

Hiring & Employment Monitoring Report

Office of Executive Inspector General
for the Agencies of the Illinois Governor





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I. Overview

Office of Executive Inspector General for the Agencies of the Illinois Governor

The State Officials and Employees Ethics Act (Ethics Act), 5 ILCS 430/1 et seq., established the OEIG in 2003. The OEIG is an independent executive branch State agency.

The Ethics Act authorizes the OEIG to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, and violations of the Ethics Act, such as prohibited political activity, the “revolving door” prohibition, sexual harassment, the gift ban, and retaliation. The OEIG also investigates allegations of hiring improprieties.

The OEIG’s jurisdiction includes more than 170,000 State employees, appointees, and officials, including: the Governor; the Lieutenant Governor; more than 300 executive branch State agencies, departments, boards, and commissions; the nine State public universities across a dozen campuses; the four Chicago area Regional Transit Boards (the Regional Transportation Authority, the Chicago Transit Authority, Metra, and Pace); and vendors and contractors of any of those entities.

The OEIG’s Leadership Team includes:

Susan M. Haling, Executive Inspector General

Neil P. Olson, General Counsel

Fallon Opperman, Deputy Inspector General and Chief of Chicago Division

Erin K. Bonales, Director of Hiring & Employment Monitoring Division

Christine P. Benavente, Deputy Inspector General - Executive Projects

Angela Luning, Deputy Inspector General and Acting Chief of Springfield Division

Claudia P. Ortega, Chief Administrative Officer

Investigative Division

The OEIG's Investigative Division receives approximately 2,500 to 3,000 complaints every fiscal year from members of the public, State employees, contractors, bidders, and anonymous sources. In the absence of consent from a complainant, the OEIG is required to ensure that the identities of complainants are and will remain confidential unless otherwise required by law. The OEIG also initiates its own investigations based on publicly reported information or information developed during other investigations.

The OEIG evaluates all new complaints to determine the appropriate action, including opening an investigation, referring the allegations to the appropriate entity, or making a referral to HEM. As part of its investigations, OEIG investigators interview witnesses, collect documents, analyze records, conduct surveillance, perform computer forensics, and use a variety of other investigatory tools and techniques. The OEIG also has subpoena power to obtain information relevant to an investigation. At the conclusion of an investigation, if the OEIG determines that there is reasonable cause to believe that a violation of law or policy or wrongdoing has occurred, it will write a founded report that documents the allegations of wrongdoing; facts confirmed by the investigation; and findings. Those founded reports are forwarded to the State of Illinois Executive Ethics Commission (EEC) for their determination on whether the report will be made publicly available.

Anyone seeking to report possible violations may call the OEIG at 886-814-1113; visit www.inspectorgeneral.illinois.gov; send a fax to 312-814-5479; TTY at 888-261-2734; or write to the OEIG Springfield or Chicago offices. The OEIG has complaint forms available in both English and Spanish.

Hiring & Employment Monitoring Division

The OEIG's Hiring & Employment Monitoring (HEM) Division ensures that State hiring procedures and decisions are lawful, merit-based and/or justifiable. The Ethics Act directs the OEIG to "review hiring and employment files of each State agency within [its] jurisdiction to ensure compliance with *Rutan v. Republican Party of Illinois* ... and with all applicable employment laws." 5 ILCS 430/20-20(9). In keeping with this mandate, HEM conducts compliance-based reviews of State hiring and employment procedures and decisions and provides recommendations in order to help improve the efficiency and quality of State hiring.

As part of HEM's compliance work, HEM monitors hiring sequences — which includes in-person or virtual, real-time monitoring of interviews — conducts desk audits, and reviews term appointment renewals and complaint referrals. HEM also works with the *Shakman* court-appointed monitor, whose initial and ongoing charge is to review hiring practices within the Illinois Department of Transportation (IDOT). On November 28, 2016, the *Shakman* monitor's review was expanded to include a review of all exempt positions under the jurisdiction of the Governor.

From April 1, 2021 to June 30, 2021, HEM staff monitored 7 hiring sequences, completed 13 desk audits, and reviewed 4 term appointment positions to ensure that individuals were selected pursuant to a truly competitive selection process. HEM staff also reviewed 82 exempt appointment notifications and 254 exempt position description clarifications and received 8 Exempt List addition requests. This quarter, HEM issued 20 Advisories.

The OEIG's Hiring & Employment Monitoring Team includes:

