



MEMORANDUM

Date: July 14, 2020 File No.: 0201

To: Anne Bown-Crawford, Executive Director
California Arts Council
1300 I Street, Suite 930
Sacramento, CA 95814

From: **Department of General Services**
Office of Audit Services

Subject: **AUDIT REPORT: DELEGATED PURCHASING PROGRAM**

Attached is the final report on our compliance audit of the California Arts Council's (CAC) delegated purchasing program. The objective of our audit was to determine that procurement transactions are being conducted in accordance with the terms and conditions of CAC's purchasing authority delegation agreements with the Department of General Services (DGS), which include dollar threshold limits for various categories of procurements.

CAC's written response to our draft report is included in this final report. The report also includes our evaluation of the response. We are pleased with the actions taken or proposed and commitments made to address our recommendations.

As part of its operating responsibilities, the Office of Audit Services is responsible for following up on audit recommendations. Therefore, please submit a status report on the implementation of each to us by January 14, 2021.

The necessity of any further status reports will be determined at that time. Please transmit your status report to: DGS – Office of Audit Services, 707 3rd Street, 8th Floor, West Sacramento, CA 95605.

We greatly appreciated the cooperation and assistance provided by CAC's personnel.

If you have any questions, please call me at (916) 376-5054, or Maricela Bautista, Management Auditor, at (916) 376-5066.

Olivia Haug

OLIVIA HAUG
Manager, Office of Audit Services

Attachment

cc: Ayanna Kiburi, Deputy Director
Bintou Coulibaly, Senior Accounting Officer, Supervisor
Purchasing Authority Management Section (PAMS), Procurement Division, DGS

**GOVERNMENT OPERATIONS AGENCY
DEPARTMENT OF GENERAL SERVICES**

**AUDIT OF THE
CALIFORNIA ARTS COUNCIL
(CAC)**

**FOR COMPLIANCE WITH STATE
DELEGATED PURCHASING PROGRAM
REPORT NO. 0201**

OFFICE OF AUDIT SERVICES

MARCH 2020

**CALIFORNIA ARTS COUNCIL
DELEGATED PURCHASING PROGRAM AUDIT
REPORT NO. 0201**

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STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES
AUDITOR'S REPORT

DATE: July 14, 2020

TO: **Anne Bown-Crawford**, Executive Director
California Arts Council

This report presents the results of our compliance audit of the delegated purchasing program of the California Arts Council (CAC). As required by Public Contract Code Section 10333, the Department of General Services (DGS) conducts an audit at least once in each three-year period of each state agency to which purchasing authority has been delegated by the department. The objective of our audit was to determine that procurement transactions are being conducted in accordance with the terms and conditions of CAC's purchasing authority delegation agreements with DGS, which include dollar threshold limits for various categories of procurements. As applicable, the scope of our audits of state agencies includes, but is not limited to, compliance with policies governing the conduct of competitive solicitations, use of leveraged procurement agreements, solicitation of certified small businesses (SB) and disabled veteran business enterprises (DVBE), establishment of fair and reasonable pricing for acquisitions of less than \$10,000, use of CAL-Cards to pay for goods and services, and prompt payment of suppliers. Our audit was conducted in accordance with U.S. generally accepted auditing standards.

Overall, we concluded that CAC needs to address several areas of its purchasing program to ensure that it is conducting its delegated purchasing program in compliance with the terms and conditions of its delegation agreement. As discussed under the Findings and Recommendations section of this report, we identified several areas for improvement that need to be addressed to fully comply with purchasing requirements. The implementation of the recommendations presented in this report will assist CAC in addressing these issues.

During our review we also identified other matters requiring attention, but did not pose a significant risk to the business management functions, which were discussed with CAC's management and are not further detailed in this report.

It should be noted that when advised of areas for improvement during our audit fieldwork, CAC's management promptly took action to address our concerns. We were pleased with the commitment shown to improve compliance with state requirements. However, we did not perform effectiveness tests to determine whether the corrective actions were functioning as intended. CAC's management has the ongoing responsibility

for ensuring that its business management policies and procedures are functioning as prescribed and are modified, as appropriate, for changes in conditions.

Your response to our recommendations as well as our evaluation of the response are included in this report.

We greatly appreciated the cooperation and assistance provided by CAC's personnel.

If you need further information or assistance on this report, please contact me at (916) 376-5054, or Maricela Bautista, Management Auditor, at (916) 376-5066.

Olivia Haug

OLIVIA HAUG
Manager, Office of Audit Services

Staff: Maricela Bautista, Management Auditor

cc: Ayanna Kiburi, Deputy Director
Bintou Coulibaly, Senior Accounting Officer, Supervisor
Purchasing Authority Management Section (PAMS), Procurement Division, DGS

CALIFORNIA ARTS COUNCIL
DELEGATED PURCHASING PROGRAM AUDIT
FINDINGS AND RECOMMENDATIONS

The following presents our detailed findings and recommendations based on our compliance audit of CAC's delegated purchasing program. The state's delegated purchasing requirements are primarily contained in State Contracting Manual (SCM) Volumes 2 (Non-IT), 3 (IT), and F (FI\$Cal).

