

**Date:** October 10, 2023 File No.: 3203

**To:** Samuel Assefa, Director  
Governor's Office of Planning and Research  
1400 10<sup>th</sup> Street  
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 Governor's Office of Planning and Research's (OPR) 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 OPR's purchasing authority delegation agreements with the Department of General Services (DGS), which include dollar threshold limits for various categories of procurements.

OPR'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 on your department's official letterhead a status report on the implementation of each recommendation to us by April 10, 2024.

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 OPR's personnel.

If you have any questions, please call me at (916) 376-5054, or Christine Pham, Management Auditor, at (279) 946-8608.

*Olivia Haug*

Olivia Haug  
Manager, Office of Audit Services

Attachment

cc: Russell Fong, Chief Deputy Director, OPR  
Thuong Pham, Administration Deputy Director, OPR  
Theresa Cesena, Chief Accounting Administrator, OPR  
Marie Her, Business Services Officer, OPR  
Blake Deering, Contracts Manager, OPR  
Purchasing Authority Management Section (PAMS), Procurement Division,  
DGS

**GOVERNMENT OPERATIONS AGENCY  
DEPARTMENT OF GENERAL SERVICES**

**AUDIT OF THE  
GOVERNOR'S OFFICE OF  
PLANNING AND RESEARCH**

**FOR COMPLIANCE WITH STATE  
DELEGATED PURCHASING PROGRAM  
REPORT NO. 3203**

**OFFICE OF AUDIT SERVICES**

**JULY 2023**



**GOVERNOR'S OFFICE OF PLANNING AND RESEARCH  
DELEGATED PURCHASING PROGRAM AUDIT  
REPORT NO. 3203**

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**STATE OF CALIFORNIA**  
**DEPARTMENT OF GENERAL SERVICES**  
**AUDITOR'S REPORT**

DATE: October 10, 2023

TO: Samuel Assefa, Director  
Governor's Office of Planning and Research

This report presents the results of our compliance audit of the delegated purchasing program of the Governor's Office of Planning and Research (OPR). 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 OPR'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 OPR is conducting its delegated purchasing program in compliance with the terms and conditions of its delegation agreement. However, 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 OPR in addressing these issues.

During our review we also identified other matters requiring attention that did not pose a significant risk to the delegated purchasing program, that we discussed with OPR management and are not further detailed in this report.

It should be noted that when advised of areas for improvement during our audit fieldwork, OPR's management took action or agreed to take 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.

OPR'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 OPR's personnel.

If you need further information or assistance on this report, please contact me at (916) 376-5054, or Christine Pham, Management Auditor, at (279) 946-8608.

*Olivia Haug*

Olivia Haug

Manager, Office of Audit Services

Staff: Christine Pham, Management Auditor

cc: Russell Fong, Chief Deputy Director, OPR  
Thuong Pham, Administration Deputy Director, OPR  
Theresa Cesena, Chief Accounting Administrator, OPR  
Marie Her, Business Services Officer, OPR  
Blake Deering, Contracts Manager, OPR  
Purchasing Authority Management Section (PAMS), Procurement Division,  
DGS



# GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

## DELEGATED PURCHASING PROGRAM AUDIT

### FINDINGS AND RECOMMENDATIONS

The following presents our detailed findings and recommendations developed based on our compliance audit of OPR's delegated purchasing program. The state's delegated purchasing requirements are primarily contained in the Consolidated State Contracting Manual Volume 2 (SCM Vol. 2).

This information was developed based on our fieldwork conducted over the period of March 16, 2023 through July 27, 2023. 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 2022-23 fiscal year. Our transaction tests included the review of 31 delegated non-IT and IT procurements, including 7 leveraged procurement agreement transactions.

#### **DELEGATED PURCHASING PROGRAM**

Overall, we concluded that OPR has implemented a delegated purchasing program that ensures compliance with the state's primary procurement requirements. However, 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 responsible management and staff during our audit fieldwork, they are not detailed in this report. However, the types of exceptions noted with procurement transactions performed by OPR staff involved either missing or inadequate procurement documentation for the following areas:

***Use of SB/DVBE Bidders*** – For a significant number of test samples, the SB/DVBE certification status verification, Bidder Declaration, DVBE Declaration, and Commercially Useful Function (CUF) evaluation and determination was either missing, dated months before the purchase order (PO) dispatch, or done months after the PO dispatch for one or more SB/DVBE bidders. These declarations and verifications are meant to be specific to the transaction that the bidder is bidding on and therefore need to be current for them to have any

useful meaning. It should be noted that in a couple of test samples where the SB/DVBE Option was utilized, SB/DVBE Option was not supported as a procurement method due to the insufficiencies noted concerning the SB/DVBE certification, Bidder Declaration, DVBE Declaration, and CUF. The lack of a CUF evaluation for all participating SB/DVBE bidders is a repeat finding from our 2019 audit.

