



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES

Compliance Review Unit
State Personnel Board
August 28, 2015

TABLE OF CONTENTS

Introduction	1
Executive Summary	1
Background	2
Scope and Methodology.....	2
Findings and Recommendations.....	3
Examinations	3
Appointments.....	9
Equal Employment Opportunity	18
Personal Services Contracts.....	19
Departmental Response.....	21
SPB Reply.....	23

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 Department of Health Care Services (DHCS) personnel practices in the areas of examinations, appointments, EEO, and PSC's from July 1, 2013, through March 31, 2014. The following table summarizes the compliance review findings:

Area	Finding	Severity
Examinations	Equal Employment Opportunity Questionnaires Were Not Separated from Applications	Very Serious
Examinations	Applications Were Not Date Stamped or Were Date Stamped After the Final Filing Date	Non-serious or Technical
Appointments	Equal Employment Opportunity Questionnaires Were Not Separated from Applications	Very Serious
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious

Area	Finding	Severity
Appointments	Applications Were Not Date Stamped	Non-serious or Technical
Equal Employment Opportunity	The Equal Employment Opportunity Officer Does Not Monitor the Composition of Oral Panels in Departmental Exams	Very Serious
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 DHCS, consisting of over 30 major divisions and 3,700 employees, is the backbone of California's health care safety net, helping millions of low-income and disabled Californians every day. The DHCS's mission is to provide Californians access to affordable, high-quality health care, including medical, dental, mental health, substance use disorder services, and long-term services and support. Its vision is to preserve and improve the physical and mental health of all Californians. The DHCS funds health care services for about 12.3 million Medi-Cal members. Approximately 31% of Californians receive health care services financed or organized by the DHCS, making the department the largest health care purchaser in California. The DHCS's success is made possible only through collaboration and cooperation with other state agencies, counties, and partners as we invest more than \$90 billion for the care of low-income families, children, pregnant women, seniors and persons with disabilities.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing DHCS examinations, appointments, EEO program, and PSC's from July 1, 2013, through March 31, 2014. The primary objective of the review was to determine if the DHCS 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 the DHCS 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 DHCS provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action forms, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the DHCS 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 DHCS staff.

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

On August 12, 2015, an exit conference was held with the DHCS to explain and discuss the CRU's initial findings and recommendations. The DHCS was given until August 26, 2015, to submit a written response to the CRU's draft report. On August 26, 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

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.

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 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 DHCS conducted 51 examinations. The CRU reviewed 35 of those 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	1/30/2014	31
Accounting Administrator II	Departmental Promotional	QAP	1/30/2014	5
Administrative Law Judge	Open	Supplemental Application(SA) ₃	11/21/2013	21
Assistant Chief Counsel, Health Care Delivery Systems Team	Career Executive Assignment (CEA)	SA	9/11/2013	15
Assistant Chief Counsel, Health Care Financing and Raters Team	CEA	SA	9/06/2013	5

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 a supplemental application (SA) examination, applicants are not required to present themselves in person at a predetermined time and place. Supplemental applications are in addition to the regular application and must be completed in order to remain in the examination. Supplemental applications are also known as "rated" applications.

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Associate Accounting Analyst	Departmental Promotional	Written ⁴	11/14/2013	44
Associate Director for Policy Development	CEA	SA	7/11/2013	2
Associate Management Auditor	Open	QAP	5/07/2013	70
Associate Mental Health Specialist	Open	SA	11/21/2013	27
Chief, Fee-for-Service Rates Development Division	CEA	SA	2/07/2014	10
Chief, Fiscal Forecasting Branch	CEA	SA	2/11/2014	7
Chief, Mental Health Services Division	CEA	SA	3/04/2013	9
Chief, Research & Analytic Studies Division	CEA	SA	10/31/2013	4
Chief, Safety Net Financing Division	CEA	SA	10/31/2013	6
Chief, Substance Use Disorder Compliance Division	CEA	SA	10/31/2013	5
Chief, Substance Use Disorder Prevention, Treatment & Recovery Services Division	CEA	SA	2/21/2014	7
Deputy Director, Administration Division	CEA	SA	8/12/2013	6
Health Care Reform Advisor	CEA	SA	10/30/2013	19
Health Facilities Evaluator Specialist	Open	SA	7/01/2013	11
Health Program Auditor II	Departmental Promotional	Education and Experience (E&E) ⁵	Continuous	4

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.

