

**Date:** January 10, 2018 **File No.:** 7120

**To:** Nicolas Maduros, Director  
California Department of Tax and Fee Administration  
450 N Street, Room 2322  
Sacramento, CA 95814

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

**Subject:** **AUDIT REPORT: COMPLIANCE WITH STATE BUSINESS  
MANAGEMENT POLICIES**

Attached is the final report on our compliance audit of the business management functions and services of the State Board of Equalization (BOE). Beginning July 1, 2017, the California Department of Tax and Fee Administration (CDTFA) assumed all previous statutory tasks of the Board, and began performing the administrative functions for the Board under the Taxpayer Transparency and Fairness Act of 2017.

The objective of our audit was to determine compliance with policies set forth in the State Administrative Manual, and the terms and conditions of any specific delegations of authority or exemptions from approval granted by the Department of General Services (DGS).

BOE/CDTFA's written response to a draft copy of this report is included in the report. The report also includes our evaluation of the response. We are pleased with the actions being taken 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 the recommendations to us by July 10, 2018. 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, 8<sup>th</sup> Floor, West Sacramento, CA 95605.

We greatly appreciated the cooperation and assistance provided by BOE/CDTFA's personnel.

If you have any questions, please call me at (916) 376-5058, or Dennis Miras, Audit Supervisor, at (916) 376-5064.



ANDY WON  
Deputy Director, Office of Audit Services

Attachment

cc: Marybel Batjer, Secretary, GovOps  
Daniel C. Kim, Director, DGS

Katie Hagen, Chief Deputy Director, CDTFA  
Edna Murphy, Deputy Director, Administration Division, CDTFA  
Julia Findley, Chief, Financial Management Bureau, CDTFA  
Chris Holtz, Chief, Business Management Bureau, CDTFA  
Sara Sheikholislam, Internal Audits Chief, CDTFA  
Purchasing Authority Management Section (PAMS), Procurement Division, DGS

**GOVERNMENT OPERATIONS AGENCY  
DEPARTMENT OF GENERAL SERVICES**

**AUDIT OF THE  
CALIFORNIA STATE  
BOARD OF EQUALIZATION**

**FOR COMPLIANCE WITH STATE  
BUSINESS MANAGEMENT POLICIES  
REPORT NO. 7120**

**ISSUED TO:  
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

**OFFICE OF AUDIT SERVICES**

**JULY 2017**

**CALIFORNIA STATE BOARD OF EQUALIZATION  
COMPLIANCE AUDIT  
REPORT NO. 7120**

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

DATE: January 10, 2018

TO: **NICOLAS MADUROS**, Director  
California Department of Tax and Fee Administration

This report presents the results of our compliance audit of the business management functions and services previously under the oversight of the State Board of Equalization (BOE). Effective July 1, 2017, the State Board of Equalization was restructured. The Taxpayer Transparency and Fairness Act of 2017, which took effect July 1, 2017, restructured the State Board of Equalization and separated its functions among three separate entities to guarantee impartiality, equity, and efficiency in tax appeals, protect civil service employees, ensure fair tax collection statewide, and uphold the California Taxpayers' Bill of Rights.

The State Board of Equalization (Board, BOE) will continue to perform the duties assigned to it by the state Constitution, while all other duties will be transferred to the newly established California Department of Tax and Fee Administration (CDTFA) and the Office of Tax Appeals.

Beginning July 1, 2017, the CDTFA assumed all previous statutory tasks of the Board, and began performing the administrative functions for the Board. The CDTFA will report to the California Government Operations Agency (GovOps).

These audits are routinely performed under the authority granted to the Department of General Services (DGS) by Government Code Sections 14615 and 14619. The objective of our audit was to determine compliance with policies set forth in the State Administrative Manual (SAM), and the terms and conditions of any specific delegations of authority or exemptions from approval granted by DGS. As applicable, the scope of our audits of state agencies includes, but is not limited to, compliance with policies governing contracting, purchasing, fleet administration, small business (SB) and disabled veteran business enterprises (DVBE) usage, driver safety and insurance, surplus property, real estate, and prompt payment of suppliers. Our audit was conducted in accordance with U.S. generally accepted auditing standards.

