



COMPLIANCE REVIEW REPORT

DEPARTMENT OF WATER RESOURCES

Compliance Review Unit
State Personnel Board
September 25, 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 Department of Water Resources (DWR) personnel practices in the areas of examinations, appointments, EEO, and PSC's from June 1, 2014, through December 31, 2014.

The following table summarizes the compliance review findings.

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

Area	Finding	Severity
Equal Employment Opportunity	Equal Employment Opportunity Officer Does Not Report Directly to the Head of the Agency	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 DWR was created by the Legislature in 1956 to plan, design, construct, and oversee the building of the nation's largest state-built water development and conveyance system. The DWR protects, conserves, develops, and manages much of California's water supply including the State Water Project which provides water for 25 million residents, farms, and businesses.

Working with other agencies and the public, the DWR develops strategic goals, and near-term and long-term actions to conserve, manage, develop, and sustain California's watersheds, water resources, and management systems. The DWR also works to prevent and respond to floods, droughts, and catastrophic events that would threaten public safety, water resources and management systems, the environment, and property.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing DWR examinations, appointments, EEO program, and PSC's from June 1, 2014, through December 31, 2014. The primary objective of the review was to determine if the DWR 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 DWR 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 DWR 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 DWR 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 DWR staff.

DWR PSC's were also reviewed. The DWR contracted for consulting in specialized fields, workshops, conference facilities, administration of surveys, and health benefits.¹ It was beyond the scope of the compliance review to make conclusions as to whether DWR justifications for the contracts were legally sufficient. The review was limited to whether DWR practices, policies, and procedures relative to PSC's complied with procedural requirements.

On July 21, 2015, an exit conference was held with the DWR to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DWR's written response on August 24, 2015, 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 (MQ's) 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).)

¹ 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.

The advertisement shall contain such information as the date and place of the examination and the nature of the MQ's. (*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 DWR conducted 50 examinations. The CRU reviewed 19 of these examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Assistant Chief Counsel	Promotional	Qualification Appraisal Panel (QAP) ²	10/10/2014	10
Associate Cost Estimator, DWR	Open	QAP	8/15/2014	20
Business Service Assistant (Specialist)	Promotional	Written ³	5/24/2014	29
Chief Hydroelectric Plant Operator	Open	QAP	9/30/2014	11
Construction Supervisor II, DWR	Open	Supplemental ⁴	8/20/2014	21
Digital Composition Specialist I	Open	Supplemental	11/21/2014	29
Guide I, Historical Monument	Open	QAP	11/26/2014	29
Heavy Equipment Mechanic	Open	Written/QAP	7/10/2014	31

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 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.

⁴ 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
Hydroelectric Plant Electrical Supervisor	Open	QAP	4/30/2014	15
Hydroelectrical Plant Maintenance Superintendent	Open	QAP	5/28/2014	17
Hydroelectrical Plant Mechanic I	Open	Written/QAP	8/22/2014	73
Junior Engineering Technician	Open	Written	9/16/2014	93
Principal Right of Way Agent	Promotional	Supplemental	12/5/2014	3
Research Analyst II (General)	Promotional	Supplemental	9/19/2014	4
Senior Mechanical Engineer	Open	Education and Experience ⁵	8/8/2014	9
Senior Water and Power Dispatcher	Open	Written	7/31/2014	11
Supervising Engineering Geologist	Promotional	QAP	9/12/2014	18
Utility Craftsworker Supervisor, DWR	Open	QAP	9/5/2014	50
Water and Power Dispatcher	Open	Written	1/31/2015	9

FINDING NO. 1 – Applications Were Accepted After Final Filing Date

Summary: The DWR conducted five examinations in which accepted applications were date stamped after the final filing date and did not include documentation as to why the applications were accepted after the final filing date. Specifically, the DWR accepted one late application for the Associate Cost Estimator (Water Resources), six late applications for the Hydroelectric Plant Electrical Supervisor, two late applications for the Supervising Engineering Geologist, two late applications for the Heavy Equipment Mechanic, and eight late applications for the Digital Composition Specialist I.