This information was developed based on our fieldwork conducted over the period of November 5, 2019 through March 2, 2020. To determine compliance, we reviewed policies and procedures, interviewed parties involved, tested records and transactions and performed other tests as deemed necessary. The period covered by our testing varied depending upon the area of review and the type of transactions involved; however, the emphasis of our review and testing was with current procedures and transactions completed during the 2018-19 & 2019-20 fiscal years. Our transaction tests included the review of 64 delegated non-IT and IT procurements, including four leveraged procurement agreement transactions.

DELEGATED PURCHASING PROGRAM

Overall, we concluded that CAC needs to address several areas of its purchasing program to ensure that it is conducting its delegated purchasing program in compliance with the terms and conditions of its delegation agreement. Our tests disclosed several areas for improvement that need to be addressed to fully comply with purchasing requirements.

It should be noted that though the frequency of occurrence is low in some cases for some types of noncompliance instances, when combined, the numerous instances indicate a weakness in the procurement program that warrants addressing. Since the instances of noncompliance were discussed with management and staff during our audit fieldwork, they are not detailed in this report. However, the types of exceptions noted with transactions performed by CAC staff involved procurement transactions files that did not always include:

- The purchasing authority number on the purchase order (SCM F, 1.A1.5)
- Documentation that solicitations are including the bidder instructions and general provisions not found in the procurement file (SCM F, 4.B3.0 – 4.B3.1 and 4.D1.1)
- The complete LPA or the location of the complete LPA is not documented in the procurement file (SCM F, 5.A1.7)
- The LPA contract pricing pages not maintained (SCM F, 5.A1.5 and 5.A3.1)

- Seller's permit not maintained in the procurement file (SCM F, 4.b3.3)
- Documentation that fair and reasonable pricing is being established for transactions under \$10K, prior to award, is not being maintained in the procurement file (SCM F, 6.9.0; 6.9.2 and 6.9.4)
- Supporting documentation is not included that FTB and CDTFA websites have been checked to verify the contractor is not on a prohibited list (SCM F, 2.B4.5)
- Documentation support not included for purchases over \$5K being reported to the Department of Fair Employment and Housing (DFEH) (SCM F, 9.E4.0)
- Commercially Useful Function (CUF) evaluation and determination not completed for all small business (SB) and Disabled Veteran business enterprises (DVBE) contractors, subcontractors and suppliers that bid on or participate in a state contract (SCM F, 3.A2.6 – 3.A2.8)
- Documentation that a Certification of Compliance with IT Policies being completed for transactions over \$5K (SCM F, 2.E5.0)
- Bidder Declaration—Form GSPD-05-105/05-106 documented in the file and the correct version of this form is used (SCM F, 3.A4.7)
- Documentation that shows compliance with the Darfur Contracting Act (SCM F, 2.B4.6)
- The bid quote worksheet accurately reflecting the bids obtained and that bids are comparable between suppliers (SCM F, 4.D6.0)
- DVBE program requirements for competitive solicitations (SCM F, 3.A3.1, 3.A4.4)
- Documentation that showed invoices are being date stamped upon arrival at CAC (SCM F, 8.A5.2)
- Documentation that shows the late payment penalties calculation is being calculated for invoices not paid timely (SCM F, 8.A1.1)

In addition, the council had no formal written procurement policies and procedures in place. CAC's personnel involved in the procurement process did not have the appropriate training, experience, level of responsibility, and accountability as necessary to ensure compliance with state policy. Furthermore, CAC should stop using its CAL-Cards to pay for its travel needs or any other prohibited use items. CAC should arrange all their travel needs through the DGS' Statewide Travel Program (STP).

RECOMMENDATIONS

1. The CAC needs to ensure that all staff that procure for the council is trained and is knowledgeable in the procurement requirements as prescribed in SCM F and any other applicable state procurement policy. This includes, but is not limited to, maintaining a complete procurement file, processing SB/DVBE procurements and fair and reasonable procurements in accordance with the applicable requirements and documenting LPA procurements in accordance with the LPA instructions.

2. The council needs to develop and implement written policies and procedures which ensure that all applicable state laws, policies and procedures are being followed. The CAC should address the above reported issues to assist in ensuring full compliance with its delegated purchasing authority program.
3. The council needs to immediately start following SAM Section 4117 and DGS' Management Memorandum 14-03, to ensure all travel arrangements are being made properly.
4. The council needs to implement and enforce policies and procedures to assist in ensuring full compliance with the requirements of the California Prompt Payment Act. The CAC needs to periodically remind staff of the need to date stamp or note the receipt date on invoices in order to accurately measure and track the payment timelines.

