



MEMORANDUM

Date: September 26, 2019 File No.: 9208

To: Kate Gordon, Director
Governor's Office of Planning and Research
1400 Tenth 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 a status report on the implementation of each to us by March 26, 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 OPR's personnel.

If you need further information or assistance on this report, please call me at (916) 376-5054, or Amalia H. Sanchez, Management Auditor, at (916) 376-5016.

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

OLIVIA HAUG
Manager, Office of Audit Services

Attachment

cc: Scott Morgan, Deputy Director of Administration, OPR
Anthony Chavez, Director, Finance and Administration, California Volunteers.
Purchasing Authority Management Section (PAMS), Procurement Division, DGS

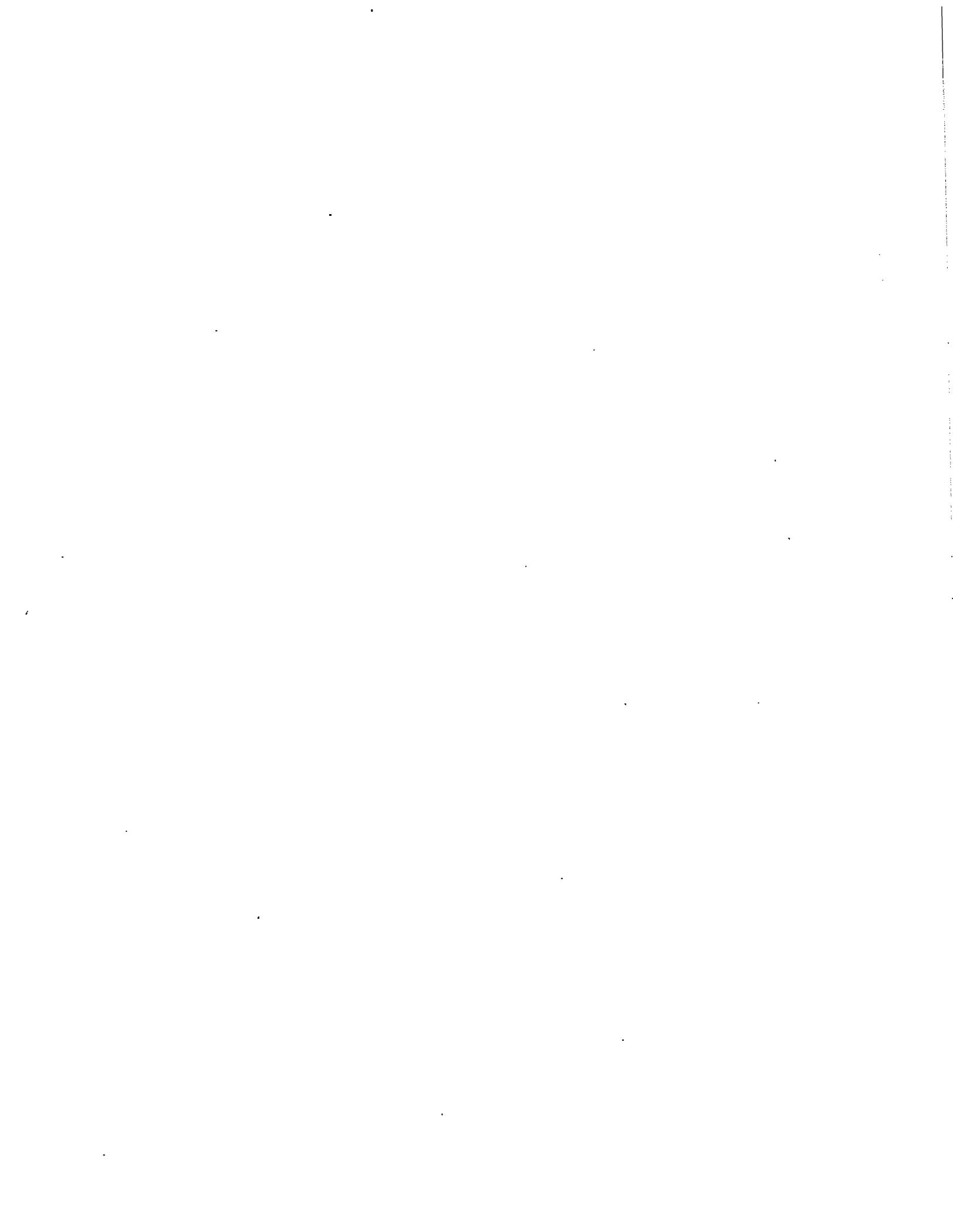
**GOVERNMENT OPERATIONS AGENCY
DEPARTMENT OF GENERAL SERVICES**

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

**FOR COMPLIANCE WITH STATE
DELEGATED PURCHASING PROGRAM
REPORT NO. 9208**

OFFICE OF AUDIT SERVICES

SEPTEMBER 2019



**GOVERNOR'S OFFICE OF PLANNING AND RESEARCH
DELEGATED PURCHASING PROGRAM AUDIT
REPORT NO. 9208**

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STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES
AUDITOR'S REPORT

DATE: September 26, 2019

TO: **Kate Gordon**, 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 a number of 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.

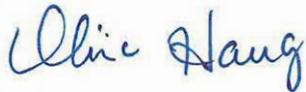
During our review we also identified other matters requiring attention that we discussed with OPR's management, but are not included in this report.

It should be noted that when advised of areas for improvement during our audit fieldwork, OPR'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. 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 Amalia H. Sanchez, Management Auditor, at (916) 376-5016.

A handwritten signature in blue ink that reads "Olivia Haug". The signature is written in a cursive, flowing style.

OLIVIA HAUG
Manager, Office of Audit Services

Staff: Amalia H. Sanchez, Management Auditor

cc: Scott Morgan, Deputy Director of Administration, OPR
Anthony Chavez, Director, Finance and Administration, California Volunteers
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 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 January 10, 2019 through June 18, 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 15 delegated non-IT and IT procurements, including three 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, 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.

