



Final Report of Quality Assurance Review
(October 2000)

CALIFORNIA SCIENCE CENTER

PERSONNEL RESOURCES AND INNOVATIONS DIVISION



State of California

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State Personnel Board
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Background

In August 1999, the Bureau of State Audits (BSA) released its audit report of the California Science Center's (CSC) personnel management functions. This report concluded that the CSC poorly managed its personnel responsibilities and created a workplace in which employees are not assured fair and equitable treatment. In response to specific problems identified by BSA which relate to state civil service examinations, hiring practices, and equal employment opportunity, and at the request of the State and Consumer Services Agency, the State Personnel Board (SPB) initiated its own review.

In February 2000, a review team from SPB conducted an on-site review of specific personnel management functions of CSC including examinations, appointments, the equal employment opportunity program and personal services contracts. SPB's review initially focused on one calendar year, January 1, 1999 through December 31, 1999. The review of personal services contracts subsequently expanded to include all existing contracts. The board's findings from this review as well as SPB directives to CSC are provided in this report.

Scope of Review and Methodology

To determine if personnel practices of CSC adhere to the State's laws, regulations and policies pertaining to examinations, SPB reviewed examination history files including examination planning documents, examination bulletins, competitors' state applications, selection instruments (qualifications appraisal interview [QAP] questions, written examinations, etc.) rating criteria, scoring methods, and resulting eligible lists. Prior to the on site review, a listing of examinations administered by CSC during the review period was produced via SPB's on-line system. CSC examinations were randomly selected for review, ensuring that samples of various classifications, levels and types of examinations were reviewed. Based on the listing of examinations produced by SPB, eighteen examinations were administered by CSC during the review period and nine were selected for review by SPB.

In order to review the hiring procedures and practices of CSC, SPB also reviewed a listing of appointments (permanent, limited term, transfers, and reinstatements) made during the review period¹. CSC appointments were selected randomly, ensuring a sample of various types, and included a review of examination certifications, employee history information, and other personnel files. While on-site, SPB met with CSC staff to discuss CSC's Equal Employment Opportunity (EEO) Program. SPB's preliminary findings were discussed with CSC the week following the review.

¹ This list was produced using the State Controller's Office employee history data via SPB's internal automated appointment tracking system.

Prior to its on-site review, SPB requested a listing of all contracts for personnel services that had been entered into during the 1999 calendar year. SPB was verbally informed by CSC that no contracts had been entered into during the review period. Following the on site review, SPB requested that CSC provide a listing of all current contracts for personal services. After reviewing the list provided by CSC, SPB requested additional information pertaining to each contract including the authority, justification, and the scope of work to be done. The information received was reviewed by SPB and is the basis of the following findings relating to CSC's personal services contracts.

Summary

SPB found significant problems with the manner in which CSC carries out the merit aspects of its personnel management responsibilities, in particular with the administration of its examinations.

CSC does not consistently ensure that all participants in its examinations meet the minimum qualifications of the class as required by Government Code §18900. Based upon applications and documentation reviewed by SPB, CSC could not demonstrate, in eight of the nine examinations reviewed, that all candidates who participated in CSC's examinations met the minimum qualifications of the class.

Statements on three examination bulletins indicate that CSC does not appropriately apply veteran's preference points to eligible competitors as required by Government Code §§18971 through 18979.

CSC does not demonstrate that its examinations, including selection instruments, rating criteria, and scoring methods are "...competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to actually perform the duties of the class..." as required by Government Code §18930. Some examinations do not provide for objective comparison among candidates and the rating criteria, if used, is subjective. There was no evidence that CSC conducts job analyses prior to administering its examinations. In the absence of job analyses, it is not clear whether CSC uses appropriate testing methods or that examinations accurately assess the required knowledge, abilities, and qualifications of competitors.

CSC does not consistently date stamp competitor's applications as required by California Code of Regulations §174, to ensure and document that they are received timely. In seven of the nine examination records reviewed, applications were not date stamped. In six of the nine examination records reviewed, CSC accepted resumes from examination competitors without signed state applications as required by Government Code §19834.

CSC's inability to demonstrate that it consistently complies with civil service laws and rules is, to a large extent, due to poor record keeping. Records were missing from all of the examination files reviewed. Due to lack of documentation, CSC does not demonstrate that it publicizes its examinations within a reasonable period of time before the scheduled examination date as required by Government Code §18933. CSC does not maintain the applications of examination competitors

for two years, thus, is not in compliance with California Code of Regulation §174. CSC does not demonstrate that it consistently appoints employees from appropriate ranks as required by Government Code §§19057, 19057.1, 19057.2 and 19057.4. Other records missing from examination files reviewed include examination bulletins, eligible lists, and rating criteria.

Due to the lack of documentation, CSC does not demonstrate that it appropriately disqualifies candidates from its examinations or that disqualified candidates were notified of these results as required by Government Code §18938.5. CSC does not demonstrate that it consistently and accurately notifies each applicant of the approval or disapproval of his/her application as required by California Code of Regulations §175 or that it notifies all competitors of the results of the examination as required by Government Code §18938.5.

Five of the eleven personal services contracts reviewed lacked sufficient justification to demonstrate compliance with Government Code §19130 (b).

Findings and SPB Directives

EXAMINATIONS

SPB reviewed nine of the 18 examinations administered by CSC during the 1999 calendar year. Each of the nine examinations were administered on an "open" basis. The nine examinations reviewed were:

- Executive Secretary II (2/99)
- Staff Service Manager I (4/99)
- Executive Secretary II (6/99)
- Executive Secretary I (After 8/99)
- Administrator Science Programs (9/99)
- Assistant Chief, Museum Security & Safety (11/99)
- Exhibit Designer/Coordinator (11/99)
- Property Controller I (11/99)
- Senior Graphic Artist (11/99)

Job Analysis/ Examination Method

REQUIREMENTS

Government Code §18930 states that examinations will be "...competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to actually perform the duties of the class for which they seek appointment...."

Government Code §19702.2 states, "Educational prerequisites or testing or evaluation methods which are not job-related shall not be employed as part of hiring practices or promotional practices conducted pursuant to this part unless there is no adverse effect...."

FINDINGS

Of the nine examinations reviewed, seven consisted of qualifications appraisal interviews 100%: the Executive Secretary I; Executive Secretary II (2/99 & 6/99); Exhibit Designer/Coordinator; Assistant Chief, Museum Security and Safety; Senior Graphic Artist; and the Administrator, Science Programs. The Property Controller and Staff Services Manager I were both evaluations of Education and Experience (E&E) 100%.

There was no information in the examination files reviewed to demonstrate that CSC examinations were based on a job analysis. Some of the examination bulletins reviewed listed knowledge, abilities and special characteristics that differed significantly from the class specifications.

The following examples were some of the QAP interview questions used in the examinations for Administrator, Science Programs, Senior Graphic Artist, Executive Secretary I and Executive Secretary II. These questions are more appropriate for job interview settings than examinations, are not clearly related to the knowledge and abilities of the class, and/or are so unstructured that it is nearly impossible to reliably rate candidates' response. In addition, there was no criteria to competitively rate candidate responses.

