in both of these areas.

LCO

To improve its process to better comply with the statutory time frame for determining whether a hearing is necessary, the LCO should make such a determination within 30 days and independently of a settlement conference, when necessary.

To allow it to accurately analyze and report on wage claim data entered into the case management system, the LCO should accomplish the following by December 2024:

- Require all staff to use the existing fields in the case management system to capture the date they determine whether a hearing is needed so that staff can track and monitor compliance with the 30-day statutory requirement for making such a determination and notifying the parties of whether a claim will be referred to a hearing.
- Require all staff to consistently enter the date that claims are referred to the Enforcement Unit.
- Modify the case management system to properly identify and capture all settlement conference dates to ensure that multiple records are not created when a claim has multiple conferences and to allow tracking and monitoring of conferences and hearings independently.
- Work with DIR to ensure that its process improvement initiative to redesign the case management system is completed in a timely manner and that the necessary staffing levels at the LCO headquarters and each field office exist to ensure that these initiatives have appropriate levels of support and supervisory oversight.
- Develop and implement a regular review process for supervisory staff so that they ensure that staff have entered all necessary data, including dates, accurately.

To improve employee retention and to reduce the number of vacancies, the LCO should identify by December 2024 whether it will need any additional analyses of employee salaries following the completion of the classification and compensation studies. If so, the LCO should prepare and execute a plan for conducting such analyses and, if appropriate, request salary increases for relevant positions from CalHR as soon as possible.

To shorten its hiring process and reduce the number of canceled recruitments, the LCO should do the following by July 2024:

- Reduce the number of positions it includes in a single recruitment so that the interview process can be completed in a timely manner.
- Work with DIR to improve its applicant screening criteria so that candidates selected for a position are more likely to meet the minimum qualifications for the position.
- To the extent possible, re-use duty statements, interview questions, and other hiring documentation that DIR has already approved to avoid delays in approvals for the various stages of the hiring process.

To adequately identify the staffing levels necessary to resolve both newly filed and backlogged claims, the LCO should perform a workload assessment by December 2024 that includes the following:

- Using the alternative methods for determining whether a hearing is to be held, identify for each position the number of staff needed to address the backlog of claims. This assessment should take into account any new claims the LCO expects to receive during a year, extrapolating from historical data and the statutory time frames required for each stage of claim processing.
- Identifying the number and type of supervisors required to support and oversee field office staff and operations.

If the LCO believes that it cannot meet the required time frames for certain claims because of their complexity, the LCO should assess the extent to which it cannot meet statutory time frames. It should then work with the Legislature to revise claim processing time frames accordingly.

To the extent budgetarily feasible and to ensure that it has the staffing necessary to process all claims within the statutory time frames, the LCO should fill all vacant positions at field offices for the Adjudication Unit. It should then request additional staff according to the results of its workload assessment.

To ensure that all field office supervisors manage the office's workload in an effective and efficient manner, the LCO should develop procedures by December 2024 for monitoring whether field office supervisors are assigning claims in a timely and appropriate manner.

To ensure that it appropriately trains staff in all classifications to process wage claims in accordance with statutory time frames, the LCO should do the following:

- By November 2024, centralize the tracking and retention of all training records.
- By November 2024, develop procedures for regularly reviewing all training records to ensure that all staff are meeting training standards.
- By May 2025, ensure that its training unit has an adequate number of staff dedicated to training only.

To ensure that it has complete and accurate data to measure the effectiveness of its Enforcement Unit, the LCO should ensure by May 2025 that its Adjudication Unit's case management system captures the closure date of claims referred to the Enforcement Unit for which full payment has been collected.

To maximize its judgment enforcement efforts, the LCO should do the following:

- By July 2024, develop operating procedures for Enforcement Unit staff, outlining how to determine appropriate judgment collection methods to use for a claim and requiring supervisors to ensure that staff implement all applicable methods.
- By November 2024, determine whether certain collection methods similar to the mechanic's lien allowed in the construction industry would be helpful in increasing judgement collection. If so, it should develop and present a proposal to the Legislature that would allow the use of such methods.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code section 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



GRANT PARKS
California State Auditor

May 29, 2024

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Appendix A

Authorized, Filled, and Vacant Positions for the Adjudication Unit

As we discuss in this report, many of the field offices in the LCO's Adjudication Unit have a high number of vacancies in key positions for processing wage claims. Table A presents detailed information, by field office, on the number of filled and vacant positions for deputies, industrial relations representatives, hearing officers, field office supervisors, and office technicians from fiscal years 2018–19 through 2023–24. The office technician category comprises three positions with clerical duties: office technician, office assistant, and management services technician. We obtained the data on filled, vacant, and unassigned positions by analyzing the State Controller's Office's reports from June 30 of each year, which show the LCO's authorized, filled, and vacant positions for the prior fiscal year.² We verified the accuracy and completeness of each report by reviewing supporting documentation from the LCO that the agency used to create and update the reports we analyzed.

