



COMPLIANCE REVIEW REPORT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Compliance Review Unit
State Personnel Board
July 20, 2016

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INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authority's personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training to ensure compliance with civil service laws and board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit-related laws, rules, and policies and to identify and share best practices identified during the reviews. The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of California Environmental Protection Agency (CalEPA) personnel practices in the areas of examinations, appointments, EEO, and PSC's January 1, 2015, through January 31, 2016, and mandated training from January 1, 2014, through January 31, 2016. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious
Appointments	Applications Were Not Date Stamped	Non-serious or Technical

Area	Finding	Severity
Equal Employment Opportunity	Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period	Very Serious
Equal Employment Opportunity	A Disability Advisory Committee (DAC) Has Not Been Established	Very Serious
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	In Compliance
Mandated Training	Supervisory Training Was Not Provided for All Supervisors	Very Serious
Mandated Training	Ethics Training Was Not Provided for All Filers	Very Serious
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors	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 CalEPA’s mission is to restore, protect and enhance the environment, to ensure public health, environmental quality and economic vitality. The CalEPA fulfills its mission by developing, implementing and enforcing environmental laws that regulate air, water and soil quality, pesticide use, and waste recycling and reduction. Our departments are at the forefront of environmental science, using the most recent research to shape the state's environmental laws. The Office of the Secretary heads CalEPA overseeing and coordinating the activities of one office, two boards, and three departments dedicated to improving California’s environment. The CalEPA employs approximately 70 employees.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing CalEPA examinations, appointments, EEO program, and PSC’s from January 1, 2015, through January 31, 2016, and mandated training from January 1, 2014, through January 31, 2016. The primary objective of the review was to determine if the CalEPA’s personnel practices,

policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action for those deficiencies identified.

A cross-section of the CalEPA's examinations and appointments were selected to ensure that various samples of examinations and appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CalEPA provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action (NOPA) forms, vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the CalEPA 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 CalEPA's PSC's were also reviewed.¹ It was beyond the scope of the compliance review to make conclusions as to whether CalEPA justifications for the contracts were legally sufficient. The review was limited to whether CalEPA practices, policies, and procedures relative to PSC's complied with procedural requirements.

In addition, the CalEPA's mandated training was reviewed to ensure all employees required to file statements of economic interest were provided ethics training and that all supervisors were provided basic supervisory and sexual harassment prevention training within statutory timelines.

On June 28, 2016, an exit conference was held with the CalEPA to explain and discuss the CRU's initial findings and recommendations. On July 13, 2016, the CRU received and carefully reviewed the response, which is attached to this final compliance report.

¹ If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

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

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Digital Composition Specialist III	Promotional	Education and Experience (E&E) ²	1/27/2015	4

² In an education and experience (E&E) examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

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

The CRU reviewed one examination the CalEPA administered to create eligible lists from which to make appointments. The CalEPA published and distributed examination bulletins containing the required information for all examinations. Applications received by the CalEPA were accepted prior to the final filing date and were thereafter properly assessed to determine whether applicants met the minimum qualifications for admittance to the examinations. The CalEPA notified applicants as to whether they qualified to take the examination, and those applicants who met the minimum qualifications were also notified about the next phase of the examination process. 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 CalEPA conducted during the compliance review period. Accordingly, the CalEPA fulfilled its responsibilities to administer the examination in compliance with civil service laws and board rules.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) Except as provided by law, appointments to vacant positions shall be made from employment lists. (*Ibid.*) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual’s job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the compliance review period, the CalEPA made 21 appointments. The CRU reviewed 16 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Air Pollution Specialist	Certification List	Permanent	Fulltime	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Governmental Program Analyst	Certification List	Permanent	Fulltime	1
Digital Composition Specialist	Certification List	Permanent	Fulltime	1
Management Services Technician	Certification List	Permanent	Fulltime	1
Office Assistant (General)	Certification List	Permanent	Fulltime	1
Systems Software Specialist II (Supervisory)	Certification List	Permanent	Fulltime	1
Program Technician I	Certification List	Permanent	Intermittent	1
Program Technician I	Certification List	Permanent	Part-Time	1
Office Assistant	Mandatory Reinstatement	Permanent	Fulltime	1
Warehouse Worker	Mandatory Reinstatement	Permanent	Fulltime	1
Associate Governmental Program Analyst	Transfer	Permanent	Fulltime	1
Executive Assistant	Transfer	Permanent	Fulltime	2
Senior Programmer Analyst (Specialist)	Transfer	Permanent	Fulltime	1
Staff Services Manager II (Supervisory)	Transfer	Permanent	Fulltime	1
Sr. Printing Trades Specialist	Training and Development (T&D)	Permanent	Fulltime	1