Erin K. Bonales, Director

Tonya Neal, Supervising Analyst

Marina Bergamo, Analyst

Mitch Witkov, Attorney

Amanda Thomet, Analyst

Claire Roche, Attorney

Keshia Wrightsell, Analyst

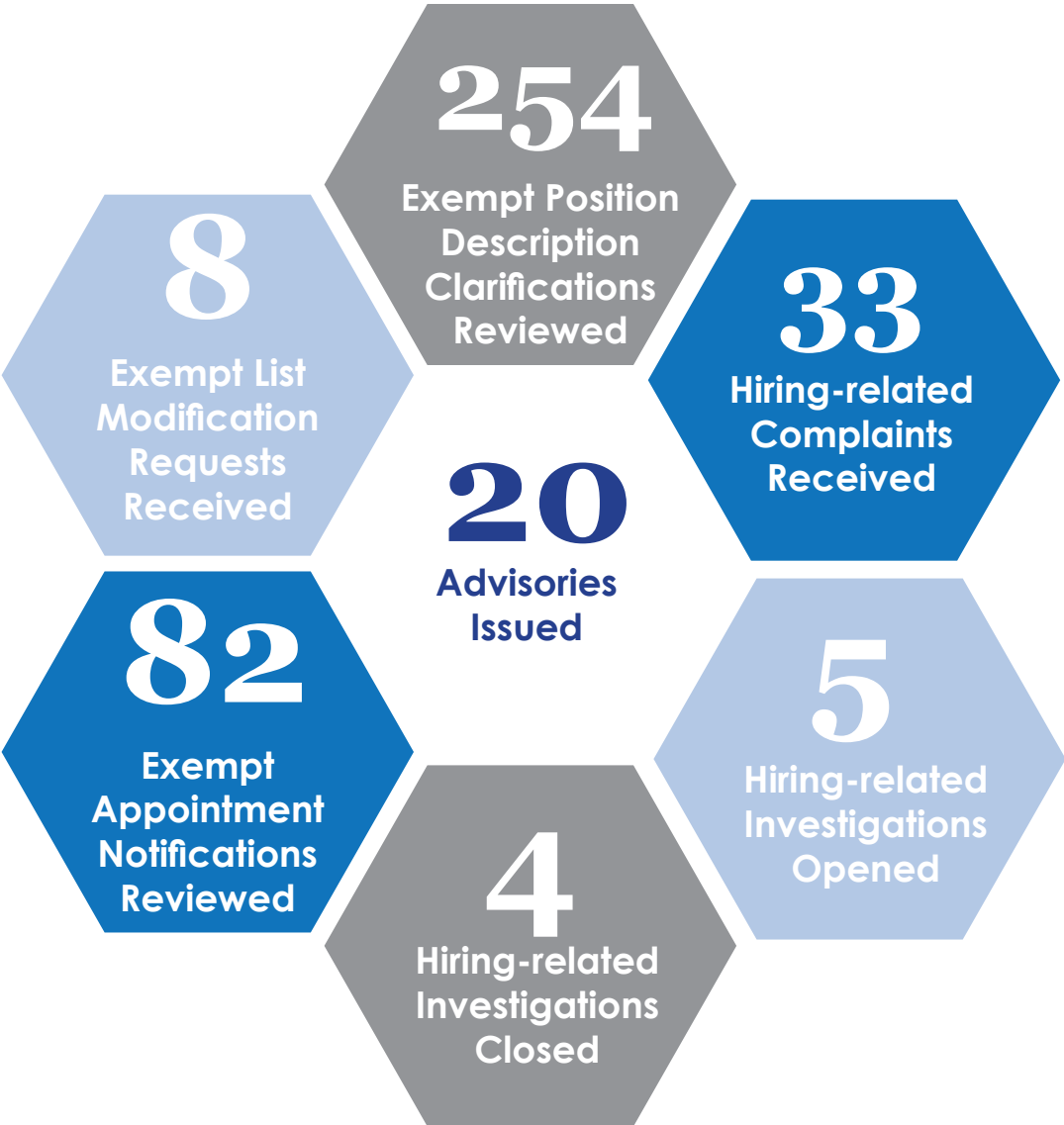
Natale Fuller, Attorney

Jackie Mullings, Project Manager

Viktorija Legge, Analyst

STATISTICAL PERFORMANCE

AT A GLANCE: SELECTED HIRING AND EMPLOYMENT METRICS FOR THE REPORTING PERIOD





II. HEM's Compliance Reviews

This quarterly report provides an overview of the hiring-related activities of the OEIG during the period from April 1, 2021 through June 30, 2021. The report includes statistics and narrative descriptions of the OEIG's work as required by the Comprehensive Employment Plan for Non-Exempt Employees (CEP).

Hiring Sequences Monitored

HEM monitors hiring sequences at State agencies under the jurisdiction of the Governor's Office to ensure that personnel decisions are competitive, merit-based, and in accordance with governing authority. HEM selects sequences to monitor, in part, by communicating directly with agency human resources personnel or reviewing agency postings on work.illinois.gov. After a sequence is selected, HEM requests and evaluates preliminary paperwork such as the position description and applicant screening decisions, monitors the interviews on-site or via teleconference or video conference, and reviews the resulting documentation including interviewer notes and candidate evaluation forms.

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**Number of Hiring Sequences Monitored
During the Second Quarter of 2021**

Desk Audits

In addition to monitoring interviews, HEM completes desk audits of agency hiring sequences. HEM selects sequences to audit by contacting agency human resources personnel for paperwork from a particular hiring file. HEM's review of the documentation is similar to HEM's monitoring of hiring sequences except instead of monitoring interviews in real-time, HEM completes its review after the interviews have occurred. HEM reviews the documentation provided by the agency to ensure all necessary forms are properly completed and evaluates the hiring sequences to determine whether the selection process was competitive and in accordance with governing authority.

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Number of Desk Audits Completed During the Second Quarter of 2021

Term Appointments

Term appointment positions, codified in section 8b.19 of the Personnel Code (20 ILCS 415/8b.19), are four-year term positions that receive job-protection during the term. Thus, term appointments are subject to the General Hiring Process for Non-Exempt Positions set out in the CEP and must be competitively selected. Beginning in May 2017, CMS and HEM reviewed every term appointment position renewal to ensure that a competitive process occurred. With the completion of four years of HEM reviews, on April 27, 2021, CMS issued updated guidance requiring that agencies that intend to retain a term appointee provide documentation reflecting the incumbent's satisfactory performance to the CMS Personnel Compliance Office.

Going forward, HEM may review term appointment renewals and hiring sequences to ensure that a competitive process occurred or occurs. When agencies are unable to show that term appointees were originally hired through a competitive process, the agencies must post the term appointment positions at the time of renewal and fill them through a competitive process, which HEM also may review and/or monitor.

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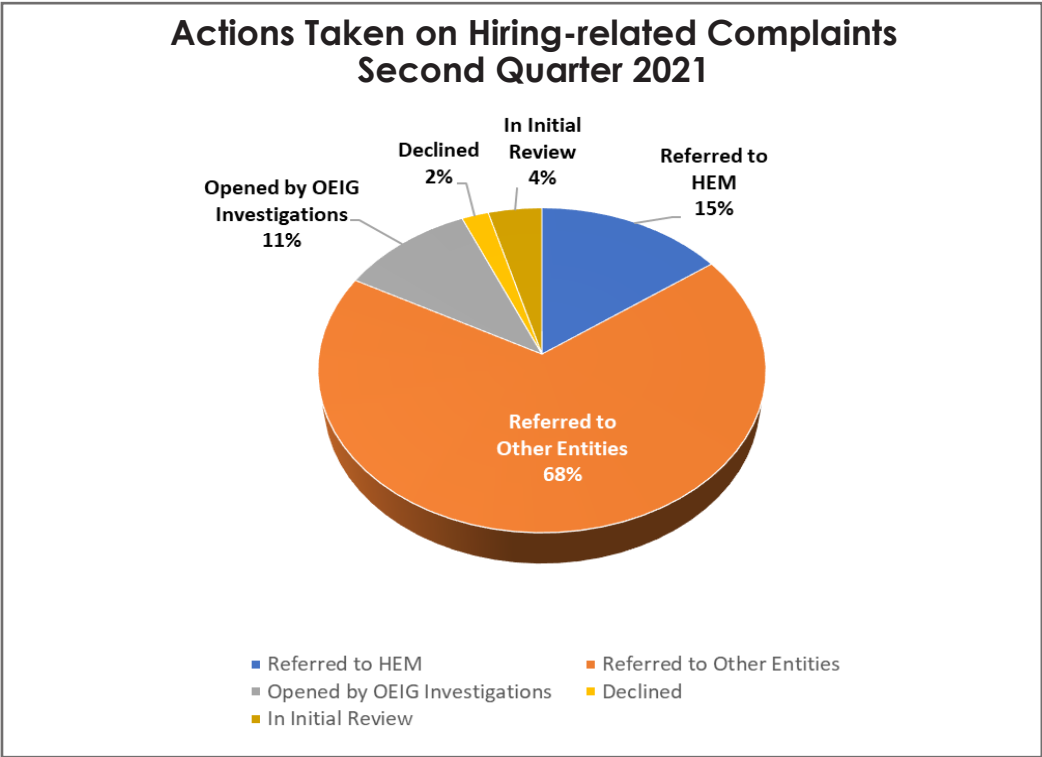
Number of Term Appointments Reviewed During the Second Quarter of 2021

