



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA DEPARTMENT OF DEVELOPMENTAL SERVICES**

Compliance Review Unit  
State Personnel Board  
May 20, 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 the California Department of Developmental Services (DDS) personnel practices in the areas of examinations, appointments, EEO, and PSC's from June 1, 2011, to November 30, 2012, and from January 1, 2013, through June 30, 2013. The following table summarizes the compliance review findings.

| Area                         | Finding   | Severity      |
|------------------------------|---|---------------|
| Examinations                 | Job Analyses Were Not Developed or Used for All the Civil Service Examinations Reviewed | Very Serious  |
| Appointments                 | Appointments Complied with Civil Service Laws and Board Rules                           | In Compliance |
| Equal Employment Opportunity | Equal Employment Opportunity Program Complied With Civil Service Laws and Board Rules   | In Compliance |

| Area                        | Finding  | Severity      |
|-----------------------------|--|---------------|
| Personal Services Contracts | Personal Services Contracts Complied with Civil Service Laws and Board Rules | In Compliance |

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

- Red = Very Serious
- Orange = Serious
- Green = In Compliance

## **BACKGROUND**

The DDS is one of 12 departments and one board residing under the California Health and Human Services Agency. The DDS provides services and support for approximately 274,696 consumers with developmental disabilities in the community served by regional centers. In addition, the DDS serves individuals living in four state-operated residential facilities called developmental centers, and one small community facility. The number of residents served through these facilities is expected to be 1,052 by the end of FY 2014-15. As of 2014, the DDS employs 4,843 staff in approximately 320 classifications.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing DDS examinations, appointments, EEO program, and PSC's from June 1, 2011, to November 30, 2012, and from January 1, 2013, through June 30, 2013. The DDS review began as a baseline review, and was later expanded to allow for a full compliance review. The primary objective of the review was to determine if DDS 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 DDS 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 DDS provided, which included examination plans, examination bulletins, job analyses (JAs), 511b's, scoring results, notice of personnel action 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 DDS' 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 the DDS staff.

DDS PSC's were also randomly selected to ensure that various types of contracted services and contract amounts were reviewed. The DDS contracted for consulting services, legal services, and various personal services.<sup>1</sup> It was beyond the scope of the compliance review to make conclusions as to whether DDS justifications for the contracts were legally sufficient. The review was limited to whether DDS practices, policies, and procedures relative to PSC's complied with applicable statutory law and board regulations.

On February 13, 2015, an exit conference was held with the DDS to explain and discuss the CRU's initial findings and recommendations. The DDS submitted a written response to the draft report on April 29, 2015, which was revised on May 13, 2015. The CRU received and carefully reviewed the response, which is included in 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

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<sup>1</sup>If 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.

contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed 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 of review, the DDS conducted 21 examinations. The CRU reviewed 16 of these examinations, which are listed below:

| Classification   | Exam Type                 | Exam Components                                   | Final File Date | No. of Eligibles |
|--|---------------------------|---|-----------------|------------------|
| Administrative Services Director, Career Executive Assignment (CEA) II | CEA                       | Qualifications Appraisal Panel (QAP) <sup>2</sup> | 11/29/2011      | 9                |
| Assistant Deputy Director, Community Operations Division, CEA II       | CEA                       | QAP   | Until Filled    | 14               |
| Custodian  | Open                      | Written <sup>3</sup>                              | 9/30/2012       | 10               |
| Executive Assistant  | Departmental Promotional  | QAP   | 12/15/2011      | 4                |
| Executive Director, CEA III  | CEA                       | QAP   | Until Filled    | 8                |
| Fire Chief   | Open                      | QAP   | 4/20/2012       | 2                |
| Food Service Supervisor II   | Subdivisional Promotional | QAP   | 6/21/2012       | 2                |
| General Auditor II & III   | Departmental Promotional  | QAP   | 9/4/2012        | 5                |
| Patient Benefit & Insurance Officer II (Supervisor)                    | Subdivisional Promotional | Education and Experience (E&E) <sup>4</sup>       | 10/8/2012       | 2                |