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

Summary: The CalEPA did not prepare, complete, and/or retain eight required probationary reports of performance.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Air Pollution Specialist	Certification List	1	2
Office Assistant (General)	Certification List	1	2
Systems Software Specialist II (Supervisory)	Certification List	1	1
Executive Assistant	Transfer	1	3
Total		4	8

Criteria: A new probationary period is not required when an employee is appointed by reinstatement with a right of return. (Cal. Code Regs., tit. 2, § 322, subd. (d)(2).) However, the service of a probationary period is required when an employee enters state civil service by permanent appointment from an employment list. (Cal. Code Regs., tit. 2, § 322, subd. (a).) In addition, unless waived by the appointing power, a new probationary period is required when an employee is appointed to a position under the following circumstances: (1) without a break in service in the same class in which the employee has completed the probationary period, but under a different appointing power; and (2) without a break in service to a class with substantially the same or lower level of duties and responsibilities and salary range as a class in which the employee has completed the probationary period. (Cal. Code Regs., tit. 2, § 322, subd. (c)(1) & (2).)

During the probationary period, the appointing power is required to evaluate the work and efficiency of a probationer at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Gov. Code, § 19172; Cal. Code Regs., tit. 2, § 599.795.) The appointing power must prepare a written appraisal of performance each one-third of the probationary period. (Cal. Code Regs., tit. 2, § 599.795.)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: The CalEPA states that the Human Resources unit attempted to remind the managers/supervisors of their employees that were serving a probationary period. However, the tracking system used was not always consistent, and was handled by several HR staff, and the notifications to the managers/supervisors were not always timely.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CalEPA submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19172.

FINDING NO. 3 – Applications Were Not Date Stamped

Summary: Out of the 606 applications received, the CalEPA processed 70 applications that were not date stamped.

Criteria: California Code Regulations, title 2, section 174 (Rule 174) requires timely filing of applications: All applications must be filed at the place, within the time, in the manner, and on the form specified in the examination announcement.

Filing an application 'within the time' shall mean postmarked by the postal service or date stamped at one of the department's offices (or appropriate office of the agency administering the examination) by the date specified.

An application that is not postmarked or date stamped by the specified date shall be accepted, if one of the following conditions as detailed in Rule 174 apply: (1) the application was delayed due to verified error; (2) the application was submitted in error to the wrong state agency and is either postmarked or date stamped on or before the specified date; (3) the employing agency verifies examination announcement distribution problems that prevented timely notification to an employee of a promotional examination; or (4) the employing agency verifies that the applicant failed to receive timely notice of promotional examination. (Cal. Code Reg., tit. 2, §

174, subs. (a), (b), (c), & (d).) The same final filing date procedures are applied to the selection process used to fill a job vacancy.

Severity: Non-Serious or Technical. Final filing dates are established to ensure all applicants are given the same amount of time in which to apply for a job vacancy and to set a deadline for the recruitment. Therefore, although the acceptance of applications after the final filing date may give some applicants more time to prepare their application than other applicants who meet the final filing date, the acceptance of late applications will not impact the results of the job vacancy selection.

Cause: The CalEPA states that previously, the applications were received by the assigned division liaisons, whether by mail or hand-delivered. However, the applications were not consistently date stamped upon receipt.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CalEPA submit to the CRU a written corrective action plan that the department will implement to ensure conformity with Rule 174. Copies of any relevant documentation should be included with the plan.

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 CalHR by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO officer, who shall report directly to, and be under the supervision of, the director of the CalEPA to develop, implement, coordinate, and monitor the CalEPA's EEO program. (Gov. Code, § 19795.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation

from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

The CRU reviewed the CalEPA's EEO program that was in effect during the compliance review period.

FINDING NO. 4– Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period

Summary: The CalEPA provided evidence that one discrimination complaint was filed during the compliance review period. The complaint investigation exceeded the 90 days and the CalEPA failed to provide communication to the complainant regarding the status of the complaint.