The California Department of Finance approves and assigns positions to the LCO through the budgetary control of salaries and wages. LCO management then assigns those positions to a field office or classification according to the LCO's business needs. As a result, the position assignment, and in some cases, position classification, may change during a fiscal year. Further, the LCO may not have assigned certain vacant positions to any field office before submitting the fiscal-year-end position details report. We show positions that have been authorized but remain unassigned under *Statewide*. As Table A shows, the number of authorized positions have increased over the years, but the number of vacant positions has also grown.

² Authorized permanent positions can be full-time, fractional time, or intermittent and can be shared among field offices and other programs within the LCO.

Table A
Authorized, Filled, and Vacant Positions in the Adjudication Unit, Fiscal Years 2018-19 Through 2023-24

FISCAL YEAR	DEPUTY		INDUSTRIAL RELATIONS REPRESENTATIVE		HEARING OFFICER		FIELD OFFICE SUPERVISOR		OFFICE TECHNICIAN	
	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT
Bakersfield										
2018-19	1	0	0	1	2	0	1	0	2	0
2019-20	1	0	1	0	1	1	1	0	2	0
2020-21	1	0	1	0	2	0	1	0	2	0
2021-22	3	0	0	0	2	0	0	1	2	0
2022-23	3	0	0	0	2	0	1	0	2	1
2023-24	3	0	0	2	2	0	1	0	0	3
Fresno										
2018-19	1	0	2	0	2	0	1	0	2	0
2019-20	2	0	1	0	2	0	1	0	2	0
2020-21	2	0	0	1	2	0	1	0	2	0
2021-22	2	2	0	1	2	1	1	1	2	0
2022-23	1	3	1	0	2	1	2	0	2	1
2023-24	1	4	1	2	1	2	2	0	1	3
Logan Beach										
2018-19	2	0	4	0	4	0	1	0	4	0
2019-20	3	2	3	0	4	2	1	0	3	2
2020-21	2	5	3	0	4	3	1	1	3	3
2021-22	2	4	4	0	4	3	2	0	2	5
2022-23	7	2	0	1	5	2	1	1	4	2
2023-24	5	3	1	3	3	4	1	1	3	3
Los Angeles										
2018-19	6	1	4	0	8	0	2	1	6	3
2019-20	5	1	3	2	7	1	2	1	6	3
2020-21	6	2	1	4	7	2.5	1	2	5	5
2021-22	6	3	3	1	5	4.5	3	0	5	4
2022-23	6	4	4	0	7	4	2	1	5	4
2023-24	8	2	3	4	4	5.5	3	0	2	8
Orland										
2018-19	3	1	0	0	3	0	1	0	4	0
2019-20	4	0	0	0	4	1	1	0	4	0
2020-21	3	4.5	0	0	3	2	1	1.5	4	1
2021-22	3	3.5	0	0	3	2	2	0.5	3	2
2022-23	4	2.5	1	0	2	2	1	1	4	1
2023-24	3	3.5	1	2	1	3	2	0	3	2