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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 Eligibles |
|--|---------------------------|-----------------|-----------------|------------------|
| Protestant Chaplain                                      | Open                      | QAP             | 2/21/2012       | 4                |
| Psychiatric Technician & Psychiatric Technician (Safety) | Subdivisional Promotional | QAP             | Continuous      | 36               |
| Psychiatric Technician (Safety)                          | Open                      | QAP             | Continuous      | 75               |
| Psychologist (Health Facility) Clinical                  | Open                      | E&E             | Continuous      | 20               |
| Registered Dietitian                                     | Open                      | E&E             | 7/7/2011        | 1                |
| Registered Dietitian (Safety)                            | Subdivisional Promotional | QAP             | Continuous      | 1                |
| Supervising Special Investigator I & II                  | Departmental Promotional  | QAP             | 8/31/2012       | 16               |

**FINDING NO. 1- Job Analyses Were Not Developed or Used for All the Civil Service Examinations Reviewed**

**Summary:** The DDS provided JAs for the following classes: Custodian; Executive Assistant; General Auditor II & III; Patient Benefit & Insurance Officer II (Supervisor); and Supervising Special Investigator I & II. However, the DDS did not provide JAs for the remaining eight civil service examinations that were reviewed, including: Fire Chief; Food Service Supervisor II; Registered Dietitian; Registered Dietitian (Safety); Protestant Chaplain; Psychiatric Technician; Psychiatric Technician (Safety); and Psychologist (Health Facility) Clinical.

**Criteria:** The Merit Selection Manual (MSM), which is incorporated in California Code of Regulations, title 2, section 50, mandates the development and use of a JA for the examination process. A "[j]ob analysis shall serve as the primary basis for demonstrating and documenting the job-relatedness of examination processes conducted for the establishment of eligible lists within the State's civil service." (MSM (Oct. 2003), § 2200, p. 2.) The MSM requires that JAs adhere to the legal and professional standards outlined in the JA section of the MSM, and that certain elements must be included in the job analysis studies. (*Ibid.*) Those requirements

include the following: (1) that the JA be performed for the job for which the subsequent selection procedure is developed and used; (2) the methodology utilized be described and documented; (3) the job analytic data be collected from a variety of current sources; (4) job tasks be specified in terms of importance or criticality, and their frequency of performance; (5) and job tasks must be sufficiently detailed to derive the requisite knowledge, skills, abilities (KSAs), and personal characteristics that are required to perform the essential tasks and functions of the job classification. (MSM, § 2200, pp. 2-3.)

**Severity:** Very Serious. The examination may not have been job-related or legally defensible.

**Cause:** The DDS states there was a lack of adequate trained staff, extensive turnover of staff, and an ineffective examination planning process to ensure a JA was completed for each examination administered.

**Action:** To correct this deficiency, the DDS must abolish the examination list that has not expired. In addition, prior to administering any future examinations DDS must create and develop each examination based upon a JA that meets the requirements of the MSM. DDS must submit to the CRU a written corrective action plan within 90 days that describes the steps that will be taken to ensure JA's are developed for any new examinations conducted. Furthermore, the CRU finds that the appointments made from the examinations that were administered without a JA were made in good faith, and do not merit being voided.

### 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 DDS made 398 appointments. The CRU reviewed 102 of those appointments, which are listed below:

| Classification                             | Appointment Type   | Tenure       | Time Base | No. of Appointments |
|--|--------------------|--------------|-----------|---------------------|
| Administrative Assistant II                | Certification List | Permanent    | Full Time | 1                   |
| Associate Governmental Program Analyst     | Certification List | Permanent    | Full Time | 2                   |
| Associate Information Systems Analyst      | Certification List | Permanent    | Full Time | 1                   |
| Attorney III                               | Certification List | Permanent    | Full Time | 1                   |
| Auditor I                                  | Certification List | Permanent    | Full Time | 1                   |
| Automotive Equipment Operator I            | Certification List | Limited Term | Full Time | 1                   |
| Chief Engineer                             | Certification List | Permanent    | Full Time | 1                   |
| Custodian                                  | Certification List | Permanent    | Full Time | 3                   |
| Dispatcher Clerk                           | Certification List | Permanent    | Full Time | 1                   |
| Dispatcher Clerk Supervisor                | Certification List | Permanent    | Full Time | 1                   |
| Fire Fighter                               | Certification List | Permanent    | Full Time | 1                   |
| Food Service Technician                    | Certification List | Permanent    | Full Time | 1                   |
| Food Service Supervisor I                  | Certification List | Permanent    | Full Time | 1                   |
| Food Service Supervisor II                 | Certification List | Permanent    | Full Time | 2                   |
| General Auditor III                        | Certification List | Permanent    | Full Time | 1                   |
| Health Record Technician II                | Certification List | Permanent    | Full Time | 2                   |
| Individual Program Coordinator             | Certification List | Permanent    | Full Time | 1                   |
| Investigator                               | Certification List | Permanent    | Full Time | 1                   |
| Maintenance Mechanic                       | Certification List | Permanent    | Full Time | 1                   |
| Medical Director, State Hospital Dev. Ctr. | Certification List | Permanent    | Full Time | 1                   |
| Patient Benefit & Insurance Officer        | Certification List | Permanent    | Full Time | 1                   |
| Personnel Supervisor II                    | Certification List | Permanent    | Full Time | 1                   |
| Pharmacist I                               | Certification List | Permanent    | Full Time | 1                   |
| Physician & Surgeon                        | Certification List | Permanent    | Full Time | 1                   |