Criteria: The appointing power must issue a written decision to the complainant within 90 days of the complaint being filed. (Cal. Code Regs., tit. 2, § 64.4, subd. (a).) If the appointing power is unable to issue its decision within the prescribed time period, the appointing power must inform the complainant in writing of the reasons for the delay. (*Ibid.*)

Severity: Very Serious. Employees were not informed of the reasons for delays in decisions for complaints. Employees may feel their concerns are not being taken seriously, which can leave the agency open to liability and low employee morale.

Cause: The CalEPA states that the State Water Resources Control Board (SWRCB) assumed the EEO Office of Investigative Responsibility for the CalEPA on June 15, 2015, and at the time, did not have a centralized tracking tool or notification system to ensure responses were timely and complainants were aware of delays.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CalEPA submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of California Code of Regulations, title 2, section 64.4, subdivision (a). Copies of any relevant documentation should be included with the plan.

FINDING NO. 5– A Disability Advisory Committee (DAC) Has Not Been Established

Summary: The CalEPA did not have an active DAC during the time of this or the previous compliance review. However, in April 2016, the CalEPA provided documentation demonstrating that CalEPA employees were actively serving on the ARB/CalEPA joint 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 CalEPA states that it did not solicit and select member for the DAC during the review period.

Action: The CalEPA must take immediate steps to ensure the establishment of a DAC, comprised of members who have disabilities or who have an interest in disability issues. The CalEPA must submit to the CRU a written report of compliance, including

the DAC roster, agenda, and meeting minutes, no later than 60 days from the date of the SPB Executive Officer's approval of these findings and recommendations.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the State. (Cal. Code Reg., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the compliance review period, the CalEPA had 15 PSC's that were in effect and subject to General Services (DGS) approval and thus our procedural review.

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
California State University, Sacramento	Maintenance	1/1/15-12/31/15	\$50,000.00	Yes
Dan Firth Consulting	IT Services	5/12/14-5/11/18	\$499,998.00	Yes
Digital Health Department, Inc. (DHDI)	IT Services	5/1/15-4/30/16	\$57,075.00	Yes
Enterprise Networking Solutions, Inc. dba ENS-Inc.	IT Services	10/20/14-10/19/15	\$120,062.60	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Enterprise Networking Solutions, Inc. dba ENS-Inc.	IT Services	10/20/14-6/30/16	\$195,202.00	Yes
Gartner, Inc.	IT Services	9/10/15-3/9/17	\$199,740.00	Yes
Greater Stockton Chamber of Commerce	Other	2/4/15-2/3/17	\$50,000.00	Yes
Link One Professionals, LLC.	IT Services	7/10/14-8/31/16	\$499,966.00	Yes
Ross & Associates Environmental Consulting, Ltd. Db a Ross Strategic	Maintenance	7/1/15-12/31/18	\$550,000.00	Yes
The Climate Registry	Maintenance	3/1/15-2/29/16	\$180,000.00	Yes
Translation and Simultaneous Interpreting, DBA Trans-Lang	Maintenance	6/18/15-12/31/15	\$50,000.00	Yes
Translation and Simultaneous Interpreting, DBA Trans-Lang	Maintenance	1/1/15-9/30/17	\$249,999.99	Yes
University Enterprises, Inc.	Maintenance	1/1/15-12/31/16	\$200,000.00	Yes
Windsor Solutions, Inc.	IT Services	5/15/14-5/14/18	\$144,000.00	Yes
Windsor Solutions, Inc.	IT Services	6/30/14-9/30/15	\$395,366.00	Yes

FINDING NO. 6 – Personal Services Contracts Complied with Procedural Requirements

When a state agency requests approval from the DGS for a subdivision (b) contract, the agency must include with its contract transmittal a written justification that includes specific and detailed factual information that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

The total dollar amount of all the PSC's reviewed was \$3,441,409.59. It was beyond the scope of the review to make conclusions as to whether the CalEPA's justifications for the contract were legally sufficient. For all PSC's reviewed, the CalEPA provided specific and detailed fact-based information in the written justifications as to how each of the contract met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the CalEPA PSC's complied with procedural requirements.

Mandated Training

Each state agency shall offer at least semiannually to each of its filers an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment. (Gov. Code, § 11146.3.)