FISCAL YEAR	DEPUTY		INDUSTRIAL RELATIONS REPRESENTATIVE		HEARING OFFICER		FIELD OFFICE SUPERVISOR		OFFICE TECHNICIAN	
	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT
Reid g										
2018-19	2	0	0	0	1	0	1	0	2	0
2019-20	2	0	0	0	1	0	1	0	1	1
2020-21	2	0	0	0	1	0	1	0	1	1
2021-22	2	0	0	0	1	0	1	0	2	0
2022-23	1	1	0	0	1	1	1	0	2	1
2023-24	1	1	0	2	1	1	0	1	1	2
Sa rra ento										
2018-19	4	1	0	0	3	4.5	1	0	3	1
2019-20	5	0	0	0	6	0.5	1	0	3	0
2020-21	3	2	0	0	6	0	1	0	2	0
2021-22	4	1	0	0	4	2	1	0	2	2
2022-23	3	2.5	1	1	4	3	1	0	2	2
2023-24	4	3.5	1	2	4	4	1	0	3	1
Sb n a										
2018-19	2	0	0	0	0	0	0	0	0	1
2019-20	2	0	0	0	0	0	0	0	1	0
2020-21	2	0	0	0	0	0	0	0	1	0
2021-22	2	0	0	0	0	0	0	0	1	0
2022-23	1	1	0	0	0	0	0	0	1	0
2023-24	1	2	0	1	0	0	0	0	0	1
Sa Berna d o										
2018-19	3	0	1	0	2	0	1	0	4	0
2019-20	4	0	0	0	3	0	1	0	3	1
2020-21	4	2	0	0	1	3	1	1	2	2
2021-22	5	1	0	0	4	2	1	0	4	0
2022-23	2	5	0	0	5	0	1	0	4	1
2023-24	5	2	0	2	5	0	1	0	4	1
Sa Dè g										
2018-19	4	0	0	0	4	0	1	0	4	0
2019-20	4	0	0	0	4	0	1	0	3	1
2020-21	4	1	0	0	2	2	0	1	2	2
2021-22	3	3	0	0	3	1	0	1	2	2
2022-23	4	1	1	0	4	0	1	1	1	4
2023-24	3	3	0	3	3	2	1	1	1	4

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FISCAL YEAR	DEPUTY		INDUSTRIAL RELATIONS REPRESENTATIVE		HEARING OFFICER		FIELD OFFICE SUPERVISOR		OFFICE TECHNICIAN	
	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT
Sa n Fr a n c i s c o										
2018-19	3	0	0	0	3	0	1	0	3	1
2019-20	3	0	0	0	1	0	1	0	3	0
2020-21	2	2	0	0	2	1	1	0	3	0
2021-22	3	2	0	0	1	2	1	0	3	0
2022-23	2	3	0	0	2	1	1	0	3	0
2023-24	1	3	1	2	2	1	1	0	2	1
Sa n D i e g o										
2018-19	3	0	0	0	4	0	1	0	5	0
2019-20	4	0	0	0	4	0	1	0	5	0
2020-21	4	0	0	0	4	1	1	1	5	0
2021-22	4	2	0	0	4	2	2	0	4	1
2022-23	2	2	1	2	4	2	2	0	4	1
2023-24	3	0	1	4	2	3	2	0	1	4
Sa n J a n a										
2018-19	0	3	2	1	3	1	1	0	3	0
2019-20	2	0	3	1	3	1	1	0	4	0
2020-21	1	2	3	1	2	2	1	0	3	1
2021-22	2	1	4	0	2	2	2	0	4	1
2022-23	3	2	2	2	2	3	2	0	3	3
2023-24	3	2	3	4	1	4	2	0	1	5
Sa n B a r b a r a										
2018-19	1	0	1	0	1	0	1	0	2	0
2019-20	1	0	1	0	1	0	1	0	2	0
2020-21	2	0	0	0	1	1	1	0	1	1
2021-22	2	0	0	0	2	0	1	0	1	1
2022-23	2	0	0	0	2	0	0	1	2	0
2023-24	2	0	0	2	2	0	0	1	0	2
Sa n R e a										
2018-19	2	0	0	0	0	0	0	1	2	0
2019-20	1	1	0	0	1	0	0	1	2	0
2020-21	1	1	0	0	1	0	0	1	2	0
2021-22	1	0	1	0	1	0	0	1	1	1
2022-23	1	0	1	0	1	0	1	0	2	0
2023-24	1	1	1	1	2	0	1	0	2	0

FISCAL YEAR	DEPUTY		INDUSTRIAL RELATIONS REPRESENTATIVE		HEARING OFFICER		FIELD OFFICE SUPERVISOR		OFFICE TECHNICIAN	
	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT	FILLED	VACANT

Sto kto /Ld

2018-19	1	0	1	0	1	0	1	0	2	0
2019-20	1	0	1	0	1	0	1	0	2	0
2020-21	1	0	1	0	1	0	1	0	2	0
2021-22	1	1	1	0	1	1	1	0	2	0
2022-23	1	0	1	1	2	2	1	0	1	1
2023-24	1	1	1	3	2	2	1	0	1	1