- "Why do you want to work here?"
- "Tell us what you do and a little about yourself"
- "If we contact your current and/or previous employer(s), what kind of recommendation will you receive?"
- "Take about three minutes and tell me about yourself"
- "Tell me about yourself and your interest in this job"

One QAP question used in the Assistant Chief, Museum Security and Safety examination raises concern not only about the job relatedness of the question, in relation to the requirements of the class, but also with the implied relation to political affiliation. This question was,

- "What is your concept of the word 'loyalty' "?

The documentation reviewed relating to the Executive Secretary II (2/99) examination suggests that different selection instruments were used for at least one competitor. Specifically, a notice of examination results for one candidate, who was ultimately hired, indicates that they participated in a QAP interview process. However, all other notices of examination results reviewed for this examination indicated that competitors participated in a written and performance test. There was no information in the examination file to clarify this discrepancy. While QAP interview questions were found

in this examination file, there was no documentation to demonstrate that either a written or performance test was administered.

CONCLUSION

In the absence of job analyses, CSC did not demonstrate that its examinations are competitive, fairly assess the qualifications of candidates, and accurately assess the required knowledge and abilities of competitors as required by Government Code §18930.

Also as a result of no job analyses, CSC did not demonstrate that it uses appropriate testing methods or that examinations accurately assess the required knowledge, abilities, and qualifications of competitors as required by Government Code §18930.

Based on documentation reviewed, CSC used different selection instruments for the Executive Secretary II (2/99) examination, thus, did not fairly test the candidates or ensure the examination was competitive as required by Government Code §18930.

SPB DIRECTIVES REGARDING JOB ANALYSES

By November 1, 2000, CSC shall provide SPB with a plan to conduct job analyses to ensure that all future examinations fairly test and determine the qualifications, fitness and ability of competitors actually to perform the duties of the class as required by Government Code §18930.

CSC shall review the examination process for the Executive Secretary II (2/99) examination to determine if different selection instruments were used. CSC shall notify SPB in writing of its findings by November 1, 2000, and provide documentation to support its findings. This eligible list will be frozen by SPB pending justification and documentation to support CSC actions in this regard.

Effective immediately, CSC shall maintain all selection instruments (e.g. interview questions, written examinations, etc.) in the appropriate examination file until completion of a new examination, in accordance with SPB's Selection Manual Section 3120, Examination Security and Records Retention Guidelines.

Publicity

REQUIREMENTS

Government Code §18933, states, "...a designated appointing power shall announce or advertise examinations for the establishment of eligible lists."

California Code of Regulations §171 states, "...The executive officer shall direct the preparation of every examination and the publication of an announcement thereof...."

FINDINGS

There was no documentation available in any of the examination history files or other records reviewed to demonstrate the distribution of examination bulletins or the publicity of any of the examinations reviewed. All of the CSC examinations reviewed were administered on an open basis, however, the Executive Secretary I and both Executive Secretary II examinations appear to have a limited number of applicants which raises concerns about adequate publicity. The issue of publicity was discussed with CSC staff who indicated they did maintain a distribution list and utilize standard publicity for their examinations.

CONCLUSION

Due to the lack of documentation, CSC did not demonstrate that it advertises its examinations as required by Government Code §18933.

SPB DIRECTIVES REGARDING PUBLICITY

Effective immediately, CSC shall maintain in every examination history file information regarding the publicity of each examination and distribution of examination bulletins. CSC shall provide SPB with a publicity plan for all future examinations to demonstrate that examinations will be advertised for a reasonable period of time as required by Government Code §18933 and California Code of Regulations §171. The plan will include information regarding CSC's proposed bulletin distribution. At a minimum, open examinations shall be advertised on SPB's website and job information line, and examination bulletins shall be posted in SPB's Information Center. CSC shall distinguish between publicity differences for open or promotional examinations. CSC's plan will be submitted to SPB by November 1, 2000 for approval.

Examination Bulletins

REQUIREMENT

California Code of Regulations §171 requires that the announcement and publication of examinations specify the basis for competition and other information as the executive officer may deem proper.

FINDINGS

All of the examination bulletins reviewed indicated they were "open-spot" examinations, however, a location was not identified. One spot examination, Senior Graphic Artist, resulted in the creation of two separate lists for Los Angeles County and the City of Los Angeles but the examination bulletin did not specify that two eligible lists would be created. There was no

examination base (e.g., open, departmental promotional, etc.) listed on the examination bulletin for Property Controller I. Subsequent to the on-site review, CSC indicated that the exam base, including location of the examination, would be included in all future examination bulletins.

CONCLUSION

CSC did not comply with California Code of Regulations §171; however, have committed to full compliance in future examinations.

REQUIREMENTS

Government Code §§18971 – 18979 pertain to the granting of veterans' preference credit in entrance examinations for state civil service.

Government Code §18973.5 defines "entrance examination" as any open competitive examination other than one for a class having a requirement of both college graduation and two or more years of experience.

FINDINGS

Of the examination bulletins reviewed, three incorrectly stated the application of veteran's preference points as follows:

- the Property Controller I examination bulletin stated veterans' preference points would not be granted but should have been.
- the Exhibit Designer/Coordinator examination bulletin stated veterans' preference points would be granted but should not have been applied.
- Administrator, Science Programs examination bulletin stated veterans' preference points would be granted but should not have been applied.

CONCLUSION

Based on documentation contained in three examination files, CSC did not apply veteran's preference points as required by Government Code §§18971 – 18979.

REQUIREMENT

Government Code §18900 states that examinations shall be open to persons who meet the minimum qualifications "...as prescribed by the specifications for the class or by board rule." Any changes to the minimum qualifications of a classification must be approved by the Five-Member State Personnel Board per Government Code §18931.

FINDINGS

CSC included educational requirements (equivalent to completion of the twelfth grade) in the examination bulletin for the Executive Secretary II examination administered in June 1999, which were not part of the minimum qualifications stated in the corresponding class specification. This may have

resulted in erroneously disqualifying candidates from the examination or preventing candidates from applying for the examination who otherwise were eligible. These educational requirements were identified in the class specification as desirable qualifications, however, should not have been used to disqualify candidates. The minimum qualifications stated in the class specification were also listed in the examination bulletin; however, they were somewhat modified.

CONCLUSION

CSC did not comply with Government Code §§18900 and 18931 when it modified the minimum qualifications in the examination bulletin for the Executive Secretary II (6/99) examination.

SPB DIRECTIVES REGARDING EXAMINATION BULLETINS

Effective immediately, CSC shall include in all examination bulletins information required in California Code of Regulations §171, including the basis of competition.

CSC shall re-evaluate how veteran's preference points were applied in the following examinations: Property Controller I, Exhibit Designer/Coordinator, and Administrator, Science Programs. CSC shall notify SPB in writing of its findings by November 1, 2000, and include documentation to support its findings. CSC shall notify all applicants for the affected examinations of their error(s) and in the case where veteran's points should have been applied but were not, provide applicants with the opportunity to apply. CSC will include with its findings names and scores of all individuals appointed from each of the three lists. A copy of CSC's proposed notification letter to applicants shall also be provided to SPB with CSC's findings. CSC will work with SPB staff to correct the scores of all affected applicants.