Each department must provide its new supervisors basic supervisory training within twelve months of appointment. (Gov. Code, § 19995.4, subds. (b) and (c).) The training must be a minimum of 80 hours, 40 of which must be structured and given by a qualified instructor. The other 40 hours may be done on the job by a higher-level supervisor or manager. (Gov. Code, § 19995.4, subd. (b).)

Additionally, each department must provide its supervisors two hours of sexual harassment training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subd. (a).)

The CRU reviewed the CalEPA mandated training program that was in effect during the compliance review period. The CalEPA's supervisory training, ethics training, and sexual harassment prevention training were found to be out of compliance.

FINDING NO. 7 – Supervisory Training Was Not Provided for All Supervisors

Summary: The CalEPA did not provide basic supervisory training to four of four new supervisors within twelve months of appointment.

Criteria: Each department must provide its new supervisors supervisory training within twelve months of appointment. (Gov. Code, § 19995.4, subd. (b) and (c).) The training must be a minimum of 80 hours, 40 of which must be structured and given by a qualified instructor. The other 40 hours may be done on the job by a higher-level supervisor or manager. (Gov. Code, § 19995.4, subd. (b).)

Severity: Very Serious. The department does not ensure its new managers are properly trained. Without proper training, new supervisory employees may not properly carry out their supervisory roles, including managing employees.

Cause: The CalEPA states that it does not have an automated tracking system for training, and due to the manual process and limited staff resources, the training was not scheduled in a timely manner.

Action: The CalEPA must take appropriate steps to ensure that new supervisors are provided supervisory training within the twelve months.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CalEPA must establish a plan to ensure compliance with supervisory training mandates and submit to the SPB a written report of compliance.

FINDING NO. 8 – Ethics Training Was Not Provided for All Filers

Summary: The CalEPA did not provide ethics training to 10 of 34 existing filers. In addition, two out of seven new filers were not provided training within six months of appointment.

Criteria: New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)

Severity: Very Serious. The department does not ensure its filers are aware of prohibitions related to his or her official position and influence.

Cause: The CalEPA states that it does not have an automated tracking system for training, and due to the manual process and limited staff resources, the training was not scheduled in a timely manner.

Action: The CHRB must take appropriate steps to ensure that filers are provided ethics training within the time periods prescribed.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CHRB must establish a plan to ensure compliance with ethics training mandates and submit to the SPB a written report of compliance.

FINDING NO. 9 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The CalEPA did not provide sexual harassment prevention training to two of five new supervisors within six months of their appointment. In addition, the CalEPA did not provide sexual harassment prevention training to one of 15 existing supervisors every two years.

Criteria: Each department must provide its supervisors two hours of sexual harassment training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subd. (a).)

Severity: Very Serious. The department does not ensure its new managers are properly trained. Without proper training, supervisors are not prepared to properly respond to issues involving sexual harassment, which limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to liability.

Cause: The CalEPA states that sexual harassment prevention training is mandatory and the SWRCB notifies all supervisors of this requirement annually. Despite notification of the requirement, not all supervisors were able to attend the training for a variety of reasons.

Action: The CalEPA must take appropriate steps to ensure that its supervisors are provided sexual harassment training within the time periods prescribed.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and

recommendations, the CalEPA must establish a plan to ensure compliance with sexual harassment training mandates and submit to the SPB a written report of compliance.

DEPARTMENTAL RESPONSE

The CalEPA's response is attached as Attachment 1.

SPB REPLY

Based upon the CalEPA's written response, the CalEPA will comply with the CRU recommendations and findings and provide the CRU a corrective action plan.

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



Edmund G. Brown Jr.
Governor

Matthew Rodriguez
Secretary for Environmental Protection

July 18, 2016

Suzanne Ambrose
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. Ambrose:

The California Environmental Protection Agency (CalEPA) would like to thank the State Personnel Board (SPB) for the opportunity to provide feedback to the 2016 compliance review conducted by the Compliance Review Unit.

CalEPA has reviewed the final draft report and provides the following information regarding the findings:

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

FINDING NO. 2 Probationary Evaluations Were Not Provided for all Appointments Received. The report noted that CalEPA did not prepare, complete, and/or retain eight required probationary reports of performance.