CONCLUSION

Our findings and recommendations are presented to aid the CAC in becoming compliant when administering its delegated purchasing program. CAC should address the reported issues to assist in ensuring future compliance with applicable state laws, policies and procedures.

BACKGROUND

The California Arts Council underwent a large turnover in its Operations team a few years ago, and the change deeply affect the depth of institutional knowledge and understanding of State purchasing policy and practices.

While the current Operations staff have made efforts to learn the policies laid out in the State Contracting Manual, taking advantage of training opportunities both in person and online, they have encountered obstacles that have slowed progress. The agency continues its commitment to learning proper policy and implementing procedures that ensure compliance.

RECOMMENDATIONS

- 1. The CAC needs to ensure that all staff that procure for the department is trained and is knowledgeable in the procurement requirements as prescribed in the SCM F, SCM Vol. 2 &3, and any other applicable state procurement mandate. This includes, but is not limited to, maintaining a complete procurement file, processing SB/DVBE procurements and fair and reasonable procurements in accordance with the applicable requirements and document LPA procurements in accordance with the LPA instructions.**

The agency's primary buyer has drafted a **step-by-step guide** for all procurements, a **Procurement Activity template**, as well as a **file checklist** to ensure that all required processes, forms, and reports are completed and saved in the procurement file. These resources will be reviewed and used by all buyers as well as agency leadership to ensure procurements and procurement files meet agency needs.

The AGPAs responsible for operational purchases have begun meeting every other week to review the SCM together. At these meetings, we will focus on a single topic as we read the relevant sections of the SCM, discuss what we read to ensure a shared understanding, identify questions and resources for getting answers, and workshop real-world situations we're currently working with (as applicable).

As the AGPAs increase their understanding of State policies, processes, and requirements, the **Procurement Policy**, step-by-step guide, and file checklist will be updated. If a need for an additional tool is identified, the primary buyer will draft the tool and seek input from the other buyers and agency leadership to ensure it maximizes its usefulness.

- 2. The CAC needs to develop and implement written policies and procedures which ensure that all applicable state laws, policies, and procedures are being followed. The CAC should address the above reported issues to assist in ensuring full compliance with its delegated purchasing authority program.**

The CAC recently received approval from DGS on its Procurement Policy Manual. However, that document lacks clarity and agency-specific information that would make it fully functional and user-friendly. Therefore, the primary buyer created a user-friendly

Manual with these issues in mind. The revised Manual is the one attached. The primary buyer is also looking into presentation models to ensure the Manual is user-friendly.

3. The CAC needs to immediately start following SAM Section 4117 and DGS' Management Memo 14-03 to ensure all travel arrangements are being made properly.

Operations staff have developed an agency **Travel Policy** to ensure staff understand State requirements regarding travel, including making travel arrangements properly. The policy addresses the requirements laid out in SAM Section 4117 and Management Memo 14-03, as well as how to make travel arrangements using the Concur system. The agency's primary buyer has developed a **PowerPoint presentation** to supplement the policy.

The primary buyer has also developed an **agency policy regarding the use of CAL-cards** to ensure Cal-cards are not being used for travel-related purchases and other prohibited charges. Each cardholder will be required to read and sign the policy and verify that training regarding the appropriate use of the CAL-card has been completed.

4. The CAC needs to implement and enforce policies and procedures to assist in ensuring full compliance with the requirements of the California Prompt Payment Act. The CAC needs to periodically remind staff of the need to date stamp or note the receipt date on invoices in order to accurately measure and track the payment timelines.

The Senior Accounting Officer has drafted an **Accounts Payable Memo** outlining the proper intake procedure for all invoices, with an emphasis on ensuring prompt payment. The procedure has also been included in the agency's Procurement Policy.

CALIFORNIA ARTS COUNCIL (CAC)

EVALUATION OF CAC'S RESPONSE

We have reviewed the responses by the California Arts Council (CAC) to our draft report. The responses to the recommendations is satisfactory. We appreciate the efforts taken or being taken by CAC to improve its delegated purchasing functions.

As a part of our operating duties, we are responsible for following up on audit recommendations and will require a six-month status report on the implementation of the recommendations that have not been fully implemented. To the extent that is practical, proof-of-practice and supporting documentation should be specific and include excerpts and/or copies of the following:

- Training syllabi/agendas outlining SCM's topic being reviewed in the biweekly procurement staff meetings;
- A copy of the final and most updated procurement policy and step by step guide;
- Copies of two or three completed procurement files to ensure all applicable documentation is completed and retained in the transaction file, such as the file checklist, procurement activity template, and any other supporting documentation;
- Copy of the final and most updated CAL-Card policy;
- One or two CAL-Card billing Statements for the most current month available;
- One or two sample transactions for payments made to CAC's suppliers to ensure invoices are being date stamped upon receipt;
- Copy of the final and most updated CAC's Travel policy;
- Two or three travel expense claims, including corresponding documentation confirming travel arrangements are being booked through the DGS' Statewide Travel Store.