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.

Criteria: California Code of Regulations, 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 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, subs. (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 DWR states that staff were trained in error that their visual confirmation and initials on applications was sufficient proof that an application had been postmarked by the final filing date, and that keeping the envelopes was not required.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DWR 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 DWR made 484 appointments. The CRU reviewed 139 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	3
Administrative Officer II, Resources Agency	Certification List	Permanent	Full Time	3
Assistant Safety Engineer	Certification List	Permanent	Full Time	2
Associate Environmental Planner (Archeology)	Certification List	Permanent	Full Time	1
Associate Hydroelectric Power Utility Engineer	Certification List	Permanent	Full Time	10
Associate Information System Analyst (Specialist)	Certification List	Permanent	Full Time	3
Associate Information System Analyst (Specialist)	Certification List	Permanent	Intermittent	1
Associate Right of Way Agent	Certification List	Permanent	Full Time	3
Attorney IV	Certification List	Permanent	Full Time	3
Director, Television Communications Center	Certification List	Permanent	Full Time	1
Executive Secretary	Certification List	Permanent	Full Time	1
Heavy Equipment Mechanic	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Hydroelectric Plant Electrician Apprentice	Certification List	Permanent	Full Time	2
Hydroelectric Plant Electrician II	Certification List	Permanent	Full Time	1
Hydroelectric Plant Technician Supervisor	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	2
Office Technician (Typing)	Certification List	Permanent	Intermittent	1
Personnel Supervisor II	Certification List	Permanent	Full Time	1
Senior Engineer Water Resources	Certification List	Permanent	Full Time	10
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	3
Senior Hydroelectric Plant Operator	Certification List	Limited Term	Full Time	1
Senior Hydroelectric Plant Operator	Certification List	Permanent	Full Time	2
Senior Hydroelectric Power Utility Engineer (Specialist)	Certification List	Permanent	Full Time	1
Senior Hydroelectric Power Utility Engineer (Supervisor)	Certification List	Permanent	Full Time	2
Supervising Engineer Water Resources	Certification List	Permanent	Full Time	5
Training Officer I	Certification List	Limited Term	Full Time	1
Utility Craftsworker	Certification List	Permanent	Full Time	2
Water Resources Technician I	Certification List	Permanent	Full Time	6
Chief Construction Supervisor	Direct Reassignment	Permanent	Full Time	1
Engineer, Water Resources	Direct Reassignment	Permanent	Full Time	1
Office Technician (Typing)	Direct Reassignment	Permanent	Full Time	2
Senior Engineer, Water Resources (Specialist)	Direct Reassignment	Permanent	Full Time	4
Senior Environmental Scientist (Specialist)	Direct Reassignment	Permanent	Full Time	2
Staff Information Systems Analyst (Specialist)	Direct Reassignment	Permanent	Full Time	1
Transportation Surveyor (CalTrans)	Direct Reassignment	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Deputy Secretary, Water Resources	Exempt	Permanent	Full Time	1
Construction Inspector Technician, WR	Mandatory Reinstatement	Permanent	Full Time	1
Engineering Geologist	Mandatory Reinstatement	Permanent	Full Time	3
Office Assistant (General)	Mandatory Reinstatement	Permanent	Full Time	1
Personnel Technician II (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1
Research Program Specialist II (Geographic Information Systems)	Mandatory Reinstatement	Permanent	Full Time	1
Senior Environmental Scientist (Supervisory)	Mandatory Reinstatement	Permanent	Full Time	2
Senior Information System Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1
Staff Services Analyst	Mandatory Reinstatement	Permanent	Full Time	3
Environmental Scientist	Permissive Reinstatement	Permanent	Full Time	2
Hydroelectric Plant Operator	Permissive Reinstatement	Permanent	Full Time	1
Staff Services Analyst (General)	Permissive Reinstatement	Permanent	Full Time	1
Utility Craftworker, Water Resources	Reinstatement	Permanent	Full Time	1
Senior Hydroelectric Power Utility Engineer (Specialist)	Retired Annuitant	Temporary	Intermittent	1
Supervising Engineer Water Resources	Retired Annuitant	Temporary	Intermittent	1
Fish and Wildlife Scientific Aid	Temporary Authorization Utilization (TAU)	Temporary	Intermittent	8
Associate Governmental Program Analyst – Executive Assistant	Training and Development (T&D)	Permanent	Full Time	1
Assistant Information Systems Analyst	T&D	Permanent	Full Time	1
Digital Operator II	T&D	Permanent	Full Time	1
Right of Way Agent	T&D	Permanent	Full Time	1
Labor Relations Analyst	T&D	Permanent	Full Time	1
Associate Accounting Analyst	Transfer	Permanent	Full Time	1
Engineer, Water Resources	Transfer	Permanent	Full Time	3

