



COMPLIANCE REVIEW REPORT

CALIFORNIA STATE BOARD OF EQUALIZATION

Compliance Review Unit
State Personnel Board
April 14, 2015

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INTRODUCTION

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of California State Board of Equalization (BOE) personnel practices in the areas of examinations, appointments, EEO, and PSC's from November 1, 2012, through November 1, 2013. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time	Serious
Appointments	Probationary Evaluations Were Not Provided for All Appointments	Serious
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules	In Compliance

Area	Finding	Severity
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	In Compliance

A color-coded system is used to identify the severity of the violations as follows:

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

BACKGROUND

The BOE’s mission is to serve the public through fair, effective, and efficient tax administration.

The BOE collects California state sales and use tax, as well as fuel, alcohol, tobacco taxes and fees that provide revenue for state government and essential funding for counties, cities, and special districts. The BOE also assess and allocate property values of railroads and specified utilities; and oversee the property tax assessment practices of all 58 county assessors.

The BOE employs more than 4,500 employees in over 112 different classifications. The BOE has several offices throughout California, and three out-of-state offices located in Houston, Chicago, and New York.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing BOE examinations, appointments, EEO program, and PSC’s from November 1, 2012, through November 1, 2013. The primary objective of the review was to determine if BOE personnel practices, policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action where deficiencies were identified.

A cross-section of BOE examinations and appointments were selected for review to ensure that samples of various examinations and appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the BOE

provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action forms (NOPAs), vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the BOE, EEO program included examining written EEO policies and procedures; the EEO officer's role, duties, and reporting relationship; the internal discrimination complaint process; the upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC). The CRU also interviewed appropriate BOE staff.

BOE PSC's were also randomly selected to ensure that various types of contracted services and contract amounts were reviewed.¹ It was beyond the scope of the compliance review to make conclusions as to whether BOE justifications for the contracts were legally sufficient. The review was limited to whether BOE practices, policies, and procedures relative to PSC's complied with procedural requirements.

On February 12, 2015, an exit conference was held with the BOE to explain and discuss the CRU's initial findings and recommendations, and to provide the BOE with a copy of the CRU's draft report. The BOE was given until March 23, 2015 to submit a written response to the CRU's draft report. On March 23, 2015, the CRU received and carefully reviewed the response, which is attached to this final compliance report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code,

¹If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

§ 18931.) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application in the office of the department or a designated appointing power as directed in the examination announcement. (Gov. Code, § 18934.) Generally, the final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, the BOE conducted 43 examinations. The CRU reviewed all of these examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Accounting Administrator I (Specialist)	Departmental Promotional	Qualification Appraisal Panel (QAP) ²	04/26/2013	6
Accounting Administrator II (Supervisor)	Departmental Promotional	QAP	04/26/2013	6
Associate Accounting Officer	Departmental Promotional	QAP	04/26/2013	12
Associate Forest Property Appraiser	Departmental Open	Education & Experience (E&E) ³	02/19/2013	2
Associate Personnel Analyst	Departmental Promotional	E&E	09/20/2013	9
Associate Tax Auditor	Departmental Promotional	QAP	03/22/2013	154
Associate Tax Auditor	Departmental Promotional	QAP	10/18/2013	97

² The qualification appraisal panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

³ In an education and experience (E&E) examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Bookbinder III	Departmental Promotional	E&E	04/05/2013	2
Business Taxes Administrator I	Departmental Promotional	Written ⁴	01/18/2013	311
Business Taxes Specialist I	Departmental Promotional	Written	04/12/2013	502
Business Taxes Compliance Specialist	Departmental Promotional	Written	12/14/2012	373
Business Taxes Specialist I	Departmental Promotional	Written	04/12/2013	481
Business Taxes Specialist II	Departmental Promotional	Written	01/30/2013	550
Career Executive Assignment (CEA) 2	Open	QAP	01/30/2013	9
Graphic Designer II	Departmental Open	QAP	10/11/2013	60
Graphic Designer III	Departmental Open	QAP	10/11/2013	61
Mailing Machine Operator I	Departmental Promotional	E&E	12/19/2012	4
Mailing Machine Operator II	Departmental Promotional	E&E	12/19/2012	5
Materials and Stores Specialist	Departmental Promotional	QAP	04/26/2013	4
Materials and Stores Supervisor	Departmental Promotional	QAP	04/26/2013	1
Office Services Supervisor I (General)	Departmental Promotional	QAP	08/16/2013	18
Office Services Supervisor II	Departmental Promotional	QAP	08/30/2013	27
Office Services Supervisor III	Departmental Promotional	QAP	08/30/2013	17
Office Technician (Typing)	Departmental Open	Written	11/05/2014	8
Senior Accounting Officer (Specialist)	Departmental Promotional	QAP	04/26/2013	7
Senior Forest Property Appraiser	Departmental Promotional	E&E	09/06/2013	2