CSC shall review prior examinations for which there are existing eligible lists to ensure that veteran's preference points were appropriately applied. CSC shall notify SPB in writing of its findings, by December 1, 2000, and include the names of all applicants and examinations affected, a description of how veteran's points were and should have been applied and other documentation to support their findings. CSC shall notify all applicants for the affected examinations of their error(s) by January 1, 2001, and in the case where veteran's points should have been applied but were not, provide applicants with the opportunity to apply. A copy of CSC's proposed notification letter to applicants shall be provided to SPB with CSC's findings. CSC shall provide SPB with the names of individuals appointed as a result of any examination where veteran's preference points were

inappropriately applied. CSC will work with SPB staff to correct the scores of all affected eligibles.

CSC shall re-evaluate all applications received for the Executive Secretary II examination administered in June 1999, to identify any candidates who were disqualified from this examination as a result of the additional educational requirements added by CSC to the minimum qualifications section of the examination bulletin. CSC shall notify SPB in writing of their findings no later than November 1, 2000 and include all documentation to support their findings. CSC will notify all applicants who were unlawfully disqualified from this examination process of CSC's error and schedule candidates for examination. CSC shall notify SPB in writing by November 1, 2000 of all individuals appointed from the Executive Secretary II (6/99) examination.

Rating Criteria

REQUIREMENTS

Government Code §18930 states, "Examinations for the establishment of eligible lists shall be competitive and of such character as fairly to test and determine the qualifications, fitness and ability of competitors actually to perform the duties of the class of position for which they seek appointment..."

Code of Regulations §198, states, "Ratings of education, experience, and personal qualifications shall be made on a competitive basis in that each competitor shall be rated thereon in relation to the minimum qualifications for the class in question and in relation to the comparable qualifications of other competitors..."

California Code of Regulations §193 states, "In any examination, the appraisal of education and experience of the competitors may be made by formula applied to the information and data given on their official applications..."

FINDINGS

There was no documentation in the examination files to demonstrate what criteria was used to rate candidates in the Property Controller I and Staff Services Manager I examinations, administered by CSC as evaluations of education and experience 100%. Thus, a determination of the competitiveness of these examinations could not be made.

A general criteria was identified in the examination file of the Assistant Chief, Museum Security & Safety. However, based on documentation reviewed, CSC did not demonstrate how distinctions were made between the

ratings (e.g. qualified and well qualified); without measurable criteria, the ratings are subjective.

A "rating guide" based on a numerical scale was listed on the Competitive Rating Report (CRR) for the Executive Secretary II (2/99 & 6/99); Exhibit Designer/Coordinator; Assistant Chief, Museum Security & Safety; and the Senior Graphic Artist examinations. However, based on documentation reviewed, CSC did not demonstrate how or if this guide was used to rate candidates.

There was no information in the examination files to document how candidates were rated in the Executive Secretary I and Administrator, Science Programs examinations.

CONCLUSION

Due to lack of documentation, CSC did not demonstrate that it complied with California Code of Regulations §§198 and 193 when it administered the Staff Services Manager I and Property Controller I examinations. CSC also did not demonstrate in 8 of the 9 examinations reviewed, that it fairly tested and determined the qualifications of competitors as required by Government Code §18930.

SPB DIRECTIVES REGARDING RATING CRITERIA

Effective immediately CSC shall establish and maintain rating criteria for every examination and ensure that ratings are made on a competitive basis as required by California Code of Regulations §198 and Government Code §18930. Rating criteria shall be maintained in the appropriate examination file until completion of a new examination and in accordance with SPB's Selection Manual Section 3120, Examination Security and Records Retention Guidelines.

Application Review

REQUIREMENT

California Code of Regulations §174 requires that applications for state examinations be maintained for two years.

FINDINGS

Applications and/or resumes were reviewed in each of the nine examinations for appropriate application of minimum qualifications, timeliness, and record-keeping requirements. When comparing the applications in the files to the list of individuals interviewed, rated or identified on the certification lists in the files, it was determined that a number of the competitor's applications and/or resumes were missing from the examination files for the Executive Secretary I; Executive Secretary II (2/99); Staff Services Manager I, Administrator, Science Programs, and the Exhibit Designer/Coordinator

examinations. Thus, the total number of competitors, accepted, and/or rejected applications could not be determined for these examinations.

CONCLUSION

CSC did not maintain applications for two years as required by California Code of Regulations §174 in five of the nine examinations reviewed.

REQUIREMENT

Government Code §18934 states, ‘Every applicant for examination shall file a formal signed application...’

FINDINGS

Although CSC’s examination bulletins indicated that a state application should be filed, CSC accepted resumes from competitors but did not require signed state applications in the examinations for Assistant Chief, Museum Security & Safety, Exhibit Designer/Coordinator, Staff Services Manager I, Executive Secretary II (2/99), Administrator, Science Programs and Senior Graphic Artist.

CONCLUSION

CSC did not comply with Government Code §18934 when it admitted candidates into the above examinations without requiring a formal signed application.

REQUIREMENT

California Code of Regulations §174 states, “All applications must be filed...within the time...specified in the examination announcement...Filing an application "within the time" shall mean postmarked by the postal service or date stamped at...the appropriate office of the agency administering the examination.”

FINDINGS

Not all of the applications/resumes reviewed from the Executive Secretary I; Executive Secretary II (2/99 & 6/99); Exhibit Designer/Coordinator; Property Controller I; Assistant Chief, Museum Security & Safety; and Senior Graphic Artist examinations were date stamped or included proof of postmark. Applications and/or resumes from the Administrator, Science Programs examination included hand written dates.

CONCLUSION

CSC did not demonstrate that all candidates met filing requirements or that it complied with California Code of Regulations §174 in the aforementioned examinations.

REQUIREMENT

California Code of Regulations §174 identifies conditions that must be met in order for applications to be accepted after the final filing date.

FINDINGS

There was no information in the examination file for the Senior Graphic Artist to support that any of the conditions stated in California Code of Regulations §174 were met when one application examination was accepted after the final filing date. Although this applicant was ultimately rejected, it was not for reasons of timeliness, according to the notice sent to the candidate.

CONCLUSION

CSC did not comply with California Code of Regulations §174 when it accepted one application for the Senior Graphic Artist examination after the final filing date.

REQUIREMENT

Government Code §18900 states that examinations shall be open to persons who meet the minimum qualifications of the class. Government Code §18932 states, "...Any person possessing all the minimum qualifications for any state position is eligible...to take any civil service examination..."

FINDINGS

Based on the applications and resumes reviewed, some of the candidates who participated in the following examinations, did not meet the minimum qualifications of the class.

- Resumes reviewed from the Executive Secretary II (2/99); Administrator, Science Programs; and the Assistant Chief, Museum Security & Safety examinations did not indicate whether an applicant's experience was full time, part time, or intermittent and none of the applications reviewed were "coded" by the CSC Personnel staff to demonstrate how candidates met minimum qualifications.
- Two candidates were accepted into the Executive Secretary II (2/99) examination that did not meet the minimum qualifications of the class.
- The application of one candidate who participated in, and was ultimately hired from, the Executive Secretary I examination was not found in any of the files reviewed. Thus, CSC did not demonstrate that this candidate met minimum qualifications.

- In the Exhibit Designer/Coordinator examination, two candidates were scheduled for an interview but did not meet minimum qualifications.
- Three candidates, who participated in the Administrator, Science Programs examination, did not meet minimum qualifications at the time of the examination.
- Two candidates, who were placed on the eligible list for Property Controller I, did not meet the minimum qualifications of the class. One candidate was ultimately hired by CSC.
- Two candidates who participated in the Executive Secretary II examination (6/99) did not meet the minimum qualifications of the class.