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 transactions performed by OPR staff involved procurement transactions files that did not always include:

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 eight invoices revealed five were paid late, beyond the 45 day required timeframe. Two of the five samples resulted in late payment penalties due, however, one had not been identified as having a late payable penalty due. Furthermore, the department is not ensuring that invoices are date stamped upon initial receipt of its invoices. Two of the eight invoices were date stamped, but one contained a date stamp over a month after the invoice date with no documentation as to the delay of the received invoice.

In addition, the following exceptions are noted:

- No Commercially Useful Function (CUF) evaluation and determination 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 and 3.A2.8)
- Lack of documentation that Franchise Tax Board and California Department of Tax and Fee Administration websites have been checked to verify the contractor is not on a prohibited list (SCM F, 2.B4.5)
- No usage of forms STD. 213 and STD. 215 for IT services (SCM 3, 8.5.0 and 8.5.2)
- Not properly classifying a purchase (SCM 2, 2.B1.0 and SCM F, 2.B2.0)
- Not referencing the State General Provisions on purchase order (PO) (SCM 2, 4.B6.1)
- NCB (non-competitive bid) process being properly conducted and documented (SCM 2, 5.1.2)
- Lack of documentation to support "Fair and Reasonable" (SCM F, 6.9.4)

- Leveraged Procurement Agreement (LPA) proper documentation:
 - o Accurate LPA number on the PO (STD. 65, Instructions for Completing the Purchasing Authority Purchase Order)
 - o Reference to the LPA terms and conditions on the PO when the order was placed under an LPA (STD. 65, Instructions for Completing the Purchasing Authority Purchase Order)
 - o The complete LPA or the location of the complete LPA documented in the procurement file (SCM 3, 6.A4.2)
 - o The LPA pricing pages supporting each item purchased (SCM F – Chapter 5 Resources, LPA File Documentation Checklist, (SCM F, 5.A1.5)
 - o Purchasing language required in the LPA user instructions (SCM F, 5.A1.7, LPA User's Instructions)
 - o Documentation of multiple offers as applicable (SCM F, 5.A2.0, LPA User's Instructions)
 - o Documentation of best value as applicable (SCM F, 5.A2.2)
 - o Complete and signed Certification of Compliance with State IT Policies (SCM F, 2.E5.0)

