



COMPLIANCE REVIEW REPORT

EMPLOYMENT DEVELOPMENT DEPARTMENT

Compliance Review Unit
State Personnel Board
May 1, 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 Employment Development Department (EDD) personnel practices in the areas of examinations, appointments, EEO, and PSC's from November 1, 2012, through April 30, 2013. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Equal Employment Opportunity Questionnaires Were Not Separated from Applications	Very Serious
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time	Serious
Appointments	Probationary Evaluations Were Not Provided for all Appointments Reviewed	Serious

Area	Finding	Severity
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with 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 EDD enhances California's economic growth and prosperity by collaboratively delivering valuable and innovative services to meet the evolving needs of employers, workers, and job seekers. The EDD connects employers with job seekers, administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs, and provides employment and training programs under the federal Workforce Investment Act of 1998. Additionally, the EDD collects various employment payroll taxes including the Personal Income Tax, and collects and provides comprehensive economic, occupational, and socio-demographic labor market information concerning California's workforce.

The EDD is a member of the Labor and Workforce Development Agency of the executive branch of the State of California. As one of the largest departments in state government, the EDD has nearly 9,000 employees providing services at hundreds of service locations throughout California.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing EDD examinations, appointments, EEO program, and PSC's from November 1, 2012, through April 30, 2013. The EDD'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 EDD 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 EDD 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 EDD provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the EDD 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 EDD staff.

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

On February 27, 2015, an exit conference was held with the EDD to explain and discuss the CRU's initial findings and recommendations, and to provide the EDD with a copy of the CRU draft report. The EDD was given until April 20, 2015 to submit a written response to the CRU draft report. On May 1, 2015, the CRU received and carefully reviewed the response, which is attached to this final compliance report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov.

¹If 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.

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 with 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 EDD conducted 68 examinations. The CRU reviewed 20 of these examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Accounting Technician	Open	Written ²	7/15/2011	165
Associate Budget Analyst	Departmental Promotional	Education & Experience (E&E) ³	4/19/2011	26
Associate Tax Auditor	Departmental Promotional	Qualifications Assessment (QA)	4/09/2012	62

² 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.

³ 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.

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Career Executive Assignments (CEA) 2 - Assistant Director, Policy & Programs	CEA	Statement of Qualifications (SOQ) ⁴	8/09/2011	10
CEA 2 - Chief, Field Audit and Compliance Division	CEA	SOQ	2/10/2012	3
CEA 4 - Deputy Director, Information Technology Branch	CEA	SOQ	6/27/2012	11
Disability Insurance Program Manager III	Departmental Promotional	QA	10/03/2011	41
Disability Insurance Specialist II	Departmental Promotional	QA	8/19/2011	14
Employment Program Manager II	Departmental Promotional	E&E	8/19/2011	136
Employment Program Representative (LEAP)	Open	Training & Experience (T&E) ⁵	11/02/2012	65
Key Data Supervisor I	Departmental Promotional	QA	3/20/2012	9
Mailing Machine Supervisor I	Departmental Promotional	QA	7/12/2012	8
Personnel Supervisor I	Departmental Promotional	E&E	2/29/2012	8
Program Technician III	Departmental Promotional	QA	6/18/2012	32
Research Analyst II	Open	QA	5/27/2011	21
Research Program Specialist II	Open	Supplemental Application (SA) ⁶	3/17/2011	39

⁴ In a statement of qualifications (SOQ) examination, applicants submit a written summary of their qualifications and experience related to a published list of Desired Qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

⁵ The training and experience (T&E) examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values, which are totaled by the online system or a department exam analyst, and then assigned a percentage score.

⁶ In a supplemental application (SA) examination, applicants are not required to present themselves in person at a predetermined time and place. Supplemental applications are in addition to the regular

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Senior Personnel Specialist	Departmental Promotional	E&E	2/29/2012	9
Senior Tax Compliance Representative	Departmental Promotional	QA	9/13/2012	108
Supervising Criminal Investigator I	Departmental Promotional	QA	5/14/2012	9
Tax Administrator I	Departmental Promotional	QA	9/07/2012	39

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

The CRU reviewed 20 examinations the EDD conducted to create eligible lists from which to make appointments. For all of the examinations, the EDD published and distributed examination bulletins containing the required information. Applications received by the EDD 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 EDD 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 examinations that the EDD conducted during the compliance review period. Accordingly, the EDD fulfilled its responsibilities to administer those examinations 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

application and must be completed in order to remain in the examination. Supplemental applications are also known as "rated" applications.

