



COMPLIANCE REVIEW REPORT

CALIFORNIA SCIENCE CENTER

Compliance Review Unit
State Personnel Board
October 30, 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 DTSCs through the Board's decisions, rules, policies, and consultation.

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of California Science Center (Science Center) personnel practices in the areas of examinations, appointments, EEO, PSC's, and mandated training from July 1, 2014, through July 01, 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	Appointments Complied with Civil Service Laws and Board Rules	In Compliance
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

Area	Finding	Severity
Mandated Training	Mandatory Training Complied with Statutory 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 Science Center is also known as the Sixth Agricultural District and is governed by a nine-member Board of Directors appointed by the Governor. The Science Center represents one of California’s premier educational and family destinations, and in 2012, was awarded the Space Shuttle Endeavour. Through award winning exhibits and internationally renowned education programs, families, adults, and children can explore the wonders of science through interactive exhibits, live demonstrations, innovative programs and awe-inspiring films. The Science Center values accessibility and inclusiveness and strives to inspire interest in science among those traditionally underrepresented in science, technology, engineering, and math. The mission of the Science Center is: “We aspire to stimulate curiosity and inspire science learning in everyone by creating fun, memorable experiences, because we value science as an indispensable tool for understanding our world, accessibility and inclusiveness, and enriching people’s lives.” The Science Center averages over 2 million guests annually.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing Science Center examinations, appointments, EEO program, PSC’s, and mandated training from July 1, 2014, through July 1, 2015. The primary objective of the review was to determine if Science Center 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 Science Center 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 Science Center 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 Science Center 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 Science Center staff.

The Science Center's PSC's were also reviewed.¹ It was beyond the scope of the compliance review to make conclusions as to whether Science Center justifications for the contracts were legally sufficient. The review was limited to whether Science Center practices, policies, and procedures relative to PSC's complied with applicable statutory law and board regulations.

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

On October 28, 2015, an exit conference was held with the Science Center to explain and discuss the CRU's initial findings and recommendations. The Science Center was found to be in compliance in all of the areas reviewed during the compliance review period.

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

FINDINGS AND RECOMMENDATIONS

Examinations

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

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Exhibit Technician	Open	Qualification Appraisal Panel (QAP) ² and Written ³	1/22/2015	7
Supervisor of Building Trades	Open	QAP and Written	12/09/2014	10

² 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.

³ 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 Science Center administered 2 open examinations to create eligible lists from which to make appointments. For all of the examinations, the Science Center published and distributed examination bulletins containing the required information. Applications received by the Science Center were accepted prior to the final filing date and were thereafter properly assessed to determine whether applicants met the minimum qualifications (MQ's) for admittance to the examination. The Science Center notified applicants as to whether they qualified to take the examination, and those applicants who met the MQ's 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 Science Center conducted during the compliance review period. Accordingly, the Science Center 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.) Except as provided by law, appointments to vacant positions shall be made from employment lists. (*Ibid.*) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the compliance review period, the Science Center made 19 appointments. The CRU reviewed 12 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Building Maintenance Worker	Certification List	Permanent	Full Time	3
Chief Engineer II	Certification List	Permanent	Full Time	1
Chief of Plant Operation I	Certification List	Permanent	Full Time	1
Exhibit Technician	Certification List	Permanent	Full Time	1
Fiscal Officer I	Certification List	Permanent	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Supervisor of Building and Trades	Certification List	Permanent	Full Time	2
Executive Assistant to the Director, Science Center	Retired Annuitant	Limited Term	Intermittent	1

FINDING NO. 2 – Appointments Complied With Civil Service Laws and Board Rules

The Science Center measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 11 list appointments reviewed, the Science Center ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The Science Center also made 1 retired annuitant appointment. The individual submitted their application and was eligible to be hired as a temporary employee, not to exceed 960 hours in a fiscal year.

The CRU found no deficiencies in the appointments that the Science Center conducted during the compliance review period. Accordingly, the CRU found that all the appointments the Science Center made during the compliance review period satisfied civil service laws and board rules.

Equal Employment Opportunity (EEO)

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.) In a state agency with less than 500 employees, like the Science Center, the EEO officer may be the personnel officer. (*Ibid.*)

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 Science Center's EEO program that was in effect during the compliance review period. In addition, the CRU interviewed appropriate Science Center 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 Science Center'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 Science Center. In addition, the Science Center has an established DAC that reports to the

director on issues affecting persons with a disability. The Science Center 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 personal services contract (PSC) includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the State. (Cal. Code Reg., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSCs achieve cost savings for the state. PSCs 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 Science Center had 3 PSC’s that were in effect and subject to General Services (DGS) approval. The CRU reviewed all 3 of these, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
California Science Center Foundation	I.T. Services	4/01/2015 - 6/30/2017	\$282,492.00	Yes
Classic Parking, Inc.	Management of Parking Facilities	1/01/2010 - 6/30/2015	\$3,970,794.50	Yes
Mariposa Landscapes, Inc.	Landscaping Services	5/01/2011- 6/30/2017	\$2,532,880.20	Yes

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

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

The total dollar amount of all the PSC's reviewed was \$6,786,166.70. It was beyond the scope of the review to make conclusions as to whether Science Center justifications for the contract were legally sufficient. For all PSC's reviewed, the Science Center provided specific and detailed factual information in the written justifications as to how each of the three contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the Science Center PSC's complied with civil service laws and board rules.

Mandated Training

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

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 having 50 or more employees 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 Science Center mandated training program that was in effect during the compliance review period.

FINDING NO. 5 – Mandated Training Complied with Statutory Requirements

The Science Center provided semiannual ethics training to its 5 filers during the 2-year calendar year period commencing in 2013. The Science Center also provided supervisory training to its 8 new supervisors within 12 months of appointment. In addition, the Science Center provided sexual harassment training to its 8 new supervisors within 6 months of appointment and semiannual sexual harassment training to its 19 supervisors every 2 years.

DEPARTMENTAL RESPONSE

The Science Center's response is attached as Attachment 1.

SPB REPLY

The Science Center was found to be in compliance in all areas reviewed during the compliance review period, therefore no further action is required.