RECOMMENDATIONS

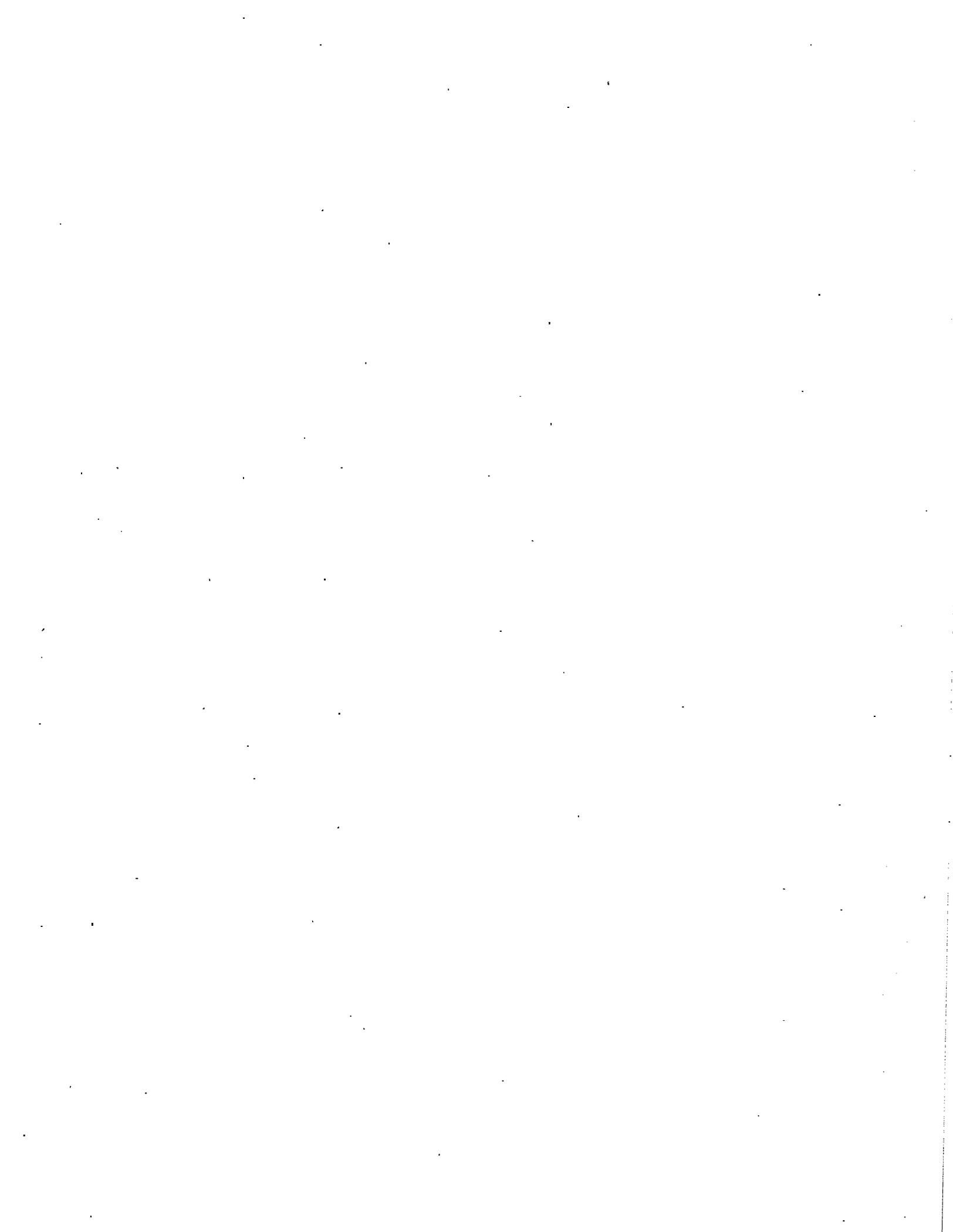
OPR should strengthen existing policies and procedures over its delegated purchasing program that include the following areas:

1. Increase staff training and reinforce peer reviews over:
 - Usage of correct PO/contract forms
 - Data accuracy in PO (LPA number, reference to terms and conditions, product code)
 - Ensuring LPA user instructions are being followed
 - Multiple offers and best values requirements are being met

2. Include in the procurement process the requirement of CUF evaluation for participating SB/DVBE bidders.
3. Verify tax non-delinquency for every procurement and ensure that the revised PO checklists, which include this requirement, are completed.
4. Maintain the LPA in the procurement file, including relevant/applicable LPA price and/or General Services Administration schedule.
5. Develop and implement Policies and Procedures to ensure full compliance with the Prompt Payment Act (GC 927). Periodically, remind staff of the requirements to date stamp invoices upon receipt in the department, processing invoices for payments timely, and ensuring late penalties are automatically paid when due.

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.