Complaint Referrals

The OEIG conducts a review of each hiring complaint it receives and exercises its discretion to determine the most appropriate disposition. Upon receipt of a complaint, the OEIG’s Investigative Division performs an initial review of the allegations, which must be completed within 30 days. After this initial review, the OEIG has the discretion to open an investigation, refer to HEM for a hiring compliance review, and/or refer to other entities, as it deems appropriate. In some instances, HEM’s compliance function makes it best suited to respond quickly to allegations of hiring violations, as HEM can potentially intervene before, during, or immediately after a hiring violation has occurred.

For the second quarter of 2021, the OEIG received 33 hiring-related complaints.¹ Also, in this quarter, the following actions were taken with regard to hiring-related complaints:

- ◇ 7 referred intra-Office to HEM;
- ◇ 32 referred back to the subject agency or other appropriate entity or law enforcement authority;
- ◇ 5 opened by OEIG Investigations;
- ◇ 1 declined;
- ◇ 2 are in initial review.



¹ These numbers include all agencies under the jurisdiction of the OEIG and are not limited to the agencies affected by the *Shakman* litigation.

Advisories

HEM issues written Advisories to the agencies at the conclusion of its review. These Advisories are transmitted to the chief Agency Personnel Officer and the CMS Compliance Officer, with copies to the Governor's Office, the head of the Agency, *Shakman* Plaintiffs' Counsel, and the *Shakman* Special Master and include:

- ◇ a summary detailing the subject and scope of the review;
- ◇ a description of the conclusions regarding compliance with applicable rules and procedures; and
- ◇ recommendations on how to proceed, if necessary.

When, during the course of a HEM review, HEM identifies issues of possible hiring-related wrongdoing that reveal misconduct or may involve political manipulation, as opposed to hiring errors, HEM may transfer the matter to the OEIG Investigative Division for a more in-depth investigation involving OEIG interviews. This quarter, HEM did not transfer any HEM reviews to the OEIG Investigative Division.

During the second quarter, HEM issued 20 Advisories.

Based on HEM's review of the hiring file, the following advisories resulted in HEM finding that the agency's selection for the position was merit-based and justifiable without any recommendations:

Advisory	Agency	Position Title	Type of Review
21-HEM-0014	Illinois Department of Children and Family Services (DCFS)	Area Administrator of Child Protection – Central Region	Term Appointment Renewal
21-HEM-0008	Illinois Department of Public Health (IDPH)	Regional Supervisor – Office of Health Protection, Division of Environmental Health	Hiring Sequence Monitoring/Term Appointment
20-HEM-0088	Illinois Department of Corrections (IDOC)	Correctional Lieutenant, Pontiac Correctional Center (four vacancies)	Complaint Referral
21-HEM-0012	Illinois Department of Financial and Professional Regulation (IDFPR)	Division Manager – Springfield Risk Management	Hiring Sequence Monitoring/Term Appointment Renewal
20-HEM-0105	Illinois Department of Human Services (IDHS)	Storekeeper III	Complaint Referral

The substance of the remaining Advisories is set forth below. In some cases, with the issuance of the Advisory, HEM requested a formal response from the agency, which is also summarized.

Advisory Summaries

21-HEM-0007

HEM reviewed the 2017 hiring file and term appointment renewal for the Finance Manager at the Illinois Lottery (Lottery). Based on HEM's review of the hiring file, HEM made several recommendations regarding conducting interviews and scoring. While HEM acknowledged that this sequence took place well before the CEP was in place, HEM recommended that going forward Lottery follow the candidate scoring procedures set forth in Section V. H. of the CEP and ensure that interviewers: document their initial independent scores following each interview; clearly document any changes to initial scores prompted by further discussion following the completion of all interviews; and refrain from using consensus scoring. HEM also recommended that Lottery provide more detailed scoring guidelines and ideal responses to assist the panel members when evaluating the candidates against the hiring criteria and rephrase a question to provide more information for external candidates to understand and answer the question. HEM recommended that the agency ensure performance evaluations are administered on an informed and timely basis.

HEM monitored the hiring sequence and reviewed the hiring file for the Illinois Department of Veterans' Affairs (IDVA) Deputy General Counsel. HEM made several recommendations regarding scoring and cooperating with HEM. During this sequence, the interviewers asked the HEM monitor for advice on scoring. Despite the HEM monitor's guidance, the interviewers did not score immediately after each interview and did not assign independent scores. When HEM is monitoring a sequence, interviewers are expected to follow guidance provided by the HEM Monitor. While HEM understands that unforeseen circumstances may arise during the interview processes, reasonable attempts need to be made to follow CEP guidance. HEM requested a response.

IDVA responded that it was unacceptable that their interviewers did not adhere to HEM's guidance, and, in response, the Human Resources Department has implemented directives to ensure the issues reflected in the Advisory are not repeated. IDVA forwarded the CEP training slides, with the CEP training module discussing scoring flagged, to all Human Resources staff and directed staff to disseminate to all identified employees who could potentially be tasked with conducting interviews. IDVA stated that until it is confident that better practices are ingrained, and for at least the next two months, the Human Resources Department will confirm via e-mail with each interview panel before interviews commence that they (1) have reviewed the relevant CEP Training; (2) understand that instruction offered by HEM monitors is mandatory, not optional; and (3) understand that scoring must be done immediately after each interview is completed, and that consensus scoring is not allowed. Additionally, senior leadership addressed the disregard of HEM's guidance with the IDVA interviewer. IDVA's message to the interviewer, as well as all potential interviewers, was that similar disregard will not be tolerated. IDVA also agreed with HEM's recommendation to allow more time between interviews for scoring, and, to address this issue, IDVA will be allowing a minimum of thirty to sixty minutes between interviews to allow ample time to score.