Van M ys

2018-19	3	1	0	0	4	0	2	0	8	0
2019-20	3	0	1	0	4	0	2	0	8	0
2020-21	3	0	1	0	4	0	2	0	8	0.5
2021-22	3	1	1	0	3	2	2	0	8	0.5
2022-23	4	0	1	0	4	1	2	0	7	4
2023-24	4	1	1	2	2	3	1	1	7	5

FISCAL YEAR	TOTAL AUTHORIZED*	VACANT†	TOTAL AUTHORIZED	VACANT	TOTAL AUTHORIZED	VACANT	TOTAL AUTHORIZED	VACANT	TOTAL AUTHORIZED	VACANT
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2018-19	48	7	17	2	50.5	5.5	19	2	62	6
2019-20	51	4	17	3	53.5	6.5	19	2	62	8
2020-21	64.5	21.5	16	6	60.5	17.5	23.5	8.5	64.5	16.5
2021-22	72.5	24.5	16	2	64.5	24.5	24.5	4.5	67.5	19.5
2022-23	76	29	21	7	71	22	25	5	75	26
2023-24	81	32	56	41	71.5	34.5	25	5	78	46

Source: Analysis of personnel reports from the State Controller's Office for fiscal years 2018-19 through 2023-24 and personnel forecast for fiscal year 2024-25.

* The total authorized positions represent the combined total of filled and vacant positions at each field office.

† The total vacant positions represent the combined total of vacant and unassigned positions within the Adjudication Unit. The LCO assigns authorized positions to a specific reporting location, such as a field office. These positions include those that were authorized but not assigned to a specific reporting location.

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Appendix B

Scope and Methodology

The Audit Committee directed the California State Auditor to conduct an audit of the backlog of wage claims at the LCO. Specifically, the Audit Committee requested that we review the extent of the backlog and the potential causes for the backlog, including staffing levels, training, and the claims process. The Audit Committee also requested that we determine the number of workers who are able to collect owed wages and assess the reasons that workers cannot collect wages owed to them. Table B lists the objectives that the Audit Committee approved and the methods we used to address them. Unless otherwise stated in the table or elsewhere in the report, statements and conclusions about items selected for review should not be projected to the population.

Table B
Audit Objectives and the Methods Used to Address Them

AUDIT OBJECTIVE	METHOD
1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed laws and regulations applicable to the LCO's processing of wage claims and enforcement of judgments against employers.
2 To the extent that data is available, determine the following:	
a. The size of any current backlog of wage theft claims as well as the size of any backlogs that have existed over the past five years.	<ul style="list-style-type: none"> • Obtained the LCO's wage claim data from January 1, 2018, through November 1, 2023. Analyzed the data to determine the size of the backlog for each year during this period. • Interviewed LCO staff to confirm the LCO's definition of backlogged cases and determine the LCO's efforts to resolve the backlog. • Performed a qualitative review of the LCO's case management system to identify missing and erroneous data. • Tested a sample of 48 cases with potentially erroneous data to determine the frequency of data-entry errors. • Tested the LCO's case management system reporting functionality to identify any gaps in reports that limit LCO's oversight and monitoring of its backlog.
b. The median time to adjudicate and close claims.	<ul style="list-style-type: none"> • Completed additional analyses on the LCO's wage claim data to determine the median time to adjudicate and close claims during the past six years. • Conducted further analyses to determine median and average times for the LCO to complete certain stages of the wage claim process, including the time to close a claim, the time to hold a settlement conference, the time to hold a hearing, and the time to close claims.
c. The extent to which new laws that have increased worker protections have affected any backlog of claims.	<ul style="list-style-type: none"> • Reviewed new laws to identify increased worker protections that may directly affect wage claim processing and backlog. • Interviewed LCO staff to identify and assess the LCO's methodology for projecting and tracking the effect of new laws on the wage claim process. • Reviewed the LCO's wage claim data and determined that the LCO did not track data that would allow for an analysis of the effect of new laws on the backlog.

