



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF TRANSPORTATION

Compliance Review Unit
State Personnel Board
April 17, 2015

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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 four areas: examinations, appointments, equal employment opportunity (EEO), and personal services contracts (PSC's) to ensure compliance with civil service laws and board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews. The SPB conducts these reviews on a three-year cycle.

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of California Department of Transportation (Caltrans) personnel practices in the areas of examinations, appointments, EEO, and PSC's from July 1, 2012, through December 31, 2013. The CRU also conducted a review of Managerial Selection Process (MSP)¹ examinations conducted by the Caltrans from January 1, 2013, through June 30, 2014. The following table summarizes the compliance review findings.

¹ The Managerial Selection Process (MSP) provides for position specific examining and selection of the most qualified managerial candidates. An evaluation of the examination/appointment application (STD. 678), Statement of Qualifications, and examination are used to rate candidates. Candidates are ranked and then an appointment is made.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time	Serious
Appointments	Probationary Evaluations Were Not Provided for All Appointments	Serious
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules	In Compliance
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	In Compliance

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

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

BACKGROUND

The Caltrans mission is to provide a safe, sustainable, integrated, and efficient transportation system to enhance California’s economy and livability. The Caltrans manages 50,486 lane miles in the state’s highway system, 13,063 state-owned bridges and structures, and 422 public use airports and hospital heliports. The Caltrans employs approximately 20,000 employees statewide to support its mission. These employees are engineers, planners, maintenance workers, equipment staff, administrative staff, Right of Way Agents, attorneys, and investigators. The Caltrans major program areas include aeronautics, capital outlay support, local assistance, research and innovation, transportation system information, programming, legal, traffic operations, maintenance, mass transportation and rail, planning, administration, and Equipment.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing Caltrans examinations, from May 01, 2011, through November 01, 2012, and appointments, EEO program, and PSC’s from July 01, 2012, through December 31, 2013. The scope of the compliance review later changed to include Managerial Selection Process (MSP) examinations from

January 01, 2013, through June 30, 2014. The Caltrans's review began as a baseline review. The review was later expanded to allow for a full compliance review. The primary objective of the review was to determine if Caltrans personnel practices, policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action where deficiencies were identified.

A cross-section of Caltrans examinations and appointments were selected for review to ensure that samples of various examinations and appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the Caltrans provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action forms (NOPA), 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 Caltrans EEO program included examining written EEO policies and procedures; the EEO officer's role, duties, and reporting relationship; the internal discrimination complaint process; the upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC). The CRU also interviewed appropriate Caltrans staff.

Caltrans PSC's were also randomly selected to ensure that various types of contracted services and contract amounts were reviewed. The Caltrans contracted for hazardous waste disposal, demolition services, and expert witness testimony, among others.² It was beyond the scope of the compliance review to make conclusions as to whether Caltrans justifications for the contracts were legally sufficient. The review was limited to whether Caltrans practices, policies, and procedures relative to PSC's complied with procedural requirements.

On February 26, 2015, an exit conference was held with the Caltrans to explain and discuss the CRU's initial findings and recommendations, and to provide the Caltrans with a copy of the CRU's draft report. The Caltrans was given until April 10, 2015 to submit a written response to the CRU's draft report. On April 10, 2015, the CRU

²If 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.

received and carefully reviewed the response, which is attached to this final compliance report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931.) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application in the office of the department or a designated appointing power as directed in 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 Caltrans conducted 182 examinations and 78 MSP examinations. The CRU reviewed 21 of these examinations and 60 MSP examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Accounting Administrator III	MSP	Qualification Appraisal Panel (QAP) ³	2/07/2013	6
Administrative Assistant II	Promotional	Modified QAP	12/06/2011	5