21-HEM-0016

HEM reviewed the hiring file for the IDPH term appointment position with the working title Immunization Section Chief. Based on HEM's review, HEM recommended that the agency complete the Screening Justification Form with sufficient detail to show how it formed the interview pool. HEM met with CMS compliance staff and IDPH's Human Resources staff in March of 2021 to discuss issues raised by HEM including proper completion of Screening Justification Forms. HEM expects that future sequences will contain more appropriate explanations on how the agency formed its candidate pools.

21-HEM-0010

HEM reviewed the hiring file and term appointment renewal for the Clinical Director of the Madden Mental Health Center, operated by IDHS. Based on HEM's review of the hiring file for this sequence, which took place in 2020, HEM recommended that IDHS access the Open Competitive (OC) List to increase the competitiveness of its candidate pools. HEM also recommended that IDHS ensure proper completion of the hiring file documentation, including the Screening Justification Form and Conflict of Interest Certification and Disclosure Forms (Disclosure Forms). HEM recognized that since this sequence took place, IDHS has regularly requested the OC List to expand its candidate pools, per HEM's recommendation in previous Advisories. IDHS also indicated that Bureau of Recruitment and Selection staff have since received training on how to complete the Screening Justification Form, also based on HEM's recommendations in previous Advisories.

21-HEM-0011

HEM reviewed the hiring file and term appointment renewal for the Illinois State Police (ISP) Laboratory Director of the Rockford Laboratory. Based on HEM's review of the hiring file for this sequence, which took place in 2017, HEM recommended that ISP access the OC List to increase the size and competitiveness of its candidate pools. HEM also recommended that ISP ensure Box 19 of the position description is updated to appropriately reflect the required and preferred qualifications for the position prior to posting. HEM further recommended the agency ensure that employee performance evaluations are conducted on a timely and informed basis and concurred with ISP's plan to implement an evaluation tracking system. ISP responded to the Advisory, stating the agency agreed with HEM's recommendations. ISP also indicated that all eligible positions are now being filled through the electronic hiring system, which includes review of Box 19 prior to posting and which will likely result in larger, more competitive applicant pools. ISP further noted that its Human Resources Bureau staff are now able to access the evaluation tracking system and will ensure evaluations are timely completed.

20-HEM-0108

HEM reviewed the hiring file for the Chief Internal Auditor, a term appointment position, at the Illinois Department of Employment Security (IDES). Based on HEM's review of the hiring file, HEM recommended that the agency, in conjunction with CMS, amend the minimum requirements of the Chief Internal Auditor to more accurately reflect the relevant auditing experience necessary to perform the duties of the position. HEM also recommended that the agency rephrase an interview question that favored internal candidates to allow external candidates a better opportunity to effectively answer the question.

20-HEM-0015

HEM reviewed the hiring file related to a complaint referral for an IDOC Shift Supervisor position. Based on HEM's review, HEM recommended that IDOC and CMS ensure that applicants invited to interview meet the minimum requirements of the position. HEM noted that while determining supervisory experience may involve some subjectivity, we recommended that agencies and CMS work toward a common understanding and consistent assessment of terms such as "supervisory experience." In addition, inconsistent and erroneous screening assessments may lead to confusion regarding interview scoring, as demonstrated here. While this sequence pre-dated CMS' guidance on completing Disclosure Forms, going forward, the agency must complete the forms.

20-HEM-0027/20-HEM-0094

HEM reviewed the hiring file related to a complaint referral for the Roadside Management Specialist, an Engineering Technician IV position, at the Illinois Department of Transportation (IDOT), as well as the subsequent hiring file related to the repost of the same position. Based on HEM's review, HEM emphasized the importance of documenting temporary assignments when they occur, including how it determined who to assign the duties of the temporary assignment, what factors were considered, relevant CBA provisions for union positions, pool of employees considered, rotation of the assignment among employees, qualifications of considered employees, and operational considerations weighing on the recommendation. HEM stressed that temporary assignments are not to be used to favor or specially qualify certain employees for future promotional opportunities. HEM also recommended that IDOT continue to ensure that Disclosure Forms are vetted by an Agency Personnel Officer. HEM requested a response.

In response, IDOT concurred with HEM's recommendations. IDOT stated that the personnel and legal teams at IDOT have been working to ensure that managers understand that temporary assignments must be documented, and that they have witnessed a significant improvement and culture change around this issue. IDOT also noted that the Temporary/Interim Assignment/Job Assignment Request form

(PM 539) has been updated to capture why the employee was chosen instead of another employee, what employees were considered for the temporary assignment, why the other employees were not selected, what experience and training was considered and, if applicable, an explanation as to why no other employees were considered. In response to HEM's Disclosure Form recommendation, IDOT affirmed that the Disclosure Form has been updated to include a signature line, so it will be clear the form was vetted.

20-HEM-0099

HEM monitored the hiring sequence and reviewed the hiring file for the Liquor Control Supervisor position at the Illinois Liquor Control Commission (ILCC). Based on HEM's review, HEM recommended that the Disclosure Forms be completed three days prior to the first interview to provide the Agency Personnel Officer time to assess and act if necessary. Furthermore, ILCC needs to utilize the revised Disclosure Form provided by CMS in August 2020. HEM also recommended that the ILCC independently score each candidate, not use consensus scoring, and specify any county residency requirements on the posting.

21-HEM-0004

HEM reviewed the hiring file and term appointment renewal for the Section Manager, Bureau of Land, Waste Reduction and Compliance position at the Illinois Environmental Protection Agency (IEPA). Based on HEM's review, HEM found issues with the electronic hiring system and the interview pool selection process. In this particular hire, the "Hiring Guide" system software utilized did not provide appropriate means for the agency Subject Matter Expert (SME) to adjust scores or appropriately document the SME's review of applicants' qualifications. HEM was informed that SuccessFactors, the new electronic hiring system software, has a means for the SME to modify the points allotted to an applicant per preference if the experience is not verifiable, which then adjusts the applicant's total score and ranking. The system also provides fields for the agency SME to justify each modification.

HEM recommended that CMS Hiring Leads appropriately assist SMEs in employing these features. HEM reiterated that all modifications to application scores and decisions to disqualify an applicant need to be clearly documented and directly relate to Box 19 minimum requirements and/or preferred qualifications. The agency, in concert with the CMS Hiring Lead, must pre-determine the interview pool size and the minimum interview threshold score so that the order and number of candidates to interview is set beforehand and is not subject to manipulation. HEM requested a response.

