



# **COMPLIANCE REVIEW REPORT**

## **DEPARTMENT OF FOOD AND AGRICULTURE**

Compliance Review Unit  
State Personnel Board  
March 15, 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), and 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 Department of Food and Agriculture (CDFA) personnel practices in the areas of examinations, appointments, EEO, PSC's, and mandated training from January 1, 2015, through September 30, 2015. 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	Probationary Evaluations Were Not Provided for All Appointments	Serious

Area	Finding	Severity
Appointments	Applications Were Not Date Stamped	Non-Serious or Technical
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
Mandated Training	Ethics Training Was Not Provided for All Filers	Very Serious
Mandated Training	Sexual Harassment 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 CDFA serves the citizens of California by promoting and protecting a safe, healthy food supply, and enhancing local and global agricultural trade through efficient management, innovation, and sound science with a commitment to environmental stewardship. The CDFA facilities are located in various locations throughout California, Arizona, and Hawaii; and include seven laboratories, 16 border protection stations with nine employee residences, 12 warehouses, seven greenhouses, 52 district agricultural associations, and headquarters facilities. Currently, CDFA has over 2,000 employees in a wide variety of classifications, including administrative professional, scientists, veterinarians, investigators, inspectors, and economists.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing CDFA examinations, appointments, EEO program, PSC's, and mandated training from January 1, 2015, through September 30, 2015. The primary objective of the review was to determine if CDFA 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 CDFA 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 CDFA 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 CDFA 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).

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

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

On February 25, 2016, an exit conference was held with the CDFA to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CDFA's written response on February 22, 2016, which is attached to this final compliance review report.

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<sup>1</sup>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 CDFA conducted 40 examinations. The CRU reviewed 11 of these examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No of Applications
Agricultural Pest Control Supervisor	Departmental Promotional	Qualification Appraisal Panel (QAP) <sup>2</sup>	12/12/2014	17
Branch Chief	Open/Statewide	QAP	4/17/2015	12
Chief of Plant Operations II	Departmental Promotional	Education and Experience (E&E) <sup>3</sup>	8/14/2015	4

<sup>2</sup> 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
Deputy Manager II, District Agricultural Association	Promotional	E&E	5/8/2015	1
Director of Marketing Services	Career Executive Assignment (CEA)	Statement of Qualifications (SOQ) <sup>4</sup>	3/2/2015	11
Fruits and Vegetable Quality Control Supervisor II	Open/Statewide	QAP	6/12/2015	14
Laboratory Technician (Chemical Technician)	Departmental Promotional	QAP	7/10/2015	21
Plant Quarantine Supervisor II	Departmental Promotional	QAP	10/10/2014	30
Service Assistant (Maintenance)	Open	Supplemental Application (SA) <sup>5</sup>	11/14/2014	5
Special Assistant	Departmental Promotional	QAP	2/13/2015	12
Staff Services Analyst	Departmental Promotional	Written <sup>6</sup>	Continuous	4

<sup>3</sup> 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.

<sup>4</sup> In a statement of qualifications (SOQ's) 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.

<sup>5</sup> 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 application and must be completed in order to remain in the examination. Supplemental applications are also known as "rated" applications.

<sup>6</sup> 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.

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

The CRU reviewed 11 examinations the CDFA administered to create eligible lists from which to make appointments. The CDFA published and distributed examination bulletins containing the required information for all examinations. Applications received by the CDFA 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 CDFA 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 examinations that the CDFA conducted during the compliance review period. Accordingly, the CDFA 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 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 CDFA made 669 appointments. Of these, 373 were temporary and/or seasonal appointments. The CRU reviewed 79 of the 669 appointments, which are listed below:



Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Agricultural Biological Technician	Certification List	Permanent	Full Time	1
Agriculture Program Supervisor III	Certification List	Permanent	Full Time	1
Branch Chief, California Department of Food and Agriculture	Certification List	Permanent	Full Time	4
Brand Inspector	Certification List	Permanent	Indeterminate	2
Environmental Program Manager II	Certification List	Permanent	Full Time	1
Environmental Scientist	Certification List	Permanent	Full Time	10
Environmental Scientist	Certification List	Limited Term	Full Time	2
Feed, Fertilizer and Livestock Drugs Inspector	Certification List	Permanent	Full Time	2
General Auditor III	Certification List	Permanent	Full Time	1
Measurement Standards Specialist II	Certification List	Limited Term	Full Time	1
Measurement Standards Specialist II	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	7
Plant Quarantine Supervisor I	Certification List	Permanent	Full Time	2
Research Scientist Manager (Veterinary Sciences)	Certification List	Permanent	Full Time	1
Senior Agricultural Biological Technician	Certification List	Permanent	Full Time	1

