

# Memorandum

*Serious drought  
Help Save Water!*

**To:** GINA CARDOZA  
EEO Program Manager  
Equal Employment Opportunity Program  
Discrimination Complaint Investigation Unit

**Date:** June 20, 2014

**File:** P3000-0410

**From:**   
WILLIAM E. LEWIS  
Assistant Director  
Audits and Investigations

**Subject:** **FINAL REVIEW REPORT OF THE DISCRIMINATION COMPLAINT  
INVESTIGATION UNIT**

Audits and Investigations (A&I) completed a review of the Discrimination Complaint Investigation Unit (DCIU). The purpose of the engagement was to review DCIU processes and evaluate the effectiveness, efficiency and timeliness of DCIU's investigations. The scope of the review covered a review of cases for the period July 1, 2010, through December 31, 2011.

The final report includes the EEO Program Manager's written response to the findings and recommendations. A&I acknowledges that some corrective action has already taken place and that the DCIU Office is in the process of implementing all the recommendations.

We thank you and your staff for their assistance during this review. If you have any questions or need additional information, please contact Laurine Bohamera, Chief, Internal Audits at (916) 323-7107, or Juanita Baier, Internal Audit Manager at (916) 323-7951.

## Attachments

c: Malcolm Dougherty, Director  
Norma Ortega, Acting Chief Deputy Director  
Cristiana Rojas, Deputy Director, Administration  
Thomas Hicks, Staff Services Manager I, Division of Human Resources  
Laurine Bohamera, Chief, Internal Audits, Audits and Investigations  
Juanita Baier, Audit Manager, Audits and Investigations  
Roger Takao, Program Controller, Audits and Investigations

**P3000-0410**

**Review of the  
Discrimination Complaint  
Investigation Unit**

**June 2014**

**William E. Lewis  
Assistant Director  
Audits and Investigations  
California Department of Transportation**

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## **Summary**

The Department of Transportation's (Caltrans), Audits and Investigations (A&I) completed a consulting engagement of the Discrimination Complaint Investigation Unit (DCIU). The purpose of the engagement was to review DCIU processes and evaluate the effectiveness, efficiency and timeliness of DCIU's investigations of Equal Employment Opportunity Program (EEO) complaints.

Our review disclosed that during the period of July 1, 2010, through December 31, 2011, investigations performed by DCIU were not being performed efficiently or timely. Specifically, we identified the following:

- Investigations are not Completed Timely
- Missing and Incomplete Case Files
- Poor Communication with Districts

## **Background**

DCIU is responsible for investigating discrimination and sexual harassment complaints filed under Caltrans' EEO policy, deputy directives, and laws related to sexual harassment, American's with Disability Act, state disability, reasonable accommodation and religious protection and accommodation.

District EEO offices assist employees, vendors, and contractors with questions about departmental EEO policy and help resolve informal complaints through a resolution process. Complainants not satisfied with the resolution process may file a formal complaint, which is investigated by DCIU.

DCIU, originally established as part of the Office of Business and Economic Opportunity (OBEO) in 2000, conducts the EEO investigations for Caltrans. On July 1, 2011, DCIU was transferred from OBEO to the Division of Human Resources (HR) as part of an administrative reorganization.

While DCIU was under OBEO, the unit consisted of approximately 12 staff, including 10 investigators, a supervisor and manager. Upon its move to HR, DCIU's staff fluctuated from 12-4. In June 2012, another reorganization affected DCIU, but the unit remained in HR and gained an office chief and new manager. DCIU was again reorganized in March 2014 to report directly to the Deputy for Administration.

## **Objectives, Scope, and Methodology**

A&I conducted a review of DCIU processes to evaluate the effectiveness, efficiency and timeliness of investigations.

We performed the review in accordance with the consulting engagement standards of the International Standards for the Professional Practice of Internal Auditing. The review covered the period of July 1, 2010, through

**Objectives,  
Scope, and  
Methodology  
(continued)**

December 31, 2011. We conducted our review from August 6, 2012, through October 31, 2012. Changes after these dates were not tested, and accordingly, our conclusion does not pertain to changes arising after October 31, 2012.

Our methodology consisted of interviewing DCIU management and staff, interviewing and surveying district EEO offices, reviewing their website and organizational charts, examining policy and procedure manuals, reviewing and testing case files for compliance with established policies and procedures, and performing other analytical tests as we considered necessary to achieve the review objectives.

The objectives of the review were to:

- Evaluate the effectiveness, efficiency and timeliness of DCIU's investigations.
- Evaluate the appeals process.
- Determine whether any DCIU processes may be performed at the district level.
- Identify any internal communication weaknesses.
- Evaluate current procedures and determine whether they are sufficient to ensure compliance with existing EEO policies and Deputy Directives.