CONCLUSION

CSC did not demonstrate that it consistently requires candidates to meet the minimum qualifications of the classification for which they are examined as required by Government Code §§18900 and 18932.

REQUIREMENT

Government Code §§19704, 19705, 19792, 19233 and California Code of Regulations §§174.6-8 prohibit an applicant's ethnic, disability and other confidential information from being disclosed or available to any member of an examination panel, appointing power or individual empowered to influence the appointment prior to the offer of employment.

FINDINGS

Ethnicity and gender information was not removed from applications found in the Executive Secretary II (2/99); Property Controller; Assistant Chief, Museum Security & Safety; and Senior Graphic Artist files prior to proceeding with the examination process.

CONCLUSION

CSC did not comply with Government Code §§19704, 19705, 19792, 19233 and California Code of Regulations §§174.6-8 when it did not remove the ethnicity and gender information from candidates' applications in the aforementioned examinations.

SPB DIRECTIVES REGARDING APPLICATION REVIEW

Effective immediately, CSC shall maintain all state applications submitted by competitors for all CSC examinations for at least two years from the effective date of the eligible list as required by California Code of Regulations §174.

Effective immediately, CSC shall ensure that all competitors for current and future CSC examinations submit a signed state application as required by Government Code §18934.

Effective immediately, CSC shall date stamp all applications/resumes for examinations or maintain postmarked envelopes to comply with California Code of Regulations §174.

Effective immediately, CSC shall ensure that all competitors' applications received after the final filing date meet the conditions outlined in California Code of Regulations §174 for accepting late applications. CSC shall retain documentation with each corresponding application, for at least two years, to demonstrate how the conditions were met.

Effective immediately, CSC shall carefully review each competitor's qualifications to ensure that minimum qualifications (or early filing requirements) are met prior to allowing candidates to participate in any current or future examinations as required by Government Code §18900. CSC staff who review applications for minimum qualifications should indicate on the application how candidates met or did not meet the minimum qualifications of each exam. Clarification of a candidate's time-base (full-time, part-time, or intermittent) should also be noted on the application since this may impact whether candidates meet minimum qualifications

CSC shall re-evaluate the qualifications of candidates who participated in and/or were hired from the Executive Secretary II (2/99) examination to ensure that minimum qualifications were met by all competitors and eligibles on the list in order to avoid potential illegal appointments. CSC shall notify SPB in writing of its findings by November 1, 2000 and provide documentation to support its findings, including all appointments made from this eligible list. If illegal appointments are identified, CSC shall work with SPB to take the appropriate corrective action.

CSC shall re-evaluate the minimum qualifications of all individuals who competed in and/or were hired from the Executive Secretary I examination to ensure that minimum qualifications were met by all competitors. CSC shall notify SPB in writing of its findings by November 1, 2000 and provide

documentation to support its findings, including all appointments made from this eligible list. If illegal appointments are identified, CSC shall work with SPB to take the appropriate corrective action.

CSC shall re-evaluate the qualifications of individuals who participated in and/or were hired from the Exhibit Designer/Coordinator examination to ensure that minimum qualifications were met by all competitors. CSC shall notify SPB in writing of its findings by November 1, 2000 and provide documentation to support its findings, including all appointments made from this eligible list. If illegal appointments are identified, CSC shall work with SPB to take the appropriate corrective action.

CSC shall re-evaluate the qualifications of candidates who participated in and/or were hired from the Administrator, Science Programs examination to ensure all competitors met minimum qualifications of the class. CSC shall notify SPB in writing of its findings by November 1, 2000 and provide documentation to support its findings, including all appointments made from this eligible list. If illegal appointments are identified, CSC will work with SPB to take the appropriate corrective action.

CSC shall re-evaluate the qualifications of individuals who participated in and/or were hired from the Property Controller I examination to ensure that the minimum qualifications of the class were met. CSC shall notify SPB in writing of its findings by November 1, 2000 and provide documentation to support its findings, including all appointments made from this eligible list. If illegal appointments are identified, CSC will work with SPB to take the appropriate corrective action.

CSC shall re-evaluate the qualifications of individuals who participated in and/or were hired from the June 1999, Executive Secretary II examination to ensure minimum qualifications were met. CSC shall notify SPB in writing of its finding by November 1, 2000 and provide documentation to support its findings, including all appointments made from this eligible list. If illegal appointments are identified, CSC will work with SPB to take the appropriate corrective action.

Effective immediately, CSC shall designate a staff person, who is not directly involved in the selection process, to remove the voluntary ethnic, gender, and disability document/flap attached to the state application form. This shall be done prior to forwarding the applications to the appointing powers as required by California Code of Regulations §§174.6, 174.7, and 174.8, and Government Code §§19704, 19705, and 19792.

***Competitive
Rating Report*****REQUIREMENT**

California Code of Regulations §199 states, "In qualifications appraisal interviews, ratings accorded competitors shall be expressed in percentages with 70 percent being the minimum...ratings shall be made independently by each interviewer either before or after discussion with other interviewers if there is a panel interviewing the candidate. Ratings shall be made on forms prescribed by the executive officer, which shall be signed by the interviewer."

FINDINGS

Seven of the nine examinations reviewed consisted of qualifications appraisal interviews. Competitive Rating Reports (CRRs) were used by CSC panel members to document each of the scores assigned. One CRR report for the Executive Secretary II (6/99) examination was not signed by one rater as required by California Code of Regulations §199.

The examination history files reviewed for the Executive Secretary II (2/99 & 6/99), Exhibit Designer/Coordinator, and Senior Graphic Artist examinations contained information suggesting that some candidates were interviewed, however; these same candidates were not listed on the competitive rating report. There was no documentation to clarify this inconsistency.

CONCLUSION

The CRR report for one examination was not signed by both raters as required by California Code of Regulations §199.

CSC did not maintain appropriate rating documentation to demonstrate why candidate rating information in four of the CRR reports was not consistent with candidate information contained in other examination documents. As a result, CSC did not demonstrate that the panel appropriately rated candidates.

SPB DIRECTIVES REGARDING COMPETITIVE RATING REPORT

Effective immediately, CSC shall ensure that QAP panel members complete and maintain in the examination history file all Competitive Rating Reports (CRR) used to rate candidates' qualifications appraisal interviews. Such documentation shall be maintained until completion of a new examination and in accordance with SPB's Selection Manual Section 3120, Examination Security and Records Retention Guidelines.

CSC shall review the examination history files for the Executive Secretary II (2/99 & 6/99), Exhibit Designer/Coordinator, and Senior Graphic Artist

examinations to determine why candidates were scheduled for interviews but were not listed on the CRR. CSC shall notify SPB in writing of its findings by November 1, 2000 and provide documentation to support its findings.

Scoring

REQUIREMENTS

Government Code §18930 states, "Examinations...shall be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors actually to perform the duties of the class of position for which they seek appointment..."

Government Code §18936 states, "The final earned rating of each person competing in any examination shall be determined by the weighted average of earned ratings on all phases of the examination..."

California Code of Regulations §§205 and 206 provide information regarding scoring of examinations.

