



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF INSURANCE

Compliance Review Unit
State Personnel Board
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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 five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews. 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 the California Department of Insurance (CDI) personnel practices in the areas of examinations, appointments, EEO, and PSC's from June 1, 2016 through February 28, 2017 and mandated training from April 1, 2015 through March 31, 2017. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Did Not Comply with Civil Service Laws and Board Rules	Very Serious
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time	Serious

Area	Finding	Severity
Appointments	Equal Employment Opportunity Questionnaires Were Not Separated from Applications	Very Serious
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules	In Compliance
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	In Compliance
Mandated Training	Supervisory Training Was Not Provided for All Supervisors	Very Serious

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 CDI was created in 1868 as part of a national system of state-based insurance regulation. The state's publicly-elected Insurance Commissioner regulates the sixth largest insurance economy in the world with insurers collecting more than \$288 billion in premium annually in California while protecting consumers and the integrity, health, and vitality of the insurance marketplace. The CDI accomplishes this by enforcing insurance laws and regulations, assisting consumers in their dealings with insurers, and using innovation to improve services for insurance producers and consumers.

The CDI licenses and regulates insurance companies and individuals in California. Currently, the CDI oversees and licenses approximately 1,300 insurance companies and more than 400,000 individuals and business entities as insurance agents, brokers, adjusters and bail agents. Additionally, annually the CDI receives and investigates approximately 200,000 consumer inquiries and complaints; performs examinations to ensure the financial solvency of companies; receives more than 30,000 suspected fraudulent claim referrals; receives and reviews approximately 7,250 rate filing applications; and works in conjunction with local, state, and federal law enforcement agencies to investigate and prosecute fraudulent insurance practices.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing CDI examinations, appointments, EEO program, and PSC's from June 1, 2016 through February 28, 2017 and mandated training from April 1, 2015 through March 31, 2017. The primary objective of the review was to determine if CDI 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 CDI 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 CDI provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action (NOPA) forms, 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 CDI 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).

CDI PSC's were also reviewed.¹ It was beyond the scope of the compliance review to make conclusions as to whether CDI justifications for the contracts were legally sufficient. The review was limited to whether CDI practices, policies, and procedures relative to PSC's complied with procedural requirements.

In addition, the CDI mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors were provided supervisory and sexual harassment prevention training within statutory timelines.

On October 25, 2017, an exit conference was held with the CDI to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully

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.

reviewed the CDI written response on November 27, 2017, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931.) 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 by 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 CDI conducted 22 examinations. The CRU reviewed nine of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) B, Division Chief, Fraud Division	CEA	Statement of Qualifications (SOQ) ²	12/27/2016	5

² In a statement of qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA C, Deputy Commissioner, Rate Regulation Branch	CEA	SOQ	12/1/2016	4
Chief Life Actuary, CDI, CEA	CEA	SOQ	1/3/2017	4
Property Controller II	Open	Training and Experience (T&E) ³	6/3/2016	12
Senior Casualty Actuary	Open	Education and Experience (E&E) ⁴	Continuous	12
Senior Insurance Compliance Officer (Specialist)	Open	Qualification Appraisal Panel (QAP) ⁵	9/13/2016	40
Senior Life Actuary	Open	E&E	Continuous	3
Supervising Fraud Investigator II	Departmental Promotion	SOQ & Written ⁶	7/7/2016	21
Supervising Special Investigator	Departmental Promotion	QAP	10/5/2016	17

FINDING NO. 1 – Examinations Did Not Comply with Civil Service Laws and Board Rules

The CRU reviewed two departmental promotional, three CEA, and four open examinations which the CDI administered in order to create eligible lists from which to

³ The training and experience (T&E) examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

⁴ In an education and experience 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.

⁵ 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.

⁶ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

make appointments. The CDI published and distributed examination bulletins containing the required information for all examinations. Applications received by CDI were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank.