⁴ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Senior Personnel Specialist	Departmental Promotional	E&E	09/20/2013	5
Sheetfed Offset Press Operator III	Departmental Promotional	QAP	04/26/2013	5
Staff Services Analyst	Transfer	Written	11/07/2012	58
Staff Services Analyst	Transfer	Written	N/A	1
Supervising Tax Auditor I	Departmental Promotional	QAP	02/01/2013	157
Supervising Tax Auditor II	Departmental Promotional	QAP	08/23/2013	135
Supervising Tax Auditor III	Departmental Promotional	QAP	08/23/2013	144
Supervising Tax Technician III	Departmental Promotional	QAP	07/05/2013	25
Tax Counsel III (Supervisor)	Departmental Promotional	QAP	11/09/2012	11
Tax Counsel III (Supervisor)	Departmental Promotional	QAP	08/19/2013	7
Tax Counsel III (Supervisor)	Departmental Open	QAP	08/19/2013	6
Tax Counsel IV	Departmental Open	QAP	05/24/2013	23
Tax Technician II	Promotional	QAP	04/19/2013	51
Tax Technician II	Departmental Promotional	QAP	10/18/2013	43
Television Specialist	Departmental Open	QAP	08/19/2013	34
Tax Technician III	Departmental Promotional	Written	07/08/2013	174
Tax Research Specialist III	Departmental Open	E&E	08/19/2013	2

FINDING NO. 1 – Examinations Complied with Civil Service Laws and Board Rules

The BOE administered 43 examinations to create eligible lists from which to make appointments. For all of the examinations, the BOE published and distributed examination bulletins containing the required information. Applications received by the BOE were accepted prior to the final filing date and were thereafter properly assessed to determine whether applicants met the minimum qualifications (MQs) for admittance to the examination. The BOE notified applicants as to whether they qualified to take the

examination, and those applicants who met the MQs were also notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. Competitors were then notified of their final scores.

The CRU found no deficiencies in the examinations that the BOE conducted during the compliance review period. Accordingly, the BOE fulfilled its responsibilities to administer those examinations in compliance with civil service laws and board rules.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and board rules. (Gov. Code, § 19050.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual’s job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the compliance review period, the BOE made 1,840 appointments. The CRU reviewed 389 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Tax Auditor	Certification List	Permanent	Full Time	19
Associate Tax Auditor	Certification List	Limited Term	Full Time	2
Associate Accounting Analyst	Certification List	Limited Term	Full Time	3
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	13
Associate Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	11
Business Taxes Administrator I	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Business Taxes Administrator I	Certification List	Limited Term	Full Time	2
Business Taxes Compliance Supervisor II	Certification List	Permanent	Full Time	3
Business Taxes Compliance Supervisor II	Certification List	Limited Term	Full Time	2
Business Taxes Representative	Certification List	Permanent	Full Time	142
Business Taxes Representative	Certification List	Limited Term	Full Time	5
Business Taxes Specialist I	Certification List	Permanent	Full Time	19
Business Taxes Specialist I	Certification List	Limited Term	Full Time	2
Business Taxes Specialist II	Certification List	Permanent	Full Time	6
Business Taxes Specialist II	Certification List	Limited Term	Full Time	1
Key Data Operator	Certification List	Permanent	Intermittent	19
Legal Secretary	Certification List	Permanent	Full Time	1
Office Assistant (General)	Certification List	Permanent	Full Time	4
Office Assistant (General)	Certification List	Limited Term	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	3
Office Technician (Typing)	Certification List	Limited Term	Full Time	1
Staff Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	2
Staff Services Analyst	Certification List	Permanent	Full Time	4
Supervising Tax Auditor II	Certification List	Permanent	Full Time	1
Supervising Tax Auditor III	Certification List	Permanent	Full Time	6
Systems Software Specialist III (Technical)	Certification List	Permanent	Full Time	4
Tax Auditor	Certification List	Permanent	Full Time	7