Gavin Newsom
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research



Kate Gordon
Director

September 17, 2019

Subject: Response to Audit Report, File No. 9208

To Whom It May Concern:

As the Chief Deputy Director of the Office of Planning and Research, I would like to extend my gratitude for the audit services conducted as it has proven to be a very positive learning experience for everyone involved. We are pleased with the results of the Findings and Recommendations, which concluded that OPR has implemented a delegated purchasing program that ensures compliance with the state's primary procurement requirements.

We appreciate the time and effort DGS Audit team has taken to communicate with OPR management and staff during the audit field work of the instances of noncompliance items. As a result of this process, the Finance and Administrative Services Division has updated and revised procedures to address the exceptions noted with transactions performed by OPR staff involving procurement transaction files that omitted pertinent supporting procurement documents or incorrectly classified a purchase.

To name a few of our efforts, a Senior Administrator has been assigned as the lead for the contracting and procurement processes to prevent any missed steps by the contracting team during the various review processes. With the recent assignment of the Senior Administrator, contracting training was conducted by and guidelines for contracts processing has improved the OPR's contracting and procurement process. A checklist of proper contracting requirements and processing timeline considerations assists in ensuring compliance with applicable state laws, policies and procedures. Additionally, the feedback received from both the Deputy Director and Director of Finance supports the commitment of the procurement team to ensure that deficiencies in processes are addressed moving forward.

In reviewing the audit report, it was noteworthy that, in general, the procurement transactions have been compliant with established terms and conditions, which reinforces my confidence in the ability of the procurement team to address the identified issues. Thank you again for the detailed evaluation and opportunity to improve and strengthen the work done by the OPR contracting and procurement team.

Office of Planning and Research appreciates the opportunity to improve our operations that this audit presented.

Sincerely,

Scott Morgan
Chief Deputy Director
Office of Planning and Research

Statement of Procurement Corrective Action

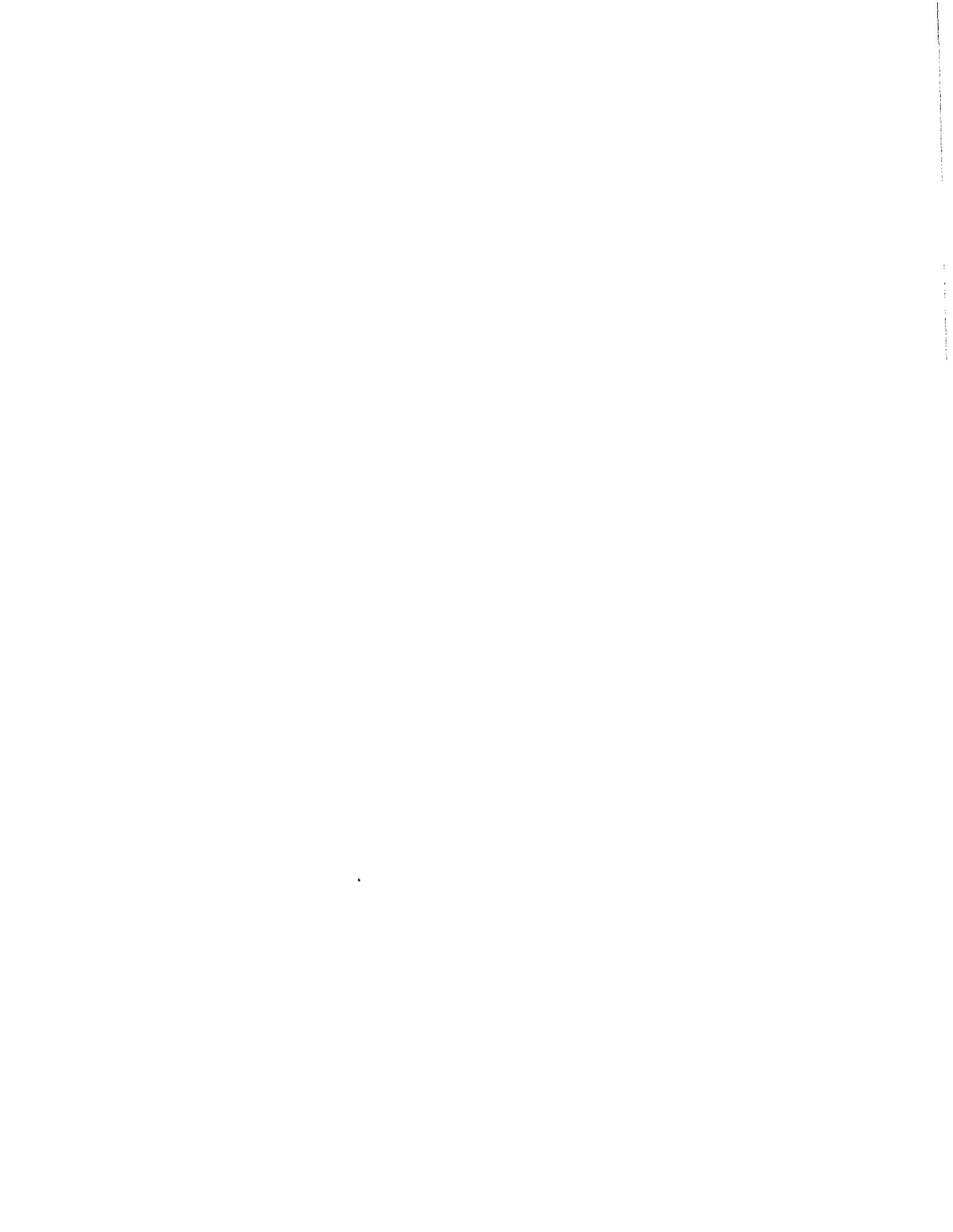
OPR will implement a solicitation checklist to add to procurement file that will effectively guide contracting team to ensure compliance with applicable state laws, policies and procedures. The Senior Administrator will serve as lead and review procurement documents to ensure that the checklist is utilized for each contracting file before contract execution.