Concurrently with the CRU’s review, the SPB’s Appeals Division (AD) conducted a separate investigation into the Supervising Fraud Investigator II examination based on an appeal. While the CRU found that the exams reviewed met the technical requirements, Appeals looked beyond the technical requirements and found that the Supervising Fraud Investigator II examination contained irregularities and impropriety . Therefore, the CDI failed to fulfill its responsibilities to administer all examinations reviewed in compliance with civil service laws and board rules. Consequently, three appointments were determined to be unlawful and were voided. Furthermore, the CDI was directed to utilize the services of CalHR for all examinations they administer for two years, to ensure the CDI complies with its obligations to conduct examinations in accordance with the merit principle.

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 CDI made 247 appointments. The CRU reviewed 50 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Accounting Technician	List Appointment	Permanent	Fulltime	1
Assistant Information Systems Analyst	List Appointment	Permanent	Part-Time	1

Associate Accounting Analyst	List Appointment	Permanent	Fulltime	1
Associate Governmental Program Analyst	List Appointment	Permanent	Fulltime	1
Associate Life Actuary	List Appointment	Permanent	Fulltime	1
Associate Management Auditor	List Appointment	Permanent	Fulltime	1
Attorney IV	List Appointment	Permanent	Fulltime	1
CEA B, Division Chief, Field Examination Division	List Appointment	CEA	Fulltime	1
CEA C, Deputy Commissioner, Rate Regulation Branch	List Appointment	CEA	Fulltime	1
Chief Actuary, DOI, CEA	List Appointment	CEA	Fulltime	1
Chief Fraud Bureau, DOI	List Appointment	Permanent	Fulltime	1
Investigator	List Appointment	Temporary	Fulltime	1
Investigator	List Appointment	Permanent	Fulltime	1
Investment Officer II, California State Teacher's Retirement System	List Appointment	Permanent	Fulltime	1
Office Assistant (General)	List Appointment	Permanent	Intermittent	1
Office Technician (Typing)	List Appointment	Permanent	Fulltime	2
Office Technician (Typing)	List Appointment	Temporary	Fulltime	1
Personnel Technician II	List Appointment	Permanent	Fulltime	1
Personnel Technician III	List Appointment	Permanent	Fulltime	1
Senior Casualty Actuary	List Appointment	Permanent	Fulltime	1
Senior Insurance Compliance Officer (Specialist), DOI	List Appointment	Permanent	Fulltime	1
Senior Legal Analyst	List Appointment	Permanent	Fulltime	2
Senior Legal Typist	List Appointment	Permanent	Fulltime	1

Staff Services Analyst (General)	List Appointment	Permanent	Fulltime	1
Supervising Fraud Investigator I, DOI	List Appointment	Permanent	Fulltime	2
Supervising Special Investigator (Non-Peace Officer)	List Appointment	Permanent	Fulltime	1
System Software Specialist III (Technical)	List Appointment	Permanent	Fulltime	1
Accountant Trainee	Mandatory Reinstatement	Permanent	Fulltime	1
Accounting Officer (Specialist)	Mandatory Reinstatement	Permanent	Fulltime	1
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Fulltime	1
Associate Insurance Compliance Officer	Mandatory Reinstatement	Permanent	Fulltime	1
Associate Insurance Compliance Officer	Mandatory Reinstatement	Permanent	Part Time	1
Associate Insurance Examiner	Mandatory Reinstatement	Permanent	Fulltime	1
Associate Insurance Rate Analyst	Mandatory Reinstatement	Permanent	Fulltime	1
Attorney III	Mandatory Reinstatement	Permanent	Fulltime	1
Chief Fraud Bureau	Mandatory Reinstatement	Permanent	Fulltime	1
Investment Officer III	Mandatory Reinstatement	Permanent	Fulltime	1
Senior Casualty Actuary	Mandatory Reinstatement	Permanent	Fulltime	1
Staff Services Analyst (General)	Permissive Reinstatement	Permanent	Fulltime	1
Special Investigator	Retired Annuitant	Temporary	Intermittent	1
Staff Information Systems Analyst	Retired Annuitant	Temporary	Intermittent	1
Associate Insurance Compliance Officer	Transfer	Permanent	Fulltime	2
Investigator	Transfer	Permanent	Fulltime	1
Program Technician I	Transfer	Permanent	Fulltime	1
Program Technician II	Transfer	Permanent	Fulltime	1
Staff Services Manager II	Transfer	Permanent	Fulltime	1