⁵ 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

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Health Program Auditor II	Departmental Promotional	E&E	Continuous	8
Health Program Auditor II	Departmental Promotional	E&E	Continuous	4
Health Program Auditor II	Departmental Promotional	E&E	Continuous	9
Health Program Auditor IV	Departmental Promotional	Training and Experience (T&E) ⁶	10/31/2013	137
Medical Consultant I, DHS	Open	E&E	Continuous	7
Medical Program Consultant	Departmental Promotional	T&E	5/20/2013	8
Nurse Consultant I	Open	T&E	12/17/2013	14
Nurse Evaluator II, Health Services	Open	T&E	Continuous	29
Nurse Evaluator II, Health Services	Open	T&E	Continuous	26
Nurse Evaluator II, Health Services	Open	T&E	Continuous	24
Nurse Evaluator III, Health Services	Open	QAP	Continuous	5
Programmer I	Departmental Promotional	QAP	10/22/2013	5
Research Scientist V	Open	T&E	9/04/2013	3
Senior Legal Typist	Open	Written	5/23/2013	23
Staff Mental Health Specialist	Departmental Promotional	T&E	11/14/2013	31

include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

⁶ 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, which are totaled by the online system or a department exam analyst, and then assigned a percentage score.

FINDING NO. 1 – Equal Employment Opportunity Questionnaires Were Not Separated From Applications

Summary: Out of 35 exams reviewed, 9 exams included applications where EEO questionnaires were not separated from the STD 678 employment application. Specifically, 19 of the 641 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 California Department of Human Resources (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 DHCS recognizes the importance of protecting EEO information and ensuring compliance with civil service laws and rule in all examination processes. It is the DHCS' policy and practice to remove the EEO questionnaire sheet from the application at the time of processing, demonstrated by the low percentage (2.96%) affected. The DHCS regrets this error and attributes it to an oversight of those handling the affected applications.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit

to the CRU a written corrective action plan that the department will implement to ensure conformity with in the future that EEO questionnaires are separated from all applications. Copies of any relevant documentation should be included with the plan.

FINDING NO. 2 – Applications Were Not Date Stamped or Were Date Stamped After the Final Filing Date

Summary: For 9 of the exams administered, the DHCS accepted 39 applications that were either not date stamped or were date stamped after the final filing date but did not include documentation indicating why they were accepted after the final filing date. Specifically, the DHCS accepted 1 application for the Programmer I examination, 1 application for the Associate Accounting Analyst examination, 23 applications for the Senior Legal Typist examination, 1 application for the Medical Program Consultant examination, 4 applications for the Health Program Auditor IV examination, 2 applications for the Staff Mental Health Specialist examination, 3 applications for the Administrative Law Judge examination, 3 applications for the CEA B, Chief, Substance Use Disorder Compliance Division and 1 application for the CEA A, Health Care Reform Advisor, without date stamps or date stamps after the final filing date.

Criteria: CCR, title 2, section 174 (Rule 174) requires timely filing of applications: All applications must be filed at the place, within the time, in the manner, and on the form specified in the examination announcement....

Filing an application 'within the time' shall mean postmarked by the postal service or date stamped at one of the SPB offices (or the appropriate office of the agency administering the examination) by the date specified.

