



MEMORANDUM

Date: October 18, 2019 File No.: 9175

To: Colonel Richard A. Rabe
Chief of Staff, Joint Staff
California Military Department
9800 Goethe Road
Sacramento, CA 95827

From: Department of General Services
Office of Audit Services

Subject: **AUDIT REPORT: DELEGATED PURCHASING PROGRAM & NON-IT SERVICES CONTRACTING OVER \$50,000**

Attached is the final report on our compliance audit of the California Military Department's (CMD) delegated purchasing program and non-IT services contracting over \$50,000. The objective of our audit was to determine that procurement transactions are being conducted in accordance with the terms and conditions of CMD's purchasing authority delegation agreements with DGS, which include dollar threshold limits for various categories of procurements; and, non-IT services contracts over \$50,000 are being conducted in accordance with State Contracting Manual (SCM) Volume 1.

CMD'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 April 20, 2020.

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 CMD's personnel.

If you have any questions, please call me at (916) 376-5054, or Monica De La Rosa, Management Auditor, at (916) 376-5050.

A handwritten signature in blue ink that reads 'Olivia Haug'.

OLIVIA HAUG
Manager, Office of Audit Services

Attachment

cc: Lieutenant Colonel Craig L. Sandman, Director, J8
Major Adam L. Rix, Deputy Director, J8
Chief Warrant Officer 4 Thomas E. Clarke, Chief of Purchasing and Contracting
Chief Master Sergeant Krista Hudson, Deputy Chief of Purchasing and Contracting
Rowena Dorsey, Audit Director, Internal Review Office
Purchasing Authority Management Section (PAMS), Procurement Division, DGS

**GOVERNMENT OPERATIONS AGENCY
DEPARTMENT OF GENERAL SERVICES**

**AUDIT OF THE
CALIFORNIA MILITARY DEPARTMENT
(CMD)**

**FOR COMPLIANCE WITH STATE
DELEGATED PURCHASING PROGRAM &
NON-IT SERVICES CONTRACTING
OVER \$50,000
REPORT NO. 9175**

OFFICE OF AUDIT SERVICES

JULY 2019

**CALIFORNIA MILITARY DEPARTMENT
DELEGATED PURCHASING PROGRAM AUDIT &
NON-IT SERVICES CONTRACTING OVER \$50,000
REPORT NO. 9175**

TABLE OF CONTENTS

	<u>PAGE</u>
AUDITOR'S REPORT	1
FINDINGS AND RECOMMENDATIONS	3
DELEGATED PURCHASING PROGRAM	3
NON-IT SERVICES CONTRACTING.....	5
CONCLUSION	6
CMD'S RESPONSE	7
EVALUATION OF CMD'S RESPONSE	10

STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES
AUDITOR'S REPORT

DATE: October 18, 2019

TO: **Colonel Richard A. Rabe**
Chief of Staff, Joint Staff
California Military Department

This report presents the results of our compliance audit of the delegated purchasing program and non-IT services contracting over \$50,000 of the California Military Department (CMD). 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. In addition, DGS conducts audits of non-IT services contracts over \$50,000 under Government Code Sections 14615 and 14619. The objective of our audit was to determine that procurement transactions are being conducted in accordance with the terms and conditions of CMD's purchasing authority delegation agreements with DGS, which include dollar threshold limits for various categories of procurements; and, non-IT services contracts over \$50,000 are being conducted in accordance with State Contracting Manual (SCM) Volume 1. 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, prompt payment of suppliers, and non-IT services contracts over \$50,000. Our audit was conducted in accordance with U.S. generally accepted auditing standards.

Overall, we concluded that CMD is conducting its delegated purchasing program in compliance with the terms and conditions of its delegation agreement and non-IT services contracting within SCM Volume 1 requirements. However, as discussed under the Findings and Recommendations section of this report, we identified a number of areas for improvement that need to be addressed to fully comply with purchasing and contracting requirements. The implementation of the recommendations presented in this report will assist CMD in addressing these issues.

During our review we also identified other matters requiring attention that we discussed with CMD's management but are not included in this report.

It should be noted that when advised of areas for improvement during our audit fieldwork, CMD's management 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. CMD'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 CMD's personnel.

If you need further information or assistance on this report, please contact me at (916) 376-5054, or Monica De La Rosa, Management Auditor, at (916) 376-5050.