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AUDIT OBJECTIVE	METHOD
3 Assess staffing levels and salaries within the LCO's wage claims unit by determining the following:	
a. The current workload assigned to each employee versus the LCO's ideal or optimal workload standard.	<ul style="list-style-type: none"> Analyzed the LCO's historical and current staffing data showing filled and vacant positions, the LCO's workload expectations memos, budget change proposal workload projections, and data on the wage claim backlog to determine optimal workload standards.
b. Current employee turnover.	<ul style="list-style-type: none"> Obtained and analyzed the LCO's historical and current staffing data and budgets, including authorized and vacant position reports and budget change proposals, to identify current staffing levels and vacancies. Compared fiscal year 2023–24 filled and vacant positions with fiscal year 2022–23 filled and vacant positions to determine current employee turnover.
c. The number of personnel needed to meet the statutorily required claims processing time frames.	<ul style="list-style-type: none"> Obtained and analyzed the LCO's historical and current staffing data and budgets, including authorized and vacant position reports and budget change proposals, to identify current staffing levels and vacancies. Interviewed LCO staff to determine whether the current authorized position classifications are sufficient to meet statutory processing times. Analyzed staffing data and backlog data to estimate the number of personnel required to meet statutory processing times and resolve the existing backlog according to the optimal workload standard identified in Objective 3(d).
d. The current number of employees and vacancies, and the number of new employees hired in the last 12 months.	<ul style="list-style-type: none"> Using the data obtained in Objective 3(c) identified the current number of employees and vacant positions. Compared fiscal year 2023–24 filled and vacant positions with fiscal year 2022–23 filled and vacant positions and reviewed the number of staff hired during fiscal year 2022–23.
e. Whether employee salaries within the wage claims unit are equitable.	<ul style="list-style-type: none"> Reviewed salaries, minimum requirements, and typical duties of key positions in the Adjudication Unit, specifically the office technician, industrial relations representative, deputy, and hearing officer. Identified comparable positions at the state level by reviewing minimum requirements, typical duties, and level of supervision. Compared salaries to Adjudication Unit salaries. For three geographic areas near the LCO field offices in Stockton, Oakland, and Los Angeles, identified comparable positions at city or county governments by reviewing minimum requirements, typical duties, and level of supervision. Compared salaries to Adjudication Unit salaries.
f. To the extent possible, whether employee retention would improve as a result of increasing salaries or reclassifying positions.	<ul style="list-style-type: none"> Randomly selected 20 staff from seven field offices, specifically five office technicians, four industrial relations representatives, five deputies, and six hearing officers. Interviewed these staff about whether they believed the salaries for their positions were competitive. Interviewed LCO management to determine what actions they had taken or were taking to analyze retention and salaries. Reviewed exit interviews conducted by DIR since August 2022 to determine the reasons that staff resigned.

AUDIT OBJECTIVE	METHOD
<p>4 Review and assess training procedures and content for new employees in the wage claims unit.</p>	<ul style="list-style-type: none"> • Interviewed LCO management and staff in the LCO's training unit and reviewed training materials to determine the procedures for training new employees and newly promoted employees. • As part of the interviews with 20 field office staff performed for Objective 3f) asked questions regarding the training these employees had received as new hires and whether they were familiar with statutory time frames for processing claims. • haphazardly selected 10 employees hired between 2018 and 2023 in the positions of office technician, industrial relations representative, deputy, and hearing officer. Identified and reviewed the training records for these employees to determine dates of training and training content. • Reviewed training materials and manuals for office technicians, industrial relations representatives, deputies, and hearing officers to determine whether these materials contained information on the statutory time frames for processing wage claims and best practices related to each position's duties.
<p>5 Evaluate the review process for wage theft claims, identify areas of inefficiency and, if applicable, recommend changes in those areas.</p>	<ul style="list-style-type: none"> • Using the data obtained for Objective 2h) identified the field offices with the largest wage claim backlogs or a significant percentage increase in the backlog between 2020 and 2022. Selected five claims each from the field offices in Los Angeles, Oakland, Long Beach, Sacramento, San Diego, San Bernardino, Stockton, and Santa Rosa. Used the following criteria to select the five claims: one claim that was settled at conference but took significantly longer than the 30-day requirement, one backlogged claim that was closed but was open longer than 120 days, and three backlogged claims that proceeded to a hearing but took longer than the 120-day requirement. Reviewed the records for each claim to determine the length of time it took to process the claim and any delays. • Interviewed field office supervisors of selected offices to determine the cause of delays in processing the selected claims. • As part of the interviews with 20 field office staff performed for Objective 3f) obtained staff's perspective on the reasons for the backlog and whether LCO management was taking appropriate actions to address the backlog.
<p>6 To the extent possible, determine the number of workers who are able to collect their owed wages following a judgment and the percentage of those workers who received no wages, only partial wages, or all wages owed by employers.</p>	<p>Downloaded data from the LCO case management system showing cases referred to the Enforcement Unit between January 2018 and November 2023. Analyzed the data to determine the percentage of cases in which the workers received no wages, only partial wages, or all wages owed by employers.</p>
<p>7 Assess the reasons why workers cannot collect wages owed to them after a judgment and determine whether the LCO can improve the resources available to workers seeking to recover those wages.</p>	<ul style="list-style-type: none"> • Interviewed Enforcement Unit staff and reviewed policies and procedures to determine the process for collecting judgments. • Judgmentally selected 50 cases closed by the Adjudication Unit on or after January 1, 2018, that were referred to the Enforcement Unit, including cases with no collection, cases with complete collection, and cases with some payments collected. Reviewed these cases to determine the methods employed by the Enforcement Unit to attempt to collect payment. • Interviewed Enforcement Unit staff and reviewed data on staffing levels in the Enforcement Unit to determine whether staffing affected collection.