SCM Vol. 2, Chapter 1200, describes socioeconomic and environmental programs established by state law and further defined by regulations and policies to increase business opportunities on state procurement and contracting activities for small and disabled veteran businesses and those businesses operating in economically distressed areas of the state. It also includes information about the State's DVBE program to ensure that certified DVBEs are afforded opportunities to compete for State contracts, requirements, and application of incentives.

- SCM Vol. 2, Section 1200, provides that Solicitations (including verbal or written requests for offers), consideration of bids, or award of contracts shall not be provided to any firm that has been suspended from state procurement and contracting as listed on DGS/PD web page. It states that the FISCAL system maintains certification status of SBs and DVBEs and that the database printout in support of a SB and/or DVBE certification must be maintained in the procurement file.
- SCM Vol. 2, Section 1202, written solicitations shall include the Bidder Declaration (GSPD 05-105) to allow bidders to identify if they are a DVBE and identify DVBE subcontractors, their proposed contract function and the corresponding percentage of participation.  
When conducting a verbal solicitation, the Bidder Declaration, GSPD 05-106 – Verbal Version and its respective instructions must be provided to the suppliers for completion and must be signed by the prime supplier.
- SCM Vol. 2, Section 1201, states that declarations are to be obtained using a Disabled Veteran Business Enterprise Declaration (STD. 843) when the State intends to transact business:
  - With a certified DVBE prime or
  - For equipment rental situations, with either a certified DVBE prime or a prime who is using a certified DVBE subcontractor(s)

This pertains to all types of transactions including competitive and non-competitive situations. It applies both when establishing Leveraged Procurement Agreements (LPAs) and when placing orders against LPAs.

- o SCM Vol. 2, Section 1200.1, states that, in accordance with Government Code Section 14837 and M&VC, Section 999, all SB and DVBE contractors, subcontractors and suppliers that bid on or participate in a State contract, regardless of being a verbal or written solicitation and/or paid for using the CAL-Card as a payment method, must perform a Commercially Useful Function (CUF). In addition, the requirement to determine CUF is not affected by the applicability of the 5% SB preference and/or the DVBE participation goal or DVBE incentive. There is no exception to this requirement; consequently, certified SB, MB and DVBEs must perform a CUF. CUF must be determined prior to contract award. This SCM section also states that departments must document their evaluation of CUF compliance in the procurement file.
- o SCM Vol. 2, Section 1405.3, states that competitive acquisitions using the SB Option or the DVBE Option are to be conducted as follows:
  - Create the solicitation (verbal or written)
  - Verify SB or DVBE certification status through FI\$Cal (certification status is maintained in "real-time" in FI\$Cal)
  - Release the solicitation only to California certified SBs/MBs or DVBEs
  - Contract award may be made upon receipt of responsive price quotations from at least two (2) responsible California certified SB/MBs or DVBEs and award must be made based upon the solicitation format used. The procurement file must be documented to support the contract award and the action taken.

**Use of Leverage Procurement Agreements (LPA)** – We found the procurement files lacking the correct LPA contract and correct user instructions and either lacking the pricing page or correct pricing page. In addition, for LPA acquisitions that required obtaining 3 offers, the file either did not have 3 offers or an explanation as to why a bidder did not bid. Further, staff not verifying the purchase against the LPA resulting in a small overpayment on one PO and causing purchase of items not allowed by the LPA on another PO. It should be noted that lack of retention of the pricing page supporting each item purchased as well as lack of documentation of multiple offers/best value determination are repeat findings from our 2019 audit.

SCM Vol. 2, Section 1602, LPA prices for products and services vary from category to category. Some LPA prices are listed as maximums and negotiating for lower prices is recommended. Others are at a fixed price for which negotiation is not allowed. Because of these variables, buyers are required to confirm that the products, services, and prices are included in the contract and

that the prices in the department's order are at or below the contract rates. This is accomplished by obtaining a complete copy of the LPA before executing any purchase documents. The contract's user instructions describe the tasks necessary to solicit offers for the order.