OLIVIA HAUG
Manager, Office of Audit Services

Staff: Monica De La Rosa, Management Auditor
Larisa Samoylovich, Management Auditor

cc: Lieutenant Colonel Craig L. Sandman, Director, J8
Major Adam L. Rix, Deputy Director, J8
Chief Warrant Officer 4 Thomas E. Clarke, Chief of Purchasing and Contracting
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Rowena Dorsey, Audit Director, Internal Review Office
Purchasing Authority Management Section (PAMS), Procurement Division, DGS

CALIFORNIA MILITARY DEPARTMENT (CMD)

DELEGATED PURCHASING PROGRAM AUDIT & NON-IT SERVICES CONTRACTING OVER \$50,000

FINDINGS AND RECOMMENDATIONS

The following presents our detailed findings and recommendations developed based on our compliance audit of the California Military Department's (CMD) delegated purchasing program and non-IT services contracting over \$50,000. The state's delegated purchasing requirements are primarily contained in State Contracting Manual (SCM) Volumes 2 (Non-IT), 3 (IT), and F (FI\$Cal). The requirements for non-IT services contracting over \$50,000 are contained in SCM Volume 1.

This information was developed based on our fieldwork conducted over the period of March 15, 2019 through July 16, 2019. 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 fiscal year. Our transaction tests included the review of 84 delegated non-IT and IT procurements, 14 leveraged procurement agreement transactions, and 12 non-IT service contracts over \$50,000.

DELEGATED PURCHASING PROGRAM

Overall, we concluded that CMD has implemented a delegated purchasing program that ensures compliance with the state's primary procurement requirements, including those governing the obtaining of bids from multiple suppliers. However, our tests disclosed a number of areas for improvement that need to be addressed to fully comply with purchasing requirements.

Acquisition Paid by CAL-Card – The CMD is not maintaining internal controls related to acquisitions paid by CAL-Card as required by SCM F, 8.B3.2. CAL-Card statements are not being reconciled timely by cardholders. The result is the department continuously carries a past due bill over 120 days, which can jeopardize the department's use of the CAL-Card for procurement transactions.

Prompt Payments to Vendors – Invoice payments are not being paid promptly in accordance with the Prompt Payment Act (Government Code 927 et seq.). A sample of 22 invoices revealed nine were paid late, beyond the 45 day required timeframe. Seven of the nine sampled resulted in late payment penalties due, yet three had not been identified as having late payment penalties payable. Furthermore, the department is not ensuring that invoices are date stamped upon initial receipt of the invoice. Three of the

22 samples tested contained date stamps between three and seven months after the invoice date with no documentation in the file as to the delay of the received invoice.

Other areas of noncompliance were discussed with responsible management and staff during our audit fieldwork, however, they are not detailed in this report. The types of exceptions noted with these transactions performed by CMD staff involved the following procurement transactions:

- Purchase orders exceeded the department's delegation limit (SCM F, 1.A2.0)
- Purchasing authority number not listed on the purchase order (SCM F, 1.A1.5)
- Procurement incorrectly classified (SCM F, 2.B2.0)
- Seller's permit not maintained in the procurement file (SCM F, 4.B3.3)
- Bid/quote worksheet not used and maintained in the procurement file (SCM F, 4.D2.3)
- Purchases over \$5,000 not reported to the Department of Fair Employment and Housing (DFEH) (SCM F, 9.E4.0)
- Solicitations including bidder instructions and general provisions not found in the procurement file (SCM F, 4.B3.0 – 4.B3.1 and 4.D1.1)
- Adequate and comparable bids not in the procurement file (SCM F, 4.C2.0 – 4.C2.1)
- Commercially Useful Function (CUF) evaluation and determination not completed for all small business (SB) and disabled veteran business enterprise (DVBE) contractors, subcontractors and suppliers that bid on or participate in a state contract (SCM F, 3.A2.6 – 3.A2.8)
- Documentation not included that FTB and CDTEFA websites have been checked to verify the contractor is not on a prohibited list (SCM F, 2.B4.5)
- DVBE program requirements not in the procurement file (SCM F, 4.B1.4)
- Target Area Contract Preference Act (TACPA) not included in solicitations in procurements over \$100,000 (SCM F, 3.A9.0)
- Procurement methodology for fair and reasonable incorrectly done (SCM F, 6.9.0; 6.9.2 and 6.9.4)
- SB/DVBE Option document support not in the procurement file, including SB/DVBE vendor certification (SCM F, 4.D3.1)
- Complete and signed Certification of Compliance with State IT Policies not in file (SCM F, 2.E5.0)
- Leveraged Procurement Agreement (LPA) proper documentation:
 - o Reference to the LPA terms and conditions on the PO not included when the order was placed under an LPA (SCM F, 5.A1.10)
 - o The complete LPA or the location of the complete LPA not documented in the procurement file (SCM F, 5.A1.7)
 - o The LPA contract pricing pages not maintained (SCM F, 5.A1.5 and 5.A3.1)
 - o The applicable amendment process for LPAs not followed (SCM F, 5.A4.0)

