

# **COMPLIANCE REVIEW REPORT**

## **STATE COMPENSATION INSURANCE FUND**

Compliance Review Unit  
State Personnel Board  
June 28, 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 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 State Compensation Insurance Fund (SCIF) personnel practices in the areas of examinations, appointments, EEO, and PSC's from July 7, 2013, through September 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
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious
Equal Employment Opportunity	Equal Employment Opportunity Officer Did Not Monitor the Composition of Oral Panels in Departmental Exams	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**

Established in 1914 by the state legislature, the SCIF has operated for over 100 years, is California's largest provider of workers' compensation insurance, and is a vital asset to California businesses. The SCIF supports California's entrepreneurial spirit and plays a stabilizing role in the economy by providing fairly priced workers' compensation insurance, making California's workplaces safe, and restoring injured workers.

The SCIF offers diverse and comprehensive products and services that provide a strong and stable option for employers and injured employees with fast, reliable claims service, and medical and indemnity benefits. SCIF accident prevention services and return to work programs - provided to policyholders at no additional cost - ultimately help save businesses money.

With approximately 130,000 policyholders, more than \$1.2 billion in premiums, and nearly \$20 billion in assets, Californians rely on the security and certainty offered by the SCIF to the state's employers; particularly the small businesses and new ventures that are key to California's economic recovery. To provide services to our clients, the SCIF has offices throughout California and a workforce of over 4,200 employees.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing SCIF examinations, appointments, and EEO program from July 7, 2013, through September 31, 2014. The primary objective of the review was to determine if SCIF 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 SCIF 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 SCIF 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 SCIF 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 SCIF staff.

On May 24, 2016, an exit conference was held with the SCIF to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the SCIF written response on June 15, 2016, which is included in 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 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 SCIF conducted 18 examinations. The CRU reviewed all of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Associate Management Auditor	Open-Spot	Supplemental Application <sup>1</sup> (SA) & Qualification Appraisal Panel <sup>2</sup> (QAP)	9/6/2013	35
Career Executive Assignment (CEA) C, Deputy Chief Counsel, State Compensation Insurance Fund	CEA	Statement of Qualifications <sup>3</sup> (SOQ)	1/29/2014	18
CEA C, Senior Vice President of Business Support	CEA	SOQ	6/2/2014	5
CEA 3 Senior Vice President of Information Technology Core Operations	CEA	SOQ	9/4/2013	4
Custodian Supervisor II	Departmental Promotional	Written <sup>4</sup>	11/22/2013	8
Instructional Designer (Technology POST)	CEA	QAP & Written	9/13/2013	17
Lead Custodian	Departmental Promotional	Written	11/22/2013	7
Legal Support Supervisor I	Promotional	QAP & Written	7/11/2014	23
Personnel Supervisor I	Departmental Promotional-Spot	Training & Experience <sup>5</sup> (T&E)	1/27/2014	4

<sup>1</sup> 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.

<sup>2</sup> The qualification appraisal panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

<sup>3</sup> 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.

<sup>4</sup> A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

<sup>5</sup> 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

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Senior Personnel Specialist	Departmental Promotional	T&E	1/27/2014	8
Senior Workers' Compensation Payroll Auditor	Departmental Promotional	QAP	6/24/2014	44
Stationary Engineer	Departmental Promotional-Spot	Education & Experience <sup>6</sup> (E&E)	9/6/2013	6
Stationary Engineer	Departmental Promotional-Spot	E&E	12/17/2013	4
Staff Management Auditor	Open-Spot	QAP & SA	9/6/2013	38
Staff Services Management Auditor	Departmental Open	Written	9/6/2013	45
Supervising Program Technician I	Departmental Promotional	Written	7/26/2013	102
Workers' Compensation Claims Adjuster	Departmental Open	Written	8/16/2013	178
Workers' Compensation Insurance Representative	Departmental Open	Written	8/16/2013	175

### **FINDING NO. 1 – Equal Employment Opportunity Questionnaires Were Not Separated from Applications**

**Summary:** Out of 18 examinations reviewed, 16 exams included applications where EEO questionnaires were not separated from the STD 678 examination applications. Specifically, 698 of the 716 applications received included EEO questionnaires that were not separated from the STD 678 examination 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

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.

<sup>6</sup> In an education and experience (E&E) examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