In answer to the exceptions noted during DGS review of OPR transactions:

- *Commercially Useful Function "CUF"* evaluation and determination 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 and 3.A2.8)
 - Procurement team will perform CUF evaluation and attach supporting documentation that CUF was performed for contract.
- *Franchise Tax Board and California Department of Tax and Fee Administration* documentation that both FTB and CDTFA websites have been checked to verify the contractor is not on a prohibited list (SCM F, 2.B4.5)
 - Procurement team will refer to the FTB and CDTFA websites and ensure that vendor is not on a tax delinquency list. Appropriate box will be marked on the Std. 215 to indicate the vendor was checked and not found on a prohibited list.
- *Use of Std. 213 and Std. 215 for IT Services* (SCM 3, 8.5.0 & 8.5.2)
 - Procurement team will ensure that IT services are procured via the Std. 213 and Std. 215 documents. IT services such as Maintenance, Software, Proprietary software fall under this criterion, therefore a Std. 213 Agreement and Std. 215 Agreement Summary must be completed and all related Terms and Conditions are included in the agreement and reviewed to ensure compliance to State terms.
- *Properly Classifying a purchase* (SCM 2, 2.B1.0 and SCM F, 2.B2.0)
 - Accuracy of classifying a purchase enables procurement team to conduct purchase correctly and identifying the applicable purchasing authority, securing additional approvals and/or waivers as applicable. Procurement team will refer to SCM 2.B1.7 for guidance on specific purchase that needs clarification and discuss with Senior Administrator the proper classification of a purchase. DGS/PD/PAMS will be contacted if further clarification is needed.
- *Reference the State General Provisions on PO* (SCM 2, 4.B6.1)
 - The State's General Provisions will be incorporated by reference in the PO document by selecting the appropriate box comments in the FISCal PO module.
- *Non-Competitive Bid "NCB"* (SCM 2, 5.1.2)
 - NCB process will be properly conducted and documented by procurement team. NCB contracts will be executed on an individual basis and NCB contract justification be submitted and reviewed by DGS/PD for approval.
- *Fair and Reasonable "F&R"* (SCM F, 6.9.4)
 - Procurement team agrees to register for any available online DGS classes for F&R "refresher". Procurement team will properly document the Fair and Reasonable approach by documenting technique used in procurement files.
- *Leveraged Procurement Agreement "LPA"*

- o The LPA number will be accurately recorded, and provisions, terms & conditions added to the PO. A print out of the entire LPA file would be included in procurement file as well as individual LPA user instructions.

OPR is confident that with the solicitations checklist, and by the Senior Administrator's lead, that our contracting and procurement process will maintain satisfactory compliance with applicable laws and regulations.



GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

EVALUATION OF OPR'S RESPONSE

We have reviewed the response by the Governor's Office of Planning and Research (OPR) to our draft report. The response to the recommendations is satisfactory. We appreciate the efforts taken or being taken by OPR to improve its delegated purchasing functions.