RECOMMENDATIONS

Strengthen existing policies and procedures over its delegated purchasing program that includes the following areas:

1. Acquisition Paid by CAL-Card – reconciling statements timely and ensuring all staff is trained and knowledgeable of the CAL-Card process.
2. Prompt Payments to Vendors – processing invoices for payments timely; ensuring invoices are date stamped upon first receipt in the department; and, assessing and paying late payment penalties when due.
3. Additional Areas of Non-Compliance – ensuring staff is trained and knowledgeable in procurement requirements; processing procurements within the delegation amount or requesting the Department of General Services (DGS) to complete the procurement; including the department's delegation number on the purchasing document; maintaining complete procurement files, processing SB/DVBE procurements and fair and reasonable procurements in accordance with the requirements; and, processing LPA contracts in accordance with the terms and conditions set forth by the LPA.

NON-IT SERVICES CONTRACTS

Overall, we concluded that CMD has implemented policies and procedures that ensures compliance with the state's SCM Volume 1 requirements for non-IT services contracting over \$50,000. However, our tests disclosed areas for improvement that need to be addressed to fully comply with these requirements.

Contracts Over \$50,000 - Current policies and procedures are not ensuring that emergency contracts for non-IT services over \$50,000 are being sent to the DGS Office of Legal Services (OLS) for approval. All non-IT services contracts over \$50,000 are required to be sent to DGS' OLS for approval regardless of exemption from competitive bidding. Furthermore, contracts over \$100,000 require vendors to certify that they are in compliance with several civil rights laws. Compliance is established with the Civil Rights Certification Form signed by the vendor. A sample of eight contracts over \$100,000 revealed that three vendors did not submit the signed Civil Rights Certification Form.

RECOMMENDATIONS

Strengthen existing policies and procedures over its contracting program that includes the following areas:

4. Ensure emergency contracts over \$50,000 are sent to DGS for approval; Civil rights certifications are completed for contracts over \$100,000; and, staff is periodically trained and reminded of contracting requirements.

CONCLUSION

Our findings and recommendations are presented to aid CMD in administering its delegated purchasing program and contracts over \$50,000 for non-IT services. CMD should address the reported issues to assist in ensuring compliance with applicable state laws, policies and procedures.

MILITARY DEPARTMENT
OFFICE OF THE ADJUTANT GENERAL
9800 Goethe Road
Sacramento, California 95826-9101



NGCA-JS-JSZ

3 October 2019

MEMORANDUM FOR Olivia Haug, Manager Office of Audit Services

SUBJECT: Response to Audit Report: Delegated Purchasing Program & Non-IT Services Contracting Over \$50,000

1. This memorandum is in response to the Department of General Services (DGS) Draft Audit Report, Delegated Purchasing Program & Non-IT Services Contracting over \$50,000, dated September 19, 2019. Listed below are the findings and our corresponding Response.

Delegated Purchasing Program

Finding 1: Acquisitions Paid by CAL-Card

The CMD is not maintaining internal controls related to acquisitions paid by CAL-Card as required by SCM F, 8.B3.2.

Response:

a. Our Department has a past due balance of \$24,349.54 that cannot be attributed to any records we have. Since the account carries a rolling balance, we can't determine which payments weren't completed. More likely than not, the missed payments occurred over five years ago. With the implementation of Fi\$Cal, we now have the tools to link individual card transactions to payment vouchers and were able to reconcile the last two years of CAL-Card statements. We are working with the DGS Government Claims Manager and US Bank to try and obtain an allow notice to facilitate payment for our balance which is now over 150 days past due.

b. The Deputy Chief of Procurement is closely monitoring credit card activity and provides a weekly roll-up slide of payment activity to the Purchasing and Contracting Officer (PCO) and Comptroller. Data from the roll-up is incorporated into an executive level briefing to ensure management for cardholders in units outside of the Comptroller's office can hold their employees/service members accountable.

c. The Deputy Chief of Procurement took immediate action to mitigate risk associated with our CAL-Card account by limiting all but 10 of 100 cardholders to a credit limit of 1 dollar. The 10 cardholders who retained large credit limits while we resolve payment issues and strengthen internal controls are assigned to the Purchasing and Contracting or the Emergency Finance Branch of the State Comptroller's office.

d. There is a rewrite of our Procurement Policy and Procedures Manual planned for December 2019 with annual review scheduled between October and December each year. The updated manual will address PCO/Purchasing Authority Contact (PAC) oversight and Fi\$Cal roles assigned to buyers not in their chain of command.