| Classification   | Appointment Type   | Tenure       | Time Base | No. of Appointments |
|--|--------------------|--------------|-----------|---------------------|
| Plumber I  | Certification List | Permanent    | Full Time | 1                   |
| Program Director   | Certification List | Permanent    | Full Time | 1                   |
| Psychiatric Technician                                     | Certification List | Permanent    | Full Time | 2                   |
| Psychologist (Health Facility-Clinical)                    | Certification List | Permanent    | Full Time | 1                   |
| Registered Nurse   | Certification List | Permanent    | Full Time | 1                   |
| Rehabilitation Therapist                                   | Certification List | Permanent    | Full Time | 1                   |
| Respiratory Care Practitioner                              | Certification List | Permanent    | Full Time | 1                   |
| Senior Personnel Specialist                                | Certification List | Permanent    | Full Time | 1                   |
| Senior Psychiatric Technician                              | Certification List | Permanent    | Full Time | 2                   |
| Staff Services Analyst                                     | Certification List | Permanent    | Full Time | 2                   |
| Staff Services Manager I                                   | Certification List | Permanent    | Full Time | 1                   |
| Staff Services Manager III                                 | Certification List | Permanent    | Full Time | 1                   |
| Stationary Engineer  | Certification List | Permanent    | Full Time | 1                   |
| Supervising Registered Nurse                               | Certification List | Permanent    | Full Time | 1                   |
| Supervising Housekeeper I                                  | Certification List | Permanent    | Full Time | 1                   |
| Supervising Housekeeper I                                  | Certification List | Limited Term | Full Time | 1                   |
| Systems Software Specialist II (Technical)                 | Certification List | Permanent    | Full Time | 1                   |
| Teacher, State Hospital                                    | Certification List | Permanent    | Full Time | 2                   |
| Unit Supervisor  | Certification List | Permanent    | Full Time | 3                   |
| Warehouse Manager I  | Certification List | Permanent    | Full Time | 1                   |
| CEA - Executive Director – Canyon Springs                  | Information List   | Permanent    | Full Time | 1                   |
| CEA - Deputy Chief Administration – HQ                     | Information List   | Permanent    | Full Time | 1                   |
| CEA - Assistant Deputy Developmental Centers Division - HQ | Information List   | Permanent    | Full Time | 1                   |
| CEA - Executive Director – Sonoma Developmental Center     | Information List   | Permanent    | Full Time | 1                   |

