



COMPLIANCE REVIEW REPORT

DEPARTMENT OF VETERANS AFFAIRS

Compliance Review Unit
State Personnel Board
August 23, 2016

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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 Department of Veterans Affairs (CalVet) personnel practices in the areas of examinations, appointments, EEO, PSC's, and mandated training from July 1, 2015, through December 31, 2015. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
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
Equal Employment Opportunity	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Regulations	In Compliance
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	In Compliance
Mandated Training	Ethics Training Was Not Provided for All Filers	Very Serious
Mandated Training	Sexual Harassment Prevention 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 CalVet’s mission is to serve California veterans and their families. With approximately 1.8 million veterans living in the state, CalVet strives to ensure that its veterans of every era and their families get the state and federal benefits and services they have earned and deserve as a result of selfless and honorable military service. CalVet strives to serve veterans and their families with dignity and compassion and help them achieve their highest quality of life.

More specifically, the CalVet:

- Provides California veterans and their families with aid and assistance in presenting their claims for veterans' benefits under the laws of the United States.
- Provides California veterans with beneficial opportunities through direct low-cost loans to acquire farms and homes.
- Provides the state's aged or disabled veterans with rehabilitative, residential, and medical care and services in a home-like environment at the California Veterans Homes.

The CalVet has approximately 3,000 employees including clinical, administrative, analytical, and clerical staff in support of eight veterans homes, three state-operated veterans cemeteries, three veterans services district offices, and headquarters office located in Sacramento.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing CalVet examinations, appointments, EEO program, PSC's, and mandated training from July 1, 2015 through December 31, 2015. The primary objective of the review was to determine if CalVet 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 CalVet 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 CalVet provided, which included examination plans, examination bulletins, job analyses, 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 CalVet EEO program included examining written CalVet 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).

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

In addition, the CalVet 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 training within statutory timelines.

On July 1, 2016, an exit conference was held with the CalVet to explain and discuss the CRU's initial findings and recommendations. The CalVet received and carefully

¹ If an employee organization requests the SPB to review any SPB personal services contract during the 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 CalVet's written response on July 25, 2016, 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 CalVet conducted 111 examinations. The CRU reviewed 23 of the examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Assistant Director of Dietetics	Open	Supplemental Application (SA) ²	Continuous	2

² 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 Property Agent	Open	Qualification Appraisal Panel (QAP) ³	Continuous	30
Automotive Equipment Operator I	Open	SA	Continuous	12
Career Executive Assignment (CEA) A, Assistant Deputy Secretary for Veterans Outreach, Memorials and Cemeteries	CEA	Statement of Qualifications ⁴	8/14/2015	21
Chief of Plant Operations II	Open	QAP	7/30/2015	11
Clinical Social Worker	Open	QAP	10/16/2015	3
Cook Specialist II	Open	SA	Continuous	8
Dispatcher Clerk Supervisor	Open	Education and Experience (E&E) ⁵	8/28/2015	2
Food Manager	Open	SA	Continuous	7
Food Services Technician I	Open	SA	Continuous	33
Food Services Technician II	Open	SA	Continuous	15
Health Record Technician I	Open	QAP	10/30/2015	32

³ 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.

⁴ 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.

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

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Junior Property Agent	Open	QAP	7/3/2015	21
Library Technical Assistant I	Open	E&E	8/25/2015	9
Licensed Vocational Nurse	Open	SA	Continuous	19
Licensed Vocational Nurse	Open	SA	Continuous	19
Pharmacist I	Open	SA	Continuous	4
Protestant Chaplain	Open	SA	Continuous	7
Senior Property Agent	Open	QAP	Continuous	13
Staff Psychiatrist	Open	E&E	Continuous	1
Supervising Cook II	Open	SA	Continuous	11
Veterans Claims Representative I	Open	QAP	Continuous	39
Veterans Claims Representative II	Open	E&E	Continuous	3

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

The CalVet administered 22 open examinations and one CEA examination in order to create eligible lists from which to make appointments, respectively. For the 22 open examinations, the CalVet published and distributed examination bulletins containing the required information. Applications received by the CalVet were accepted prior to the final filing date and were thereafter properly assessed to determine whether applicants met the minimum qualifications for admittance to the examination. The CalVet notified applicants as to whether they qualified to take the examination, and those applicants who met the minimum qualifications were also notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. Competitors were then notified of their final scores.

For the one CEA examination, the CalVet published and distributed examination bulletins containing required information. Applications and SOQ's were received by the CalVet and were thereafter properly assessed to determine applicant ranks from one to six.