An application that is not postmarked or date stamped by the specified date shall be accepted, if one of the following conditions as detailed in Rule 174 apply: (1) the application was delayed due to a verified error; (2) the application was submitted in error to the wrong state agency and is either postmarked or date stamped on or

before the specified date; (3) the employing agency verifies examination announcement distribution problems that prevented timely notification to an employee of a promotional examination; or (4) the employing agency verifies that the applicant failed to receive timely notice of a promotional examination. (Cal. Code Reg., tit. 2, § 174, suds. (a), (b), (c) & (d).)

Severity: Non-serious or Technical. Final filing dates are established to ensure all applicants are given the same amount of time in which to apply for an examination and to set a deadline for the recruitment phase of the examination. Therefore, although the acceptance of applications after the final filing date may give some applicants more time to prepare their application than other applicants who meet the final filing date, the acceptance of late applications will not impact the results of the examination.

Cause: The DHCS ensures that all candidates are treated equitably and given the same opportunity to compete in examinations. With regard to the 39 applications, it is likely that proper procedures for date stamping, retaining envelopes, and/or notating reasons for exceptions were missed due to Human Resources (HR) support staff turnover and/or untrained staff.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU a written corrective action plan that the department will implement to ensure conformity with Rule 174. Copies of any relevant documentation should be included with the plan.

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 DHCS made 989 appointments. The CRU reviewed 221 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Accountant Trainee	Certification List	Permanent	Full Time	7
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	2
Associate Budget Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	14
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	2
Associate Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	18
Auditor I	Certification List	Permanent	Full Time	5
Data Processing Manager IV	Certification List	Permanent	Full Time	2
Executive Secretary I	Certification List	Permanent	Full Time	1
Health Program Auditor II	Certification List	Permanent	Full Time	7
Health Program Auditor IV	Certification List	Permanent	Full Time	9
Health Program Specialist I	Certification List	Permanent	Full Time	5
Nurse Evaluator II	Certification List	Permanent	Full Time	5
Office Assistant (Typing)	Certification List	Limited Term	Full Time	2
Office Assistant (Typing)	Certification List	Permanent	Full Time	2
Office Services Supervisor I (Typing)	Certification List	Permanent	Full Time	1
Office Technician (General)	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	5
Office Technician (Typing)	Certification List	Temporary	Full Time	3
Pharmaceutical Consultant II	Certification List	Permanent	Full Time	3

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Program Technician II	Certification List	Permanent	Full Time	1
Program Technician II	Certification List	Limited Term	Full Time	1
Research Manager I	Certification List	Permanent	Full Time	1
Senior Legal Analyst	Certification List	Permanent	Full Time	1
Senior Legal Typist	Certification List	Permanent	Full Time	1
Senior Programmer Analyst	Certification List	Permanent	Full Time	4
Staff Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	4
Staff Services Analyst (General)	Certification List	Permanent	Full Time	9
Staff Services Analyst (General)	Certification List	Limited Term	Full Time	8
Staff Services Analyst (General)	Certification List	Temporary	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	14
Staff Services Manager I	Certification List	Limited Term	Full Time	1
Staff Services Manager II	Certification List	Limited Term	Full Time	3
Supervising Program Technician I	Certification List	Permanent	Full Time	2
Systems Software Specialist III (Technical)	Certification List	Permanent	Full Time	6
Assistant Chief Counsel	Emergency Appointment	Emergency	Full Time	1
Staff Services Manager I	Emergency Appointment	Emergency	Full Time	5
CEA 1, Chief, Office of Family Planning	Information List	Permanent	Full Time	1
CEA 1, Temp Help Blanket	Information List	Permanent	Full Time	1
CEA 2, Chief, Medi-Cal Dental Services Division	Information List	Permanent	Full Time	1
CEA 3, Chief, Mental Health Services Division	Information List	Permanent	Full Time	1
CEA 3, Director of Policy Development	Information List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
CEA 4, Assistant Chief Counsel	Information List	Permanent	Full Time	1
CEA A, Health Care Reform Advisor	Information List	Permanent	Full Time	1
CEA B, Chief, Safety Financing Division	Information List	Permanent	Full Time	1
CEA B, Chief, Substance Use Disorder Compliance Division	Information List	Permanent	Full Time	1
CEA B, Deputy Director, Administration Division	Information List	Permanent	Full Time	1
Associate Budget Analyst	Mandatory Reinstatement	Permanent	Full Time	1
Legal Analyst	Mandatory Reinstatement	Permanent	Full Time	2
Nurse Evaluator II	Mandatory Reinstatement	Permanent	Full Time	4
Program Technician II	Mandatory Reinstatement	Permanent	Full Time	1
Staff Services Analyst (General)	Mandatory Reinstatement	Permanent	Full Time	6
Staff Services Manager I	Mandatory Reinstatement	Permanent	Full Time	1
Staff Services Manager III	Mandatory Reinstatement	Permanent	Full Time	1
Associate Governmental Program Analyst	Permissive Reinstatement	Permanent	Full Time	1
Health Program Auditor II	Permissive Reinstatement	Permanent	Full Time	1
Nurse Evaluator II	Permissive Reinstatement	Permanent	Full Time	1
Office Technician (Typing)	Permissive Reinstatement	Permanent	Full Time	1
Staff Services Manager III	Retired Annuitant	Temporary	Part Time	1
Seasonal Clerk	Temporary Authorization	Temporary	Intermittent	2
Administrative Law Judge	Transfer	Permanent	Full Time	2
Associate Accounting Analyst	Transfer	Permanent	Full Time	4