| Classification                             | Appointment Type         | Tenure       | Time Base    | No. of Appointments |
|--|--------------------------|--------------|--------------|---------------------|
| Accounting Technician                      | Mandatory Reinstatement  | Permanent    | Full Time    | 2                   |
| Health Record Technician                   | Mandatory Reinstatement  | Permanent    | Full Time    | 1                   |
| Licensed Vocational Nurse                  | Mandatory Reinstatement  | Permanent    | Full Time    | 2                   |
| Psychiatric Technician                     | Mandatory Reinstatement  | Permanent    | Full Time    | 2                   |
| Psychiatric Technician (Safety)            | Mandatory Reinstatement  | Permanent    | Full Time    | 1                   |
| Respiratory Care Practitioner              | Mandatory Reinstatement  | Permanent    | Full Time    | 1                   |
| Senior Psychiatric Technician              | Mandatory Reinstatement  | Permanent    | Full Time    | 1                   |
| Teaching Assistant                         | Mandatory Reinstatement  | Permanent    | Full Time    | 2                   |
| Individual Program Coordinator             | Permissive Reinstatement | Permanent    | Full Time    | 1                   |
| Pharmacy Services Manager                  | Permissive Reinstatement | Limited Term | Full Time    | 1                   |
| Personnel Supervisor I                     | Permissive Reinstatement | Limited Term | Full Time    | 1                   |
| Registered Nurse                           | Permissive Reinstatement | Permanent    | Full Time    | 1                   |
| Respiratory Care Practitioner              | Permissive Reinstatement | Limited Term | Intermittent | 1                   |
| Stock Clerk                                | Permissive Reinstatement | Limited Term | Full Time    | 1                   |
| Standards Compliance Coordinator           | Retired Annuitant        | Limited Term | Intermittent | 1                   |
| Teacher, State Hospital                    | Retired Annuitant        | Limited Term | Intermittent | 6                   |
| Seasonal Lifeguard                         | Temporary Authorized     | Limited Term | Intermittent | 1                   |
| Associate Technology Specialist            | Transfer                 | Permanent    | Full Time    | 2                   |
| Clinical Social Worker                     | Transfer                 | Permanent    | Full Time    | 1                   |
| Food Service Technician                    | Transfer                 | Permanent    | Full Time    | 1                   |
| Hospital General Services Administrator II | Transfer                 | Permanent    | Full Time    | 1                   |
| Investigator                               | Transfer                 | Permanent    | Full Time    | 1                   |
| Labor Relations Analyst                    | Transfer                 | Permanent    | Full Time    | 1                   |

| Classification                          | Appointment Type | Tenure    | Time Base | No. of Appointments |
|---|------------------|-----------|-----------|---------------------|
| Management Services Technician          | Transfer         | Permanent | Full Time | 1                   |
| Nurse Instructor                        | Transfer         | Permanent | Full Time | 1                   |
| Office Technician (Typing)              | Transfer         | Permanent | Full Time | 1                   |
| Pharmacist I                            | Transfer         | Permanent | Full Time | 1                   |
| Psychiatric Technician                  | Transfer         | Permanent | Full Time | 1                   |
| Psychologist (Health Facility-Clinical) | Transfer         | Permanent | Full Time | 2                   |
| Senior Psychiatric Technician           | Transfer         | Permanent | Full Time | 1                   |
| Supervising Housekeeper II              | Transfer         | Permanent | Full Time | 2                   |

**FINDING NO. 2 – Appointments Complied With Civil Service Laws and Board Rules**

The DDS measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. The DDS made appointments to 17 positions by transfer and 6 by permissive reinstatement. The DDS verified the eligibility of each candidate to their appointed class, and thus complied with civil service laws and board rules in making those appointments (Cal. Code Reg., tit. 2, § 425.) For each of the 55 list appointments, the DDS ordered a certification list of candidates ranked competitively. After properly clearing the SROA<sup>5</sup> list, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification list. Accordingly, these appointments complied with civil service laws and board rules.

For appointments that are mandatory reinstatements, a state agency or department 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.) However, the following conditions must apply: the employee accepted the appointment without a break in continuity of service and the

<sup>5</sup> The State Restriction of Appointments (SROA) Program is intended to prevent the layoff and separation of skilled and experienced employees from State service. The SROA Program assists in placing affected employees by temporarily restricting the methods of appointment available to appointing powers. Employees on SROA lists are granted preferential consideration over all other types of appointments except appointments from reemployment lists and mandatory reinstatements.

reinstatement is requested within ten working days after the effective date of the termination. (*Ibid.*)

The 12 employees who were appointed as mandatory reinstatements accepted the appointments without a break in the continuity of their state service and requested reinstatement within ten working days after the effective date of the termination of their other position. Thus, these appointments were made in compliance with civil service laws and board rules. The two CEA appointments were also in alignment with civil service laws and board rules.

The CRU found no deficiencies in the appointments that the DDS conducted during the compliance review period. Accordingly, the CRU found that all the appointments the DDS made during the compliance review period satisfied civil service laws and board rules.

### Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committing 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 CalHR 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.)

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 DDS EEO policies, procedures, and programs in effect during the compliance review period. In addition, the CRU interviewed appropriate DDS staff.