³ The qualification appraisal panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Associate Environmental Planner	Open/Non-Promotional	QAP	3/26/2012	2
Associate Information Systems Analyst (Specialist)	Departmental Promotional	Written ⁴	8/13/2012	20
Associate Steel Inspector	Open	QAP	8/29/2011	8
Caltrans Dispatcher-Clerk	Open	Written	12/17/2012	294
Caltrans Highway Mechanic Supervisor	Promotional	QAP	6/14/2012	42
CEA 1- Deputy Director, Planning and Local Assistance	CEA	Supplemental/ Interview	3/15/2012	7
CEA 2- Deputy Director, Traffic Operations	CEA	Supplemental/ Interview	2/07/2013	10
CEA 3- Chief, Division of Transportation Planning	CEA	Supplemental/ Interview	1/03/2013	5
CEA 4- Deputy Director, Planning and Modal Programs	CEA	Supplemental/ Interview	9/15/2012	4
CEA 5- Chief Engineer	CEA	Supplemental/ Interview	9/26/2012	10
Data Processing Manager III	MSP	QAP	6/24/2014	27
Data Processing Manager III	MSP	QAP	10/03/2013	26
Data Processing Manager III	MSP	QAP	10/24/2013	33
Data Processing Manager III	MSP	QAP	6/02/2014	26
Data Processing Manager III	MSP	QAP	3/13/2014	22
Data Processing Manager III	MSP	QAP	1/06/2014	29
Electrical Engineering Technician II	Departmental Promotional	Education & Experience (E&E) ⁵	9/30/2012	2

⁴ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

⁵ 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

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Personnel Supervisor I	Departmental Promotional	QAP	2/17/2012	7
Principal Bridge Engineer	MSP	QAP	1/10/2013	17
Principal Right of Way Agent	MSP	QAP	5/06/2013	12
Principal Transportation Engineer	MSP	QAP	8/16/2013	14
Principal Transportation Engineer	MSP	QAP	6/14/2013	12
Principal Transportation Engineer	MSP	QAP	10/17/2013	18
Principal Transportation Engineer	MSP	QAP	7/19/2013	10
Principal Transportation Engineer	MSP	QAP	9/03/2013	20
Principal Transportation Engineer	MSP	QAP	12/04/2013	11
Principal Transportation Engineer	MSP	QAP	3/21/2014	13
Principal Transportation Engineer	MSP	QAP	5/21/2014	14
Principal Transportation Engineer	MSP	QAP	6/07/2013	18
Senior Equipment Engineer	Promotional	QAP	5/24/2012	19
Senior Equipment Material Specialist	Promotional	QAP	9/13/2012	18
Senior Foundation Driller	Departmental Promotional	E&E	8/01/2012	6
Senior Landscape Architect	Promotional	QAP	6/27/2012	38
Senior Right of Way Agent	Open/Non-Promotional	Written	7/18/2012	132
Staff Services Manager III	MSP	QAP	9/17/2013	17
Staff Services Manager III	MSP	QAP	11/01/2013	13
Supervising Bridge Engineer	MSP	QAP	3/11/2014	18

that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Supervising Bridge Engineer	MSP	QAP	9/17/2013	13
Supervising Bridge Engineer	MSP	QAP	5/14/2014	15
Supervising Bridge Engineer	MSP	QAP	6/03/2014	21
Supervising Electrical Engineer	MSP	QAP	6/24/2014	12
Supervising Electrical Engineer	MSP	QAP	3/21/2013	16
Supervising Environmental Planner	MSP	QAP	4/12/2013	1
Supervising Environmental Planner	MSP	QAP	8/21/2013	4
Supervising Environmental Planner	MSP	QAP	10/14/2013	12
Supervising Environmental Planner	MSP	QAP	9/04/2013	4
Supervising Landscape Architect	MSP	QAP	2/13/2014	7
Supervising Librarian II	Departmental Promotional	E&E	2/21/2012	1
Supervising Right of Way Agent	MSP	QAP	2/25/2014	13
Supervising Right of Way Agent	MSP	QAP	5/22/2013	4
Supervising Right of Way Agent	MSP	QAP	2/06/2014	3
Supervising Transportation Engineer	MSP	QAP	10/17/2013	26
Supervising Transportation Engineer	MSP	QAP	4/25/2014	19
Supervising Transportation Engineer	MSP	QAP	6/20/2014	18
Supervising Transportation Engineer	MSP	QAP	3/19/2014	23
Supervising Transportation Engineer	MSP	QAP	2/07/2013	5
Supervising Transportation Engineer	MSP	QAP	11/01/2013	30
Supervising Transportation Engineer	MSP	QAP	9/13/2013	23