All audit fieldwork was conducted prior to July 1, 2017. During that time, the business management functions and services were solely under the BOE. Due to the restructuring of BOE into three separate entities, the administrative functions (i.e. administration, business management, technology services, legal, and internal audits) for the Board will now be performed by and under the oversight of CDTFA.

While in most areas we concluded that BOE/CDTFA was conducting its business management functions and services in accordance with state requirements, our review disclosed the following areas of noncompliance with state requirements that should be addressed by CDTFA's management. The implementation of the recommendations presented in this report will assist CDTFA in addressing these areas.

- \ Contracting program policies and procedures are not ensuring full compliance with state contracting requirements. The types of exceptions noted during our audit included: (1) contract service requests not being submitted timely; (2) contract approvals not being obtained prior to the contract start date; (3) contracts not always adequately managed; and, (4) consultant contractor evaluations, STD. 4 form, not being completed and maintained within 60 days of project completion.
- \ The BOE/CDTFA's delegated purchasing practices are not ensuring full compliance with state requirements governing those types of procurements. The types of exceptions noted during our audit included: (1) completion and maintenance of a Bid/Quote Worksheet in the purchasing transaction files; (2) maintenance of complete documentation for a small business option solicitation, including the certification status of all businesses involved in the solicitation; (3) maintenance of information on the inclusion of the DVBE Program Requirements, or information on the waiver of the DVBE requirement within the bidder solicitation; and, (4) creation and execution of all purchasing transactions prior to receipt of goods.
- \ Invoice processing policies and procedures are not ensuring the prompt payment of vendors.

During our review we also identified other matters that did not pose a significant risk to the business management functions that required attention and were discussed with BOE/CDTFA's management, but are not included in this report.

Overall, we concluded that BOE/CDTFA's policies and procedures are sufficient to provide reasonable assurance of compliance with requirements governing the state's various business management programs with the exception of those items previously noted above.

We are pleased with BOE/CDTFA's commitment shown to improve compliance with state requirements. It should be noted that when advised of areas for improvement during our audit fieldwork, BOE/CDTFA's management took prompt actions to address our concerns. However, we did not perform effectiveness tests to determine whether the corrective actions are functioning as intended. The BOE/CDTFA'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 each of our recommendations as well as our evaluation of the response is included in this report.

We greatly appreciated the cooperation and assistance provided by BOE/CDTFA's personnel.

If you need further information or assistance on this report, please contact me at (916) 376-5058, or Dennis Miras, Audit Supervisor, at (916) 376-5064.



ANDY WON  
Deputy Director, Office of Audit Services

Staff: Dennis Miras, Audit Supervisor  
Rhonda Parker, Management Auditor

cc: Marybel Batjer, Secretary, GovOps  
Daniel C. Kim, Director, DGS  
Katie Hagen, Chief Deputy Director, CDTFA  
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Julia Findley, Chief, Financial Management Bureau, CDTFA  
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Sara Shelkholislam, Internal Audits Chief, CDTFA  
Purchasing Authority Management Section (PAMS), Procurement Division, DGS

# STATE BOARD OF EQUALIZATION COMPLIANCE AUDIT

## FINDINGS AND RECOMMENDATIONS

Effective July 1, 2017, the State Board of Equalization was restructured. The Taxpayer Transparency and Fairness Act of 2017, which took effect July 1, 2017, restructured the State Board of Equalization and separated its functions among three separate entities to guarantee impartiality, equity, and efficiency in tax appeals, protect civil service employees, ensure fair tax collection statewide, and uphold the California Taxpayers' Bill of Rights.

The State Board of Equalization (Board, BOE) will continue to perform the duties assigned to it by the state Constitution, while all other duties will be transferred to the newly established California Department of Tax and Fee Administration (CDTFA) and the Office of Tax Appeals.

Beginning July 1, 2017, the CDTFA assumed all previous statutory tasks of the Board, and began performing the administrative functions for the Board. The CDTFA will report to the California Government Operations Agency (GovOps).