In response to the Advisory, CMS noted the challenges of adapting to an electronic application system and recognized that implementation is a continuing learning process. CMS also represented that the issues encountered in this sequence were accounted for when the current system, SuccessFactors, was built. CMS Hiring Leads have been provided training regarding the need for objective, measurable justifications to support action both in assessment of minimum qualifications and the agency SME validation of preferred qualifications. CMS also noted that this hiring sequence included too many preferred qualifications and that agencies, along with CMS Hiring Leads, continue to mature in their development and understanding of how best to cast the broadest net and identify the most qualified applicants.

IEPA also responded and agreed that, in hindsight, there were too many preferred qualifications, which left the SME in a position to interpret and judge each applicant on a long list of qualifications. IEPA acknowledged that in transitioning to improved hiring processes and in partnering with CMS, the agency will strive for better job profiles and clearer, more quantifiable SME reviews.

19-HEM-0080

In response to a complaint referral, HEM reviewed the job descriptions (JDs) for three Transit Capital Manager positions at IDOT to determine whether the JDs were being modified to inappropriately require qualifications unrelated to the position duties. HEM found the minimum required qualifications (MRQs) were appropriate in relation to the position duties and consistent with the format for the technical classifications agreed upon during the IDOT technical review. While HEM found that IDOT's process of updating technical position JDs to include technical MRQs at the time of posting comports with the CEP, HEM recommended that IDOT consider reviewing and updating JDs at other regular intervals, such as during annual employee performance evaluations. The complaint also alleged that one of the employees who was making the changes to the JDs was a former "Staff Assistant" patronage hire whose current position classification protected him from termination other than for cause. Regarding this allegation, HEM was notified in the midst of its review that this employee was a candidate under review in a John Doe proceeding. This employee ultimately chose not to further pursue the John Doe proceeding and is no longer employed at IDOT. HEM participated in the John Doe review and agreed with how it was effectuated (i.e., this employee was not the top-ranked candidate without the benefit of the Staff Assistant experience).

21-HEM-0019

HEM monitored the hiring sequence and reviewed the hiring file for the DCFS Associate Deputy Director, Social Work Practice and Field Support. While HEM did not have any issues with the selected candidate, HEM recommended that if DCFS informs candidates of an interview time limit, the agency should enforce the stated time limit and provide periodic warnings regarding the amount of time remaining. HEM also strongly encouraged DCFS to continue its recent efforts, in response to another HEM Advisory, to ensure timely administration of employee performance evaluations and to shore up overdue evaluations.

21-HEM-0018

In response to a complaint referral, HEM reviewed the hiring documentation for an SPSA, Option 6, Unit Director at the Shapiro Developmental Center, operated by IDHS. HEM did not object to the selection decision. In reviewing the hiring file, HEM found that candidates were instructed at the beginning of their telephone interviews that they were prohibited from referencing any documents, including application materials, during the interview. HEM did not take issue with this prohibition, acknowledging the challenges agencies face in conducting remote interviews during the continuing Covid-19 pandemic. HEM encouraged, however, that IDHS (re)consider relaxing the complete prohibition of reference materials during in-person interviews since the agency, in that instance, can ensure the documentation is limited to candidate application materials, which allow for more informed interviews.

21-HEM-0020

HEM monitored the hiring sequence and reviewed the hiring file for the Bureau Chief of Warehouses, a term appointment position, for the Illinois Department of Agriculture. While HEM did not have any issues with the selected candidate and commended the Agency Personnel Officer for following up on missing information on an interviewer's Disclosure Form, HEM underscored that interviewers (and other relevant participants) must also understand their obligation to accurately and timely complete, sign, and submit the Disclosure Forms. HEM noted that if an Agency Personnel Officer is having difficulty getting an interviewer to comply with such requests, the agency should consider whether that interviewer should continue to conduct interviews in the future.

21-HEM-0027

HEM monitored the hiring sequence and reviewed the hiring file for the Director of Nursing at the Anna Veterans' Home, operated by IDVA. While HEM did not have any issues with the selected candidate, HEM recommended that in future hiring sequences, IDVA refrain from using two interview questions that did not necessarily relate to the position qualifications, duties, or competencies and would be hard for the interviewers to score objectively.

Other HEM Compliance Reviews

Exempt Appointments and Exempt List Modifications

Federal court orders entered in 2019 in the *Shakman* litigation led to the creation of: the Exempt List, a comprehensive list of exempt positions for which hiring and employment decisions may be made on the basis of political or other non-merit factors; and an Exempt Employment Plan for filling positions on the Exempt List. The Exempt Employment Plan provides that candidates selected for exempt positions must meet the minimum qualifications and perform the duties of the exempt position being filled as set forth in the underlying position description. HEM staff reviews notification paperwork (also referred to as the exempt certification paperwork) for all exempt appointments to ensure compliance with the Exempt Employment Plan.

This quarter, HEM received and reviewed 82 exempt appointment notifications for positions on the Exempt List to verify that the selected candidate met the minimum qualifications of the position being filled.

The Exempt Employment Plan also sets forth procedures for adding or deleting positions from the Exempt List, providing that only the Governor or the Executive Inspector General (EIG) may initiate such a change. HEM reviews all Exempt List addition and deletion requests from the Governor's Office and recommends approval of or objection to the proposed change to the EIG, who must respond to the Governor's request within 10 business days.

In recommending approval of or objection to each request from the Governor's Office to add a position to the Exempt List, HEM conducts a comprehensive review of all available information related to the position and request. HEM also reviews the Exempt List to determine the agency's percentage of exempt positions and assess whether any existing exempt positions within the agency could perform the duties of the proposed exempt position. Prior to making a final recommendation, HEM regularly communicates or meets with agency staff with questions about the position's history, duties, reporting structure, and necessity. This quarter, HEM received 8 Exempt List addition requests.

HEM made the following determinations on Exempt List modification requests this quarter:

Exempt List Additions and Deletions by Agency - Second Quarter 2021		
Agency	Working Title	OEIG Determination
Illinois Department of Human Services	State Homelessness Chief	Approved Addition
Illinois Department of Revenue	Field Compliance – Income Tax Division Manager	Approved Addition
Illinois Department of Human Services	Director of Early Childhood	Approved Addition
Illinois Department of Human Services	Chief of Staff – Early Childhood Division	Approved Addition
Illinois Department of Human Services	Senior Early Childhood Policy Advisor	Approved Addition
Illinois Department of Human Services	Associate Director of Operations	Withdrawn
Illinois Department of Insurance	Deputy General Counsel	Pending Addition
Illinois Department of Insurance	Deputy General Counsel	Pending Addition

Position Description Clarifications

HEM also reviews position description clarifications for positions on the Exempt List to ensure that the modifications do not impact the position's exempt status. Position description clarifications can range in substance and can include changes to the position's location/county code, the number of subordinates, the position's responsibilities, or the minimum requirements. HEM reviews these changes and discusses any concerns with CMS and/or the agency regarding whether the clarifications affect the exempt status of the position.