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Supervising Transportation Engineer	MSP	QAP	5/07/2014	19
Supervising Transportation Engineer	MSP	QAP	5/29/2013	18
Supervising Transportation Engineer	MSP	QAP	10/23/2013	36
Supervising Transportation Engineer	MSP	QAP	4/12/2013	30
Supervising Transportation Engineer	MSP	QAP	2/21/2013	29
Supervising Transportation Engineer	MSP	QAP	11/26/2013	19
Supervising Transportation Engineer	MSP	QAP	1/10/2013	23
Supervising Transportation Engineer	MSP	QAP	5/23/2013	9
Supervising Transportation Engineer	MSP	QAP	7/29/2013	28
Supervising Transportation Engineer	MSP	QAP	9/25/2013	13
Supervising Transportation Engineer	MSP	QAP	3/27/2014	8
Supervising Transportation Engineer	MSP	QAP	5/14/2013	35
Supervising Transportation Engineer	MSP	QAP	4/12/2013	28
Supervising Transportation Engineer	MSP	QAP	11/15/2013	5
Supervising Transportation Engineer	MSP	QAP	5/17/2013	35
Supervising Transportation Engineer	MSP	QAP	3/28/2014	17
Supervising Transportation Engineer	MSP	QAP	2/10/2014	21
Supervising Transportation Planner	MSP	QAP	3/19/2014	11
Supervising Transportation Planner	MSP	QAP	6/03/2014	7
Transportation Surveyor	Open	Written	Continuous	64
Tree Maintenance Supervisor	Departmental Promotional	Modified QAP	4/26/2012	20

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

The Caltrans administered 182 examinations to create an eligible list from which to make appointments. For the examinations, the Caltrans published and distributed an examination bulletin containing the required information. Applications received by the Caltrans were accepted prior to the final filing date and were thereafter properly assessed to determine whether applicants met the minimum qualifications (MQs) for admittance to the examination. The Caltrans notified applicants as to whether they qualified to take the examination, and those applicants who met the MQs were also notified about the next phase of the examination process. 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 Caltrans conducted during the compliance review period. Accordingly, the Caltrans fulfilled its responsibilities to administer the examination in compliance with civil service laws and board rules.

Appointments

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

During the compliance review period, the Caltrans made 4,669 appointments. The CRU reviewed 265 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Environmental Planner (Archeology)	Certification List	Permanent	Full Time	6
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	10
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	1
Associate Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	10
Associate Right of Way Agent	Certification List	Permanent	Full Time	11
Associate Transportation Planner	Certification List	Permanent	Full Time	4
Caltrans Dispatcher- Clerk	Certification List	Permanent	Full Time	4
Caltrans Dispatcher- Clerk	Certification List	Permanent	Intermittent	5
Caltrans Electrician II	Certification List	Permanent	Full Time	3
Caltrans Heavy Equipment Mechanic Leadworker	Certification List	Permanent	Full Time	4
Caltrans Highway Maintenance Leadworker	Certification List	Permanent	Full Time	8
Caltrans Tree Maintenance Worker	Certification List	Permanent	Full Time	5
Delineator	Certification List	Permanent	Full Time	4
Environmental Planner (Archeology)	Certification List	Permanent	Full Time	1
Executive Assistant	Certification List	Permanent	Full Time	4
Executive Assistant	Certification List	Limited Term	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	6
Personnel Specialist	Certification List	Permanent	Full Time	9
Senior Transportation Engineer	Certification List	Permanent	Full Time	5