**Conclusion**

Our review determined that during the period of July 1, 2010, through December 31, 2011, there were weaknesses in the overall investigative processes. Specifically, we identified the following issues within DCIU:

- Investigations are not Completed Timely
- Missing and Incomplete Case Files
- Poor Communication with Districts

The issues are discussed in greater detail in the Findings and Recommendations section of this report.

**View of  
Responsible  
Official**

We requested and received a response from the EEO Program Manager. This official agreed with the findings and already implemented some corrective action. For a complete response, please see Attachment 1.

**WILLIAM E. LEWIS**  
**Assistant Director**  
**Audits and Investigations**

**May 13, 2014**

## FINDINGS AND RECOMMENDATIONS

### **Finding 1 - Investigations are not Completed Timely**

Our review disclosed that overall, the Discrimination Complaint Investigation Unit (DCIU) processes did not ensure investigations were completed timely.

As of June 25, 2012, the DCIU database identified 230 closed investigations/complaints for the period of July 1, 2010, through December 31, 2011. We selected 26 closed case files, but only reviewed 17 because 9 files were missing. Our review found that six of the 17 files reviewed were not completed timely, within 120 days. Instead, they were closed between 125 and 335 days.

In addition, we found that between July 1, 2010, through December 31, 2011, there was a backlog of 90 open cases which had been open an average of 332 days.

The DCIU Investigation Procedures Manual requires a 120 day timeframe for the investigative process. Director's Policy Number DP-01-R9 provides that the Chief, Human Resources "Ensures comprehensive, neutral and timely investigations of formal discrimination complaints."

Timely investigations play a key role in effectively managing Caltrans' resources. When investigations are not completed timely, complainants and respondents are impacted and work is interrupted. Timely completion of investigations reduces costs, time, and effort for the complainants and respondents.

According to DCIU management, the constant staffing changes affected the timeliness of investigations.

### **Recommendation**

We recommend DCIU management implement procedures to ensure investigations are completed within the established 120 day timeframe.

### **DCIU Response**

The DCIU office has already implemented corrective action with various changes. The ultimate goal will be to meet the 120-day timeframe for investigations by the end of the year 2014. For the complete response, please see Attachment 1.

### **Finding 2 - Missing and Incomplete Case Files**

We selected 26 closed case files to review and found that some were missing, mislabeled or poorly organized. Specifically, we found the following:

**Finding 2  
(continued)**

- Nine case files were missing and were never located.
- Two active case files were mislabeled as closed.
- Eight case files were unorganized and it was not clear how the investigator reached their conclusion. For example, we found that the case activity log was not always complete, the case analysis worksheet was not always included in the file, critical transcripts from recorded interviews were not included with case files, and written notes were not always clear.

Section 20050 of the State Administrative Manual (SAM) states that a satisfactory system of administrative control shall include an adequate control environment and control activities. Established policies and procedures that ensure management's directives are carried out and help ensure that necessary actions are taken to minimize risks to achievement of the entity's objectives.

DCIU management was aware of these issues, but had lost experienced and knowledgeable staff. Their procedures manual is outdated and does not reflect current practices. However, updating the manual was not a priority due to the backlog of cases.

Without proper guidance investigators may take longer in performing investigations and may not properly document conclusions.

**Recommendations**

We recommend DCIU management:

1. Implement a method for tracking and monitoring confidential case files to ensure files are not lost, misplaced or mislabeled.
2. Develop a standardized method of file organization to ensure relevant, supporting documents are maintained in the file, especially transcripts supporting the conclusions.

**DCIU Response**

The DCIU requires that all audio recordings are in digital format. In addition, DCIU is developing a case file template so all items in the case file will follow the same format. For the complete response, please see Attachment 1.

**Finding 3 -  
Poor  
Communication  
with Districts**

We found that there was poor communication between DCIU staff and the district Equal Employment Opportunity (EEO) offices. The EEO offices are the first point of contact for complainants working in districts. When complaints are sent to DCIU for investigation, the communication is limited.

**Finding 3  
(continued)**

We interviewed EEO staff from districts 2, 8 and 12. We also surveyed the remaining district EEO offices. Based upon the responses, the following communication issues were identified:

- **Lack of Regular Communication:** When EEO offices submit complaints to DCIU, they may or may not receive acknowledgement of the complaint and status updates. Communication is important because complainants often request updates from the district EEO staff on a regular basis. However, the district EEO staff does not have information to provide to the complainant unless DCIU provides a current status. As a result, complainants may experience additional stress due to the uncertainty of their case, especially when cases exceed the 120 day timeline. Additionally, district management may not know how long to reassign workload to minimize complainant and respondent contact.
- **EEO Program Updates:** DCIU does not have a formal process for disseminating EEO program updates to EEO district offices. During our interviews, EEO district staff expressed frustration with the lack of information received from DCIU. Some stated they received information from other district EEO offices regarding policy changes. It is critical that DCIU share updated information with the EEO district staff, especially when there are changes in the EEO program.