FINDINGS

The scores listed on the CRR reports for the Administrator Science Programs, Executive Secretary II, and Exhibit Designer/Coordinator examinations, were not consistent with the scores on the Notices of Examination Results for these same candidates. There was no documentation to clarify the inconsistency.

Based on the documentation reviewed in one examination history file, Executive Secretary II (6/99), the scoring method was not appropriate. Points were assigned to each interview question and according to the point system used, candidates who received a "high-average" overall rating would receive a score of 60%; candidates were required to receive a minimum passing score of 70%, thus, were disqualified. Similar concerns with scoring were identified in the Senior Graphics Artist examination.

In the examination history file for the Administrator, Science Programs, scores on several Notices of Examination Results were inconsistent with the ranking of candidates on the resulting certification list. For example, one candidate received a score of 94% on the Notice of Examination Results and another candidate received a 91%. Both of these candidates resulted in the same rank (rank 1) on the certification list. There was no information in the examination files to clarify this discrepancy.

Eligible lists were not found in any of the examination files reviewed to demonstrate the results of each examination administered. A copy of the certification list was found in the Administrator, Science Programs, Staff Services Manager I, Executive Secretary II (2/99 & 6/99) and the Exhibit

Designer/Coordinator examination files, however, these lists do not contain candidate scores and they may not contain all of the successful eligibles on the lists.

CONCLUSION

Based on information reviewed in the examination files, CSC did not demonstrate that it uses appropriate scoring methods or that it complies with the requirements of Government Code §§18930, 18936 and California Code of Regulations §§205 and 206.

SPB DIRECTIVES REGARDING SCORING

CSC shall re-evaluate the scoring methods used in the Executive Secretary II examination administered in June 1999, and the Senior Graphics Artist examination for possible inappropriate disqualification of candidates. CSC shall notify SPB in writing of its findings by November 1, 2000 and provide documentation to support its findings. These eligible lists will be frozen by SPB pending justification and documentation to support CSC actions in this regard.

CSC shall clarify the inconsistencies identified between the scores listed on the CRR report and Notices of Examination Results in the examinations for Administrator Science Programs, Executive Secretary II, and Exhibit Designer/Coordinator. CSC shall notify SPB in writing of its findings by November 1, 2000 and provide documentation to support its findings. These eligible lists will be frozen by SPB pending justification and documentation to support CSC actions in this regard.

CSC shall re-evaluate scoring methods used in each of the examinations reviewed by SPB and notify SPB in writing of its findings, by November 1, 2000 and include documentation to support its findings. These eligible lists will be frozen by SPB pending justification and documentation to support CSC actions in this regard.

Effective immediately, CSC shall maintain in every examination history file, the final list of all successful eligibles. This final results list will be maintained until completion of a new examination and in accordance with SPB's Selection Manual Section 3120, Examination Security and Records Retention Guidelines.

Notices

REQUIREMENT

California Code of Regulations §175 states that "Each applicant shall be notified of the approval or disapproval of his application..." Government Code §18938.5 states, "... each competitor shall be notified in writing of the results of the examination..."

FINDINGS

Several notices are sent to candidates throughout the examination process and may include notices of rejection for not meeting minimum requirements, notices of a scheduled qualifications appraisal interview, and notices of examination results, (either a passing score or disqualification).

There was no documentation in any of the examination files to demonstrate that all applicants were notified of the approval or disapproval of their application as required by California Code of Regulations §175 or, in some cases, that competitors were notified of their examination results as required by Government Code §18938.5.

Documentation contained in the examination files for the Executive Secretary II (2/99 and 6/99) and the Exhibit Designer/Coordinator indicate that some candidates were disqualified from these examinations. However, there was no documentation in the examination files to support the disqualification, to demonstrate that the panel agreed with this determination, or to suggest that candidates were notified.

Documentation contained in the Senior Graphic Artist examination file indicate that two letters of disqualification were sent to candidates, however these same two candidates received passing scores and were placed on the list of eligibles. There was no documentation contained in the file to clarify this inconsistency.

CONCLUSION

CSC did not demonstrate that it appropriately notifies candidates as required by California Code of Regulations §175 and Government Code §18938.5.

SPB DIRECTIVES REGARDING NOTICES

Effective immediately, CSC shall maintain documentation in every examination history file to demonstrate that all applicants were notified of the approval or disapproval of his/her application as required by California Code of Regulations §175. Such documentation shall be maintained until completion of a new examination and in accordance with SPB's Selection Manual Section 3120, Examination Security and Records Retention Guidelines.

Effective immediately, CSC shall maintain documentation in every examination history file to demonstrate that all competitors were notified of examination results as required by Government Code §18938. Such documentation shall be maintained until completion of a new examination

and in accordance with SPB's Selection Manual Section 3120, Examination Security and Records Retention Guidelines.

Effective immediately, CSC shall maintain documentation to support the results of each competitor's participation in the examination process. Such documentation shall be maintained until completion of a new examination and in accordance with SPB's Selection Manual Section 3120, Examination Security and Records Retention Guidelines.

CSC shall review the examination history file for the Senior Graphic Artist classification to determine why two candidates were sent disqualification notices but appeared on the eligible list. CSC shall notify SPB in writing of its findings by November 1, 2000 and include documentation to support its findings. These eligible lists will be frozen by SPB pending justification and documentation to support CSC actions in this regard.

Eligible Lists

REQUIREMENTS

Government Code §18532 states, "Eligible list" means a list of persons who have been examined in an open competitive examination and are eligible for certification for a specific class..."

Government Code §18901(a) allows appointing authorities to abolish eligible lists prior to one year from the date the list was adopted if there are fewer than three names of persons on the eligible list who are willing to accept employment.

FINDINGS

CSC administered two examinations for the Executive Secretary II classification within a four-month period of time, in February 1999 and June 1999. These two examinations were not a result of a continuous filing or testing process. CSC abolished the February 1999 eligible list, with five candidates remaining on the list, when the new eligible list was established in June 1999. The examination bulletin for the Executive Secretary II (February 1999) examination stated that the list would be abolished 12 months after it was established. There was no documentation in the examination file to demonstrate that there were fewer than three interested persons remaining on the eligible list, as required by Government Code §18901(a).

CONCLUSION

CSC did not comply with Government Code §18901(a) when it abolished the Executive Secretary II, February 1999, eligible list prior to one year from the date of list with five candidates remaining.

REQUIREMENT

Government Code §18937 states, "...In establishing any eligible list or promotional list following an examination, the names of the persons who have attained the passing mark in such examination shall be placed on the list in the order of final earned ratings..."

FINDINGS

The Senior Graphic Artist spot examination resulted in the creation of two separate lists for Los Angeles County and the City of Los Angeles. The spot location was not identified on the examination bulletin. All of the eligibles on the list for Los Angeles County received a score of 70% and the eligibles on the list for the City of Los Angeles list received various scores above 70%. There was no documentation found in the examination file to explain the reason for the creation of two separate eligible lists. Due to the creation of two separate lists, proper certification of eligibles in the order of final scores is jeopardized. If a certification list is ordered for Los Angeles County, eligibles with a 70% score will certify before eligibles with the higher scores on the list for the City of Los Angeles. The number of hires made from these lists could not be verified.

CONCLUSION

By creating two separate lists from one examination, candidates would not be "...placed on the list in the order of final earned ratings..." as required by Government Code §18937; thus CSC is not in compliance.