For each of the 30 list appointments, the CDI properly advertised the job vacancies, sent out contact letters, screened applications, interviewed candidates, and cleared the certification lists for SROA and reemployment, and conducted background and reference checks as appropriate.

The CRU reviewed 11 mandatory reinstatement appointments. A state agency is required to reinstate an employee to his or her former position if the employee is (1) terminated from a temporary or limited-term appointment by either the employee or the appointing power; (2) rejected during probation; or (3) demoted from a managerial position. (Gov. Code, § 19140.5.) The following conditions, however, must apply: the employee accepted the appointment without a break in continuity of service and the reinstatement is requested within ten working days after the effective date of the termination. (*Ibid.*) The CDI complied with the rules and laws governing mandatory reinstatements.

The CRU reviewed two retired annuitant appointments. The individuals submitted their applications and were eligible to be hired as retired annuitants, not to exceed 960 hours in a fiscal year.

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

However, the CDI did not provide probation reports for all appointments as described in finding 2.

FINDING NO. 2 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The CDI did not prepare, complete, and/or retain 12 probationary reports of performance for seven of the 50 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments Missing Probation Reports	Total Number of Missing Probation Reports
Associate Insurance Compliance Officer	Transfer	1	3
Associate Life Actuary	List Appointment	1	1
Chief Fraud Bureau, CDI	List Appointment	1	1
Investment Officer II, California State Teacher's Retirement System	List Appointment	1	1
Office Technician (Typing)	List Appointment	1	2
Senior Legal Analyst	List Appointment	1	3
Supervising Fraud Investigator I, DOI	List Appointment	1	1
Total		7	12

Criteria:

The service of a probationary period is required when an employee enters in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as CalHR may require. (Gov. Code § 19172.) CalHR’s regulatory scheme provides that “a report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job.” (Code Reg., tit. 2, § 599.795.) Specifically, a written appraisal of performance shall be made to the department within 10 days after the end of each one-third portion of the probationary period. (Ibid.) The Board’s record retention rules require that appointing powers retain all probationary reports. (Code Reg., titl. 2, § 26, subd. (a)(3).)

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: The CDI Human Resources Management Division (HRMD) made a good faith effort to notify supervisors/managers of the probationary reporting requirements by routinely delivering email alerts advising supervisors/managers that their employee(s) had a probationary report due. However, HRMD's system did not previously have a tracking tool in which to ensure compliance.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CDI 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 section 19172.

FINDING NO. 3 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: The CDI failed to retain complete personnel records. Specifically, of the 50 appointments the CRU reviewed, 18 appointment files were missing interview notes and/or rating criteria and two appointment files were missing all but the hired applicant's application.

Criteria: As specified in section 26 of the Board's regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Reg., tit. 2, § 26.) Section 174 of the Board's regulations specifically applies to examination applications and requires a two year retention period.

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

Cause: Prior to this review, CDI did not have a centralized retention practice for hiring documentation and therefore, some supervisors and managers did not retain hiring documentation for the required time-frame. The CDI HRMD did offer Best Hiring Practices training in approximately February 2016 and since then created the Request for Personnel Action Process and Documentation to assist supervisors and managers with their recruitments; however, the

decentralized retention practice did not allow HRMD to ensure compliance.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CDI 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 California Code of Regulations title 2, section 26. Copies of any relevant documentation should be included with the plan.