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Tax Counsel III (Supervisor)	Certification List	Permanent	Full Time	5
Tax Technician II	Certification List	Permanent	Full Time	4
Tax Technician III	Certification List	Permanent	Full Time	18
Tax Technician III	Certification List	Limited Term	Full Time	1
Television Specialist	Certification List	Permanent	Full Time	1
Warehouse Worker	Certification List	Permanent	Full Time	2
Associate Tax Auditor	Transfer	Permanent	Full Time	1
Associate Tax Auditor	Transfer	Limited Term	Full Time	2
Associate Information Systems Analyst	Transfer	Permanent	Full Time	1
Business Taxes Administrator I	Transfer	Permanent	Full Time	2
Business Taxes Administrator II	Transfer	Permanent	Full Time	1
Business Taxes Compliance Specialist	Transfer	Permanent	Full Time	1
Business Taxes Compliance Supervisor II	Transfer	Permanent	Full Time	1
Business Taxes Representative	Transfer	Permanent	Full Time	6
Business Taxes Representative	Transfer	Limited Term	Full Time	3
Business Taxes Specialist I	Transfer	Permanent	Full Time	4
Business Taxes Specialist II	Transfer	Permanent	Full Time	2
Executive Secretary	Transfer	Permanent	Full Time	2
Labor Relations Specialist	Transfer	Permanent	Full Time	1
Mailing Machines Operator II	Transfer	Permanent	Full Time	1
Office Technician (General)	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	3

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Secretary	Transfer	Permanent	Full Time	2
Senior Information Systems Analyst (Specialist)	Transfer	Permanent	Full Time	1
Senior Legal Typist	Transfer	Permanent	Full Time	2
Senior Programmer Analyst (Specialist)	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	10
Staff Services Analyst (General)	Transfer	Limited Term	Full Time	2
Staff Services Manager I	Transfer	Limited Term	Full Time	1
Supervising Tax Auditor I	Transfer	Permanent	Full Time	1
Supervising Tax Auditor I	Transfer	Limited Term	Full Time	2
Supervising Tax Auditor II	Transfer	Permanent	Full Time	1
Tax Counsel	Transfer	Permanent	Full Time	2
Tax Counsel III	Transfer	Permanent	Full Time	2
Tax Service Specialist	Transfer	Limited Term	Full Time	1
Tax Technician I	Transfer	Permanent	Full Time	3
Tax Technician II	Transfer	Permanent	Full Time	1
Tax Technician II	Transfer	Permanent	Intermittent	1
Tax Technician III	Transfer	Permanent	Full Time	4
Tax Technician III	Transfer	Limited Term	Full Time	2
Office Technician (Typing)	Permissive Reinstatement	Permanent	Full Time	1
Tax Technician I	Mandatory Reinstatement	Limited Term	Full Time	1

FINDING NO. 2 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: Specifically, of the 389 appointments reviewed, the BOE did not retain screening criteria for 137 appointments and rating criteria for 112 appointments.

Criteria: In relevant part, civil service laws require that the employment procedures of each state agency shall conform to the federal and state laws governing employment practices. (Gov. Code, § 18720.) State agencies are required to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the records and files are initially created or received. (Gov. Code, § 12946.) State agencies are also required to retain personnel files of applicants or terminated employees for a minimum period of two years after the date the employment action is taken. (*Ibid.*)