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AUDIT OBJECTIVE	METHOD
<p>8 Determine the extent of the LCO's authority to compel employers to pay owed wages after a judgment. Determine how the LCO uses its authority and whether the State may improve on that authority.</p>	<ul style="list-style-type: none"> • Interviewed Enforcement Unit management and legal staff to determine the LCO's existing legal authority to collect judgments. • As part of our review for Objective 7 of 50 judgments referred to the Enforcement Unit, identified successful enforcement methods and interviewed Enforcement Unit staff to determine whether some methods could be expanded. Also identified barriers to enforcement and interviewed staff to determine whether additional authority could remove these barriers.
<p>9 Review and assess any other issues that are significant to the audit.</p>	<ul style="list-style-type: none"> • Interviewed Human Resources staff at DIR and the LCO and reviewed recruitment documentation to determine how DIR and the LCO process recruitments for open positions. • Obtained data from the LCO showing recruitments for positions from October 2020 through December 2023. Using these data, selected 13 recruitments for further review. Specifically, three open recruitments, five completed recruitments, and five canceled recruitments. Reviewed records for each recruitment to determine how long each recruitment took and the reasons for the success or failure of each recruitment. Interviewed DIR and LCO Human Resources staff to determine the cause for delays in the recruitment process. • Using the data described above, calculated the number of canceled recruitments from October 2020 through December 2023.

Source: Audit workpapers.

Assessment of Data Reliability

The U.S. Government Accountability Office, whose standards we are statutorily obligated to follow, requires us to assess the sufficiency and appropriateness of computer-processed information we use to support our findings, conclusions, or recommendations. In performing this audit, we relied on electronic data files that we obtained from the LCO's case management system to address several audit objectives and to select wage claim cases for further review. As we note in the report, we found significant problems with the case management system's data. Accordingly, we found the data to be of undetermined reliability for our purposes. However, the data were the best available source of information on wage claims. Therefore, we present the data in our report and explain their limitations. Despite the limitation of the data, there is overall sufficient evidence to support our audit findings, conclusions, and recommendations.

STATE OF CALIFORNIAGAVIN NEWSOM, *Governor*

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April 30, 2024

Grant Parks*

California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Mr. Parks

The Department of Industrial Relations (DIR) and its Division of Labor Standards Enforcement, more commonly known as the Labor Commissioner's Office (LCO) appreciate the opportunity to provide comments and address the recommendations included in the California State Auditor's audit titled "*Inadequate Staffing and Poor Oversight Have Weakened Protections for Workers*". DIR is committed to finding ways to continually improve its programs and ensure that it meets its mission to protect and improve the health, safety, and economic well-being of over 18 million wage earners and protect law-abiding employers from unscrupulous employers who attempt to gain a competitive advantage by failing to comply with state labor laws.

DIR acknowledges and accepts the recommendations of the audit. To date, we have already made positive changes towards implementing the recommendations. For example, DIR is working on a classification study of the Deputy Labor Commissioner (DLC) series to update minimum qualifications, job duties, and potentially proposing a deep classification that would provide opportunities for advancement to support employee retention and reduce the internal movement we are currently experiencing as incumbents seek promotional opportunities in other DIR divisions or state agencies. We are also working with the California Department of Human Resources (CalHR) to ensure this study is performed as expeditiously as possible.