The following presents our detailed findings and recommendations developed based on our review of the business management functions and services of the State Board of Equalization (BOE)/California Department of Tax and Fee Administration (CDTFA) for compliance with policies set forth in the State Administrative Manual (SAM), and the terms and conditions of any specific delegations of authority or exemptions from approval granted by the Department of General Services (DGS). This report presents information on areas of noncompliance with policies governing the: contracting for services; conduct of delegated purchases; and, prompt payment of vendors.

This information was developed based on our fieldwork conducted over the period July 18, 2016 through July 13, 2017. 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 2015/16 and 2016/17 fiscal years.

### CONTRACTING PROGRAM

Overall, we determined that BOE/CDTFA was conducting its contracting program in compliance with state requirements. However, our sample tests of various types<sup>1</sup> of contracts processed by BOE/CDTFA disclosed areas for improvement that need to be addressed to fully comply with the state's service contracting requirements. The state's contracting requirements are primarily contained in State Contracting Manual (SCM) Volume 1. The types of exceptions noted related to the timely approval of contracts, contract management, and the preparation of performance evaluations for consulting services contractors.

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<sup>1</sup> The types of contracts tested for compliance include both contracts subject to DGS review and approval (generally contracts of an amount of \$50,000 or more) and those delegated to the BOE/CDTFA to directly execute (generally contracts of an amount under \$50,000).



**CALIFORNIA STATE BOARD OF EQUALIZATION**  
**Findings and Recommendations, Cont'd**

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**Timely Approval** – current policies and procedures are not ensuring that contracts are approved timely prior to the commencement date shown on the contract. Our review of a sample of 16 contracts found that 8 were not processed in a manner that ensured contracts are approved prior to the commencement date shown on the contract. The number of days late ranged from 3 days to 181 days.

While it was difficult to determine the main cause for the delays in processing the sampled contracts, we ultimately concluded that the late contracts primarily resulted from programs not submitting requests timely to the Acquisitions Branch. At the BOE/CDTFA, program operating unit staff have significant responsibilities for developing and preparing contract information. If this information is not submitted to the Acquisitions Branch for final processing in a timely manner, the contract cannot be completed prior to its requested commencement date.

Public Contract Code Sections 10295 and 10335 provide that contracts are of no effect unless and until approved by DGS. The state's policies related to the approval and commencement of contracted work are presented in SCM Volume 1, Section 4.09. The basic state policy is that no contractor should start work until receiving a copy of the formally approved contract.

**Contract Management** – In reviewing BOE/CDTFA's contract management processes, we also identified other contract management issues that were discussed with responsible management and staff during our audit fieldwork and are not further detailed in this report. The types of exceptions noted included:

- Programs not developing and writing clear, concise, and detailed descriptions of the work to be performed (SCM 1, 9.04, A,1).
- Amendments to service contracts are not allowing sufficient time to process and execute such changes before the contract expires or funds are depleted in order to prevent a lapse in service (SCM 1, 9.04, A,8).
- Lack of notification to contractors warning them to not start work prior to receipt of the executed contract (SCM 1, 4.09, D).
- Program contract managers are not always reviewing, approving, or disputing invoices in a timely manner (SCM 1, 9.04).

**Consulting Services Contract Evaluations** – current policies and procedures are not ensuring that contractor evaluations are being performed. Our test of a sample of 11 completed consulting services contracts disclosed that no contract evaluations were completed for any of the sampled contracts. As provided in SCM Volume 1, Section 3.02.5, a Contract/Contractor Evaluation form (STD. 4), must be prepared within 60 days of the completion of a consulting service contract \$5,000 or more. This form is used to document the performance of a contractor in doing the work or in delivering the services for which the contract was awarded.

Public Contract Code Sections 10367 to 10370 provide that post-evaluations shall be performed and maintained in the file at the offices of the awarding state agency for a period of 36 months following contract completion. Further, a copy of an unsatisfactory evaluation will be sent to the contractor within 15 days and to the Department of General Services, Office of Legal Services within 5 days of completion of the evaluation.