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, of 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 SCIF states that their Human Resources Applicant Management System (HRAMS) project development team understood that the online system would be in compliance since the EEO questionnaires are separated from the applications prior to the hiring process.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the SCIF submit to the CRU a written corrective action plan that the department will implement to ensure that all EEO questionnaires are separated from all applications. Copies of all 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 SCIF made 682 appointments. The CRU reviewed 91 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Assistant Chief Counsel	Certification List	Permanent	Full Time	5
Associate Administrative Analyst (Accounting Systems)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	7
Associate Real Estate Officer	Certification List	Permanent	Full Time	1
Attorney	Certification List	Limited Term	Full Time	4
Attorney	Certification List	Permanent	Full Time	8
Legal Support Supervisor I	Certification List	Permanent	Full Time	4
Senior Workers' Compensation Insurance Representative	Certification List	Permanent	Full Time	7
Senior Workers' Compensation Payroll Auditor	Certification List	Permanent	Full Time	4
Staff Services Analyst	Certification List	Permanent	Full Time	1
Staff Services Management Auditor	Certification List	Permanent	Full Time	6
Supervising Program Technician I	Certification List	Limited Term	Full Time	3
Supervising Program Technician I	Certification List	Permanent	Full Time	3
Workers' Compensation Insurance Representative	Certification List	Limited Term	Full Time	1
Workers' Compensation Insurance Representative	Certification List	Permanent	Full Time	6
Workers' Compensation Insurance Technician	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Workers' Compensation Payroll Auditor	Certification List	Permanent	Full Time	1
CEA, Deputy Chief Counsel	Information List	Permanent	Full Time	2
CEA, Deputy Chief Counsel, State Compensation Insurance Fund	Information List	Permanent	Full Time	2
CEA, Senior Vice President of Information Technology Core Operations	Information List	Permanent	Full Time	1
Staff Services Analyst	Reinstatement	Permanent	Full Time	1
Staff Service Manager I (Supervisor)	Reinstatement	Limited Term	Full Time	1
Associate Information Systems Analyst (Specialist)	Retired Annuitant	Temporary	Intermittent	1
Senior Personnel Specialist	Retired Annuitant	Temporary	Intermittent	1
Television Specialist	Temporary Authorization Utilization	Temporary	Intermittent	1
Associate Information Systems Analyst (Supervisor)	Transfer	Permanent	Full Time	1
Program Technician	Transfer	Permanent	Full Time	7
Senior Personnel Specialist	Transfer	Permanent	Full Time	1
Staff Services Analyst	Transfer	Permanent	Full Time	4
Staff Services Manager II (Supervisor)	Transfer	Permanent	Full Time	4

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

**Summary:** The SCIF did not prepare, complete, and/or retain required probationary appraisals of performance for 31 of the 91 appointments reviewed by the CRU.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Probation Reports
Assistant Chief Counsel	Certification List	2	3

Associate Governmental Program Analyst	Certification List	4	12
Senior Workers' Compensation Insurance Representative	Certification List	4	10
Senior Workers' Compensation Payroll Auditor	Certification List	1	1
Associate Real Estate Officer	Certification List	1	2
Workers' Compensation Insurance Representative	Certification List	2	2
Associate Administrative Analysis (Accounting Systems)	Certification List	1	3
Staff Services Management Auditor	Certification List	2	3
Workers' Compensation Insurance Technician	Certification List	1	1
Staff Services Analyst	Reinstatement	1	2
Staff Services Manager II (Supervisor)	Transfer	3	4
Program Technician	Transfer	6	14
Staff Services Analyst	Transfer	2	2
Associate Information Systems Analyst (Supervisor)	Transfer	1	2
TOTAL		31	61

**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 SCIF states that Human Resources made good faith efforts to provide clarity on the probationary evaluation requirements to all management within SCIF, including providing dates the probationary evaluations are due. However, SCIF management did not comply in all instances.

**Action:** The SCIF has submitted a corrective action plan for ensuring compliance in meeting the probationary requirements of Government Code section 19172; therefore, no further action is required at this time.

### **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 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 SCIF EEO program that was in effect during the compliance review period.

**FINDING NO. 3 – Equal Employment Opportunity Officer Did Not Monitor the Composition of Oral Panels in Departmental Exams**

**Summary:** The SCIF EEO Officer did not monitor the composition of the oral panels for departmental exams.

**Criteria:** The EEO Officer at each department must monitor the composition of oral panels in departmental examinations (Gov. Code, section 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:** The SCIF states that previously they did not have a process/procedure in place wherein the EEO Officer monitored the composition of oral panels in departmental examinations.

**Action:** The SCIF has submitted a corrective action plan for ensuring compliance in meeting the requirements of Government Code section 19795; therefore, no further action is required at this time.

### **DEPARTMENTAL RESPONSE**

#### **Finding No. 1**

The SCIF has an online examination/certification system (HRAMS) whereby all examination applications are submitted and stored online. As part of that system, applicants create a profile, complete, and submit an application which populates their personal information. The SCIF does not use applications submitted for civil service examinations for the hiring processes. There is a separate application that is submitted for job vacancies which does not include the EEO questionnaire. The application is stored and the data is available for the purpose of determining minimum qualifications to participate in the examination, to generate the bottom line hiring report (which is captured electronically via the EEO Questionnaire), and to retain all applications for the required five-year time period.

During the development of HRAMS in 2006, the project team determined that SCIF was in compliance with the government codes based on the aforementioned process. The SCIF HRAMS project team is currently working on a Business Requirement Document that will address the above finding. The estimated delivery of said enhancement is end of July 2016.

#### **Finding No. 2**

When an employee is serving a probationary period, the assigned Personnel Specialist communicates the length of the probationary period, as well as the dates reports are due, to the supervisor for the employee. Although the dates are provided, it is incumbent upon the supervisor to not only provide the reports on a timely basis to the employees, but also to ensure the original signed report is forwarded to the Personnel Specialist for placement into the employees official personnel file. Human Resources has made good faith efforts to provide clarity on the probationary period to all management within SCIF, which had been a manual system. Probationary reports are automatically sent to all supervisors/managers and the step-by-step process/procedure for ensuring compliance for this finding SCIF has developed and implemented is attached.

The SCIF is committed to being the employer of choice and as such our CEO supports the timely delivery of performance evaluations. A monthly report is generated and provided to our CEO for any performance evaluations that have not been completed timely.

### Finding No. 3

Previously, SCIF did not have a process/procedure wherein the EEO Officer monitored the composition of the oral panels in departmental exams. However SCIF has now developed and implemented the attached process/procedure.

### **SPB REPLY**

Based upon the SCIF's written response, the SCIF will comply with the CRU recommendations and findings, and provide the CRU with a corrective action plan for Finding No. 1. The SCIF submitted a corrective action plan with supporting documentation for Findings Nos. 2 and 3; therefore no further action is required for those findings.

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