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 EDD made 1,062 appointments. The CRU reviewed 402 of those appointments which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Accountant I (Specialist)	Certification List	Permanent	Full Time	11
Accountant Trainee	Certification List	Permanent	Full Time	8
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	24
Accounting Technician	Certification List	Permanent	Full Time	5
Associate Systems Software Specialist	Certification List	Permanent	Full Time	1
Associate Tax Auditor	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	5
Custodian	Certification List	Permanent	Full Time	1
Disability Insurance Program Manager I	Certification List	Permanent	Full Time	2
Disability Insurance Program Representative	Certification List	Permanent	Full Time	4
Disability Insurance Program Representative	Certification List	Permanent	Intermittent	2
Disability Insurance Specialist I	Certification List	Permanent	Full Time	2
Disability Insurance Specialist II	Certification List	Permanent	Full Time	2
Employment Development Specialist II	Certification List	Permanent	Full Time	3
Employment Development Specialist II	Certification List	Limited Term	Full Time	1
Employment Program Manager I	Certification List	Permanent	Full Time	12
Employment Program Manager II	Certification List	Permanent	Full Time	7
Employment Program Manager III	Certification List	Permanent	Full Time	3

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Employment Program Representative	Certification List	Permanent	Full Time	20
Employment Program Representative	Certification List	Permanent	Intermittent	8
Key Data Operator	Certification List	Permanent	Full Time	13
Key Data Supervisor I	Certification List	Permanent	Full Time	1
Office Assistant (General)	Certification List	Permanent	Full Time	5
Office Assistant (General)	Certification List	Permanent	Intermittent	2
Office Assistant (Typing)	Certification List	Permanent	Full Time	1
Office Services Supervisor II (General)	Certification List	Permanent	Full Time	2
Office Technician (Typing)	Certification List	Permanent	Full Time	4
Program Technician	Certification List	Permanent	Intermittent	1
Program Technician II	Certification List	Permanent	Full Time	4
Research Analyst I (General)	Certification List	Permanent	Full Time	3
Research Analyst II (General)	Certification List	Permanent	Full Time	3
Research Manager I (General)	Certification List	Permanent	Full Time	2
Research Manager II (General)	Certification List	Permanent	Full Time	5
Research Manager III (General)	Certification List	Permanent	Full Time	2
Research Program Specialist I	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	3
Senior Accounting Officer (Supervisor)	Certification List	Permanent	Full Time	4
Senior Management Auditor	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	3
Staff Services Analyst (General)	Certification List	Limited Term	Full Time	3
Staff Services Manager I	Certification List	Permanent	Full Time	5
Staff Services Manager I	Certification List	Limited Term	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Staff Services Manager II (Supervisor)	Certification List	Permanent	Full Time	2
Staff Tax Auditor	Certification List	Permanent	Full Time	3
Supervising Program Technician III	Certification List	Permanent	Full Time	2
Systems Software Specialist III (Technical)	Certification List	Permanent	Full Time	1
Tax Administrator III	Certification List	Permanent	Full Time	3
Tax Auditor	Certification List	Permanent	Full Time	4
CEA 2 - Chief, Disability Branch, Field Office Division	Information List	CEA	Full Time	1
CEA 2 - Chief, Tax Branch, Collection Division	Information List	CEA	Full Time	1
CEA 2 – Chief, Workforce Services Branch, Labor Market Information Division	Information List	CEA	Full Time	1
Accountant I (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1
Accountant Trainee	Mandatory Reinstatement	Permanent	Full Time	2
Accounting Officer (Specialist)	Mandatory Reinstatement	Permanent	Full Time	8
Accounting Technician	Mandatory Reinstatement	Permanent	Full Time	4
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	9
Associate Information Systems Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1
Associate Management Auditor	Mandatory Reinstatement	Permanent	Full Time	1
Custodian	Mandatory Reinstatement	Permanent	Full Time	3
Disability Insurance Program Manager I	Mandatory Reinstatement	Permanent	Full Time	1
Disability Insurance Program Manager II	Mandatory Reinstatement	Permanent	Full Time	2
Disability Insurance Program Representative	Mandatory Reinstatement	Permanent	Full Time	64