Senior Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Supervising Auditor I, Milk Marketing	Certification List	Permanent	Full Time	2
Veterinarian (General)	Certification List	Permanent	Full Time	2
Agriculture Program Supervisor I	Demotion	Permanent	Full Time	1
Accountant Trainee	Mandatory Reinstatement	Permanent	Full Time	2
General Auditor III	Mandatory Reinstatement	Permanent	Full Time	3
Office Technician (Typing)	Mandatory Reinstatement	Permanent	Full Time	1
Plant Quarantine Inspector	Mandatory Reinstatement	Permanent	Full Time	6
Veterinarian Specialist (General)	Mandatory Reinstatement	Permanent	Full Time	1
Associate Governmental Program Analyst	Reinstatement	Permanent	Full Time	1
Personnel Specialist	Reinstatement	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Reinstatement	Limited Term	Full Time	1
Special Investigator	Reinstatement	Permanent	Full Time	1
Veterinarian Specialist (General)	Reinstatement	Permanent	Full Time	1
Agricultural Technician I (Seasonal)	Retired Annuitant	Limited Term	Intermittent	1
Senior Plant Pathologist (Diagnostician) (Specialist)	Retired Annuitant	Limited Term	Intermittent	1
Special Investigator	Retired Annuitant	Limited Term	Intermittent	1

Seasonal Clerk	Temporary Authorization Utilization	Temporary	Intermittent	3
Special Assistant	Training and Development	Permanent	Full Time	1
Administrative Assistant II	Transfer	Permanent	Full Time	1
Environmental Scientist	Transfer	Permanent	Full Time	1
Livestock Inspector	Transfer	Permanent	Full Time	1
Personnel Specialist	Transfer	Permanent	Full Time	2
Senior Agricultural Economist	Transfer	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Transfer	Limited Term	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2

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

**Summary:** The CDFA did not separate 95 EEO questionnaires from 1,178 STD. 678 employment 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, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status). 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:** The CDFA states that they allow hiring supervisors to receive direct submission of applications from interested applicants, and despite verbal and written direction to remove the questionnaires, the hiring supervisor (or his/her staff) failed to do so. The CDFA states that this is possibly due to forgetfulness or failure to communicate this requirement to the employee responsible for compiling and coordinating the applications.

**Action:** The CDFA has submitted a corrective action plan with supporting documentation for ensuring compliance in meeting the requirements of Government Code Section 19704; therefore, no further action is required at this time.

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

**Summary:** The CDFA did not prepare, complete, and/or retain eight required probationary reports of performance for six of the 79 appointments reviewed, which is reflected in the table below.

Classification	Appointment Type	No. of Appointments Missing Reports	No. of Uncompleted Probation Reports
Feed, Fertilizer, and Livestock Drugs Inspector	Certification List	2	2
General Auditor III	Certification List	1	2
Measurement Standards Specialist II	Certification List	1	1
Office Technician (Typing)	Certification List	1	2
Veterinarian (General)	Certification List	1	1
	Total	6	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 CDFA states that they send the probationary reports to all supervisors shortly after their employee's appointment, which clearly show the due dates and supervisors are expected to provide timely evaluations. The CDFA states that the supervisors occasionally fail to do so, possibly due to workload or remote supervision of field staff.

**Action:** The CDFA has submitted a corrective action plan for ensuring compliance in meeting the probationary requirements of Government Code section 19172; therefore, no further action is required at this time.

#### **FINDING NO. 4 – Applications Were Not Date Stamped**

**Summary:** The CDFA accepted and processed 359 out of 1,178 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, suds. (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 CDFA states that they allow supervisors to receive direct submission of applications from interested applicants; and despite verbal and written instruction to date stamp the applications, the hiring supervisor (or his/her staff) failed to do so. The CDFA states that the cause is possibly due to forgetfulness or failure to communicate the requirement to the employee responsible for compiling and coordinating the applications.

**Action:** The CDFA has submitted a corrective action plan for ensuring compliance in meeting the filing requirements of the California Code of Regulations, title 2, section 174; therefore, no further action is required at this time.

### **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 EEO; 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 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 the CDFA EEO program that was in effect during the compliance review period.

**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 CDFA'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 director of the CDFA. In addition, the CDFA has an established DAC that reports to the director on issues affecting persons with a disability. The CDFA also provided evidence of its efforts to promote EEO 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 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 CDFA had 38 PSC's that were in effect. The CRU reviewed six of these, which were subject to the Department of General Services (DGS) approval, and are listed below:

Vendor	Services	Contract Dates	Contract Amount	Sufficient Justification
Cooperative Agricultural Support Services	Operational Support in Response to Emergency	7/1/2015-6/30/2017	\$17,955,721	Yes
County of Kern	Statewide Exotic Pest Detection Trapping	7/1/2014-6/30/2015	\$255,865	Yes
County of San Diego	High Risk Exclusion	7/1/2015-6/30/2016	\$747,308	Yes
Judy Stewart- Leslie Consulting	Treatment Coordinators	1/1/2015-12/31/2016	\$200,000	Yes
Nuffer, Smith, Tucker, Inc.	Outreach & Education Campaign on Citrus Diseases	10/1/2015-9/30/2017	\$1,370,605	Yes
Southern Valley Chemical Co.	Treatment Coordinators	1/1/2015-12/31/2016	\$184,350	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 the PSC's reviewed was \$20,713,849. It was beyond the scope of the review to make conclusions as to whether CDFA justifications for the contracts were legally sufficient. For all PSC's subject to DGS approval, the CDFA provided specific and detailed factual information in the written justifications as to how each of the nine

contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the CDFA PSC's complied with procedural requirements.

