



COMPLIANCE REVIEW REPORT

COLORADO RIVER BOARD OF CALIFORNIA

Compliance Review Unit
State Personnel Board
March 23, 2015

TABLE OF CONTENTS

Introduction	1
Executive Summary	1
Background	2
Scope and Methodology.....	2
Findings and Recommendations.....	3
Examinations	3
Appointments	5
Equal Employment Opportunity	6
Personal Services Contracts.....	8
Departmental Response.....	8
SPB Reply	8

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 Colorado River Board's (CRB)'s personnel practices in the areas of examinations, appointments, and EEO from November 1, 2012, through April 30, 2014. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Appointment Complied with Civil Service Laws and Board Rules	In Compliance
Equal Employment Opportunity	The EEO Officer Does Not Report to the Departmental Director	Very Serious
Equal Employment Opportunity	No Disability Advisory Committee Was Established	Very Serious

A color-coded system is used to identify the severity of the violations as follows:

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

BACKGROUND

The CRB was established in 1937 by state statute to protect California's rights and interests in the resources provided by the Colorado River, and to represent California in discussions and negotiations regarding the Colorado River and its management.

California's rights and interests in the water and power resources of the Colorado River System are vital to California's economy. Seven counties in Southern California, with a population of about 19 million, more than half of the state's population, receive water and hydroelectric energy from the Colorado River.

The CRB is budgeted for 11 positions with 10 positions filled, (an Executive Director; one Career Executive Assignment (CEA); two Engineers, Water Resources; one Environmental Scientist; one Senior Engineer; one Supervising Engineer; one Office Technician; one Administrative Officer; and one Principal Engineer). This agency receives no state funding and is 100% reimbursable.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing CRB examinations, appointments, and EEO program from November 1, 2012, through April 30, 2014. The primary objective of the review was to determine if CRB personnel practices, policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action where deficiencies were identified.

Due to its small size, CRB conducted only a limited number of examinations and appointments during the compliance review period. Therefore, all of CRB's examinations and appointments were selected for review. The CRU examined the documentation that the CRB provided, which included an examination plan, examination bulletin, job analysis, 511b, scoring results, notice of personnel action forms, a vacancy

posting, application screening criteria, hiring interview rating criteria, certification list, employment history records, correspondence, and probation reports.

The review of the CRB's 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 CRB staff.

The CRB did not execute any PSC's during this review period. Therefore, the CRU did not review any contracts and there are no findings related to PSC's.

On February 12, 2015, an exit conference was held with the CRB to explain and discuss the CRU's initial findings and recommendations, and to provide the CRB with a copy of the CRU's draft report. The CRB was given until February 19, 2015 to submit a written response to the CRU's draft report. On February 17, 2015, the CRU received and carefully reviewed the response, which is attached to 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 CRB conducted one examination. The CRU reviewed this examination, which is listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Principal Engineer, Water Resources	Open-Spot	Qualifications Appraisal Panel (QAP) ¹	1/06/2014	3

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

The Department of Water Resources (DWR) on behalf of CRB administered the only open competitive examination to create an eligible list from which to make an appointment. The CRB conducted QAP interviews for the following classification: Principal Engineer, Water Resources. The DWR published and distributed an examination bulletin containing the required information. Applications received by the DWR were accepted prior to the final filing date and were thereafter properly assessed to determine whether applicants met the minimum qualifications (MQs) for admittance to the examination. The CRB notified applicants as to whether they qualified to take the examination, and those applicants who met the MQs were also notified about the next phase of the examination process. Each competitor’s qualifications to perform the duties of the classification were evaluated and rated by the interview panel. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. Competitors were then notified of their final scores.

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

¹ 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.

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 CRB made one appointment. The CRU reviewed this appointment, which is listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Engineer, Water Resources	Certification List	Permanent	Full-Time	1

FINDING NO. 2 – Appointment Complied with Civil Service Laws and Board Rules

The Department of Conservation (DOC) processes personnel actions for CRB and therefore processed the transaction for this appointment. The CRB measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidate. After clearing the SROA² list, the selected candidate was appointed based on eligibility by being reachable within the first three ranks of the certification list. Accordingly, this appointment complied with civil service laws and board rules in making those appointments.