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Staff Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	9
Supervisor, Tunnels and Tubes	Certification List	Permanent	Full Time	5
Transportation Engineer (Civil)	Certification List	Permanent	Full Time	1
Assistant Information Systems Analyst	Transfer	Permanent	Full Time	3
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	35
Associate Information Systems Analyst (Specialist)	Transfer	Permanent	Full Time	2
Caltrans Equipment Operator II	Transfer	Permanent	Full Time	1
Caltrans Highway Maintenance Leadworker	Transfer	Permanent	Full Time	17
Caltrans Maintenance Supervisor	Transfer	Permanent	Full Time	1
Personnel Technician I	Transfer	Permanent	Full Time	2
Personnel Technician I	Transfer	Limited Term	Full Time	1
Staff Services Analyst	Transfer	Permanent	Full Time	1
Transportation Engineer (Civil)	Transfer	Permanent	Full Time	1
Transportation Surveyor	Transfer	Permanent	Full Time	1
Caltrans Highway Maintenance Leadworker	Adverse Demotion	Permanent	Full Time	1
Senior Transportation Engineer	Adverse Demotion	Permanent	Full Time	2
Associate Governmental Program Analyst	Voluntary Demotion	Permanent	Full Time	4
Associate Governmental Program Analyst	Voluntary Demotion	Limited Term	Full Time	2
Caltrans Electrical Supervisor	Voluntary Demotion	Permanent	Full Time	1
Caltrans Highway Maintenance Worker	Voluntary Demotion	Permanent	Full Time	2
Data Processing Manager II	Voluntary Demotion	Permanent	Full Time	1
Executive Assistant	Voluntary Demotion	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Transportation Engineer	Voluntary Demotion	Permanent	Full Time	2
Transportation Engineering Technician	Voluntary Demotion	Permanent	Full Time	2
Transportation Planner	Voluntary Demotion	Permanent	Full Time	1
Associate Governmental Program Analyst	Permissive Reinstatement	Permanent	Full Time	1
Associate Governmental Program Analyst	Permissive Reinstatement	Permanent	Intermittent	1
Personnel Technician I	Permissive Reinstatement	Permanent	Intermittent	1
Caltrans Highway Maintenance Leadworker	Mandatory Reinstatement	Permanent	Full Time	1
Caltrans Highway Maintenance Worker	Mandatory Reinstatement	Permanent	Full Time	1
Dispatcher- Clerk	Mandatory Reinstatement	Permanent	Full Time	1
Assistant Information Systems Analyst	Training & Development (T&D)	Permanent	Full Time	2
Legal Secretary	T&D	Permanent	Full Time	1
Staff Services Analyst	T&D	Permanent	Full Time	2
Transportation Engineering Technician	T&D	Permanent	Full Time	5
Personnel Supervisor I	Temporary Authorization Utilization (TAU)	Permanent	Full Time	3
Student Engineering Aid	TAU	Temporary	Intermittent	1
Caltrans Highway Maintenance Leadworker	Tenure Change	Permanent	Full Time	2
Associate Environmental Planner (Natural Sciences)	Timebase Change	Permanent	Full Time	1
Associate Governmental Program Analyst	Timebase Change	Permanent	Full Time	6
Associate Right of Way Agent	Timebase Change	Permanent	Full Time	2
Caltrans Highway Maintenance Worker	Timebase Change	Permanent	Full Time	3

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Dispatcher- Clerk	Timebase Change	Permanent	Full Time	2
Office Technician (Typing)	Timebase Change	Permanent	Full Time	2
Senior Transportation Engineer	Timebase Change	Permanent	Full Time	2
Staff Services Analyst	Timebase Change	Permanent	Full Time	2
Transportation Engineer (Civil)	Timebase Change	Permanent	Full Time	11
Transportation Engineering Technician	Timebase Change	Permanent	Full Time	3
Dispatcher- Clerk	Emergency Appointment	Permanent	Full Time	1
Office Technician (Typing)	LEAP Conversion	Permanent	Full Time	3
Associate Governmental Program Analyst	Limited Term Extension	Limited Term	Full Time	1
Associate Governmental Program Analyst	Retired Annuitant (RA)	Permanent	Intermittent	2
Staff Services Analyst	RA	Permanent	Intermittent	1
Transportation Engineering Technician	RA	Permanent	Intermittent	1

FINDING NO. 2 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: Of the 265 appointments reviewed, the Caltrans did not retain signed duty statements for 43 appointments, rating criteria for 53 appointments, screening criteria for 78 appointments, and NOPA forms for 33 appointments.

The Caltrans also failed to maintain and preserve applications for 12 of the 265 appointment files reviewed for the minimum two-year period. While the applications for the appointed candidates were present in 7 of the 12 files, applications for non-appointed candidates were missing for 2 Personnel Technician I, and 1 Office Assistant (Typing) appointment packages. The appointment package for Supervisor, Tunnel & Tubes was missing the

appointee's application although it contained applications for non-appointed candidates. In addition, 4 Associate Governmental Program Analyst and 1 Right of Way Agent appointment packages were missing all applications.