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Employment Development Specialist I	Mandatory Reinstatement	Permanent	Full Time	2
Employment Development Specialist II	Mandatory Reinstatement	Permanent	Full Time	1
Employment Program Manager I	Mandatory Reinstatement	Permanent	Full Time	5
Employment Program Representative	Mandatory Reinstatement	Permanent	Full Time	2
Key Data Operator	Mandatory Reinstatement	Permanent	Full Time	3
Office Assistant (General)	Mandatory Reinstatement	Permanent	Full Time	5
Office Technician (Typing)	Mandatory Reinstatement	Permanent	Full Time	4
Personnel Specialist	Mandatory Reinstatement	Permanent	Full Time	1
Program Technician	Mandatory Reinstatement	Permanent	Full Time	2
Program Technician II	Mandatory Reinstatement	Permanent	Full Time	4
Program Technician III	Mandatory Reinstatement	Permanent	Full Time	3
Research Analyst I (General)	Mandatory Reinstatement	Permanent	Full Time	2
Research Analyst II (General)	Mandatory Reinstatement	Permanent	Full Time	1
Senior Accounting Officer (Supervisor)	Mandatory Reinstatement	Permanent	Full Time	1
Senior Information Systems Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	2
Senior Program Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1
Senior Tax Compliance Representative (Specialist)	Mandatory Reinstatement	Permanent	Full Time	5
Sheetfed Offset Press Operator III	Mandatory Reinstatement	Permanent	Full Time	1
Staff Information Systems Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Staff Services Analyst (General)	Mandatory Reinstatement	Permanent	Full Time	5
Staff Tax Auditor	Mandatory Reinstatement	Permanent	Full Time	3
Tax Administrator I	Mandatory Reinstatement	Permanent	Full Time	1
Tax Administrator III	Mandatory Reinstatement	Permanent	Full Time	1
Tax Auditor	Mandatory Reinstatement	Permanent	Full Time	4
Warehouse Worker	Mandatory Reinstatement	Permanent	Full Time	1
Disability Insurance Program Representative	Permissive Reinstatement	Permanent	Full Time	1
Employment Program Representative	Permissive Reinstatement	Permanent	Full Time	2
Program Technician	Permissive Reinstatement	Permanent	Intermittent	1
Research Analyst II (General)	Permissive Reinstatement	Permanent	Full Time	1
Tax Auditor	Permissive Reinstatement	Permanent	Full Time	1
Accounting Officer (Specialist)	Transfer	Permanent	Full Time	1
Accounting Officer (Supervisor)	Transfer	Permanent	Full Time	1
Accounting Technician	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Custodian	Transfer	Permanent	Full Time	1
Disability Insurance Program Manager I	Transfer	Permanent	Full Time	2
Disability Insurance Program Representative	Transfer	Permanent	Full Time	2
Employment Development Specialist I	Transfer	Permanent	Full Time	1
Employment Development Specialist I	Transfer	Limited Term	Full Time	1
Employment Development Specialist II	Transfer	Permanent	Full Time	1
Employment Program Manager III	Transfer	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Employment Program Representative	Transfer	Permanent	Full Time	5
Office Assistant (General)	Transfer	Permanent	Full Time	2
Office Assistant (Typing)	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Program Technician	Transfer	Permanent	Full Time	1
Research Analyst II (General)	Transfer	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	3
Tax Administrator II	Transfer	Permanent	Full Time	1
Tax Administrator III	Transfer	Permanent	Full Time	1

FINDING NO. 2 – Equal Employment Opportunity Questionnaires Were Not Separated from Applications

Summary: The EDD did not separate 591 EEO questionnaires from the STD. 678 employment application from 3,631 applications.

Criteria: Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, age, or sexual orientation). Applicants for employment in state civil service are asked to provide voluntarily ethnic data about themselves where such data is determined by the California Department of Human Resources (CalHR) to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD. 678) states, "This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions."

Severity: Very Serious. The applicants' protected classes were visible, subjecting the agency to potential liability.

Cause: Due to recent lapses in training, hiring managers in the field failed to remove the EEO questionnaires from the application packages.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the EDD submit to the CRU a written corrective action plan that the department will implement to ensure conformity with in the future that EEO questionnaires are separated from all applications. Copies of any relevant documentation should be included with the plan.

FINDING NO. 3 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: The EDD submitted 402 appointment files that did not contain 15 job bulletins and 235 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.)

Severity: Serious. Without documentation, the CRU could not verify if the appointments were properly conducted.

Cause: Due to recent lapses in training, hiring managers were not aware of proper retention requirements for hiring packages.