HEM reviewed 254 clarifications to Exempt List position descriptions. HEM did not object to any clarifications this quarter.



III. Political Contacts

State employees are required to report instances where an elected or appointed official of any political party or any agent acting on behalf of an elected or appointed official or political party attempts to affect any hiring or employment action for any Non-Exempt Position by contacting State personnel involved in an employment action whether in person, in writing, by telephone, by facsimile, by e-mail, or any other means. Pursuant to the CEP, any State employee who receives or has reason to believe such Political Contact has occurred, or is occurring, is required to report it to CMS or OEIG HEM within 48 hours of learning of such Political Contact. CMS is required by the CEP to maintain records documenting all reports of Political Contacts and Political Discrimination.

This quarter, HEM received 11 reports of Political Contacts summarized as follows:

- Two reports indicated that in two separate instances candidates for positions at IDHS submitted a recommendation letter with their application – one from a U.S. Representative's office and one from a judge.
- Four separate reports each identified a different candidate for positions at IDHS and IDOT who listed previous work for either a politician or political organization in the candidate's application materials.
- One report identified a County Board Member who contacted a CMS senior manager to inquire for a friend about the status of a position at CMS.
- Four reports were filed regarding two candidates (one for a position at IDHS and the other for a position at IDOT) who listed a politician as a reference.



IV. Developments & Training

PSC Reporting by Agencies Continues

During this quarter, CMS submitted the State's Personal Services Contract (PSC) Report for the First Quarter of calendar year 2021.² As agreed upon and stated in the Comprehensive Employment Plan (CEP), agencies are required to report all PSCs (or renewals or amendments to such contracts) to CMS Compliance and HEM on a quarterly basis. The following is a summary showing CMS' reports regarding PSCs in existence in the Fourth Quarter 2020 and First Quarter 2021.³

Agency	# of PSCs Reported Q4 2020	# of PSCs Reported Q1 2021 ⁴
Abraham Lincoln Presidential Library and Museum	5	8
Aging, Department on	11	9
Agriculture, Department of	5	14
Capital Development Board	1	-
Central Management Services, Department of	11	9
Commerce & Economic Opportunity, Department of	7	7
Corrections, Department of	10	11
Criminal Justice Information Authority	11	12
Deaf and Hard of Hearing Commission	1	1
Educational Labor Relations Board	2	1
Emergency Management Agency	22	26
Employment Security, Department of	45	38

² The report does not include PSCs used to pay for the support necessary to meet the accommodations for persons with disabilities. Individuals employed in this way are hired by the person in need of the accommodation without the State's involvement. Thus, the CEP does not apply to these types of contracts.

³ According to the reports, thirteen State entities did not utilize any PSCs in the Fourth Quarter of 2020 or the First Quarter of 2021 and are not listed in the table. These State entities are: the Arts Council; Children & Family Services, Department of; Civil Service Commission; Commerce Commission; Developmental Disabilities, Council on; Environmental Protection Agency; Guardianship & Advocacy Commission; Illinois Independent Tax Tribunal; Liquor Control Commission; Pollution Control Board; Power Agency; Property Tax Appeal Board; and Sentencing Policy Advisory Council.

⁴ Three State entities that reported in the Fourth Quarter of 2020 did not appear on the report for the First Quarter of 2021.

Agency	# of PSCs Reported Q4 2020	# of PSCs Reported Q1 2021
Financial & Professional Regulation, Department of	26	26
Gaming Board	1	2
Healthcare and Family Services, Department of	28	28
Human Rights Commission	9	0
Human Rights, Department of	0	1
Human Services, Department of	134	120
Innovation & Technology, Department of	10	10
Insurance, Department of	1	1
Juvenile Justice, Department of	13	12
Labor, Department of	1	1
Labor Relations Board	0	-
Law Enforcement Training and Standards Board	4	4
Lottery, Illinois	1	-
Lottery Board, Illinois ⁵	-	0
Military Affairs, Department of	106	106
Natural Resources, Department of	44	27
Prisoner Review Board	2	2
Public Health, Department of	190	179
Racing Board	0	4
Revenue, Department of	5	0
State Fire Marshal, Office of the	1	1
State Police	12	12
State Police Merit Board	1	1
State Retirement Systems	4	8
Transportation, Department of	6	6
Veterans' Affairs, Department of	1	1
Workers' Compensation Commission	5	5

⁵ This State entity was not listed in the Fourth Quarter report but appeared on the First Quarter of 2021 report.

HEM's Work with OEIG Investigations

If, during the course of a HEM review, HEM identifies issues of possible hiring-related wrongdoing that reveal misconduct or may involve political manipulation, as opposed to hiring errors, HEM may transfer the matter to the OEIG Investigative Division for a more in-depth investigation and potential findings. This occurred in late 2019, when HEM's review identified potential falsification of an employment application submitted by an Illinois Department of Juvenile Justice employee for an Illinois Department of Children and Family Services position. HEM transferred the matter to OEIG Investigations which confirmed the false statements. This case, OEIG Case #19-02048, resulted in a founded report which was made public this quarter and is further discussed on page 31.

CMS Supplemental Trainings

In May 2021, CMS conducted the first of its planned monthly supplemental CEP trainings for human resources and personnel staff. These trainings are based on the previous CEP trainings held at the end of 2020 and will also address and review issues identified in recent HEM Advisories, with guidance and reminders for improvement. Complementing this, on June 30, 2021, CMS held a CEP Refresher training to review recent updates to the CEP that will be effective on July 15, 2021. The amendments discussed included updated definitions to reflect the electronic application process, procedures for canceling a sequence, clarified language on interviewer responsibilities, and requirements for employing and renewing PSCs. The trainings were recorded, and CMS plans to have them available on OneNet.