The CRU found no deficiencies in the appointment that the CRB conducted during the compliance review period. Accordingly, the CRU found that the appointment that CRB made during the compliance review period satisfied civil service laws and board rules.

² 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.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to equal employment opportunity; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents, and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.) In a state agency with less than 500 employees, like CRB, the EEO officer may be the personnel officer. (*Ibid.*)

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 CRB's EEO program that was in effect during the compliance review period. In addition, the CRU interviewed appropriate CRB staff.

FINDING NO. 3 – The EEO Officer Does Not Report Directly to the Departmental Director

Summary: The EEO Officer at the CRB reports to the Deputy Director. No separate, direct reporting relationship with the Departmental Director has been created for the 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 did not have direct access to the head of the organization, diminishing the significance of the EEO program.

Cause: The CRB believed that the EEO Officer could report to the Deputy Director rather than the Departmental Director.

Action: The CRB must reorganize its organizational structure to ensure that the EEO Officer reports directly to the Departmental Director on EEO related matters. The CRB must submit to the CRU a written report of compliance, including an updated organization chart and duty statement no later than 60 days from the date of the SPB's Executive Officer's approval of these findings and recommendations.

FINDING NO. 4 – No Disability Advisory Committee Was Established

Summary: Although the CRB has invited employees to serve on a DAC, it has not formed its own DAC.

Criteria: 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).)

Severity: Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency's ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

Cause: The CRB has been unsuccessful in recruiting members to serve on its DAC.

Action: The department must take appropriate steps to ensure the establishment of a DAC, comprised on members who have disabilities or who have an interest in disability issues.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CRB must establish a DAC and submit to the SPB a written report of compliance.

Personal Services Contracts

During the compliance review period, the CRB did not execute any PSC's. Therefore, the CRU did not review any PSC's.

DEPARTMENTAL RESPONSE

The CRB agrees with the findings and have taken actions to ensure compliance in future reviews. (Attachment 1)

SPB REPLY

Based upon the CRB's written response, the CRB will comply with the CRU recommendations and findings and provide the CRU a Corrective Action Plan.

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

COLORADO RIVER BOARD OF CALIFORNIA

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March 19, 2015

Ms. Lori Gillihan, Chief
Policy and Compliance Review Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

RE: Colorado River Board of California - Compliance Review Report; Agency Response

Dear Ms. Gillihan:

The Colorado River Board of California (CRB) has received and reviewed the draft Compliance Review Report dated February 27, 2015, which covered a review period of November 1, 2012, through April 30, 2014. CRB takes compliance issues very seriously and has already taken multiple steps to address the findings that SPB reported.

In the report, SPB found that CRB's Equal Employment Opportunity (EEO) Officer did not report directly to the Executive Director on EEO related matters. CRB is a very small office and for practical purposes, the EEO Officer has reported directly to the Executive Director on any EEO related matters. The CRB has modified our Organizational Chart to clarify that the EEO Officer officially reports to the Executive Director on EEO matters. A copy of the revised Organizational Chart is attached hereto.

In the report, SPB also found that CRB was unable to form a Disability Advisory Committee (DAC). CRB had previously been informed that its employees could participate in another agency's DAC. On November 14, 2013, the CRB's DAC representative sent an email to all existing CRB employees regarding the DAC and asking whether other employees were interested in serving on the DAC. A copy of the November 14, 2013 email is attached hereto. No CRB employees have a disability and no CRB employees were interested in participating in the DAC. SPB has informed CRB that it must establish its own DAC, which CRB did on February 12, 2015. The members of the DAC are Tanya Trujillo, Executive Director and Suzanna Webb, DAC Coordinator. CRB has been informed that it will be acceptable for CRB's DAC representatives to attend DAC meetings with the Department of Water Resources. CRB has been in communication with Raymond Sanchez who assured to include CRB in DWR DAC meetings.

If you have any questions or need further information, please do not hesitate to contact me directly at (818) 500-1625 ext. 308.

Sincerely,

A handwritten signature in black ink that reads "Tanya Trujillo".

Tanya Trujillo
Executive Director