SPB DIRECTIVES REGARDING ELIGIBLE LISTS

CSC shall re-evaluate the Senior Graphic Artist examination to determine why this "spot" examination resulted in the creation of two separate eligible lists (Los Angeles County and the City of Los Angeles). CSC shall notify SPB in writing of its findings, by November 1, 2000, and include documentation to support these findings. CSC shall also provide SPB with a list of all hires made from the two aforementioned lists and include the scores of each and the eligible list used. These eligible lists will be frozen by SPB pending justification and documentation to support CSC actions in this regard.

Adverse Impact**REQUIREMENTS**

Government Code §19792 states, "The State Personnel Board shall...(h) Maintain a statistical information system designed to yield the data and the analysis necessary for the evaluation of progress in...equal employment opportunity within the state civil service...(i) Data analysis shall include... (5) Data on the number of women and minorities recruited for, participating in and passing state civil service examinations..."

Government Code §19702.2 states, "Educational prerequisites or testing or evaluation methods which are not job-related shall not be employed as part of hiring practices or promotional practices conducted pursuant to this part unless there is no adverse effect."

Government Code §19705 states, "...the SPB may, after public hearing, adopt a system in which applicants for employment in the state civil service shall be asked to provide, voluntarily, ethnic data about themselves where such data is determined by the board to be necessary to an assessment of the ethnic and sex fairness of the selection process..."

California Code of Regulations §174.7 (a) states, "(a) Ethnic, sex and disability information shall not be used in a discriminatory manner in the selection process. (b) Such information shall only be used for one or more of the following purposes: (1) research and statistical analysis to assess the fairness of the selection process in regard to ethnicity, sex, and the disabled; or (2) to provide a basis for corrective action when adverse effect is present..."

FINDINGS/CONCLUSION

There was no indication that CSC reviews or analyzes data prior to or after the administration of each examination to determine if adverse impact results from any CSC examination. This analysis is necessary in order to ensure that CSC examinations are not discriminatory. Absent such an analysis, this determination cannot be made.

SPB DIRECTIVES REGARDING ADVERSE IMPACT

Effective immediately, CSC shall review and maintain applicant and hiring data for every examination administered to determine if adverse impact has resulted from any phase of the selection process. Such documentation shall be maintained until completion of a new examination and in accordance with SPB's Selection Manual 3120, Examination Security and Retention Guidelines. Where adverse impact is identified, CSC will either re-evaluate selection procedures prior to releasing eligible lists or identify the job-relatedness of selection procedures by a supportable job analysis.

CSC shall review all examinations where current eligible lists exist to determine if adverse impact resulted from any phase of the selection process. CSC shall notify SPB in writing of its findings by December 1, 2000 and maintain relevant documentation in the corresponding examination files.

SPB DIRECTIVE REGARDING EXAMINATIONS

Effective immediately, CSC shall maintain all documentation related to each examination until completion of the new examination and in accordance with SPB's Selection Manual Section 3120, Examination Security and Records Retention Guidelines. Applications will be maintained for two years as required by California Code of Regulations §174.

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**REQUIREMENTS**

Government Code §19702(g) states, "Any person claiming discrimination ...may submit a complaint which shall be in writing ...The complaint shall be filed with the appointing authority or, in accordance with board rules, with the board itself."

Government Code §12940 states that it is unlawful to harass an employee, an applicant, or a person providing services pursuant to a contract, because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Harassment shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action

Government Code §19792 states, "The State Personnel Board shall:...(f) Provide statewide training to departmental affirmative action officers who will conduct supervisory training on affirmative action..."

California Code of Regulations §54.2 states, "Each appointing power discrimination complaint review shall:

- (a) Provide for satisfying the complaint with a minimum of formal procedural requirements, by an organizational level closest to the employee concerned. Such provisions shall include the opportunity for the employee to receive counseling on a confidential basis by an employee who is qualified to give counseling in matters pertaining to discrimination...
- (c) Assure that the employee's complaint will receive preferred, timely and full consideration at each level of review, that investigation into the circumstances surrounding the complaint will be performed by qualified and impartial persons, and the employee will be informed of all rights at each step of the process, including the right of appeal to the board or to file with the appropriate state or federal agency or court having jurisdiction..."

California Code of Regulations §547.1, Procedure for Resolving Discrimination Complaints, states, "...Each appointing power may establish a written procedure through which an employee may obtain consideration for an allegation of discrimination. All such procedures are subject to the approval of the executive officer. Until the appointing power establishes an approved procedure, the standard procedures prescribed by the executive officer shall apply."

FINDINGS

SPB conducted a general overview of CSC's EEO Program, which included a review of departmental policies, processes, and employee training provided.

CSC has established an automated tracking system for formal departmental discrimination complaints. According to this tracking system, one formal complaint was filed during the review period; a sexual harassment complaint which was immediately investigated by a separate departmental investigation unit and, at the time of the review, was pending litigation.

CSC has developed EEO policies on discrimination, sexual harassment prevention, and equal employment opportunity and requires that all EEO policies be permanently posted in all work sites. According to CSC staff, all CSC employees receive copies of EEO policies and are required to sign acknowledgement of receipt forms, which are filed in each employee's official personnel file. Only one of several personnel files reviewed by SPB did not contain a signed EEO acknowledgement form.

CSC indicated that all employees are provided with a list of employee rights and information on the discrimination and sexual harassment complaint process. CSC indicates that sexual harassment prevention training is mandatory and provided to all employees. CSC indicates that they have one EEO Counselor assigned to assist employees with the resolution of complaints. However, there was no indication that this EEO Counselor had received appropriate training.

According to CSC staff, all managers and supervisors are provided with copies of the discrimination and sexual harassment prevention policies and are required to attend EEO and sexual harassment prevention training.

Accessibility of CSC's Personnel Office and information bulletin boards, also used for posting examination information, job vacancy announcements and other employee information, is located on the second floor and, since there is no working elevator in this building, may not be accessible to some disabled individuals as required by the Americans with Disabilities Act (ADA). In subsequent discussions with CSC staff regarding this issue, CSC indicated that they had set up additional bulletin boards on the first floor of the main Science Center building so that examination and other employee and public information would be accessible to all.

A review of CSC's Ethnic, Sex, and Disability profile of employees revealed that of its total workforce, 70% are male and 30% are female. The ethnic breakdown reflects a diverse organization, which includes 48% African American employees, 24% Hispanic, 23% White, 4% Filipino, and 1% Pacific Islander, with 2% of its workforce identified as Disabled.

CONCLUSION

CSC has recently and is continuing to implement processes to ensure compliance with the aforementioned laws and regulations.

SPB DIRECTIVES REGARDING EQUAL EMPLOYMENT OPPORTUNITY

By November 1, 2000, CSC shall notify SPB in writing of the status of the establishment of an accessible employee and public information bulletin board.

By November 1, 2000, CSC shall notify SPB in writing of the status of training provided to EEO investigators and counselors.

APPOINTMENTS**REQUIREMENTS**

Constitution of the State of California, Article VII, Public Officers and employees, Section 1. (b), states, "In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination."

Government Code §18900 (a) states, "Eligible lists shall be established as a result of free competitive examinations open to persons... who meet the minimum qualifications requisite to the performance of the duties of that position as prescribed by the specifications for the class..."