Director's Policy Number DP-10, requires managers and supervisors to "communicate Caltrans' commitments to all levels of personnel, including Departmental impact, expected results, and consequences if the commitment is not kept; and empower employees with the appropriate tools, resources, time and training to deliver the products and services Caltrans has negotiated."

Roles, responsibilities and expectations have not been clearly stated or communicated to the districts. Management reorganizations and staffing changes have affected the consistency and frequency of communications between headquarters and the districts.

Management is aware of the districts need for consistent and regular information and is working to ensure district needs are met.

**Recommendations**

We recommend DCIU management:

1. Implement procedures to ensure district communications are consistent and occur regularly.
2. Provide timely and consistent EEO updates to all district EEO offices.

**DCIU Response**

The DCIU office is making an effort to communicate the status of cases to the districts on a monthly basis while maintaining confidentiality. Currently, DCIU is in the process of implementing a status chart similar to the Discipline Status chart sent by the Office of Discipline Services. For a copy of the complete response, please see Attachment 1.

**Audit Team**

Laurine Bohamera, Chief, Internal Audits  
Juanita Baier, Audit Manager  
Teresa Draeger, Auditor

## **ATTACHMENT 1**

### **Response – Discrimination Complaint Investigation Unit**

# Memorandum

*Serious drought.  
Help Save Water!*

**To:** WILLIAM E. LEWIS  
Assistant Director  
Audits and Investigations

**Date:** June 16, 2014

**From:** GINA CARDOZA   
EEO Program Manager  
Equal Employment Opportunity Program (EEO)  
Discrimination Complaint Investigation Unit (DCIU)

**Subject:** **CONSULTING ENGAGEMENT OF THE DEPARTMENT'S DISCRIMINATION COMPLAINT UNIT**

Thank you for the opportunity to respond to Audits and Investigation's (A&I's) recent consulting engagement of the Department's Discrimination Complaint Unit (DCIU). The purpose of the engagement was to review DCIU processes and evaluate the effectiveness, efficiency and timeliness of DCIU's investigations of Equal Employment Opportunity complaints during the period of July 1, 2010 through December 31, 2011. This engagement was requested by the Division of Human Resources upon transfer of the EEO Program and DCIU to that Division in July 2011. There were four important findings of this review.

The four findings were 1) investigations are not timely completed; 2) missing and incomplete case files; 3) poor communication with districts; and 4) appealed cases are not monitored. We find that A&I's recommendations have merit and will be addressed promptly, following the work plan below.

Finding 1:

Investigations are not timely completed.

Response:

The DCIU office has responded to the lack of timeliness of EEO investigations in three ways. 1) Staff are assigned in-office dates for writing reports instead of investigating complaints. 2) The DCIU has collaborated with the Legal Division and several Districts to tackle the backlog of investigations, with the goal of meeting a 120-day timeframe for investigations by the end of 2014. 3) Training is being provided to the Districts to identify those complaints that may be addressed at an informal level.

Finding 2:

Missing and Incomplete Case Files

Response:

The DCIU office is addressing the missing and incomplete case files in multiple ways. A template case file (including a checklist) is being developed where all items inside a case file will follow the same format. The DCIU also maintains its files in a secure room, which ensures limited access to the files. Additionally, only copies, not original files, are being sent to the Legal Division for handling a matter. Further, a check in and checkout procedure for files is being developed. Options being considered include a bar scanner. The DCIU is also evaluating case files for the appropriateness of scanning into electronic formats.

As of late 2010, all audio recordings are in digital format. All DCIU staff have been provided with digital recorders, which will ensure accurate recording and organized inclusion of notes in the files.

Finding 3:

Poor Communication with Districts

Response:

Although information pertaining to discrimination complaint investigations is obviously sensitive and confidential, more of an effort is being made to communicate the status of cases to the Districts on a monthly basis. The DCIU Office will implement a status chart similar to the Discipline Status chart sent by the Office of Discipline Services. It will contain limited information, but will provide transparency to Districts as to the status of discrimination complaints. In addition, monthly Video Teleconferences (VTC) have been instituted between EEO/DCIU and the District/Division EEO Officers and Managers. This gives the Program and Districts/Divisions an opportunity to collaborate and address statewide issues on a monthly basis.

WILLIAM E. LEWIS

June 16, 2014

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Finding 4:

Appealed cases are not monitored

Response:

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The DCIU will institute a tracking system to identify strengths and weakness of the internal DCIU investigative process once cases are appealed. The DCIU will begin this exercise by tracking current cases appealed externally to the State Personnel Board and lawsuits and determining if there was any reflection on the DCIU process itself. The DCIU will partner with the Legal Division in this effort.