Further, SCM Vol. 2, Section 1602, provides that departments obtain a copy of the LPA to be used in order to:

- Validate the contractor is authorized to sell specific products and/or services.
- Determine warranties, guarantees, maintenance provisions, product return policies, bond requirements, travel costs, etc.
- Determine if products and services are available on the LPA.
- Determine which products and/or services are specifically excluded.
- Determine if prices quoted are at or below LPA rates.
- Determine if additional approvals, forms, filings, etc. are required.
- Substantiate the contractor is CA certified as a SB or a DVBE (if applicable).
- Substantiate the contractor has a valid contractor's license (if applicable).
- Substantiate the contractor has a valid seller's permit (if applicable).

SCM Vol. 2, Section 1603, multiple offers must be sought whenever multiple suppliers are known to exist unless otherwise directed by individual contract user instructions, policies and/or statutes or identified as an "exempt" contract. "Multiple offers" is defined to be a minimum of three (3) offers, including one CA certified SB and/or DVBE (if available). This SCM chapter further states that if a department contacts 3 sources and receives 1 offer, then the department shall document in the procurement file the reasons why the other two (2) suppliers did not respond, and if the department receives 2 offers, then the department shall document why the third supplier did not respond.

SCM Vol. 2, Section 1604, departments must document all LPA suppliers that were contacted, provide a recap of their offers and record how the selection was made, including criteria for determining "best value". Further, it states that departments have the option to use the Best Value Determination Worksheet or the department's own form to document the results, or if using a Master Agreement LPA, defer to the requirements of the user instructions. The Best Value Determination Worksheet facilitates easy compilation of offers received and supplier selection rationale. Regardless of the format used, the information must be retained in the procurement file.

In addition, the following exceptions are noted:

- Accepting a contractor's terms and conditions by way of attaching to the PO their agreement or order form listing their terms and conditions or referencing a link to their terms and conditions (SCM Vol. 2, Section 1508)
- Conflicting procurement methods listed between FI\$Cal and the internal log and file documentation not supporting the method listed in FI\$Cal (SCM Vol. 2, Section 303)
- Late or no evidence of reporting acquisitions over \$5K to California Civil Rights Department, CRD (SCM Vol. 2, Section 2200.4)
- Late or no documented Franchise Tax Board (FTB) and California Department of Tax and Fee Administration (CDTFA) verifications. This is a repeat finding. (SCM Vol. 2, Section 605)
- Procurement file lacking the DVBE Exemption Request (Std. 816) when the acquisition is exempt from the DVBE participation program requirement (SCM Vol. 2, Sections 1201, 1201.1, 1202.1, 1403.1)
- Procurement file missing second bids when the acquisition required multiple bids (SCM Vol. 2, Sections 1404.2, 1405.3, 1405.4)
- Procurement file lacking a Statement of Work-SOW (SCM Vol. 2, Section 305)
- Lack of documentation to support acquisitions utilizing the Fair and Reasonable procurement method. This is a repeat finding. (SCM Vol. 2, Section 1510)

## **RECOMMENDATIONS**

1. Enforce current policies and procedures to ensure full compliance with the requirements of the delegated purchasing program.
2. Increase staff training and education in the areas noted above to ensure they understand and comply with state requirements.
3. Revise or update the Procurement Checklist to ensure that the procurement summary section covers all elements of a bid/quote worksheet to facilitate easy compilation of offers received and rationale for supplier selection.

## **CONCLUSION**

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





Governor Gavin Newsom

**State of California**  
**Governor’s Office of Planning and Research**  
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Director Sam Assefa

September 14, 2023

Ms. Olivia Haug, Manager  
Office of Audit Services  
Department of General Services  
707 3<sup>rd</sup> Street, 8<sup>th</sup> Floor  
West Sacramento, CA 95605

Re: Audit Report: Delegated Purchasing Program (File No.: 3203)

Dear Ms. Haug:

The Governor’s Office of Planning and Research (OPR) has reviewed the Department of General Services, Office of Audit Services (DGS OAS) draft Audit Report of OPR’s Delegated Purchasing Program, dated September 6, 2023. We are pleased that the DGS OAS review concluded that OPR has implemented a delegated purchasing program that ensures overall compliance with the state’s primary procurement requirements. OPR further appreciates the time and collaboration the DGS OAS Auditor had with OPR staff and management during the audit review as it was instrumental in providing further improvements to OPR’s procurement program.