Government Code §18932 states, "...Any person possessing all the minimum qualifications for any state position is eligible...to take any civil service examination..."

Government Code §18974 requires every applicant for examination to file a formal signed application before the date of the examination.

California Code of Regulations §245.2 states, "The number of names certified to an appointing power to fill vacancies...shall be one of the following: (1) All eligibles in the highest three ranks..."

California Code of Regulations §548.70 requires eligibility for appointment to a Career Executive Assignment (CEA) position to be established as the result of persons with permanent status in the civil service.

FINDINGS

In order to review the hiring procedures and practices of CSC, SPB reviewed the listing of appointments (permanent, limited term, transfers, and reinstatements) made during the review period² as well as hires made from examinations reviewed. CSC appointments were selected randomly for review and included a review of certifications, employee history information, and official personnel files.

Fifteen list appointments and six transfers and reinstatement appointments were reviewed. There was no documentation in any of the files reviewed to demonstrate how certification lists were

² This list was produced using State Controller's Office employee history data via SPB's internal automated appointment tracking system.

cleared to reach eligibles in lower ranks. For example, appointments made from the fourth rank would have required that CSC clear at least one rank in order for the appointee to be reachable (in the top three ranks as required by California Code of Regulations §245.2). There was no "Employment Inquiry" forms in any of the files reviewed to demonstrate the response of eligibles contacted from certification lists or to support how CSC cleared ranks on certifications.

As discussed in the "Examination" section of this report, SPB has concerns with the legality of some appointments made as a result of examinations reviewed, specifically, the Executive Secretary I and Property Controller I examinations. The application of the candidate that was hired from the Executive Secretary I examination was not in any of the files reviewed; thus CSC could not demonstrate that this candidate met the minimum qualification of the class, as required by Government Code §§18900 and 18932, and subsequently that the appointment was legal. Based on the documents reviewed in the Property Controller I examination, one candidate hired did not meet the minimum qualifications of this class, as required by the aforementioned statutes, thus the subsequent appointment was not legal.

Following the on-site review, SPB became aware of an illegal appointment to the CEA 4 class. In order to qualify for CEA examinations, candidates must have permanent civil service status. CSC did not comply with California Code of Regulations §548.70 when it appointed one individual to a CEA Position who did not have permanent civil service status. SPB subsequently required CSC to terminate this appointment.

CONCLUSION

Since CSC did not maintain proper documentation to support clearance of ranks, CSC did not demonstrate that employees are appointed from appropriate ranks or if they are in compliance with California Code of Regulations §254.2.

CSC did not comply with Government Code §§18974 and 18900 when it appointed an individual from the Property Controller I list that did not meet the minimum qualifications of the class.

CSC did not demonstrate that the individual appointed from the Executive Secretary I list met the minimum requirements of the class as required by Government Code §§18974 and 18900.

SPB DIRECTIVES REGARDING APPOINTMENTS

In order to demonstrate that CSC hires from reachable ranks, CSC shall, effective immediately, ensure that appropriate clearance of certifications are obtained, documented, and maintained for at least three years in accordance with the State Administrative Manual.

CSC shall review the appointments made from the Executive Secretary I and Property Controller I eligible lists to verify that all individuals hired from these eligible lists met the minimum qualifications of the class. CSC shall notify SPB in writing of its findings by November 1, 2000 and include all documentation to support its findings.

By November 1, 2000, CSC shall notify SPB in writing of the date of the termination of the illegal appointment to the CEA 4 class.

PERSONAL SERVICES CONTRACTS

REQUIREMENTS

Government Code §19130 includes established standards for the use of personal services contracts in the State. Section (a) of this statute identifies conditions that must be met before a contract is permissible to achieve cost savings. Any state agency proposing to execute a contract pursuant to subdivision (a) must notify the State Personnel Board of its intention. Section (b) identifies ten other possible conditions under which a contract is permissible. These conditions include that the services contracted are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience or ability is not available through the civil service system. Public Contract Code §10337 grants SPB control over approval of contracts to assure consistency with the merit employment principles and requirements of Article VII of the California Constitution.

FINDINGS

Prior to its on-site review, SPB requested copies of all personal services contracts entered into during the review period, January 1999 through December 1999. CSC informed SPB that there were no contracts entered into during this period of time. SPB subsequently requested information pertaining to personal services contracts currently in existence. Eleven contracts were identified and a list of these contracts was provided to SPB following the on-site review; two of the contracts began in 1998, four in 1999, and five in the 2000 calendar year. The eleven contracts reviewed were: Five Star/Classic Parking, Dewey Pest Control, Ralph Anderson & Associates, California Science Center Foundation, Sodexo Marriott Services, Inc., Swayzer's, Inc., Elite Elevator, Dunbar Armored, Inc., Southern California Trane Service, Amtech Elevator Service, and Si-Nor, Inc.

In order to review the scope of work and justification for the existing contracts, additional information was requested by SPB and subsequently provided by CSC. Five of the eleven contracts reviewed lack justification to support their compliance with Government Code §19130 (b) and one contract, which cited Government Code §19130 (a) as the authority, did not obtain the required approvals prior to the contract becoming effective. These findings, however, are not a determination of the validity of each contract.

The five aforementioned contracts are described below.

This is a revenue-based contract for parking services throughout Exposition Park. This contract began on April 1, 1998 and the authority identified is Government Code §19130(b)(3). CSC is guaranteed \$1 million annually, or 90.02% of the gross revenue, with the contractor receiving 9.98% of the gross revenue. The contract indicates that it is not based on encumbrance of state funds; however, the contract requires reimbursement of the Contractor for costs to operate lots for

daily parking around CSC, the California African American Museum, the Natural History Museum, and Exposition Park. This reimbursement includes staffing. Standard Form STD 15 states, "The services contracted cannot be performed satisfactorily by civil service employees. It requires expertise in the management of event parking facilities." However, there is no information contained in the contract to clarify efforts made by CSC to hire civil service employees or determine that the contract is justified under Government Code §19130(b)(3). There are a number of classifications in the civil service that have been used to provide similar services.

This contract provides pest/rodent control services at CSC. The contract began March 29, 1999 and continues (with amendments) to March 31, 2001. There was no justification in the documentation reviewed to support why civil service employees could not perform this work. There are a number of classifications in the civil service that have been used to provide similar services.

This contract was to conduct an executive search for the Park Manager at Exposition Park. The term was 4.5 months, September 15, 1999 to January 31, 2000 and was extended to April 30, 2000. A contract advertising exemption request was approved by the Department of General Services on September 27, 1999. A single sole source justification included:

- "There is currently no pool of qualified candidates and conducting a search by a professional search firm is the best way to identify and fill this position."
- "Given the nature of this new responsibility, the Park Manager will be independent of the Science Center, and report directly to the Board of Directors. Identifying and hiring the appropriate candidate as soon as possible is a task that this seasoned and professional search firm can deliver."
- "Going through the competitive process will cause significant delays and may negatively impact all pending leases."
- "There are not any identifiable cost savings or cost avoidance for this request."

CSC claims Government Code §19130(b)(3) as the authority for this contract. However, there was no information in the documentation which indicates that civil service staffing alternatives were considered by CSC prior to initiating the contract or that these services are not available within civil service, or cannot be performed satisfactorily by civil service employees due to a lack of expertise available.