### **Mandated Training**

Each state agency shall offer at least once during each consecutive period of two calendar years an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, § 11146.3)

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).)

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

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

### **FINDING NO. 7 – Ethics Training Was Not Provided for All Filers**

**Summary:** The CDFA did not provide ethics training to four filers.

**Criteria:** New filers must be provided ethics training within six months of appointment. Exiting filers must be trained least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).) Course content must be approved by the Fair Political Practices Commission and the Attorney General. (Gov. Code, § 11146.1, subd. (c).)

**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 CDFA states that despite notifying all employees and their supervisors of the requirement to take all mandatory training, supervisors do not always ensure their employees take the training, possibly due to workload or remote supervision of field staff.

**Action:** The CDFA has submitted a corrective action plan with supporting documentation for ensuring compliance in meeting the mandatory training requirements of Government Code section 11146.3, subd (b); therefore, no further action is required at this time.

**FINDING NO. 8 – Sexual Harassment Training Was Not Provided for All Supervisors**

**Summary:** The CDFA did not provide sexual harassment training to three supervisors on a two-year basis. In addition, five new supervisors were not provided training within six months of appointment.

**Criteria:** Each department must provide its supervisors two hours of sexual harassment training every two years. New supervisors must be provided supervisory 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 issue 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 CDFA states that despite notifying all employees and their supervisors of the requirement to take all mandatory training, supervisors do not always ensure their employees take the training, possibly due to workload or remote supervision of field staff.

**Action:** The CDFA has submitted a corrective action plan with supporting documentation for ensuring compliance in meeting the mandatory training requirements of Government Code section 12950.1, subd (a); therefore, no further action is required at this time.

## **DEPARTMENTAL RESPONSE**

The CDFA department written response is attached as Attachment 1.

## **SPB REPLY**

Based upon the CDFA written response, the CDFA will comply with the CRU recommendations and findings. The CDFA submitted corrective action plans for all departmental findings.

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

## Memorandum

To : Alton Ford, Compliance Review Manager      Date: February 19, 2016  
State Personnel Board  
Policy and Compliance Review Division      Place: Sacramento  
801 Capitol Mall  
Sacramento, CA 95814      Phone: (916) 403-6582

From : Department of Food and Agriculture -      1220 N Street, Suite 242  
Sacramento, CA 95814

Subject : **Compliance Review Response**

Thank you for providing the Department of Food and Agriculture (CDFA) with the opportunity to review and respond to the Compliance Review Report.

Following are the responses to all out of compliance items. Items are grouped together when the response and solution are the same.

Finding No. 2      Equal Employment Opportunity (EEO) Questionnaires were not separated from applications.

Finding No. 4      Applications were not date stamped.

**CDFA Response:**

During the recruitment period, many applicants submit their applications directly to the hiring supervisor with no opportunity for Human Resources staff to remove the EEO questionnaire or to date stamp the application.

These issues will not recur as the recent enhancements to the Exam and Certification Online System ensure removal of personal information from the EEO Questionnaire before viewing by the hiring unit as well as providing a record of the date and time of receipt.

Finding No. 3      Probationary Reports were not provided for all appointments.

**CDFA Response:**

It is the policy of CDFA to provide timely performance reviews for all employees. Shortly after an employee begins his/her probationary period, their supervisor is sent an electronic copy of the probationary reports with the due dates clearly indicated, and supervisors are expected to provide their employees with reviews on or about these dates. CDFA also provides training on the importance of performance reviews.

To further improve compliance, Human Resources will begin sending probation reports to the employee's supervisor via the "Probation Report Tracking" Outlook calendar, which will schedule the due dates as appointment reminders on the supervisor's calendar, which will serve as notifications to complete the reports.

Finding No. 7 Ethics Training was not provided for all filers.

CDFA Response:

It is the policy of CDFA to provide employees with all required training on a timely basis. The Learning and Development Center (LDC) sends e-mail notifications and reminders to all designated filers to file their Assuming and/or Annual Form 700s. Within those emails the designated filer is provided the link to the Ethics Orientation for State Officials training and a reminder of their requirement to complete this class upon their initial appointment and every two years thereafter. Additionally, supervisors are provided the Annual Policy Review and Training Checklist (SO-149 attached) as a tool to ensure their employees are current with their training. To further improve compliance, the LDC will provide semi-annual notification to directors of employees who have not taken the training.

Finding No. 8 Sexual Harassment Training was not provided for all supervisors.

CDFA Response:

It is the policy of CDFA to provide employees with all required training on a timely basis. The LDC sends an email to all new supervisors providing them with a list of the required training they are to complete within their probationary period (see attached). Additionally, supervisors are provided the SO-149 as a tool to ensure their employees are current with their training. To further improve compliance, the LDC will provide semi-annual notification to directors of employees who have not taken the training.

Please contact me at the number listed above should you wish to discuss this further.

Sincerely,



Gay Faivre  
Personnel Officer

Enclosures

cc: Kari Morrow, Director