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Health Program Auditor IV	Transfer	Permanent	Full Time	1
Research Analyst II (General)	Transfer	Permanent	Full Time	5
Staff Management Auditor	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	12
Staff Services Analyst (General)	Transfer	Limited Term	Full Time	2
Systems Software Specialist I (Technical)	Transfer	Permanent	Full Time	1
Administrative Law Judge	Voluntary Demotion	Permanent	Full Time	1

FINDING NO. 3 – Equal Employment Opportunity Questionnaires Were Not Separated From Applications

Summary: Out of 221 appointments reviewed, 131 appointments included applications where EEO questionnaires were not separated from the STD 678 employment application. Specifically, 2,288 of the 5,196 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 DHCS recognizes the importance of protecting EEO information and ensuring compliance with civil service laws and rules in all hiring processes. It is the department’s practice to separate these documents but it appears that the department has not provided sufficient instruction/guidance to hiring programs to ensure all EEO questionnaire forms are separated from the employment application during the intake process. The DHCS is committed to providing additional instruction in this area, to ensure this process is followed with considerable accuracy.

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

FINDING NO. 4 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The DHCS did not prepare, complete, and/or retain required probationary reports of performance for 34 of the 221 appointments reviewed by the CRU.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Associate Governmental Program Analyst	Certification List	5	10
Associate Information Systems Analyst (Specialist)	Certification List	6	14

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Data Processing Manager IV	Certification List	2	2
Health Program Auditor II, Department of Health Care Services	Certification List	2	4
Health Program Auditor IV, Department of Health Care Services	Certification List	1	3
Health Program Specialist I	Certification List	1	3
Nurse Evaluator II	Certification List	3	8
Senior Programmer Analyst	Certification List	1	2
Staff Information Systems Analyst (Specialist)	Certification List	2	6
Staff Services Manager I	Certification List	1	1
Administrative Law Judge, Department of Health Care Services	Transfer	1	1
Health Program Auditor IV, Department of Health Care Services	Transfer	1	1
Research Analyst II (General)	Transfer	3	6
Staff Services Analyst (General)	Transfer	5	7
Total		34	68

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: It is the department's policy to provide probationary evaluations to our employees. Nevertheless, this finding demonstrates that more needs to be done to track and monitor the completion of employee probationary reports. Unfortunately, not all supervisors and managers complete probationary evaluations in spite of HR's urging that completing timely probationary reports is invaluable.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS 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. 5 – Applications Were Not Date Stamped

Summary: The DHCS accepted and processed 1,560 out of 5,196 applications that were not date stamped by the department.