In accordance with the recommendations offered in the draft Audit Report, OPR wishes to confirm it is implementing those recommendations as follows:

**Recommendation #1: Enforce current policies and procedures to ensure full compliance with the requirements of the delegated purchasing program.**

OPR proposes the following steps to enforce current policies and procedures with an eye to full compliance with program requirements. First, OPR will conduct a Buyers Conference in October 2023 to review current policies and procedures to ensure they are being followed. Topics will include:

- Procurement file documentation
- The use of the Procurement Checklist
- Commercially Useful Functions (CUF)
- Small Business (SB) and Disabled Veteran Business Enterprise (DVBE) certification status verification
- Bidder Declaration

- DVBE Declaration
- DVBE Exemption Request
- Leverage Procurement Agreements (LPA)
- File documentation to support procurement method used
- Timely submission of reporting acquisitions over \$5K to California Civil Rights Department
- Timely documentation of Franchise Tax Board and California Department of Tax and Fee Administration verifications
- Fair and Reasonable procurement method documentation

Second, samples of procurement files will be pulled for file audits quarterly to ensure current policies and procedures are being followed.

**Recommendation #2: Increase staff training and education in the insufficient areas noted above to ensure they understand and comply with State requirements.**

First, within the next three (3) months, and annually thereafter, OPR will conduct purchasing training for OPR’s Buyers that includes the following topics:

- The use of SB/DVBE Bidders and the associated paperwork, including the State Contracting Manual provisions, used in these procurements for every transaction, including but not limited to:
  - SB/DVBE certification status verification
  - DVBE Declaration
  - Bidder Declaration
  - CUF evaluation and determination
- Use of LPA, including ensuring the following items are addressed with these types of procurements to ensure compliance with State Contracting Manual guidance:
  - Placing pricing sheets and correct user instructions in the procurement file
  - Ensure pricing received from suppliers are at or under LPA pricing
  - Verifying the purchase against the LPA

The training will address concerns noted in the draft Audit Report.

Second, OPR will review training records for all OPR Buyers in the next two (2) months. If any training deficits are found, Buyers will be directed to take applicable California Procurement and Contracting Academy (Cal-PCA) training courses that have not been completed within six (6) months.

**Recommendation #3: Revise or update the Procurement Checklist to ensure that the procurement summary section covers all elements of a bid/quote worksheet to facilitate easy compilation of offers received and rationale for supplier selection.**

OPR revised its procurement checklist in June 2023 and implemented its use that same month. In



particular, a section entitled "Bid Quote Worksheet" covering all elements of a bid/quote worksheet was added for Buyers to facilitate easy compilation of offers received and rationale for supplier selection. The Buyers have been trained on the new checklist and a standard format has been provided in order to ensure all items are incorporated as required in the procurement file.

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While these corrective measures have been and will be taken as stated above in accordance with recommendations in the draft Audit Report, OPR still respectfully disagrees with the DGS OAS findings with regards to one matter. The referenced acceptance of a contractor's terms and conditions was attached unsigned in compliance with SCM Vol.2 Consolidated, 1508. This is not precluded by 1508, which provides that while "signing a supplier's software license agreement is prohibited" "a supplier's software license agreement may be considered for incorporation into a purchase document" in appropriate circumstances. In spite of these discussions with the DGS OAS Auditor, the finding remained reported.

OPR sincerely appreciates DGS OAS's recommendations. OPR's contracting and procurement staff and management continually strive to improve OPR's processes and procedures to ensure compliance with applicable state laws, policies and procedures.

If you have any questions or need any additional information, please contact Marie Her, Business Services Officer, at (916) 341-7371 or [marie.her@opr.ca.gov](mailto:marie.her@opr.ca.gov).

Sincerely,



Sam Assefa  
Executive Director  
Governor's Office of Planning and Research



# GOVERNOR'S OFFICE OF PLANNING AND RESEARCH (OPR)

## EVALUATION OF OPR'S RESPONSE

We have reviewed the response by the Governor's Office of Planning and Research (OPR) to our draft report. We appreciate the efforts taken or being taken by OPR to improve its delegated purchasing functions. Regarding our finding on inclusion of a contractor's terms and conditions in an agreement, OPR should refrain from including them in its agreements.

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 those recommendations that have not been fully implemented. To the extent practical, proof-of-practice, training plans, agendas, and supporting documentation should be specific and include excerpts, samples, screenshots and/or copies of the following:

- SB/DVBE certification verification
- Bidder Declaration
- DVBE Declaration
- Commercially Useful Function (CUF) evaluation and determination
- LPA contract and user instructions
- LPA contract pricing page
- Multiple offers/best value determination for LPA purchases
- Verifying the LPA for allowed products and prices
- Correct use of procurement methods
- California Civil Rights Department reporting
- FTB and CDTFA tax delinquent checks
- DVBE Exemption Request
- Documenting second bids (for purchases other than LPA)
- Statement of work - SOW
- Fair and Reasonable pricing documentation