Criteria: In relevant part, civil service laws require that the employment procedures of each state agency shall conform to the federal and state laws governing employment practices. (Gov. Code, § 18720.) State agencies are required to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the records and files are initially created or received. (Gov. Code, § 12946.) State agencies are also required to retain personnel files of applicants or terminated employees for a minimum period of two years after the date the employment action is taken. (*Ibid.*)

Severity: Serious. Without documentation, CRU cannot verify if appointments were properly conducted.

Cause: The Caltrans does not have a centralized process for records retention. Appointment documents are maintained in multiple locations throughout the department.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the Caltrans submit to the CRU a written corrective action plan that the department will implement to ensure conformity with maintaining personnel records of incumbents for a minimum of two year.

FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments

Summary: The Caltrans did not prepare, complete, and/or retain required probationary reports of performance for many of the appointments reviewed by the CRU. Specifically, 49 of the 265 appointment files did not contain all three of the probationary reports, which are reflected in the table below.

Classification	Appointment Type	No. of Appointments	No. Uncompleted Prob. Reports
Associate Governmental Program Analyst	Certification List	1	1
Associate Environmental Planner (Archeology)	Certification List	2	6
Associate Information Systems Analyst (Specialist)	Certification List	2	6
Associate Transportation Planner	Certification List	3	7
Caltrans Dispatcher- Clerk	Certification List	3	9
Caltrans Electrician II	Certification List	3	7
Caltrans Heavy Equipment Mechanic Leadworker	Certification List	1	3
Caltrans Highway Maintenance Leadworker	Certification List	1	3
Caltrans Tree Maintenance Worker	Certification List	2	4
Executive Assistant	Certification List	2	6
Office Technician (Typing)	Certification List	1	3
Personnel Specialist	Certification List	7	16
Senior Transportation Engineer	Certification List	2	6
Staff Information Systems Analyst (Specialist)	Certification List	2	4
Supervisor, Tunnels & Tubes	Certification List	3	8
Associate Governmental Program Analyst	Transfer	2	6
Caltrans Highway Maintenance Leadworker	Transfer	1	1
Caltrans Maintenance Supervisor	Transfer	1	1
Personnel Technician 1	Transfer	1	2
Staff Services Analyst	Transfer	2	4
Associate Governmental Program Analyst	Permissive Reinstatement	2	4
Personnel Technician I	Permissive Reinstatement	1	2
Transportation Engineer (Civil)	Timebase Change	1	2
Transportation Engineering Technician	Timebase Change	1	1
Caltrans Electrical Supervisor	Voluntary Demotion	1	3
Transportation Engineering Technician	Voluntary Demotion	1	1
Total		49	116

Criteria: 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 Caltrans did not have adequate procedures in place to track the completion of probationary reports of performance.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the Caltrans submit to the CRU a written corrective action plan that addresses how the Caltrans will ensure full compliance from supervisory/managerial staff to meet with the probationary requirements of Government Code § 19172.

Equal Employment Opportunity

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

under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

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

FINDING NO. 4 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the Caltrans EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, and reports directly to the director of the Caltrans. In addition, the Caltrans has an established DAC that reports to the director on issues affecting persons with a disability. The Caltrans completed a workforce analysis, which was submitted to the CRU. The Caltrans also provided evidence of its efforts to promote equal employment opportunity in its hiring and employment practices, to increase its hiring of persons with a disability, and to offer upward mobility opportunities for its entry-level staff.

Personal Services Contracts

A personal services contract (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 PSCs, a state agency is required to notify the 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.) When a state agency requests approval from the Department of General Services 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 19130, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