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

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) Except as provided by law, appointments to vacant positions shall be made from employment lists. (*Ibid.*) 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 CalVet made 458 appointments. The CRU reviewed 93 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Accounting Officer (Supervisor)	Certification List	Permanent	Full Time	1
Accounting Technician	Certification List	Permanent	Full Time	2
Assistant Director of Dietetics	Certification List	Permanent	Full Time	1
Associate Budget Analyst	Certification List	Permanent	Full Time	1
Associate Budget Analyst	Certification List	Temporary	Full Time	1
Business Service Officer I (Specialist)	Certification List	Permanent	Full Time	1
Certified Nursing Assistant	Certification List	Permanent	Full Time	1
Chief, Restorative Care Service	Certification List	Permanent	Full Time	1
Cook Specialist II	Certification List	Permanent	Full Time	3
Custodian	Certification List	Permanent	Intermittent	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Custodian	Certification List	Permanent	Full Time	6
Director of Dietetics	Certification List	Permanent	Full Time	1
Food Service Technician I	Certification List	Permanent	Full Time	12
Food Service Technician I	Certification List	Permanent	Part Time	1
Food Service Technician I	Certification List	Limited Term	Full Time	1
Groundskeeper	Certification List	Permanent	Full Time	2
Junior Property Agent	Certification List	Permanent	Full Time	1
Licensed Vocational Nurse	Certification List	Permanent	Full Time	1
Nurse Practitioner	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Pharmacy Technician	Certification List	Permanent	Full Time	2
Program Technician	Certification List	Permanent	Full Time	1
Registered Nurse	Certification List	Permanent	Full Time	3
Security Guard	Certification List	Permanent	Full Time	2
Staff Programmer Analyst (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Manager II (Managerial)	Certification List	Permanent	Full Time	1
Stock Clerk	Certification List	Permanent	Full Time	2
Supervising Cook II	Certification List	Permanent	Full Time	1
Activity Coordinator, Veterans Home and Medical Center	Mandatory Reinstatement	Permanent	Full Time	1
Attorney	Mandatory Reinstatement	Permanent	Full Time	1
Automotive Equipment Operator I	Mandatory Reinstatement	Permanent	Full Time	1
Certified Nursing Assistant	Mandatory Reinstatement	Permanent	Full Time	2
Clinical Social Worker (Health Facility)	Mandatory Reinstatement	Permanent	Full Time	1
Housekeeper	Mandatory Reinstatement	Permanent	Full Time	1
Plumber I	Mandatory Reinstatement	Permanent	Full Time	1
Private Postsecondary Education Specialist	Mandatory Reinstatement	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Registered Nurse	Mandatory Reinstatement	Permanent	Full Time	1
Security Guard	Mandatory Reinstatement	Permanent	Full Time	1
Dentist	Permissive Reinstatement	Permanent	Full Time	1
Health Record Technician I	Permissive Reinstatement	Permanent	Full Time	1
Security Guard	Permissive Reinstatement	Permanent	Full Time	1
Staff Services Analyst (General)	Permissive Reinstatement	Permanent	Full Time	1
Supervising Registered Nurse	Permissive Reinstatement	Permanent	Full Time	1
Assistant Deputy Secretary, Veterans Homes Operations	Retired Annuitant	Limited Term	Intermittent	1
Investigator	Retired Annuitant	Limited Term	Intermittent	1
Legal Secretary	Retired Annuitant	Limited Term	Intermittent	1
Custodian	SPB Action	Permanent	Full Time	1
Maintenance and Service Occupational Trainee	Temporary Authorization Utilization (TAU)	Temporary	Full Time	4
Custodian	TAU	Temporary	Intermittent	1
Residential Care Unit Leader	Training and Development (T&D)	Permanent	Full Time	2
Chief, Medical Administrative Service	T&D	Permanent	Full Time	1
Assistant Director of Dietetics	Transfer	Permanent	Full Time	1
Attorney	Transfer	Permanent	Full Time	1
Business Service Assistant (Specialist)	Transfer	Permanent	Full Time	1
Certified Nursing Assistant	Transfer	Permanent	Full Time	1
Custodian	Transfer	Permanent	Full Time	2
Firefighter/Security Officer	Transfer	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Licensed Vocational Nurse	Transfer	Limited Term	Full Time	1
Office Assistant (Typing)	Transfer	Limited Term	Full Time	1
Security Guard	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Limited Term	Full Time	1

FINDING NO. 2 – Equal Employment Opportunity Questionnaires Were Not Separated From Applications

Summary: Out of 93 appointments reviewed, eight appointments included applications where EEO questionnaires were not separated from the STD 678 employment application. Specifically, 14 of the 890 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 CalVet states that not separating the EEO questionnaires was due to inadvertent oversight.