**CALIFORNIA STATE BOARD OF EQUALIZATION**  
**Findings and Recommendations, Cont'd**

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**Recommendations**

- 1.t Implement policies and procedures that ensure the approval of contracts prior to the commencement date shown on the contract. As part of this process, operating unit managers should be periodically reminded of the lead-time needed for the timely processing of contracts and their responsibility for ensuring that complete and accurate contract information is submitted to the Acquisitions Branch in a timely manner.
- 2.t Implement additional quality assurance policies and procedures to assist in ensuring full compliance with the state's contracting requirements. These should ensure compliance with contract management requirements including: (1) programs developing and writing clear, concise, and detailed descriptions of the work to be performed; (2) amendments to service contracts are processed timely; (3) contractors are notified not to start work prior to receipt of the fully executed contract; and, (4) program contract managers are reviewing, approving, or disputing invoices in a timely manner.
- 3.t Implement policies and procedures which ensure that contractor performance evaluations are completed for consulting services contracts of \$5,000 or more. This process should ensure that contract managers are periodically reminded of their responsibility for completing the evaluations.

**DELEGATED PURCHASING PROGRAM**

Although overall we concluded that the BOE/CDTFA has implemented a delegated purchasing program that ensures compliance with the state's primary procurement requirements, our tests of a sample of 47 transactions, including 12 leveraged procurement agreement transactions, disclosed a number of areas for improvement that need to be addressed to fully comply with delegated purchasing requirements. The state's delegated purchasing requirements are primarily contained in SCM Volumes 2 (non-IT) and 3 (IT). 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 \$5,000, use of CAL-Cards to pay for goods and services, and prompt payment of suppliers<sup>2</sup>.

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 involved purchasing practices that were not always ensuring full compliance with SCM provisions governing the:

- t Completion of a Bid/Quote Worksheet to verify adequate and comparable bids (SCM 2, 4.B3.4 and SCM 3, 4.D1.1).t
- t Maintenance of complete documentation for a small business option solicitation, including the certification status of businesses involved in the solicitation (SCM 2, 4.B5.0 and SCM 3, 4.B7.0).t

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<sup>2</sup> See the results of our prompt payment tests on Page 7.

**CALIFORNIA STATE BOARD OF EQUALIZATION**  
**Findings and Recommendations, Cont'd**

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- Information on the inclusion of the DVBE Program Requirements, or the waiver of the DVBE requirement within the bidder solicitation (SCM 2, 3.3.2 and SCM 3, 4.B2.8).
- Fully executed procurement documents prior to the department receiving any products and/or having any services performed by a contractor (SCM 2, 8.2.8).

**Recommendation**

4. Implement additional policies and procedures to assist in ensuring full compliance with the requirements of the delegated purchasing program. This process should address the issues noted above.

**PROMPT PAYMENT OF VENDORS**

The BOE/CDTFA's current invoice processing policies and procedures are not ensuring the prompt payment of vendor invoices. In reviewing a sample of 151 vendor invoices processed for payment during the period August 2016 through November 2016 (invoices dated April 2016 through November 2016)<sup>3</sup>, we found that 81 (54%) were not processed in a manner that ensured payment in accordance with the state's prompt payment requirements. Specifically, the invoices were not paid within 45 calendar days of receipt by BOE/CDTFA. Further, a penalty fee was not paid to the vendor in 16 applicable instances.

In addition, vendor invoices were not being disputed in a timely manner or were not providing valid reasons for the dispute. We also observed that claim schedule files did not maintain adequate documentation that identified when an invoice was disputed and resolved.

Government Code Section 927, et seq., and SAM Sections 8474 through 8474.4 contain the state's policies related to the prompt payment of businesses. These policies include a requirement that vendor invoices be paid within 45 calendar days of receipt and the automatic payment of penalties when applicable. The 45 day timeline allows state agencies 30 days to perform their payment approval function and the State Controller's Office 15 days to perform its audit and warrant generation process. The failure to promptly pay invoices restricts the state's efforts in getting businesses to provide goods and services to the state.

We would like to point out that BOE/CDTFA's accounting staff did begin processing late payment penalties subsequent to the completion of our fieldwork. However, we did not test the effectiveness of the new operating process prior to the completion of our audit.