***Shakman* Litigation Update**

On March 31, 2021, United States District Judge Edmond Chang, who is overseeing the *Shakman* case, denied the State's motion to terminate the Consent Decree, which was entered in 1972 and enjoins the State from engaging in certain politically motivated employment practices.⁶ The Court also granted the Plaintiffs' motion to enforce or clarify, in part, by authorizing the Special Master, (the *Shakman* court-appointed monitor) to 1) assess the implementation of the CEP and make recommendations on the implementation of the CEP that would assist in preventing violations of the 1972 Consent Decree; 2) investigate particular sequences if the Special Master finds a reasonable basis to believe that the sequence involves a potential violation of the 1972 Consent Decree; and 3) assess the implementation and enforcement of the CEP for Exempt Positions, the statewide Exempt List, the John Doe Process, and finalize any outstanding proposals for modifications to all three.

Subsequently, on April 22, 2021, the Special Master indicated that her office will be reviewing hiring practices at eight agencies in addition to IDOT to effectuate the duties authorized by the Court.⁷ The Court recently requested the parties work on a Sunset Plan for termination of the 1972 Consent Decree. Accordingly, the parties submitted a status report to the Court describing the areas of agreement and disagreement regarding the plan.⁸ The Court indicated that it envisions a Sunset Plan under which the State would move to terminate the decree in November 2021.⁹

⁶ Memorandum Opinion and Order, Dkt. 7370, *Shakman v. Office of the Governor of Ill.* No. 1:69-CV-02145 (N.D. Ill. Mar. 31, 2021).

⁷ The eight agencies are the Illinois Department of Human Services, the Illinois Department of Innovation & Technology, the Illinois Department of Agriculture, the Illinois Department of Natural Resources, the Illinois Department of Corrections, the Illinois Department of Healthcare and Family Services, the Illinois Department of Central Management Services, and the Illinois Department of Financial & Professional Regulation.

⁸ Joint Status Report Regarding A "Sunset Plan" for Termination of the 1972 Decree, Dkt. 7481, *Shakman, et al v. Democratic Organization of Cook County, et al*, No. 1:69-CV-02145 (N.D. Ill. Jun. 18, 2021).

⁹ Minute Entry, Dkt. 7458, *Shakman, et al v. Democratic Organization of Cook County, et al*, No. 1:69-CV-02145 (N.D. Ill. Jun. 1, 2021).



V. Hiring Investigations

Upon receipt of a complaint, the OEIG's Investigative Division performs an initial review of the allegations, which must be completed within 30 days. After this initial review, the OEIG has the discretion to open an investigation, refer to HEM for a hiring compliance review, or refer to other entities, as it deems appropriate. In addition, the OEIG also has the authority to self-initiate an investigation based on information discovered in other investigations or available via public sources. Cases may also be transferred to the Investigative Division from HEM when a HEM hiring review reveals evidence of intentional wrongdoing that requires a more in-depth inquiry, or evidence of unlawful political discrimination.

After an investigation, the OEIG issues (1) a summary report concluding reasonable cause exists to believe a violation has occurred (a "founded summary report"), or (2) a statement of the decision to close the investigation when there is insufficient evidence that a violation has occurred (an "unfounded summary report"). Founded summary reports document:

- the allegations of wrongdoing;
- facts confirmed by the investigation;
- an analysis of the facts in comparison to the applicable law, rule, or policy; and
- findings and recommendations.

In accordance with State law, the OEIG provides founded reports to the head of each agency affected by or involved with the investigation and the appropriate ultimate jurisdictional authority. The agency or ultimate jurisdictional authority is required to respond to the report and its recommendations within 20 days. Within 30 days after receiving the agency response, the OEIG must forward a copy of the founded report and the agency response to the Executive Ethics Commission (EEC).¹⁰ Pursuant to the Ethics Act, the EEC is the only entity permitted to determine the public release of OEIG founded summary reports.

¹⁰ The exception is when the OEIG forwards a complaint to the Attorney General's Office to pursue an Ethics Act violation before the EEC.

At the close of this quarter, the OEIG had 33 hiring-related investigations pending.¹¹ Four hiring-related investigations were closed this quarter.

During the second quarter, the OEIG issued 2 founded reports related to hiring.

This quarter, the EEC made three OEIG founded reports related to hiring available to the public, which are summarized below. The redacted reports, as well as previous publicly released reports, are available at www.inspectorgeneral.illinois.gov.

In re: G. Scott Viniard, Case #19-02266

The OEIG self-initiated an investigation into whether the Illinois Department of Human Services (IDHS) retained a contract employee for improper political reasons or in a manner that otherwise violated merit-based employment procedures, after learning that the agency canceled a competitive hiring sequence for its Employment First Coordinator position and instead awarded a Personal Services Contract (PSC) covering many of the same duties.

The OEIG learned that even after IDHS had conducted interviews and identified a qualified candidate for the Employment First position, IDHS Human Resources Director G. Scott Viniard oversaw the last-minute cancellation of the competitive selection process, restructure of the job duties, and execution of the PSC with an applicant who had previously declined to interview due to location. Mr. Viniard advised that IDHS could label the PSC “exempt” from competitive hire and did not need to consider other candidates, but he failed to assess whether this approach was consistent with recent exempt hiring reforms and related guidance that he was responsible to implement at IDHS. Although the OEIG did not find evidence that political factors motivated the hire of the contract employee, the OEIG found that Mr. Viniard mismanaged the process that led to the execution of the PSC, concluding that he disregarded relevant PSC guidelines, failed to properly relay or advise IDHS administration regarding appropriate hiring procedures, and ignored guidance or failed to seek clarification in areas of uncertainty and confusion.

¹¹ These numbers include all entities under the jurisdiction of the OEIG and are not limited to the agencies affected by the *Shakman* litigation.

In addition, the OEIG learned that no division at IDHS takes full accountability for knowing PSC policies or ensuring policies are properly followed. Mr. Viniard asserted that PSCs were not under Human Resources' jurisdiction and are instead handled by the Office of Contract Administration, but the PSC Manager in that office claimed he only processed the paperwork. In addition, even though IDHS awards or renews a number of PSCs each year, the agency did not follow established procedures for evaluating PSC employees prior to renewal and did not maintain Human Resources files for them. The investigation revealed that these issues had been identified internally at IDHS by at least summer 2019, and in November 2019 the State filed its CEP with specific guidelines for utilizing, executing, and renewing PSCs. But by fall 2020, neither Mr. Viniard nor the PSC Manager could articulate what steps IDHS had taken to implement the guidelines. By the time the OEIG completed its investigation and issued its report in December 2020, IDHS had developed only minimal interim guidance.