Criteria: CCR, title 2, section 174 (Rule 174) requires timely filing of applications: All applications must be filed at the place, within the

time, in the manner, and on the form specified in the examination announcement.

Filing an application 'within the time' shall mean postmarked by the postal service or date stamped at one of the department's offices (or appropriate office of the agency administering the examination) by the date specified.

An application that is not postmarked or date stamped by the specified date shall be accepted, if one of the following conditions as detailed in Rule 174 apply: (1) the application was delayed due to verified error; (2) the application was submitted in error to the wrong state agency and is either postmarked or date stamped on or before the specified date; (3) the employing agency verifies examination announcement distribution problems that prevented timely notification to an employee of a promotional examination; or (4) the employing agency verifies that the applicant failed to receive timely notice of promotional examination. (Cal. Code Reg., tit. 2, § 174, subs. (a), (b), (c), & (d).) The same final filing date procedures are applied to the selection process used to fill a job vacancy.

Severity:

Non-Serious or Technical. Final filing dates are established to ensure all applicants are given the same amount of time in which to apply for a job vacancy and to set a deadline for the recruitment. Therefore, although the acceptance of applications after the final filing date may give some applicants more time to prepare their application than other applicants who meet the final filing date, the acceptance of late applications will not impact the results of the job vacancy selection.

Cause:

The DHCS' hiring process is decentralized within the programs. In canvassing those who handle the hiring process for their respective divisions, it was found that staff were not aware that date stamping applications was critical prior to the final filing date. Based on this finding, HR staff must provide periodic instruction/training, in writing and during quarterly meetings, to ensure staff are familiar with date stamping requirements/procedures.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU a written corrective action plan that the department will implement to ensure conformity with Rule 174. 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 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 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.)

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

FINDING NO. 6 – The Equal Employment Opportunity Officer Does Not Monitor the Composition of Oral Panels in Departmental Exams

- Summary:** The DHCS' EEO Officer does not monitor the composition of oral panels in departmental examinations.
- Criteria:** The EEO Officer at each department must monitor the composition of oral panels in departmental examinations (Gov. Code, § 19795, subd. (a)).
- Severity:** Very Serious. Requiring the EEO Officer to monitor oral panels is intended to ensure protection against discrimination in the hiring process.
- Cause:** Previously, the department did not have a current practice wherein the EEO Officer monitored the composition of the oral panels in departmental exams.
- Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19795. Copies of any relevant documentation should be included with the plan.

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 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 DHCS had 23 PSC's that were in effect. 8 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
California Institute for Mental Health	Training/Consulting Services	7/01/2013-6/30/2016	\$12,606,232	Yes
Cambria Solutions, Inc.	IT Consulting	7/01/2013-6/30/2014	\$1,499,275	Yes
Cambria Solutions, Inc.	IT Consulting	9/30/2013-11/29/2014	\$1,228,200	Yes
Cambria Solutions, Inc.	IT Consulting	1/01/2014-12/31/2014	\$640,350	Yes
Hubbert Systems Consulting, Inc.	IT Consulting	02/26/2014-8/25/2015	\$1,474,900	Yes
Navigant Consulting, Inc.	Consulting	7/01/2013-6/30/2016	\$4,500,000	Yes
San Diego State University Research Foundation	Educational & Administrative Services	7/01/2013-6/30/2016	\$2,322,145	Yes
University Enterprises, Inc.	LGBTQ Training	3/01/2013-6/30/2016	\$191,500	Yes

FINDING NO. 7– 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 \$24,462,602. It was beyond the scope of the review to make conclusions as to whether DHCS justifications for the contract were legally sufficient. For all PSC's subject to DGS approval, the DHCS provided specific and detailed factual information in the written justifications as to how each of the eight contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, DHCS PSC's complied with procedural requirements.