This contract is for "specialized functions" such as guest services, exhibit maintenance and educational programs, which the CSC deems are not generally available in state service. The term is from July 1, 1999 to June 30, 2000. The authority claimed for this contract is 19130(b) and documentation indicates that "Civil service consideration is not applicable in this agreement." In support of this, CSC provided budget language as follows:

"2. The Legislature recognizes that specialized functions, such as exhibit maintenance and educational guest service programs, may require individual skills not generally available in

state service. It is the intent of the Legislature to allow the California Science Center to acquire these services from its auxiliary partner, the California Museum Foundation. The California Science Center may transfer funds for these services from the Personal Services Account to the Operating Expenses and Equipment Account, not sooner than 30 days after notice thereof to the Joint Legislative Budget Committee."

The budget language does not exempt CSC from compliance with GC 19130. The contract file contained no justification for contracting outside the state civil service system or documentation that identifies efforts made to use civil servants to provide these services in a state funded museum. There are a number of classifications in the civil service that have been used to provide similar services.

This contract is to provide food services in two facilities on the premises of the California Science Center. The term of this contract is for ten years from February 7, 1998 to February 7, 2008. The authority claimed for this contract is Government Code §19130(b) and CSC cites a management agreement for food services to summarize CSC efforts to determine why the work cannot be done by civil service employees. However, there was no information in the documentation reviewed which indicates that civil service staffing alternatives were considered by CSC prior to initiating the contract or that these services are not available within civil service, or cannot be performed satisfactorily by civil service employees due to a lack of expertise available. There are a number of classifications in the civil service that have been used to provide food services in state hospitals, correctional facilities, and schools.

This contract is for landscape maintenance services in Exposition Park, which began October 1, 1999 and was extended through September 30, 2000. The contract was received by DGS on October 12, 1999 and approved on October 15, 1999, after the contract had begun. The authority cited is Government Code §19130(a). CSC has indicated in contract documents that this contract was awarded to the lowest responsible bidder. However, the proposed contract is under review by SPB at the request of the International Union of Operating Engineers, to determine whether the contract complies with Government Code §19130(a). The existing contract is an interim contract for six months pending resolution of this issue. CSC indicates that failure to provide uninterrupted grounds maintenance in Exposition Park could effect the health and safety of thousands of daily visitors to the Park. Public Contract Code §10337(d) requires that "Contracts subject to State Personnel Board review under this section shall not become effective unless and until approval is granted." CSC submitted to SPB their intent to contract under Government Code §19130(a) on September 13, 1999, 17 days before the existing contract for grounds maintenance was to expire. On December 27, 1999, the SPB Executive Officer approved the original proposed contract. That approval is now the subject of an appeal by the International Union of Operating Engineers. Based on the documentation reviewed, CSC was not in compliance with Government Code §19130(a), and the Public Contract Code Section §10337(d) between October 1, 1999 and December 26, 1999, when it did not obtain the required approvals prior to the contract becoming effective.

SPB DIRECTIVES REGARDING PERSONAL SERVICES CONTRACTS

By November 1, 2000, CSC shall provide SPB with justification and documentation to support that prior to initiating five of the eleven contracts, civil service staffing alternatives were considered by CSC and that these contracts met the conditions outlined in Government Code §19130(b).

Effective immediately, CSC shall ensure that all future contracts for personal services include sufficient justification to demonstrate compliance with Government Code §19130 (b).

Effective immediately, CSC shall ensure that all future contracts for personal services obtain the required approvals prior to the effective date of these contracts as required by Public Contract Code §10337(d).

Effective immediately, CSC shall ensure that prior to executing a contract pursuant to Government Code §19130(a), the State Personnel Board is notified of its intention.

Follow up

As a result of the findings identified in this report and CSC's inability to demonstrate it consistently complies with civil service laws and rules, the State Personnel Board questions whether to continue CSC's decentralized examination authority. CSC shall, by September 1, 2000, provide SPB with a plan to either immediately acquire well-qualified staff to administer its decentralized functions or contract with another state agency who has the expertise to carry out these functions. In the absence of either, the Board will withdraw from CSC its decentralized examination authority effective September 1, 2000. If CSC is able to immediately identify and hire well-qualified staff to carry out these personnel functions, SPB will implement a monitoring cycle for reviewing CSC's continued compliance with civil service laws and rules.

California Science Center

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Telephone 323.SCIENCE (724.3623)
Fax 213.744.2034

August 30, 2000

Martha Esmael, Chief
Quality Assurance Unit
State Personnel Board
P.O. Box 944201
Sacramento, California 94255-2010

Dear Ms. Esmael:

The California Science Center has reviewed the draft report of the State Personnel Board (SPB) review of the California Science Center dated August 15, 2000. While we concur with some of the findings, we did find a few discrepancies and will address them in our Corrective Action Plan (attachment 3) as we correct deficiencies for each exam. We are pleased that the SPB review found that the Science Center had developed an appropriate method of tracking employee complaints and that the Science Center had acted expeditiously to resolve complaints. We believe that the deficiency of date stamping of exams was corrected soon after the Bureau of State Audits review of the Science Center in August 1999. We believe that the exams that were found to not be date stamped were exams covered during the Bureau of State Audits review. It is our understanding that Mr. Jeff Marschner, Chief Counsel, Department of General Services, Office of Legal Services, is directly responding to the personal services contract issues.

With respect to the personal services contracts, the California Science Center notes the concerns of the Board relative to compliance with the requirements for justifying personal services contracts under Government Code section 19130 (a) and (b). With respect to 19130 (a) "cost-savings based contracts", the Science Center assures that the contract and necessary supportive data will be presented to the Board sufficiently in advance of the effective date of such contracts to permit Board staff the opportunity to review and assess the material submitted. For contracts justified under 19130 (b), the Science Center will exercise increased diligence in researching and preparing supportive factual material prior to such contracts being submitted to the Department of General Services for review and prior to commencement of services, as required by law. The Science Center has contacted the DGS Office of Legal Services and will be receiving further instruction regarding the processes and informational requirements necessary to provide adequate justification to contract for personal services.

Regarding the individual contracts reviewed by the Board, the Science Center, together with the Chief Counsel of the Department of General Services, will be contacting the Board staff regarding the pending request for additional justification and documentation.

We have implemented some of the State Personnel Board directives and will implement the remaining in accordance with the timeframes contained in the SPB review. I am directing our new Director of Personnel, Ms. Janie A. Becker, to work closely with SPB staff to correct all issues identified in the review. Ms. Becker will send the proposed exam plan and exam materials to the Quality Assurance Unit and will regularly contact your staff to assure the highest level of quality and integrity is maintained at the California Science Center. We acknowledge the importance of the SPB findings and will comply with the requirements and deadlines listed in the Corrective Actions Plan.



As you know, we have reorganized and restructured the Personnel Office to ensure compliance with each directive. A copy of the letter (attachment 1) describing qualified staff credentials, copies of their applications and our revised organization chart (attachment 2) are attached. The Examination File Review (attachment 4) arrays the findings for the nine exams reviewed. We will continue to review our policies, procedures, and operations to improve the overall personnel operations of the California Science Center.

Sincerely,



DENNIS HUTCHESON
Deputy Director, Administration

cc: Aileen Adams, Secretary, State and Consumer Services Agency
Jeffrey N. Rudolph, Executive Director
Janie Becker, Personnel Director