**FINDING NO. 3 – Equal Employment Opportunity Program Complied With Civil Service Laws and Board Rules**

After reviewing DDS EEO policies, procedures, and programs that were in effect during the compliance review period the CRU determined that the DDS provided employees with guidance on the EEO process, including instructions on how to file discrimination claims. The EEO policy also outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at the managerial level, reports directly to the director of the DDS. The DDS provided evidence showing 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. In addition, the DDS has an established DAC. The DDS completed a workforce analysis, which was submitted to the CRU. Accordingly, the DDS 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. PSCs 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 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.)

During the compliance review period, the DDS had 45 PSC's that were in effect. Fourteen of the PSC's were subject to Department of General Services (DGS) approval and thus CRU procedural review, which are listed below:

| Vendor                                       | Services                               | Contract Dates   | Contract Amount | Sufficient Justification |
|--|--|------------------|-----------------|--------------------------|
| Consortium on Innovative Practices           | Administrative & Training              | 7/2011 - 6/2013  | \$1,500,000     | Yes                      |
| Covington & Burling, LLP                     | Legal                                  | 7/2012 - 6/2015  | \$1,500,000     | Yes                      |
| Delmarva Foundation for Medical Care, Inc.   | Independent Consultative Review Expert | 6/2013 - 4/2014  | \$1,824,065     | Yes                      |
| Desert Arc                                   | Training & Employment                  | 7/2011 - 6/2013  | \$1,000,000     | Yes                      |
| Disability Rights California                 | Advocacy                               | 7/2011 - 6/2016  | \$26,475,000    | Yes                      |
| ESS Group, Inc.                              | Technology Consultant                  | 5/2011 - 6/2013  | \$247,016       | Yes                      |
| ESS Group, Inc.                              | Technology Consultant                  | 6/2011 - 6/2013  | \$239,250       | Yes                      |
| Foasberg Textile Services                    | Laundry                                | 7/2011 - 6/2013  | \$308,000       | Yes                      |
| Goodwill Industries of Southern              | Janitorial                             | 7/2012 - 6/2013  | \$497,700       | Yes                      |
| Hayes and Wiesel Independent Solutions, Inc. | Consultant                             | 8/2012 - 6/2013  | \$360,868       | Yes                      |
| Healthcare Staffing Professionals, Inc.      | Physical Therapy                       | 4/2013 - 6/2014  | \$67,657.92     | Yes                      |
| TEG Staffing, Inc. dba TheraStaff, LLC       | Occupational Therapy                   | 11/2011 - 6/2013 | \$1,199,907     | Yes                      |
| The Sphere Institute                         | Risk Management Consultant             | 7/2011 - 6/2013  | \$2,719,910     | Yes                      |
| West Ed                                      | Early Start Contractor                 | 7/2012 - 6/2013  | \$2,610,800     | Yes                      |

**FINDING NO. 4 – 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 PSCs reviewed was \$40,550,174. It was beyond the scope of the review to make conclusions as to whether DDS justifications for the contracts were legally sufficient. For all PSC's subject to DGS approval, the DDS provided specific and detailed factual information in the written justifications as to how each of the 14 contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, DDS PSC's complied with procedural requirements.

### **DEPARTMENTAL RESPONSE**

The DDS concurs with the finding from the CRU that the department did not complete JAs for the eight exams identified. The Department is working on completion of the required JAs and will develop a corrective plan to ensure a JA is completed for each exam administered.

Please note that in March 2014, the Developmental Centers (DCs) were surveyed to identify examinations without JAs. Outstanding JAs were prioritized and worked on by DC personnel. Four of the of the eight examinations identified in this compliance review with no complete JAs were continuous testing or continuous filing exams that were posted and administered before the DC surveys were completed in March 2014. As a result of the March survey, many of the JAs with new exams were completed subsequent to the SPB compliance review. However, the JAs and examinations for the Psychiatric Technician and Psychiatric Technician (Safety) classifications will take additional time to complete.

The DDS have been given direction to fill 73.3 new positions to expand the Secured Treatment Program capacity at the Porterville Developmental Center by 32 beds to accommodate the increasing number of individuals deemed incompetent to stand trial. The positions are being added in current year 2014-15 so hiring must be expedited for this expansion. Due to the critical health and safety services these positions perform for our residents, it is essential that we maintain the current eligibility lists for hiring until such time as we can complete the JAs, examinations, and develop the new eligible lists for these level of care classifications.

## **SPB REPLY**

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

It is further recommended that the DDS comply with the afore-state recommendations within 90 days of the Executive Officer's approval and submit to the CRU a written report of compliance.