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

Cause: The BOE Human Resources Division (HRD) has communicated to managers and supervisors via our internal circular process, HRD 008-2014 that screening criteria and rating criteria “should” be established as a “best hiring practice” to ensure that applicants have the necessary KSA’s directly related to the position. This direction is consistent with the CalHR PML 2014-020, *Best Hiring Practices* dated August 18, 2014. Specifically, the PML indicates that supervisors “should” develop a screening criteria, as it is “best practice.” As discussed with CRU during the audit, not all BOE hiring managers establish screening criteria and or rating criteria, and that the screening criteria for the 137 appointments and the rating criteria for 112 appointments were never established. Government Code 18720 states in part that State agencies are required to maintain and preserve any and all personnel records and files for a minimum period of two years after the records and files are initially created or received. Government Code 18720 speaks specifically to the “retention” of personnel hiring documents, it does not require that screening criteria and rating criteria be established.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the BOE submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the record retention requirements of Government Code section

12946. Copies of any relevant documentation should be included with the plan.

FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments

Summary: Specifically, 95 of the 389 appointment files did not contain all three of the probationary reports, which are reflected in the table below.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Associate Tax Auditor	Certification List	9	21
Associate Governmental Program Analyst	Certification List	7	16
Associate Information Systems Analyst (Specialist)	Certification List	2	2
Business Taxes Representative	Certification List	17	24
Business Taxes Specialist I	Certification List	8	16
Business Taxes Specialist II	Certification List	3	4
Key Data Operator	Certification List	5	9
Office Assistant (General)	Certification List	2	4
Office Technician (Typing)	Certification List	2	4
Staff Information Systems Analyst (Specialist)	Certification List	1	1
Staff Services Analyst	Certification List	2	2
Supervising Tax Auditor III	Certification List	4	6
Systems Software Specialist III (Technical)	Certification List	4	10
Tax Counsel III (Supervisor)	Certification List	1	1
Tax Technician II	Certification List	1	3
Tax Technician III	Certification List	5	11
Television Specialist	Certification List	1	3
Warehouse Worker	Certification List	1	3
Associate Tax Auditor	Transfer	1	3
Business Taxes Compliance Supervisor II	Transfer	1	3
Business Taxes Specialist I	Transfer	2	4
Business Taxes Specialist II	Transfer	2	4
Office Technician (Typing)	Transfer	2	4

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Senior Information Systems Analyst (Specialist)	Transfer	1	3
Senior Programmer Analyst (Specialist)	Transfer	1	3
Staff Services Analyst	Transfer	3	6
Supervising Tax Auditor I	Transfer	2	4
Tax Counsel III	Transfer	1	1
Tax Technician I	Transfer	1	1
Tax Technician II	Transfer	1	3
Tax Technician III	Transfer	2	4
Total		95	183

Criteria: A new probationary period is not required when an employee is appointed by reinstatement with a right of return. (Cal. Code Regs., tit. 2, § 322, subd. (d)(2).) However, the service of a probationary period is required when an employee enters state civil service by permanent appointment from an employment list. (Cal. Code Regs., tit. 2, § 322, subd. (a).) In addition, unless waived by the appointing power, a new probationary period is required when an employee is appointed to a position under the following circumstances: (1) without a break in service in the same class in which the employee has completed the probationary period, but under a different appointing power; and (2) without a break in service to a class with substantially the same or lower level of duties and responsibilities and salary range as a class in which the employee has completed the probationary period. (Cal. Code Regs., tit. 2, § 322, subd. (c)(1) & (2).)

During the probationary period, the appointing power is required to evaluate the work and efficiency of a probationer at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Gov. Code, § 19172; Cal. Code Regs., tit. 2, § 599.795.) The appointing power must prepare a written appraisal of performance each one-third of the probationary period. (Cal. Code Regs., tit. 2, § 599.795.)

Severity: **Serious.** The probationary period is the final step in the selection process to ensure that the individual selected can successfully

perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: Lack of updated policies and procedures related to the timely completion of probationary reports.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the BOE submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code § 19172.

Equal Employment Opportunity (EEO)

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to equal employment opportunity; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

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

members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

The CRU reviewed the BOE's EEO program that was in effect during the compliance review period. In addition, the CRU interviewed appropriate BOE staff.

FINDING NO. 4 – Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the BOE EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level reports directly to the director of the BOE. In addition, the BOE has an established DAC that reports to the director on issues affecting persons with a disability. The BOE completed a workforce analysis, which was submitted to the CRU. The BOE also provided evidence of its efforts to promote equal employment opportunity in its hiring and employment practices, to increase its hiring of persons with a disability, and to offer upward mobility opportunities for its entry-level staff.