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Engineering Geologist	Transfer	Permanent	Full Time	1
Fish and Wildlife Scientific Aid	Transfer	Temporary	Intermittent	1
Hydroelectric Plant Mechanic I	Transfer	Permanent	Full Time	1
Management Services Technician	Transfer	Permanent	Full Time	3
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Senior Hydroelectric Power Utility Engineer (Specialist)	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Intermittent	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	4
Water Resources Engineering Associate (Specialist)	Transfer	Permanent	Full Time	1
Guide II, Historical Monument (Specialist)	Voluntary Demotion	Permanent	Full Time	1

FINDING NO. 2 – Applications Were Not Date Stamped

Summary: The DWR accepted and processed 605 of 2,045 applications that were not postmarked and/or not date stamped.

Criteria: California Code of Regulations, 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 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, suds. (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 DWR states that there are two avenues in the manner applications are received for job vacancies: (1) Inquiry Letter responses to job advertisements with applications attached are submitted to the Human Resources Office, or (2) applications are submitted directly to the hiring division. Based on these two business processes, it was an oversight that not all applications were date-stamped.

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

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

Summary: The DWR did not prepare, complete, and/or retain required probationary reports of performance for 6 of the 139 appointments reviewed by CRU, as reflected in the table below.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Associate Hydroelectric Power Utility Engineer	Certification List	1	1
Associate Right of Way Agent	Certification List	2	2
Supervising Engineer Water Resources	Certification List	2	4
Staff Services Analyst (General)	Transfer	1	1
Total		6	8

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 DWR states that although they send quarterly reports with probation due dates to Division HR liaison staff, the lack of a business process to monitor and ensure compliance for completed probationary reports resulted in the finding.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DWR 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. 4 – Equal Employment Opportunity Questionnaires Were Not Separated From Applications

Summary: Out of 139 appointments reviewed, 78 appointment files included applications where EEO questionnaires 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 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 DWR states that because of the various avenues in which applications are submitted to divisions, ensuring that EEO questionnaires are removed from applications has been an oversight.

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

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the 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 the DWR EEO program that was in effect during the compliance review period. In addition, the CRU interviewed appropriate DWR staff.

FINDING NO. 5 – Equal Employment Opportunity Officer Does Not Report Directly to the Head of the Agency

Summary: The DWR’s EEO Officer reports directly to the Deputy Director of Business Operations. No separate, direct reporting relationship with the Director of the DWR has been created for EEO responsibilities.

Criteria: 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.)

Severity: Very Serious. The EEO Officer does not have direct access to the head of the organization, diminishing the significance of the EEO program.

