

**BOARD RESOLUTION ADOPTING THE COMPLIANCE REVIEW REPORT AND
FINDINGS BY THE SPB COMPLIANCE REVIEW UNIT OF
THE CALIFORNIA HOUSING FINANCE AGENCY**

WHEREAS, the State Personnel Board (SPB or Board) at its duly noticed meeting of March 3, 2014, carefully reviewed and considered the attached Compliance Review Report of the California Housing Finance Agency submitted by SPB's Compliance Review Unit.

WHEREAS, the Report was prepared following a baseline review of the California Housing Finance Agency's personnel practices. It details the background, scope, and methodology of the review, and the findings and recommendations.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the Report, including all findings and recommendations contained therein. A true copy of the Report shall be attached to this Board Resolution and the adoption of the Board Resolution shall be reflected in the record of the meeting and the Board's minutes.


SUZANNE M. AMBROSE
Executive Officer

COMPLIANCE REVIEW REPORT CALIFORNIA HOUSING FINANCE AGENCY FINDINGS AND RECOMMENDATIONS MARCH 3, 2014

Examinations

During the period under review, from May 1, 2011 through October 31, 2012, the California Housing Finance Agency (CalHFA) conducted five examinations. The SPB reviewed three of those examinations, which are listed below:

Classification Title	Examination Type	Examination Component(s)	No. of Eligibles
Housing Finance Assistant (Rental)	Open	Training and Experience (T&E) ¹	90
Housing Finance Officer (Single Family)	Departmental Promotional	Qualifications Appraisal Panel ²	22
Housing Finance Specialist (Single Family)	Open	T&E	67

FINDING NO. 1 – CalHFA Did Not Permit a Qualified Veteran to Compete in a Promotional Examination

Government Code section 18991 provides that persons honorably discharged from active military duty shall be eligible to apply for promotional civil service examinations, including examinations for career executive assignments, for which he or she meets the minimum qualifications as prescribed by the class specification. CalHFA rejected an applicant for the Housing Finance Officer (HFO) examination who submitted proof of his honorable discharge from active military duty, and who also met the minimum professional experience qualifications for the HFO classification.

¹ The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values, which are totaled by the online system or a department exam analyst, and then assigned a percentage score.

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.

Corrective action is thus warranted. CalHFA should find the applicant eligible to take the HFO examination and during the next administration of the HFO examination, invite the candidate to participate. If the applicant passes the examination, he should be placed on the certification list according to his ranking. In addition, to ensure future compliance with civil service laws, CalHFA must take the necessary steps to ensure that its policies and procedures comply with Government Code section 18991 and that its staff is appropriately trained in this area.

Within 60 days of the Board's Resolution adopting these findings and recommendations, CalHFA must submit to the SPB a written report of compliance that addresses the corrections the department implemented to ensure conformity with the afore-stated corrective action. Copies of any relevant documents should also be attached to the report.

Appointments

During the period under review, CalHFA made 57 appointments. The SPB reviewed 28 of those appointments, which are listed below:

Classification	Appointment Type	Status	No. of Employees
Accountant I (Specialist)	Certification List	Permanent	1
Graphic Designer II	Certification List	Permanent	1
Housing Finance Assistant (Rental)	Certification List	Limited Term	2
Housing Finance Associate (Single Family)	Certification List	Limited Term	8
Housing Finance Officer (Single Family)	Certification List	Permanent	2
Information System Technician	Certification List	Intermittent	2
Office Assistant (General)	Certification List	Intermittent	1
Office Assistant (Typing)	Certification List	Limited Term	1
Office Technician (General)	Certification List	Limited Term	1
Office Technician (Typing)	Certification List	Limited Term	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	1
Staff Programmer Analyst (Specialist)	Certification List	Permanent	1
Housing Finance Associate	Mandatory	Permanent	2

Classification	Appointment Type	Status	No. of Employees
(Single Family)	Reinstatement		
Housing Finance Trainee	Mandatory Reinstatement	Permanent	1
Associate Governmental Program Analyst	Permissive Reinstatement	Permanent	1
Office Technician (LEAP)	Temporary Authorized Utilization (TAU)	Temporary	1
Special Consultant	TAU	Temporary	1

FINDING NO. 2 – CalHFA Properly Complied with Civil Service Laws and Board Rules for the Appointments SPB Reviewed

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).)

Departments are also required to have recruitment strategies designed to be "as broad and inclusive as necessary to ensure the identification of an appropriate candidate group." (Merit Selection Manual [MSM], § 1100, p. 1100.2 (Oct. 2003); Cal. Code Regs., tit. 2, § 50.) Generally, the typical steps a department takes after determining that approval to fill a vacant position has been secured include: determining whether there is an eligible list for the classification in which the vacancy exists; determining whether an eligible list is necessary to fill the vacancy; advertise the vacancy, which may include certifying the eligible list; receive applications, and if no applications are received, re-advertise the position with increased recruitment efforts; screen applications to determine which candidates meet minimum qualification requirements and are eligible for appointment; and conduct hiring interviews. (MSM, § 1200, pp. 1200.7-1200.8; Cal. Code Regs., tit. 2, § 50.)

CalHFA advertised all the positions that were reviewed by the SPB, except for the three positions that were required to be filled by way of mandatory reinstatement.

As to the list appointments, CalHFA properly cleared any reemployment and/or SROA³ candidates before making any appointments. CalHFA interviewed eligible applicants who were reachable within the first three ranks of the certification list. Accordingly, those appointments complied with civil service laws and Board rules.