Personal Services Contracts

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

For cost-savings PSCs, a state agency is required to notify the SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.) When a state agency requests approval from the Department of General Services for a subdivision (b) contract, the agency must include with its contract transmittal a written justification that includes *specific and detailed factual information* that demonstrates how the contract meets one or more conditions specified in Government Code section 19130, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

During the compliance review period, the BOE had 46 PSC's that were in effect. 22 contracts were subject to Department of General Services (DGS) approval and thus our procedural review, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Accosol LLC	IV&V, CROS Procurement	8/27/2012-6/30/2014	\$240,000	Yes
Blackstone Technology Group	IT Project Manager	6/24/2011-9/30/2012	\$499,900	Yes
California State University, Sacramento	Research on BOE Website	6/15/2012 - 6/30/2013	\$50,000	Yes
Christopher J. Workman	Consulting Services	3/18/2010-6/30/2013	\$1,670,000	Yes
Gartner Inc.	Research and Advisory	11/01/2011 - 10/31/2012	\$52,360	Yes
International Network Consulting, Inc.	5 System Programmers	12/27/2011 - 9/30/2012	\$498,968	Yes
International Network Consulting, Inc.	IT Consulting Contract	11/01/2011 - 10/31/2012	\$80,000	Yes
International Network Consulting, Inc.	Adabas Natural	8/31/2012 - 6/30/2013	\$199,200	Yes
International Network Consulting, Inc.	Programmer Services	11/20/2012 - 8/31/2013	\$336,600	Yes
International Network Consulting, Inc.	System Analyst	3/15/2010-11/30/2012	\$270,000	Yes
International Network Consulting, Inc.	Mainframe Update	12/10/2012-11/08/2013	\$144,000	Yes
Itech Solutions, Inc.	PowerBuilder Programmer	7/25/2012 - 2/28/2013	\$104,600	Yes
Itech Solutions, Inc.	Java/JSP Programmer	1/25/2013-2/28/2013	\$99,600	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
JBS Associates	Project Manager	2/29/2012-8/31/2012	\$186,500	Yes
JBS Associates	IT Services	1/16/2013 - 12/31/2014	\$350,000	Yes
Leading Resources, Inc.	Management Consulting	5/31/2013-9/30/2013	\$195,000	Yes
MetaVista Consulting	IT Services	8/27/2012 - 6/30/2014	\$120,000	Yes
Sabot Technologies, Inc.	Program Director	4/11/2011 - 4/10/2014	\$275,000	Yes
Sacramento IT Consulting	Programmers to Consult	8/27/2012-6/30/2014	\$675,000	Yes
SupportFocus, Inc.	Conversion Specialist	1/31/2012-10/31/2013	\$499,900	Yes
The Ballard Group, Inc.	Fire Prevention Fee Program	12/28/2011-9/30/2012	\$164,640	Yes
The Rowry Co., Inc.	Business Intelligence	4/12/2013-4/11/2015	\$350,000	Yes

FINDING NO. 5 – Personal Services Contracts Complied with Procedural Requirements

When a state agency requests approval from the DGS for a subdivision (b) contract, the agency must include with its contract transmittal a written justification that includes *specific and detailed factual information* that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

The total amount of all the PSCs reviewed was \$7,061,268. It was beyond the scope of the review to make conclusions as to whether BOE justifications for the contract were legally sufficient. For all PSC’s subject to DGS approval, the BOE provided specific and detailed factual information in the written justifications as to how each of the 22 contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the BOE’s PSC’s complied with procedural requirements.

DEPARTMENTAL RESPONSE

The BOE has taken into account the findings identified by the SPB Compliance Review and subsequent action will be determined and documented in a corrective action plan (within 60 days from the date the findings are published).

SPB REPLY

Based upon the BOE's written response, the BOE will comply with the CRU recommendations and findings and provide the CRU a corrective action plan.

It is further recommended that the BOE comply with the afore-stated recommendations within 60 days of the Executive Officer's approval and submit to the CRU a written report of compliance.