Cause: The DWR states that the EEO Officer has direct access to the Director on all EEO matters as reflected on the organization charts submitted to the CRU; however, the reporting relationship was not appropriately reflected on the duty statement.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the DWR 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 DWR had 35 PSC's that were in effect. The CRU reviewed 21 of those contracts, which were subject to the Department of General Services (DGS) approval and thus our procedural review, and are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Bentley Systems, Inc.	IT Support	6/16/2014 - 12/15/2014	\$324,489.64	Yes
Best, Best & Krieger, LLP	Legal Services	9/18/2006- 6/30/2016	\$400,000.00	Yes
Buston's Auto Transport	Transportation Service	11/1/2014- 10/31/2016	\$150,000.00	Yes
California Power Law Group	Legal Services	8/1/2010- 4/30/2016	\$1,435,000.00	Yes
California Power Law Group	Legal Services	2/1/2010- 1/31/2017	\$2,530,500.00	Yes
ENGlobal Government Services, Inc.	IT Support	11/17/2014- 11/16/2015	\$266,422.42	Yes
Hawkins Delafield & Wood	Legal Service	2/1/2001- 12/31/2017	\$21,300,000.00	Yes
Homer's Janitorial Services	Janitorial Service	10/1/2014- 9/30/2017	\$180,000.00	Yes
Instrumental Software Technologies	IT Support	7/4/2014- 6/30/2019	\$100,000.00	Yes
Natoma Technology	IT Support	8/18/2014- 6/30/2015	\$529,863.20	Yes
Orrick Herrington & Sutcliffe	Legal Services	2/1/2001- 12/31/2017	\$5,900,000.00	Yes
Serena Software Inc.	IT Support	11/2014-12-31- 2015	\$337,500.00	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
URS Corporations Americas	Diving Services (Emergency)	6/11/2014-12/31/2014	\$500,000.00	Yes
URS Corporations Americas	Diving Services (So. CA)	9/1/2014-8/31/2016	\$2,000,000.00	Yes
URS Corporations Americas	Diving Services (No. CA)	10/10/2014-10/9/2016	\$1,600,000.00	Yes
VanNess Feldman	Legal Services	5/1/2012-4/30/2016	\$715,000.00	Yes
Video Streaming Services, LLC	Media Support	6/30/2014-6/29/2016	\$265,930.00	Yes
Water and Power Law Group PC	Legal Services	10/3/2015-10/2/2015	\$150,000.00	Yes
West Publishing Corp.	Legal Services	7/1/2011-6/30/2016	\$646,783.17	Yes
Work Training Center	Janitorial Services	7/15/2014-7/14/2017	\$416,460.63	Yes
Work Training Center	Janitorial Services	7/1/2014-6/30/2017	\$181,340.21	Yes

FINDING NO. 6 – Personal Services Contracts Complied With Procedural Requirements

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

The total amount of all the PSCs reviewed was \$76,826,876.47. It was beyond the scope of the review to make conclusions as to whether DWR justifications for the contract were legally sufficient. For all PSC’s subject to DGS approval, the DWR provided specific and detailed factual information in the written justifications as to how each of the 21 contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the DWR’s PSC’s complied with procedural requirements.

DEPARTMENTAL RESPONSE

The DWR’s response is attached as Attachment 1.

SPB REPLY

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

It is further recommended that the DWR 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.

Memorandum

Date: August 24, 2015

To: Lori Gillihan, Chief
Policy and Compliance Review Division
State Personnel Board
801 Capitol Mall
Sacramento, California 95814

From: Department of Water Resources

Subject: Compliance Review Audit Response

Upon receipt of the State Personnel Board's 2015 Compliance Review Report, the Department of Water Resources (DWR), Human Resources Office completed a review and analysis of the Board's findings. We submit the following information and corrective action steps for the Board's consideration to remedy these findings.

Finding Number 1: Examinations: Applications Were Accepted After Final Filing Date

Cause: In reviewing the Compliance Report, DWR confirmed that all staff in our Selection Services Branch has been trained to confirm that applications are postmarked or date stamped in our office by the final filing date of the examination. Additionally, for applications that have an office date stamp after the final filing date, staff must confirm that the mailing envelope contains a postmark showing it was mailed by the final filing date.