Cause: CalEPA Human Resources (HR) unit attempted to remind the managers/supervisors of their employees that were serving a probation period. However, the tracking system used was not always consistent, and was handled by several HR staff, and the notifications to the managers/supervisors were not always timely.

Response: CalEPA will now have one designated staff within HR tasked with maintaining a tracking system, notifying the managers/supervisors of probation periods for their employees, as well as following up with the managers/supervisors to ensure the probation reports are completed and received.

FINDING NO. 3 Applications Were Not Date Stamped. The report noted that CalEPA accepted and processed 70 out of 606 applications that were not date stamped.

Cause: Previously, the applications were received by the assigned division liaisons, whether by mail or hand-delivered. However, the applications were not consistently dated stamped upon receipt.

Response: With the implementation of the California Department of Human Resources updated Exam and Cert Online Systems (ECOS), CalEPA now has all applications submitted directly to the HR, whether by mail, hand-delivered or electronically. Having HR staff handle applications, will help ensure that all applications are date stamped appropriately.

FINDING NO. 4 Complainants Were Not Notified of the Reasons for Delay in Decisions Within the Prescribed Time Period.

Cause: The State Water Resources Control Board (SWRCB) assumed the Equal Employment Opportunity (EEO) Office investigative responsibility for CalEPA on June 15, 2015, and at the time did not have a centralized tracking tool or notification system to ensure responses were timely and complainants were aware of delays.

Response: As implemented in February 2016, the SWRCB EEO Office utilizes a centralized tracking tool for all complaints. Procedures were also created to notify the complainant appropriately within the prescribed time period.

FINDING NO. 5 A Disability Advisory Committee (DAC) Has Not Been Established.

Cause: CalEPA did not solicit and select members for the CalEPA DAC during the review period.

Response: CalEPA appointed two staff members in April 2016 to participate in a Joint Disability Advisory Committee with the Air Resources Board. Both CalEPA staff attended the ARB/CalEPA Joint DAC meeting in May 2016.

FINDING NO. 6 Personal Services Contracts Complied with Procedural Requirements.

FINDING NO. 7 Supervisory Training Was Not Provided for All Supervisors.
CalEPA did not provide supervisory training to four of its four new supervisors within the twelve months of appointment.

Cause: CalEPA does not have an automated tracking system for training, and due to manual process and limited staff resources; the training was not scheduled in a timely manner.

Response: CalEPA has implemented a new process to ensure consistent tracking and compliance with this mandate going forward.

FINDING NO. 8 Ethics Training Was Not Provided for All Filers. CalEPA did not provide ethics training to 10 of its 34 existing filers. In addition, two out of seven new filers were not provided training within the six months of appointment.

Cause: CalEPA does not have an automated tracking system for training, and due to manual process and limited staff resources; the training was not scheduled in a timely manner.

Response: CalEPA has implemented a new process to ensure consistent tracking and compliance with this mandate going forward.

FINDING NO. 9 Sexual Harassment Training Was Not Provided for All Supervisors. CalEPA did not provide sexual harassment training to two of five new supervisors within six months of their appointment.

Cause: Sexual Harassment training is mandatory and the State Water Resources Control Board (SWRCB) notifies all supervisors of this requirement annually. Despite notification of the requirement, not all CalEPA supervisors were able to attend the training for a variety of reasons.

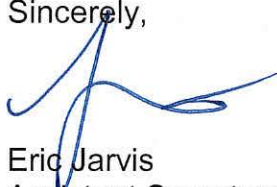
Response: The SWRCB will explore procedural and technological solutions to ensure required Sexual Harassment training is completed for CalEPA and training records are maintained. In the interim, the SWRCB Equal Employment Opportunity Office has begun tracking Sexual Harassment training for CalEPA supervisors in an effort to ensure accuracy and compliance, until such time as a permanent solution is implemented.

Ms. Ambrose
July 18, 2016
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CalEPA would like to once again thank the SPB Compliance Review team and appreciate the opportunity to respond to the reports. CalEPA will continue to educate and train our agency staff on the best hiring practices and requirements to ensure compliance with the SPB's civil service merit system.

If you have questions or need additional information, feel free to contact me at (916) 323-2345.

Sincerely,



Eric Jarvis
Assistant Secretary for Fiscal and
Administrative Programs

cc: Shereta Alexander, Chief
Human Resources Branch