* California State Auditor's comments appear on page 67.

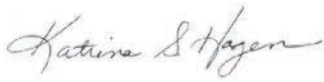
① In addition to meeting the statutory timelines evaluated by the audit, the LCO has other foundational legal obligations to the public. The LCO's primary responsibility is to enforce minimum labor standards, which encompasses educating parties on their rights, obligations, and the wage claim process. Furthermore, LCO ensures due process for all parties, including the due process rights of the claimant pursuing property, which they believe is owed to them for the labor they provided. The LCO's compliance with educating parties and providing due process often takes time which is not fully accounted for in established statutory timelines. In particular, the number and complexity of statutory rights that are enforced through the wage claim process, and the potential bases for liability to address complex corporate structures, have grown considerably in recent years, but statutory time frames have not been updated to account for this complexity. For example, we agree with the Auditor's recognition of the importance of naming liable parties and that the investigation required demands additional time; however, due process demands that potentially liable parties have notice and an opportunity to be heard, so LCO conducts this investigation at the front end of the process. This is just one example of an issue which we are obligated to investigate to build a claim that includes all apparent violations of the law and potentially liable defendants. To capture the additional time required to investigate and ensure due process, LCO developed an "inactive status" to distinguish those cases where additional time is needed to obtain a response from the claimant. We are also committed to reviewing any necessary updates to existing statutory deadlines to be better aligned with LCO's other legal obligations outlined above.

② In addition, LCO has completed 285 improvements since November 2021 to the Online Wage Claim (OWC) program and Salesforce platform that was launched during the pandemic. The improvements to OWC have helped produce claims with sufficient information that can be advanced through the process more efficiently. The Salesforce improvements increase the reliability of claim data by requiring the entry of key claim processing information. This in turn improves management's ability to monitor the integrity of the data and our statutory compliance.

We will continue implementing proposed recommendations and will provide updates at the required intervals.

Thank you for this opportunity to respond to the draft report. Should you have any questions, please contact DIR's Chief Internal Auditor, Mathew Raute, at (916) 860-2219 or Mathew.Raute@dir.ca.gov.

Sincerely,



Katrina S. Hagen

Cc: Stewart Knox, Secretary, Labor and Workforce Development Agency

Lilia García-Brower, Labor Commissioner, Division of Labor Standards Enforcement, DIR

Ken Lau, Chief Counsel, DIR

Mathew Raute, Chief Internal Auditor, DIR

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Comment

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF INDUSTRIAL RELATIONS

To provide clarity, we are commenting on the response to our audit report from the Department of Industrial Relations (DIR). The numbers below correspond with the numbers we have placed in the margin of DIR's response.

DIR indicates in its response that a primary cause for the Labor Commissioner's Office's (LCO) delays in processing claims is the time it takes to ensure due process for all parties involved in a claim. On the contrary, as we describe beginning on page 19, inadequate staffing is the primary reason for the LCO's delays in processing wage claims. Further, although some claims' complexities may affect the LCO's ability to process claims within the required time frames, as we state on page 25, the LCO cannot quantify the extent to which it cannot meet required time frames because it lacks data. As such, we recommended on page 50 that if the LCO believes it cannot meet the required time frames for certain claims because of their complexity, the LCO should assess the extent to which it cannot meet these time frames and then work with the Legislature to revise claim processing time frames accordingly. ①

Although DIR claims that the LCO has made many improvements to Salesforce—the LCO's wage claims case management system—we found that these changes have not improved its processing of claims. Specifically, as we describe on page 9, the median time to process claims has increased since fiscal year 2017–18—taking a median time of 854 days to issue a decision on a claim during fiscal year 2022–23, which is more than six times longer than the maximum of 135 days allowed by law. Further, we identified that the LCO needs to make additional improvements to its case management system. As we state on pages 15 and 16, the database does not use key data fields to support statutory compliance, and the existing data are incomplete and include some inaccuracies. Further, the agency lacks a process for ensuring the accuracy of the data entered into its database. These weaknesses hamper the LCO management's ability to provide proper oversight of the claims process. As such, we stand by the recommendations we made on pages 49 and 51 to improve its case management system to allow it to accurately analyze and report on wage claim data. ②