DEPARTMENTAL RESPONSE

Thank you for the opportunity to provide comment to the Department's Compliance Review. The DHCS appreciates the SPB's collaboration and professionalism throughout the compliance review process. The DHCS is committed to improving our efforts with regard to examination and hiring processes as we strive to be an employer of choice among prospective candidates/employees. Below are the DHCS' responses to each finding as presented by the SPB Compliance Review.

FINDING NO 1 – Equal Employment Opportunity (EEO) Questionnaires Were Not Separated From Applications in 19 of the 641 Examination Applications Reviewed

The department understands the importance of protecting EEO information and ensuring compliance with civil service laws and rule in all examination processes, including the practice of separating EEO questionnaire forms from the examination application. The department acknowledges that 19 of the 641 examination applications included the EEO questionnaire form. The department believes this finding is the result of human error and not a procedural issue. However, HR management will ensure periodic reminders are made to staff to remove the EEO questionnaires from all applications received.

FINDING NO. 2 – Applications Were Not Date Stamped or Were Date Stamped After the Final Filing Date in 39 of the 641 Examination Applications Reviewed

It is the department's practice to date stamp examination applications, retain envelopes to document the postmark if the application is received after the final filing date, and/or notate other information to validate acceptance after the final filing date. The department believes this finding is the result of turnover of HR support staff and proper training. HR management will provide refresher training to current staff on date stamping procedures and ensure adequate training of new staff.

FINDING NO. 3 – Equal Employment Opportunity Questionnaires Were Not Separated From Applications in 2,288 of the 5,196 Hiring Applications Reviewed

The department understands the importance of protecting EEO information and ensuring compliance with civil service laws and rule in all hiring processes, including the practice of separating EEO questionnaire forms from the hiring application. The Department is decentralized in its hiring process and believes this finding is the result of a lack of instruction/guidance to hiring programs. The HR branch has launched quarterly HR liaison meetings and addressed this finding in its most recent meeting on August 19, 2015. In addition, HR will provide written instruction through a “Best Hiring Practices” memorandum, within the next 30 to 60 days, which will include instruction regarding this requirement to separate the EEO questionnaires. This memorandum will be distributed to all supervisors/managers and HR liaisons and will be available for ongoing reference on the DHCS’ intranet. HR will continue to use the HR liaison meetings and administrative memoranda to remind hiring programs of these types of requirements.

FINDING NO. 4 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

The department recognizes the importance of probationary evaluations for both the employee and the organization. Missing probationary evaluations are the result of managers and supervisors lack of understanding mandatory requirements, lack of internal controls, and competing priorities. HR has recently added two new staff dedicated to developing and providing HR related training. The requirements and criticality of providing timely probationary evaluations will be incorporated in any applicable modules. Additionally, the department will be looking at ways to better track and monitor probationary evaluations in order to improve compliance, up to and including establishing a departmental workgroup to assist with the tracking process.

FINDING NO. 5 – Applications Were Not Date Stamped

The department is decentralized in its hiring process and believes this finding is the result of a lack of instruction/guidance to hiring programs. The HR branch has launched quarterly HR liaison meetings and addressed this finding in its most recent meeting on August 19, 2015. In addition, HR will provide written instruction through a “Best Hiring Practices” memorandum, within the next 30 to 60 days, which will include guidance related to date stamping applications, retaining envelopes to document the postmark if the application was received after the final filing date, and/or notate other information to validate acceptance after the final filing date. HR will continue to use the HR liaison

meetings and administrative memoranda to remind hiring programs of these types of requirements.

FINDING NO. 6 – The Equal Employment Opportunity Officer Does Not Monitor the Composition of Oral Panels in Departmental Exams

The department acknowledges this finding and the EEO Officer will begin monitoring the composition of oral panels in departmental exams. This step will be added to the oral exam process.

FINDING NO. 7– Personal Services Contracts Complied with Procedural Requirements

No corrective action is required.

SPB REPLY

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

It is further recommended that the DHCS 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.