The OEIG recommended that IDHS take appropriate action with respect to Mr. Viniard, and further recommended that IDHS address its approach to PSCs to, at a minimum, conform to the requirements of the CEP. In response, IDHS reported that it had issued a written reprimand to Mr. Viniard and hired a new Human Resources Director. IDHS also reported that it had taken steps to centralize oversight of the PSC process, implement a hierarchy for PSC hiring decisions, reduce their overall use, develop written policies, create a uniform tracking mechanism, and increase support and oversight for the Office of Human Resources.

In re: William “Bill” Patterson and Thomas Benner, Case #18-01651

The OEIG received complaints alleging that the Illinois Department of Natural Resources (IDNR) State Mine Inspector-At-Large William (Bill) Patterson manipulated the process that resulted in the 2018 hire of a family member, and then directly supervised his family member.

The OEIG discovered that Mr. Patterson was involved in various aspects of the hiring process that resulted in his family member's hire as a State Mine Inspector, and made no effort to recuse himself. Mr. Patterson's involvement included providing guidance to his relative on the relative's application, receiving and forwarding applications, taking

action to get applications corrected and resubmitted after Central Management Services rejected them, being asked to review interview questions, and advising other staff who would be conducting the interviews. In addition, then-IDNR Office of Mines and Minerals Director Thomas Benner knew that Mr. Patterson's relative was applying for the State Mine Inspector position, but failed to exclude Mr. Patterson from the process. Moreover, after the relative was hired, Mr. Patterson directly supervised the individual, and Mr. Benner was aware that Mr. Patterson was doing so but took no action.

The OEIG concluded that, at minimum, Mr. Patterson's involvement in the hiring process created the appearance of giving preferential treatment to his relative, and that Mr. Benner should have recognized the conflict of interest inherent in Mr. Patterson's involvement in the hiring process, but failed to take adequate steps to exclude him from the process. In addition, the OEIG found that it was improper for Mr. Patterson to directly supervise his relative, and for Mr. Benner to allow him to do so. Therefore, the OEIG found that Mr. Patterson and Mr. Benner violated IDNR's conflict of interest and nepotism policies, and Executive Order 2018-12.

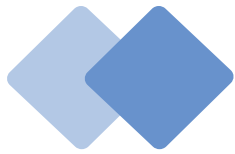
The OEIG recommended that IDNR take appropriate disciplinary action regarding Mr. Patterson, and take action to ensure that he does not directly supervise his family member. Because Mr. Benner left IDNR employment prior to the conclusion of the investigation, the OEIG recommended that a copy of the OEIG's report be placed in his personnel file. The OEIG further recommended that IDNR ensure that IDNR Human Resources staff and all other staff involved in hiring are aware of their responsibility to address potential conflicts before the hiring process starts and complete necessary Conflict of Interest Certification and Disclosure Forms.

IDNR responded that it suspended Mr. Patterson for one day without pay, and that it would review the relevant organizational chart to ensure that Mr. Patterson does not directly supervise his family member. In addition, IDNR stated that it placed a copy of the OEIG's report in Mr. Benner's personnel file. IDNR further stated that it intended to remind Human Resources staff of the conflict of interest requirements in the hiring process and ensure that the Conflict of Interest Certification and Disclosure Forms are executed, and that it intended to remind IDNR managers of the relevance and importance of IDNR conflict of interest and nepotism policies.

In re: Ruthshell Walker, Case #19-02048

The OEIG self-initiated an investigation after its Hiring & Employment (HEM) Division discovered that Illinois Department of Juvenile Justice (IDJJ) employee Ruthshell Walker may have falsified a 2019 application for an Illinois Department of Children and Family Services (DCFS) position. Specifically, the OEIG learned that Ms. Walker indicated on her application that she had previously been “laid off” from another position at DCFS and that she had never been fired from a job, while personnel records showed she was actually terminated for cause by DCFS in 1998.

The investigation confirmed that Ms. Walker was discharged by DCFS in 1998 for, among other things, making false statements and providing false testimony in the course of her duties. The investigation further revealed that Ms. Walker indicated on her 2019 application that she was previously “laid off” from a position at DCFS but had never been fired from a job, and that she made these same representations on other State employment applications in 2011, 2013, and 2015. Ms. Walker claimed to OEIG investigators that her union grieved her 1998 discharge and later told her that she had been laid off as a result of mass layoffs due to closures of a DCFS office. Upon OEIG’s request, the union was unable to produce any documents supporting the idea that her grievance might have been resolved. Furthermore, Ms. Walker’s DCFS personnel file contained no record of a layoff, and DCFS confirmed it had no record of Ms. Walker being laid off. For these reasons, the OEIG determined that Ms. Walker falsified her employment applications and recommended that the IDJJ take whatever action it deemed appropriate; in response, Ms. Walker received a 20-day suspension from IDJJ.



Appendix

Percentage of Exempt Positions by Agency Second Quarter 2021		
Agency	Agency Headcount¹	% Exempt Positions²
Abraham Lincoln Presidential Library and Museum	84	14%
Aging	152	11%
Agriculture	332	6%
Arts Council	13	31%
Capital Development Board	118	14%
Central Management Services	738	7%
Children & Family Services	2850	2%
Commerce & Economic Opportunity	273	18%
Corrections	12600	1%
Council on Developmental Disabilities	6	17%
Criminal Justice Information Authority	69	13%
Deaf and Hard of Hearing Commission	4	50%
Emergency Management Agency	179	10%
Employment Security	1033	3%
Environmental Protection Agency	637	3%

1 The agency headcount was obtained from the FY2020 SERS Headcount Tracker Table (June 2020) provided in the FY2021 Budget Summary.

2 The percentage was obtained using the number of exempt positions on the June 4, 2021 Exempt List and the agency headcount.

Agency	Agency Headcount	% Exempt Positions
Financial & Professional Regulation	411	16%
Gaming Board	165	9%
Guardianship & Advocacy Commission	106	10%
Healthcare and Family Services	1809	2%
Human Rights	130	11%
Human Services	13196	0.8%
Innovation & Technology	712	9%
Insurance	207	10%
Juvenile Justice	876	4%
Labor	81	14%
Liquor Control Commission	43	21%
Lottery	149	5%
Military Affairs	224	2%
Natural Resources	1490	2%
Prisoner Review Board	25	4%
Property Tax Appeal Board	35	14%
Public Health	1171	4%
Revenue	1364	3%
Sentencing Policy Advisory Council ³	5	20%
State Fire Marshal	144	6%
State Police	2861	0.4%
Transportation	5181	2%
Veterans' Affairs	1210	1%
Total	50683	2%

³ The agency headcount was based on information found on the agency's website.