



# COMPLIANCE REVIEW REPORT

## **STATE TREASURER'S OFFICE**

Compliance Review Unit  
State Personnel Board  
April 15, 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 the State Treasurer's Office (STO's) personnel practices in the areas of examinations, appointments, EEO, and PSC's from January 2, 2013, through December 31, 2014. The following table summarizes the compliance review findings.

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

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 STO was created in 1849, with adoption of the State Constitution, as the guardian and cashier of the State’s money. With enactment of California Bank Act of 1907, the Treasurer’s powers were expanded to include investment of State revenues.

The STO manages the State’s Pooled Money Investment Account, which invests monies on behalf of state government and local jurisdictions to help them manage their fiscal affairs.

The STO finances a variety of important public works needed for the State’s future, including schools and higher education facilities, transportation projects, parks and environment projects.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing STO examinations, appointments, EEO program, and PSC’s from January 2, 2013, through December 31, 2013. The primary objective of the review was to determine if STO 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 the STO 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 STO provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action 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 STO 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 STO staff.

STO PSC's were also randomly selected to ensure that various types of contracted services and contract amounts were reviewed.<sup>1</sup> The STO contracted for preventative maintenance on fire suppression systems, legal representation services and maintenance on information technology equipment, among others. It was beyond the scope of the compliance review to make conclusions as to whether STO justifications for the contracts were legally sufficient. The review was limited to whether STO practices, policies, and procedures relative to PSC's complied with procedural requirements.

On February 10, 2015, an exit conference was held with the STO to explain and discuss the CRU's initial findings and recommendations, and to provide the STO with a copy of the CRU draft report. The STO was given until March 30, 2015 to submit a written response to the CRU draft report. On March, 23, 2015, the CRU received and carefully reviewed the response, which is attached to this final compliance report.

## **FINDINGS AND RECOMMENDATIONS**

### **Examinations**

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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.

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 a formal signed application in the office of the department or a designated appointing power within a reasonable length of time before the date of examination. (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 STO conducted 12 examinations. The CRU reviewed 8 of these examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Associate Governmental Program Analyst	Departmental Promotional	Written <sup>2</sup>	7/29/2013	6
Associate Treasury Program Officer	Departmental Promotional	Qualifications Appraisal Panel (QAP) <sup>3</sup>	2/11/2013	22

<sup>2</sup> In a written examination, each applicant reads written questions and answers multiple choice questions related to performing certain tasks typically performed by those in this classification. Responses are scored using Scantron forms, which yield point values, which are totaled by the online system or a department exam analyst, and then assigned a percentage score. Written examinations are known as “multiple choice” examinations.

<sup>3</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
Career Executive Assignment (CEA) 1, Director of Legislative Affairs (LIAB)	CEA	Statement of Qualifications (SOQ) <sup>4</sup>	1/17/2013	8
CEA 1, Pension & Investment Officer	CEA	SOQ	4/24/2013	6
CEA 3, Director of Investments	CEA	SOQ	2/14/2013	4
CEA 5, Director of Investments	CEA	SOQ	1/16/2013	3
Staff Services Manager II	Departmental Promotional	QAP	8/23/2013	9
Treasury Program Manager I	Departmental Promotional	QAP	11/1/2013	27

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

The STO administered four departmental promotional and four Career Executive Assignment (CEA) examinations to create eligible lists from which to make appointments. For all of the examinations, the STO published and distributed examination bulletins containing the required information. Applications received by the STO 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 STO 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.

<sup>4</sup> 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.

The CRU found no deficiencies in the examinations that the STO conducted during the compliance review period. Accordingly, the STO 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 STO made 54 appointments. The CRU reviewed 14 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Treasury Program Manager I	Certification List	Permanent	Full Time	1
Treasury Program Manager II	Certification List	Permanent	Full Time	1
Career Executive Assignment (CEA) 1, Deputy State Treasurer LIAB	Information List	CEA	Full Time	1
CEA 5, Director of Investment	Information List	CEA	Full Time	1
CEA 3, Investment Manager	Information List	CEA	Full Time	1
CEA 1, Pension & Investment Officer	Information List	CEA	Full Time	1
Accounting Administrator II	Transfer	Permanent	Full Time	1



Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Program Technician II	Transfer	Permanent	Full Time	1
Staff Services Analyst	Transfer	Permanent	Full Time	1
Systems Software Specialist II (Technician)	Transfer	Permanent	Full Time	1

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

**Summary:** Of the 14 appointments reviewed, the STO did not retain screening criteria for one appointment and rating criteria for three appointments.

**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, the CRU could not verify if the appointments were merit based.

**Cause:** The hiring division did not prepare/retain a screening criteria of the applicants that applied. Also, the hiring unit did not utilize a rating criteria to rate the potential incumbents.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the STO submit to the CRU a written corrective action plan that 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.

### 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 (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.)

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

**FINDING NO. 3 – 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 STO'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, and is the personnel officer and reports directly to the director of the STO for EEO related matters. In addition, the STO has an established

DAC, that reports to the director on issues affecting persons with a disability. The STO completed a workforce analysis, which was submitted to the CRU. The STO 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 STO had 12 PSC’s that were in effect. Only two 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
The Bank of New York Mellon Trust Company, N.A.	Perform registrar and paying agent services for state bonds	9/01/2011-8/31/2016	\$575,000.00	Yes
FIS	Advanced Financial Solutions (AFS) software support and maintenance	11/01/2011-10/31/2013	\$278,481.00	Yes

**FINDING NO. 4 – Personal Services Contracts Complied with Procedural Requirements**

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 19131, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

The total amount of all the PSCs reviewed was \$853,481.00. It was beyond the scope of the review to make conclusions as to whether STO's justifications for the contract were legally sufficient. For all PSC subject to DGS approval, the STO provided specific and detailed factual information in the written justifications as to how each of the two contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the STO PSC's complied with civil service laws and board rules.

**DEPARTMENTAL RESPONSE**

The STO agrees with the findings and have taken actions to ensure compliance in future reviews. (Attachment 1)

**SPB REPLY**

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

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

**M E M O R A N D U M**

Date: March 23, 2015

**TO:** Suzanne Ambrose  
State Personnel Board  
Compliance Review Division

**FROM:** Debby Silva, Chief  
Management Services Division

**SUBJECT:** Compliance Review Findings for State Treasurer's Office

The State Treasurer's Office has taken into account the findings identified by the SPB Compliance Review Division. The STO currently is revising the "Best Hiring Practices" policies and procedures, which will encompass the hiring division returning all pertinent hiring documents including but not limited to screening criteria, and rating criteria to Human Resources for retention.