



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION**

Compliance Review Unit  
State Personnel Board  
November 15, 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 California Debt and Investment Advisory Commission (CDIAC) personnel practices in the areas of examinations, appointments, EEO, and PSC's from October 1, 2015, through September 30, 2016, and mandated training from October 1, 2014, through September 30, 2016. The following table summarizes the compliance review findings.

| Area                         | Finding   | Severity      |
|------------------------------|---|---------------|
| Examinations                 | Examination Complied with Civil Service Laws and Board Rules                                    | In Compliance |
| Appointments                 | Appointments Complied with Civil Service Laws and Board Rules                                   | In Compliance |
| Equal Employment Opportunity | Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Regulations | In Compliance |

| Area              | Finding  | Severity      |
|-------------------|--|---------------|
| Mandated Training | Mandated Training Complied with Statutory 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 CDIAC provides information, education, and technical assistance on debt issuance and public fund investments to local public agencies and other public finance professionals. The Commission was created in 1981 with the passage of Chapter 1088, Statutes of 1981 (Assembly Bill 1192, Costa). This legislation established the CDIAC as the state’s clearinghouse for public debt issuance information and required it to assist state and local agencies with the monitoring, issuance, and management of public debt. The Commission’s name was changed to the California Debt and Investment Advisory in 1996 and its mission was expanded to cover public investments.

The Commission consists of nine members, including the State Treasurer, the Governor of the Director of Finance, the State Controller, two local government finance officials, two Assembly Members, and two Senators.

In performance of its mission, CDIAC engages in a range of activities classified into three general program areas: data collection and analysis, policy research, and education.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing CDIAC examinations, appointments, PSC’s and EEO program from October 1, 2015, through September 30, 2016, and mandated training from October 1, 2014, through September 30, 2016. The primary objective of the review was to determine if CDIAC 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 CDIAC 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 CDIAC provided, which included an examination plan, examination bulletin, job analysis, 511b, scoring results, notice of personnel action (NOPA) forms, certification lists, employment history records, correspondence, and probation reports.

The review of the CDIAC 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 CDIAC did not execute any PSC's during the compliance review period subject to the Department of General Services approval and thus our procedural review.<sup>1</sup>

In addition, the CDIAC's mandated training 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 prevention training within statutory timelines.

The CDIAC declined to have an exit conference. The CDIAC was found to be in compliance in all areas reviewed during the compliance review period. Therefore, no departmental response is required.

## **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

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<sup>1</sup> 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.

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).) 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 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 CDIAC conducted one examination. The CRU reviewed this examination, which is listed below:

| Classification                          | Exam Type                | Exam Components                     | Final File Date | No. of Applications |
|---|--------------------------|-------------------------------------|-----------------|---------------------|
| Business Service Assistant (Specialist) | Departmental Promotional | Education & Experience <sup>2</sup> | 7/15/2016       | 6                   |

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

The CDIAC administered a departmental examination in order to create an eligible list from which to make appointments. The CDIAC published and distributed examination bulletins containing the required information for the examination. Applications received by the CDIAC 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. 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

<sup>2</sup> In an education and experience 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.

arranged in order of the score received by rank. Competitors were then notified of their final scores.

The CRU found no deficiencies in the examination that the CDIAC conducted during the compliance review period. Accordingly, the CDIAC fulfilled its responsibilities to administer the examination 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.) 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 CDIAC made two appointments. The CRU reviewed all of those appointments, which are listed below:

| Classification             | Appointment Type   | Tenure    | Time Base | No. of Appointments |
|----------------------------|--------------------|-----------|-----------|---------------------|
| Graphic Designer III       | Certification List | Permanent | Full Time | 1                   |
| Administrative Assistant I | Certification List | Permanent | Full Time | 1                   |

**FINDING NO. 2 – Appointments Complied With Civil Service Laws and Board Rules**

The CRU reviewed two CDIAC appointments made to positions via promotion-in-place. A promotion meets the definition of “promotion-in-place” as defined by California Code of Regulations, title 2, section 599.854.4(6), if there is no true vacant position, there is no change of position, or supervisory/subordinate relationship; and the reclassification/appointment will result in a promotion-in-place of the incumbent to the next highest level to which he or she can promote. Promotions-in-place are not subject to recruitment or the State Restriction of Appointment Program, which grants employees impacted by layoff preferential consideration over other types of appointments.

The two appointments the CDIAC made during the compliance review period were a reclassification of a current Graphic Designer II position into a Graphic Designer III position; and a current Executive Assistant position into an Administrative Assistant I position. The appointments were promotions-in-place in order to conform to the new duties that were to be performed by the incumbents. The CDIAC provided the certification lists, duty statements, incumbents' state applications, Requests for Personnel Action, and the NOPA's. Since the appointments were reclassifications of current positions and not true vacancies, the CDIAC was not required to perform recruitments for the appointments. The CDIAC provided the certification lists showing the two incumbents were in ranks one and two on their respective lists at the time of appointment.

The CRU found no deficiencies in the CDIAC appointments reviewed during the compliance review period. Accordingly, the CRU found that the CDIAC appointments satisfied civil service laws and board rules.

#### 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 California Department of Human Resources (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. In a state agency with less than 500 employees, like the CDIAC, the EEO Officer may be the Personnel Officer.

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 CDIAC EEO program that was in effect during the compliance review period.

**FINDING NO. 3 – Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules**

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 the CDIAC'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 CDIAC. In addition, the CDIAC has an established DAC that reports to the director on issues affecting persons with a disability. The CDIAC also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with a disability, and to offer upward mobility opportunities for its entry-level staff.

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 California Department of Human Resources (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 career executive assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, §§ 19995.4, subds. (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 CDIAC's mandated training program that was in effect during the compliance review period.

#### **FINDING NO. 4 – Mandated Training Complied with Statutory Requirements**

The CDIAC provided ethics training to its one new filer within six months of appointment and semiannual ethics training to its five existing filers during the two-year calendar year period commencing in 2014. The CDIAC also provided supervisory training to its one new supervisor within 12 months of appointment. In addition, the CDIAC provided sexual harassment prevention training its one new supervisor within six months of appointment, and sexual harassment prevention training to its five existing supervisors every two years. Thus, the CDIAC complied with mandated training requirements within statutory timelines.

## **DEPARTMENTAL RESPONSE**

No departmental response was required since all areas reviewed were in compliance.

## **SPB REPLY**

The CDIAC was found to be in compliance in all areas reviewed during the compliance review period. Therefore, no further action is required.