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

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

Summary: The CalVet did not prepare, complete, and/or retain required probationary reports of performance for six of the 93 appointments reviewed by the CRU.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Food Service Technician I	Certification List	1	1
Security Guard	Certification List	1	2
Groundskeeper	Certification List	1	1
Custodian	Certification List	1	1
Staff Programmer Analyst (Specialist)	Certification List	1	1
Security Guard	Transfer	1	1
Total		6	7

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: The CalVet states that probationary evaluations not provided for all appointments was due to the lack of a tracking system in the Veteran Homes' personnel offices.

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

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 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 CalVet's EEO program that was in effect during the compliance review period.

FINDING NO. 4 – 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 CalVet's 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 CalVet in regards to EEO issues. In addition, the CalVet has an established DAC which reports to the Director on issues affecting persons with disabilities. The CalVet 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.

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 CalVet had 33 PSC’s that were in effect and subject to General Services (DGS) approval. The CRU reviewed seven of these, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Asereth, Inc.	Nursing Services – RN/LVN/CNA	9/1/2015 – 3/31/2017	\$494,474	Yes
InSync Consulting Services	Physical & Occupation Therapy and Speech Pathology Services	12/1/2015 – 3/31/2017	\$1,297,993	Yes
Intuitive Health Services, Inc., APC	Nursing Services – RN/LVN/CNA	9/1/2015 – 3/31/2017	\$469,089	Yes
Our Healthcare Consultants and Products	CMO, Physician Assistant/Nurse Practitioner Services	9/1/2015 – 2/28/2016	\$322,400	Yes
PerformRX, LLC	Pharmacy Dispensing Services	7/1/2015 – 6/30/2017	\$166,000	Yes
Seersoft, Inc.	Nursing Services – RN/LVN/CAN	9/1/2015 – 3/31/2017	\$465,765	Yes
SHC Services, Inc.	Physical & Occupation Therapy and Speech Pathology Services	12/1/2015 – 3/31/2017	\$1,106,106	Yes

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

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

The total dollar amount of all the PSC's reviewed was \$4,321,827.00. It was beyond the scope of the review to make conclusions as to whether CalVet justifications for the contract were legally sufficient. For all PSC's reviewed, the CalVet provided specific and detailed factual information in the written justifications as to how each of the three contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, CalVet 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 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 CEA position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, §§ 19995.4, subs. (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 CalVet's mandated training program that was in effect during the compliance review period.

FINDING NO. 6 – Ethics Training Was Not Provided for All Filers

Summary: The CalVet did not provide ethics training to 25 of 240 existing filers. In addition, five out of 74 new filers were not trained within six months of their appointment.

Criteria: New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).) Course content must be approved by the Fair Political Practices Commission and the Attorney General. (Gov. Code, § 11146.4, subd. (c).)

Severity: Very Serious. The department does not ensure all filers are aware of prohibitions related to his or her official position and influence.

Cause: The CalVet states that not providing ethics training to all filers was due to lack of an effective tracking process, as well as lack of administrative notification, follow-up, and enforcement.

Action: The CalVet must take appropriate steps to ensure that filers are provided ethics training within the time periods prescribed.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CalVet must establish a plan to ensure compliance with ethics training mandates and submit to the SPB a written report of compliance.

FINDING NO. 7 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: Although all existing supervisors received sexual harassment prevention training, 13 out of 151 new supervisors were not provided with sexual harassment prevention training within six months of appointment.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided supervisory training within six months of appointment. (Gov. Code, § 12950.1 subd. (a).)

Severity: Very Serious. The department does not ensure all of its new managers are properly trained. Without proper training, supervisors are not prepared to properly respond to issues involving sexual harassment, which limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to liability.

Cause: The CalVet states that not providing sexual harassment prevention training to all supervisors is due to lack of an effective tracking process, as well as lack of administrative notification, follow-up, and enforcement.

Action: The CalVet must take appropriate steps to ensure that its supervisors are provided sexual harassment prevention training within the time periods prescribed.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CalVet must establish a plan to ensure compliance with sexual harassment prevention training mandates and submit to the SPB a written report of compliance.

DEPARTMENTAL RESPONSE

The CalVet response is attached as Attachment 1.

SPB REPLY

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

It is further recommended that the CalVet 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.