During this review, we became aware that some staff had been trained in error that their visual confirmation and initial on applications was sufficient proof that an application had been postmarked by the final filing date, and keeping the envelopes was not required. As a result, 18 of the applications identified in this audit appear to have been accepted late due to date stamps showing after the final filing date. Staff had visually confirmed the appropriate postmark dates; however, due to the training error they did not keep the envelopes as proof. In one instance, we have confirmed that an application was accepted late.

Action: We thank the CRU for identifying this training issue. Per direction from the CRU, all Selection Services staff have now been instructed to retain applications and Envelopes.

Finding Number 2: Appointments: Applications Were Not Date Stamped

Cause: There are two avenues in the manner applications are received for job vacancies: (1) Inquiry Letter responses to job advertisements with applications attached are submitted to the Human Resources Office (HRO) or (2) applications are submitted directly to the hiring division.

Lori Gillihan, Chief
August 24, 2015
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Based on these two business processes, DWR agrees with the finding that not all applications were date stamped, per CCR, title 2, section 174 (Rule 174).

Action: DWR will implement a business practice change to remedy this finding.

Finding Number 3: Probationary Evaluations Were Not Completed For All Appointments Reviewed

Cause: DWR sends quarterly reports with probation due dates to Division HR liaison staff. For intermittent employees, the Human Resources Office Personnel Specialist notifies the Division HR liaison of probationary due dates when sufficient hours have been worked to identify the one-third interval due date.

Action: DWR will implement a business process to monitor and ensure compliance for completed probationary reports.

Finding Number 4: Equal Employment Opportunity Questionnaires Were Not Separated from Applications

Cause: As previously mentioned, there are two avenues in the manner applications are received for job vacancies: (1) Inquiry Letter responses to job advertisements with applications attached are submitted to the HRO or (2) applications are submitted directly to the hiring division.

Because of the various avenues for applications submitted to divisions, ensuring Equal Employment Opportunity (EEO) questionnaires have been removed has been an oversight.

Action: DWR will implement a business practice change to remedy this finding.

DWR respectfully submits the following suggestion for consideration by the State Personnel Board and the California Department of Human Resources:

In order to ensure that candidates for job vacancies are not inadvertently completing the EEO questionnaire, which is required only for state examination purposes, we recommend that a slight modification be made to the on-line Standard State Application, STD. 678. By the simple addition of a question with check boxes to ask whether the applicant is applying to take (1) a civil service examination or (2) is applying for a job vacancy, a programming change could delete the EEO questionnaire from coming up for job vacancy purposes to ensure that no job vacancy applications allow the EEO questionnaire to print. This change will alleviate the current confusion that exists for non-state employees as they're not familiar with the regulations that require the EEO questionnaire for *examinations only*. This small programming change will definitely ensure that all candidates for job vacancies are evaluated solely on their knowledge, skills, and abilities and would end the human margin for error that exists today with the current state application.

Lori Gillihan, Chief
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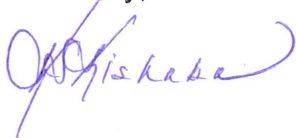
Finding Number 5: Equal Employment Officer Does Not Report Directly to the Head of the Agency

Cause: The Equal Employment Officer is part of the Directorate Office and has direct access to the Director on all EEO matters as reflected on the organization charts submitted to the CRU; however, the reporting relationship was not appropriately reflected on the duty statement.

Action: The EEO Officer's duty statement has been updated to reflect the reporting relationship to the Director of DWR. The EEO Officer continues to have direct access to the Director on all EEO matters.

DWR understands the importance of and our responsibility to uphold all civil service merit principles. We thank the CRU for their time and effort to complete the 2015 DWR Compliance Review and for the advice provided to DWR during the review process. As a result of this experience, we are actively implementing and updating our current business processes in order to ensure DWR compliance. We are also making changes to our records management and storage practices and plan to have all future review records available within the DWR electronic system of record, Documentum.

Sincerely,



Katherine S. Kishaba, Deputy
DWR Business Operations

cc: Alton Ford, Manager
SPB Compliance Review Unit