FINDING NO. 4 – Equal Employment Opportunity Questionnaires Were Not Separated from Applications

Summary: Out of 50 appointments reviewed, two appointment files included applications where EEO questionnaires were not separated from the STD 678 employment application. Specifically, two of the 16 applications reviewed included EEO questionnaires that were not separated from the STD 678 employment application.

Criteria: Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status). Applicants for employment in state civil service are asked to provide voluntarily ethnic data about themselves where such data is determined by the CalHR to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD. 678) states, "This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions."

Severity: Very Serious. The applicants' protected classes were visible, subjecting the agency to potential liability.

Cause: The CDI is diligent in removing the EEO questionnaires from candidate applications and understands the importance of protecting EEO information. However, two of the 50 applications reviewed had EEO questionnaires attached as a result of one HRMD analyst not following the documented unit procedures

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CDI submit to the CRU a written corrective action plan that the department will implement to ensure that future EEO questionnaires are separated from all applications. Copies of any relevant documentation should be included with the plan.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; 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 CDI EEO program that was in effect during the compliance review period.

FINDING NO. 5 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Regulations

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 CDI 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 CDI. In addition, the CDI has an established DAC which reports to the Director on issues affecting persons with disabilities. The CDI also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the CDI EEO program complied with civil service laws and board rules.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the State. (Cal. Code 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 PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the compliance review period, the CDI had seven PSC's that were in effect and subject to the Department of General Services (DGS) approval. The CRU reviewed four of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
American Express Travel Related Services	Service/Maintenance	7/13/2013-6/30/2017	\$559,511.00	Yes
CPS HR Consulting	Service/Maintenance	6/25/2016-6/30/2017	\$180,000.00	Yes
Mercer Investment Consulting	Service/Maintenance	5/15/2016-6/14/2017	\$300,000.00	Yes
Strumwasser & Woodcher, LLP	Service/Maintenance	11/1/2014-3/31/2019	\$700,000.00	Yes

FINDING NO. 6 – 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 dollar amount of all the PSC's reviewed was \$1,379,511. It was beyond the scope of the review to make conclusions as to whether CDI justifications for the contract were legally sufficient. For all PSC's reviewed, the CDI provided specific and detailed factual information in the written justifications as to how each of the seven contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the CDI PSC's complied with civil service laws and board rules.

Mandated Training

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

two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the California Department of Human Resources (CalHR). (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & (c), & 19995.4, subd. (b).) The training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or career executive assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, §§ 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biannual basis. (*Ibid.*)

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

The CRU reviewed the CDI's mandated training program that was in effect during the compliance review period. While the CDI sexual harassment prevention and ethics training were found to be in compliance, the supervisory training was found to be out of compliance.

FINDING NO. 7 – Supervisory Training Was Not Provided for All Supervisors

Summary: The CDI did not provide basic supervisory training to three of 41 new supervisors within twelve months of appointment.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biannually. (Gov. Code, § 19995.4, subd. (b) and (c).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biannually. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biannually. (Gov. Code, § 19995.4, subd. (e).)

Severity: Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.

Cause: The CDI HRMD currently manually tracks and monitors mandatory training requirements. HRMD made a good faith effort to notify new supervisors of the basic supervisory training requirement within their twelve months of appointment to a supervisory/managerial/career executive assignment (CEA) classification. Despite these efforts, three of 41 supervisors did not complete their required 80 hours due to unprecedented workload and time constraints which may have hindered their ability to complete the training.

Action: The CDI must take appropriate steps to ensure that new supervisors are provided supervisory training within the twelve months. It is therefore recommended that no later than 60 days

after the SPB's Executive Officer's approval of these findings and recommendations, the CDI must establish a plan to ensure compliance with supervisory training mandates and submit to the SPB a corrective action plan.

DEPARTMENTAL RESPONSE

The CDI's response is attached as Attachment 1.

SPB REPLY

Based upon the CDI's written response, the CDI will comply with the CRU recommendations and findings and provide the CRU with an action plan.

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