Finding 2: Prompt Payments to Vendors

Invoice payments are not being paid promptly in accordance with the Prompt Payment Act (Government Code 927 et seq.), late payment penalties and receipt dates are not being identified for each invoice.

Response:

a. To address tracing receipt dates, accounting staff implemented procedures for retention of the invoices' envelope when they are received through the mail. Additionally, all Department Contracting Officer Representatives (CORs) and Approving Officials were sent an email by the Deputy Comptroller requesting their support in date stamping invoices that are not sent directly to the Accounts Payable staff. Guidance will be codified in the Procurement Policy and Procedures Manual 2019 rewrite.

b. Accounting staff is developing a reporting tool to help perform, on a quarterly basis the review, assessment, and tracking of invoices paid late and to record the penalty fees paid to the vendors. Completion is planned not later than December 2019.

c. Accounting staff is developing an invoice log to track the outstanding requests for invoice approvals from Program staff/managers to determine the aging of the approval requests and elevate issues to managers. Completion is planned not later than December 2019.

Finding 3: Noncompliance with State Contracting Manual Volume F (SCM F)

Procurement actions routinely fail to comply with policy and regulation, 16 specific categories of exceptions are detailed in the audit report with other areas on noncompliance discussed during the audit period.

Response:

a. The PCO plans to increase compliance by issuing more detailed guidance on procurement policies and procedures in an updated Procurement Policy and Procedures Manual in December 2019. Our Department currently uses a Purchasing and Contracting Handbook for guidance to requestors and CORs in the field and a separate Procurement Policy and Procedures Manual for Purchasing and Contracting staff. None of the material referenced contains detailed operating procedures.

b. The PCA will develop a three year training plan/matrix for all Department procurement roles. This matrix will be included in the updated manual and will include CAL PCA certification requirements. An outline was drafted during the audit and tracking has already begun for the P&C staff.

c. The Purchasing and Contracting staff received an informal audit out-brief of the findings in June 2019. Improvements were made to our internal buyer's checklist. Fields were added to document the buyers review of DGS' lists of ineligible vendors (includes CDTFA and FTB). Also added to the buyer's checklist was a field for the buyer to indicate that they verified Leveraged Procurement Agreement (LPA) pricing and filed copies in our newly created LPA Library. The PCO/PCA verifies completion of checklist, the addition of terms and conditions and our purchasing authority number to comments when approving purchase orders in Fi\$Cal.

Non-IT Services Contracts

Finding 4: Contracts Over \$50,000

Current policies and procedures are not ensuring that emergency contracts for non-IT services over \$50,000 are being sent to the DGS Office of Legal Services for approval. Furthermore, multiple contracts over \$100,000 did not contain vendor certification of compliance with civil rights laws.

Response:

a. The PCO will increase compliance by issuing guidance with more detail about procedures required for each procurement method in the Procurement Policy and Procedures Manual update planned for December 2019. Current guidance, included the requirement to send emergency contracts over \$50,000 to DGS, but the procedures are not referenced frequently because much of the guidance is out of date. The manual has not been significantly updated since 2014.

b. California Civil Rights Certification verification for contracts over \$100,000 was added to our contract checklists shortly before the audit began. Some of the contracts audited predated the checklist revision. PCO/PCA will increase attention on analyst checklists when reviewing the contract file prior to signing contracts.

2. We appreciate the feedback provided throughout the audit and look forward to implementing changes that improve compliance and strengthen policies and procedures in our Purchasing and Contracting Program.

3. If you have additional questions, please contact Chief Warrant Officer Four Thomas Clarke at (916) 854-3690 or email at thomas.e.clarke4.mil@mail.mil.



RICHARD A. RABE
Colonel, California Army National Guard
Chief of Staff, Joint Staff

Encl

- 1 Enclosure A – Finding 1 Documentation
- 2 Enclosure B – Finding 2 Documentation
- 3 Enclosure C – Finding 3 Documentation

CALIFORNIA MILITARY DEPARTMENT (CMD)

EVALUATION OF CMD'S RESPONSE

We have reviewed the response by the California Military Department (CMD) to our draft report. The response to the recommendations is satisfactory. We appreciate the efforts taken or being taken by CMD to improve its delegated purchasing functions.