DEPARTMENT OF VETERANS AFFAIRS

HUMAN RESOURCES DIVISION

1227 O Street, Suite 404

Sacramento, CA 95814

Telephone: (916) 653-2535



July 25, 2016

Suzanne Ambrose
Executive Officer
State Personnel Board
801 Capital Mall
Sacramento, CA 95818

RE: Response to SPB Compliance Review

Dear Ms. Ambrose:

The California Department of Veterans Affairs (CalVet) wishes to thank the State Personnel Board's (SPB) Compliance Review Unit (CRU) for the collaboration and professionalism throughout the compliance review process. CalVet is committed to continuous improvement with regard to all aspects of the State's hiring process. Below are CalVet's responses to each finding as presented in the recent SPB Compliance Review.

Finding No. 1: Examinations Complied with Civil Service Laws and Board Rules:

CalVet provides no additional information regarding Finding No. 1 (no action required).

Finding No. 2: Equal Employment Opportunity (EEO) Questionnaires Were Not Separated from Applications:

SPB reviewed 93 CalVet appointments made during the review period, which included 890 State Applications (STD 678). SPB identified that the EEO questionnaires were not removed from 14 of the 890 applications.

It is standard practice of CalVet Human Resources (HR) to remove the EEO questionnaires from all State Applications received for job vacancies. CalVet acknowledges that of the 890 applications, 14 EEO questionnaires were not removed, which equate to a 1.5 percent error rate. It is also noted the 14 errors were divided among three separate personnel offices within the agency. CalVet believes this finding is the result of human error and not a procedural issue; however, CalVet HR management will ensure periodic reminders are sent to local personnel staff reminding them of the importance of protecting EEO information and ensuring compliance with civil services laws and rules. CalVet HR will conduct periodic audits of the personnel offices.

Finding No. 3: Probationary Evaluations Were Not Provided for all Appointments Reviewed:

The CalVet did not prepare, complete, and/or retain required probationary reports of performance for six of the 93 appointments reviewed by the CRU.

It is standard practice for the CalVet supervisors/managers to complete timely probationary reports on all probationary employees in accordance with applicable laws and rules, and as set forth in one of the performance metrics associated with Goal 3 of the CalVet Strategic Plan. CalVet acknowledges that it was delinquent in completing probationary reports on six new hires (delinquency rate: 6.4%). It is noted that five of the six probationary employees did receive two of the three probationary reports, and one received one of the three reports. CalVet will continue its current practice with regard to the probationary report process, and will reinforce the importance of completing timely probationary reports. CalVet currently tracks all probationary reports in its headquarters location, and will implement a process to include tracking of probationary reports within the eight Veterans Homes.

Finding No. 4: Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Regulations:

CalVet provides no additional information regarding Finding No. 4 (no action required).

Finding No. 5: Personal Services Contracts Complied with Procedural Requirements:

CalVet provides no additional information regarding Finding No. 5 (no action required).

Finding No. 6: Ethics Training Was Not Provided for All Filers:

The CalVet did not provide ethics training to 25 of 240 existing filers. In addition, five out of 74 new filers were not trained within six months of their appointment.

CalVet concurs with the need to ensure that designated filers are aware of prohibitions related to their official position and influence, and acknowledges 25 out of 240 filers did not receive ethics training (10.4% deficiency rate). Effective August 1, 2016, this responsibility has been reassigned to a new position in the CalVet HR, which will continue to track all headquarters filers (incoming, annual, and outgoing), and will take a more active role with the filers in the Veterans Homes. In addition, effective July 1, 2016, Ethics training was included in the Relias curriculum (CalVet's on-line training system), which automatically notifies employees when required training is due, and provides deficiency reports to division managers and Executive team to ensure compliance.

Finding No. 7: Sexual Harassment Prevention Training Was Not Provided for All Supervisors:

Although all existing supervisors received sexual harassment prevention training, 13 out of 151 new supervisors were not provided with sexual harassment prevention training within six months.

CalVet acknowledges the importance of the mandated sexual harassment prevention training, and it is the policy of the agency that supervisors receive this training every two years, and new supervisors receive the training within six months of appointment. CalVet concurs that 13 out of 151 new supervisors failed to receive the training within six months (8% deficiency rate). It is noted that the 13 new supervisors did receive the training after six months. CalVet EEO has recently made a modification to an internal process which should remedy the deficiency of supervisors not receiving this training within six months. All CalVet employees now receive a Relias (CalVet's on-line training system) account, and are notified of all mandated trainings. Additionally, reports are generated to all division managers on a monthly basis notifying them of any staff who have current mandated training due, or past due.

On behalf of CalVet, again, I would like to thank the SPB and the CRU for working collaboratively with the agency throughout the process. If you have any questions or need additional information, please do not hesitate to contact me at (916) 653-1932.

Sincerely,



KAREN ESCOBAR
Director, Human Resources Division

cc: Dr. Vito Imbasciani, Secretary
Sherri Gustinell, Deputy Secretary, Administrative Services
Sue Rose, EEO Officer