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

12946. Copies of any relevant documentation should be included with the plan.

FINDING NO. 4 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The EDD did not prepare, complete, and/or retain required probationary reports of performance for 85 of the 402 appointments reviewed by CRU.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Accountant I (Specialist)	Certification List	5	10
Accountant Trainee	Certification List	2	2
Accounting Officer (Specialist)	Certification List	10	15
Accounting Technician	Certification List	1	2
Associate Governmental Program Analyst	Certification List	4	10
Associate Tax Auditor	Certification List	1	2
Custodian	Certification List	1	3
Disability Insurance Program Representative	Certification List	1	1
Disability Insurance Specialist II	Certification List	1	1
Employment Development Specialist II	Certification List	1	3
Employment Program Manager I	Certification List	3	6
Employment Program Manager II	Certification List	2	2
Employment Program Manager III	Certification List	1	1
Employment Program Representative	Certification List	13	27
Key Data Operator	Certification List	6	9
Office Technician (Typing)	Certification List	2	3
Research Analyst I (General)	Certification List	1	2
Research Analyst II (General)	Certification List	3	6
Research Manager I	Certification List	1	3
Research Manager II	Certification List	2	2
Research Manager III	Certification List	1	3
Staff Services Analyst (General)	Certification List	1	1

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Staff Services Manager I	Certification List	4	7
Staff Services Manager II (Supervisor)	Certification List	2	5
Staff Tax Auditor	Certification List	3	8
Supervising Program Technician III	Certification List	1	1
Tax Administrator III	Certification List	2	3
Tax Auditor	Certification List	2	4
Accounting Officer (Supervisor)	Transfer	1	1
Associate Governmental Program Analyst	Transfer	1	3
Custodian	Transfer	1	2
Disability Insurance Program Representative	Transfer	1	1
Employment Development Specialist I	Transfer	1	1
Employment Development Specialist II	Transfer	1	2
Employment Program Representative	Transfer	1	1
Staff Services Analyst (General)	Transfer	1	1
Total		85	154

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: Due to recent lapses in training, along with increased workload challenges, hiring managers did not ensure all probationary reports were completed.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the EDD 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.

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.)

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

FINDING NO. 5 – Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules

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

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 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.)

During the compliance review period, the EDD had 1,895 PSC's that were in effect. 16 contracts 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
Collaborative Economics	Consultant Services	2/01/2013-12/31/2014	\$299,990.00	Yes
CompuCom Systems Inc.	Software Maintenance - Microsoft Premier (SR657)	12/13/2012-12/12/2013	\$246,723.00	Yes
Department of Homeland Security USCIS	USCIS: Department of Homeland Security - SAVE Program	10/01/2012-9/30/2013	\$350,000.00	Yes
Geographic Solutions Inc.	Vendor Hosted Automated Systems	1/20/2011-6/30/2017	\$16,145,096.00	Yes
Golden State Overnight	Parcel Delivery Service	8/28/2012-3/31/2013	\$467,000.00	Yes
Golden State Overnight	Parcel Delivery Service	4/01/2013-12/31/2013	\$500,000.00	Yes
M Corp	UIMOD	8/17/2012-8/31/2013	\$1,499,962.50	Yes
M Corp	IT Consulting-Legacy Systems Testing	3/29/2011-9/30/2013	\$5,048,901.00	Yes
M Corp	UI Federal Extension (Fed Ed) Project	7/16/2012-11/30/2013	\$1,297,500.00	Yes
Metropolitan Van & Storage Inc.	Moving Services	6/01/2013-5/31/2015	\$249,999.00	Yes
San Diego State University Research Foundation	Subvention	10/01/2011-9/30/2014	\$300,000.00	Yes
Softfile	Document Conversion Services	2/01/2013-1/31/2015	\$192,562.28	Yes
SR Trucking Moving & Storage	Moving and MSF Reconfiguration	12/15/2011-12/31/2012	\$249,999.00	Yes
SR Trucking Moving & Storage	Moving and MSF - Southern	1/02/2013-12/31/2014	\$249,999.00	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Top Gun Installations	Modular Furniture	1/02/2013-12/31/2014	\$249,999.99	Yes
Unleashing Leaders Inc.	NCB for Babette Davis	4/01/2013-12/31/2013	\$211,825.00	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 amount of all the PSCs reviewed was \$27,559,556.77. It was beyond the scope of the review to make conclusions as to whether EDD’s justifications for the contract were legally sufficient. For all PSC’s subject to DGS approval, the EDD 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 EDD’s PSC’s complied with procedural requirements.

DEPARTMENTAL RESPONSE

The EDD would like to thank the CRU for their professionalism and dedication. The EDD takes compliance issues very seriously and has already taken multiple steps to address the findings that were reported. The department strives to ensure compliance with all civil services laws; maintain the integrity of the state’s merit based selection processes; and employ best practices identified during the review. The EDD has taken into account the findings identified by the SPB compliance review and subsequent action will be determined and documented in a corrective action plan (within 60 days from the date the findings are published).

SPB REPLY

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

It is further recommended that the EDD 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.