As to mandatory reinstatements, a state agency or department is required to reinstate an employee to his or her former position if the employee is (1) terminated from a temporary or limited-term appointment by either the employee or the appointing power; (2) rejected during probation; or (3) demoted from a managerial position. (Gov. Code, § 19140.5.) However, the following conditions must apply: the employee accepted the appointment without a break in continuity of service and the reinstatement is requested within 10 working days after the effective date of the termination. (*Ibid.*)

The three employees who were appointed as mandatory reinstatements to CalHFA accepted the appointments without a break in the continuity of their state service and requested reinstatement within 10 working days after the effective date of the termination of their other position. Thus, CalHFA complied with civil service laws and Board rules in making those appointments.

Civil service laws also allow permissive reinstatements but only in certain circumstances. An appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position by: (1) resignation; (2) service retirement; (3) termination from limited-term, temporary, career executive assignment, or exempt appointment; (4) absence without leave, as defined; or (5) without a break in continuity of state service to accept another civil service or exempt appointment. (Gov. Code, § 19140.)

An Associate Governmental Program Analyst (AGPA) was permissively reinstated to CalHFA after a break in state service due to resignation. CalHFA interviewed the applicant and verified the applicant's previous permanent status in state civil service in a

³ The State Restriction of Appointments (SROA) Program is intended to prevent the layoff and separation of skilled and experienced employees from State service. The SROA Program assists in placing affected employees by temporarily restricting the methods of appointment available to appointing powers. Employees on SROA lists are granted preferential consideration over all other types of appointments except appointments from reemployment lists and mandatory reinstatements.

classification similar in duties and responsibilities to that of an AGPA. Thus, in making the appointment, CalHFA exercised its discretion within the civil service laws and rules.

Thirteen of the list appointments were for a limited term. CalHFA ensured that each of the appointments did not, individually or consecutively, exceed one year. (Gov. Code, § 19080.3.) CalHFA notified the limited-term employees in writing of their separation of appointment (Cal. Code Regs., tit. 2, § 282), and thus complied with civil service laws and Board rules.

Equal Employment Opportunity

The SPB reviewed CalHFA's EEO policies, procedures, and programs that were in effect during the compliance review period. In addition, the SPB interviewed appropriate CalHFA staff.

FINDING NO. 3 – CalHFA Does Not Operate a Disability Advisory Committee (DAC)

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 disability advisory committee (DAC) and take appropriate steps to ensure the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).) At the time of the compliance review, CalHFA did not have a DAC.

Accordingly, CalHFA must invite all employees to serve on a DAC 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. No later than 30 days after the Board's Resolution adopting these findings and recommendations, CalHFA must invite all its employees to serve on the DAC, and no later than 60 days after the Board's Resolution adopting these findings and recommendations, CalHFA must establish the DAC and submit to the SPB a written report of compliance.

**FINDING NO. 4 – CalHFA Did Not Timely Handle Discrimination Complaints
That Were Filed During the Compliance Review Period**

Departments are required to provide a written decision to employees who file complaints of discrimination within 90 days of the original filing. If the department is unable to meet the 90-day deadline, it must inform the complainant in writing before the 90 days expires as to the reason for the delay. (Cal. Code Regs., tit. 2, § 64.4, subd. (a) [Rule 64.4.]

None of the six EEO discrimination complaints filed during the compliance review period were resolved within 90 days. CalHFA did not provide documentation evidencing that it had informed the complainants as to the reason(s) for the delay. In addition, CalHFA's written discrimination complaint process incorrectly states: "5. A final decision must be rendered in writing to the complainant within 180 days of the filing of the formal complaint."⁴

CalHFA must revise its policies and procedures to ensure compliance with Rule 64.4. CalHFA should also ensure that appropriate personnel receive training on the requirements of Rule 64.4. Within 60 days of the Board's Resolution adopting these findings and recommendations CalHFA must submit to the Board a written report of compliance that addresses what steps CalHFA has taken to comply with the afore-stated corrective action. The report should also include copies of any relevant documentation.

DEPARTMENTAL RESPONSE

CalHFA was provided a copy of the initial report to review. A copy of CalHFA's response is attached as Attachment 1.

SPB REPLY

Based upon CalHFA's written response, CalHFA has agreed to invite the veteran candidate to compete in the upcoming HFO exam and to establish a DAC.

⁴ CalHFA Discrimination/Harassment Complaint Process, page 2.



It is recommended that CalHFA comply with the afore-stated recommendations within 60 days of the Board's Resolution and submit to the SPB a written report of compliance.

The SPB appreciates the professionalism and cooperation of CalHFA during this compliance review.

CalHFA California Housing Finance Agency

Attachment 1

November 25, 2013

Mr. Michael Brunette
Compliance Review Manager
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

RE: Compliance Review Report California Housing Finance Agency

Dear Mr. Brunette:

We have reviewed the Compliance Review Report and are in agreement with the findings. We have also reviewed and will implement SPB's recommendations for corrective action; a Disability Advisory Committee will be established within the next 60 days, and the Agency's EEO related policies have been updated to accurately reflect response timeframe requirements. Further, the Agency will be diligent in following these timeframe requirements in the future.

We are unable to immediately implement the remedy for Finding No. 1. The Housing Finance Officer (Single Family) exam list was abolished earlier this year. Because there is no longer a list onto which the candidate could be placed if he passed the QAP, we will invite the candidate to participate in the next Housing Finance Officer (Single Family) exam offered by CalHFA. CalHFA plans to offer this exam within the next three months.

Sincerely,



Jacklynne M. Riley,
Acting Director of Administration

cc: Claudia Cappio
Executive Director, California Housing Finance Agency

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