During the compliance review period, the Caltrans had 1,037 PSC's that were in effect. The CRU randomly selected 32 of those contracts, 16 of which were subject to Department of General Services (DGS) approval and thus our procedural review, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
American Integrated Services, Inc.	Positive ID of Underground Utility Facilities	6/01/2013-5/31/2014	\$404,020.00	Yes
Andes Consulting, LLC	Systems Consulting	6/30/2013-6/29/2014	\$179,429.30	Yes
Arrow Driller, Inc. dba Arrow Construction	Positive ID of Underground Utility Facilities	03/01/2013-02/28/2015	\$471,400.00	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Art Cuevas Landscaping	Weed Abatement Services	6/30/2013-6/29/2015	\$262,195.00	Yes
Creative Landscapes, LLC	Landscape Services for	1/15/2013-1/14/2015	\$164,950.00	Yes
Dillard Trucking, Inc., dba Dillard Environmental Services	Pick-up and Disposal of Hazardous Waste	1/21/2013-1/20/2015	\$291,100	Yes
Environmental Logistics, Inc.	Pickup and Disposal of Hazardous Waste	2/11/2013-2/10/2015	\$962,550.00	Yes
GCAP Services, Inc.	Enterprise Services	6/30/2013-12/31/2013	\$185,788.37	Yes
Gencon Environmental Services Group	Demolition Services	11/01/2012-3/31/2013	\$2,560,000.00	Yes
Geocon Consultants, Inc.	Emergency Hazardous Waste Site Investigation	4/01/2013-3/31/2015	\$3,936,548.00	Yes
Legal Support Network LLC	Process Services	5/01/2013-4/30/2015	\$380,111.00	Yes
Mead & Hunt, Inc.	Wildlife Hazard Assessment	2/06/2013-8/05/2014	\$367,277.73	Yes
Sonoma Technology, Inc.	Systems Calibration	10/04/2013-10/03/2015	\$174,260.00	Yes
Whillock Contracting, Inc.	On-Call Services	10/22/2012-10/21/2014	\$752,500.00	Yes
Yosemite Falls Pump Service	Chlorine Injector Systems Services	5/01/2013-4/30/2015	\$208,555.00	Yes
Redacted- Expert Witness	Expert Witness- Engineering Design Analysis	4/04/2013-6/30/2016	\$750,000.00	Yes

FINDING NO. 5 – 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 amount of all the PSCs reviewed was \$12,050,684.40. It was beyond the scope of the review to make conclusions as to whether Caltrans’s justifications for the contract were legally sufficient. For all PSC’s subject to DGS approval, the Caltrans provided specific and detailed factual information in the written justifications as to how each of the 16 contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the Caltrans’s PSC’s complied with procedural requirements.

DEPARTMENTAL RESPONSE

In response to the findings and recommendations provided in the State Personnel Board’s compliance review report for the Caltrans dated April 2015. The Caltrans appreciates the opportunity to respond. Below is Caltrans’ response to the findings.

FINDING NO. 2 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time.

The Caltrans agrees with this finding. As addressed in the compliance review report, the Caltrans processed 4,669 appointments during the time reviewed (July 1, 2012 to December 13, 2013). Due to Caltrans’ size and span of control, there are 3,000+ managers and supervisors hiring and filling positions on a regular basis. Duty statements, rating criteria, screening criteria, and NOPAs exist and the original signed documents are required to be filed in the employee’s official personnel file. Because employment documents are maintained in multiple locations and by multiple sources the direction is not always appropriately shared and original documents are not returned or forwarded to the Division of Human Resources (DHR).

In December 2014 DHR revised the Caltrans Hiring Smart Guide and disseminated it statewide to all supervisors/managers. The revised guide requires supervisors and

managers to maintain all hiring records, including applications and rating criteria for a minimum of two years.

In October 2013, DHR began to require screening criteria before the recruitment process. Unfortunately, due to the size of our department DHR cannot maintain these records for all of the programs, so we are reliant upon the hiring managers and supervisors to do so. As a result, the Caltrans is proposing to automate much of these processes including maintaining these records electronically. This will ensure hiring packages are complete and the documentation will be readily accessible for reporting and compliance reviews.

FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments

The Caltrans recognizes the importance of providing performance evaluations during the probationary period and agrees with this finding.

Since January 2015, the Caltrans requires probationary reports and annual performance evaluations for all of its employees. The Caltrans has two systems in place to track this: (1) automated process and (2) as a requirement for every manager and supervisor in the department which impacts their own personal annual performance evaluation. This is in part due to the Caltrans' new mission and vision to improve transparency and organizational excellence. With this new requirement in place it is the intent that for the next compliance review, all documents will be available.

SPB REPLY

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

It is further recommended that the Caltrans 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.