**Recommendation**

5. Implement policies and procedures that ensure the prompt payment of vendor invoices, payment of applicable penalty fees when required by state policy, and timely disputing of invoices. As part of this process, operating unit management should be reminded of the importance of the prompt forwarding of invoices and invoice approval to the Accounting Branch for payment. Further, this process should ensure that a comprehensive training activity is implemented.

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<sup>3</sup> Sample invoices were selected directly from claim schedule files, and included, but were not limited to payments made to vendors included in our evaluation of BOE/CDTFA's delegated purchasing and services contracting programs.

**CALIFORNIA STATE BOARD OF EQUALIZATION**  
**Findings and Recommendations, Cont'd**

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**CONCLUSION**

Our findings and recommendations are presented to aid CDTFA in administering its business management functions and services. CDTFA should address the reported issues to assist in ensuring compliance with applicable state laws, policies and procedures.



## CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

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EDMUNO G. BROWN JR.  
 Governor

MARYBEL BATJER  
 Secretary, Government Operations Agency

NICOLAS MADUROS  
 Director

December 21, 2017

Andy Won  
 Deputy Director  
 Department of General Services  
 707 3<sup>rd</sup> Street 8<sup>th</sup> Floor  
 West Sacramento, CA 95605

Mr. Won:

The California Department of Tax and Fee Administration (CDTFA) received the Department of General Services' (DGS) draft Audit Report: Compliance with State Business Management Policies for the Board of Equalization (BOE). As noted in the report, since passage of the Taxpayer Transparency and Fairness Act of 2017, the state reorganized BOE into three separate entities effective July 1, 2017. Most of the BOE's responsibilities for administering tax and fee programs were transferred to the newly established CDTFA, which reports to the California Government Operations Agency (GOV Ops).

CDTFA is responding to the audit review findings and recommendations as it pertains to items that are now under CDTFA's purview, and welcomes the opportunity provided by the reorganization to reexamine its business management practices and make necessary adjustments. BOE remains an independent constitutional entity; however, CDTFA provides administrative support for accounting, acquisitions, and other support functions as mandated through the legislative directive.

The report is comprised of three sections pertaining to BOE's compliance with policies set forth in the State Administrative Manual (SAM) and the terms and conditions of any specific delegations of authority or exemptions from approval granted by DGS.

We appreciate DGS's audit review. CDTFA concurs with the findings and recommendations described in the report. The following is CDTFA's response to DGS's identification of areas of noncompliance:

#### I.n Contracting Program

Contracting program policies and procedures are not ensuring full compliance with state contracting requirements. Types of exceptions noted during the audit included: (1) contract service requests not being submitted timely; (2) contract approvals not being obtained prior to the contract start date; (3) contracts not always adequately managed; and, (4) consultant contractor evaluations, STD. 4 form, not being completed and maintained within 60 days of project completion.

Response: CDTFA concurs with these findings. Several actions have been taken to ensure the approval of contracts prior to commencement date shown on each contract. CDTFA has a link to the Contract Manager's Handbook on its intranet site. In July 2017, Contracts staff developed and implemented annual reminders to staff regarding timely acquisition requests and implemented IT acquisition planning checklists.

In addition, Contracts staff has been instructed to use the boilerplate signature request letter already developed by DGS that contains instructions on compliance with state contracting requirements to contractors. To further assist programs with developing and writing clear, concise and detailed descriptions of work to be performed, a CDTFA Acquisitions web page provides resources, which includes instructional videos on what to submit with acquisition requests. The Acquisitions Branch

regularly refers staff to its webpage for resources, such as the Contract Manager's Handbook, to assist program contract managers with managing expenditures and budgeting for acquisitions. It is also referenced to assist staff with managing contract requests, expenditures and renewals. Finally, the Acquisitions Branch has implemented a monthly email notification process to program contract managers reminding them to submit the STD 4 – Contractor Evaluation Report within the timeframe required by state policy.

### 2.e Delegated Purchasing Program

The BOE/CDTFA's delegated purchasing practices are not ensuring full compliance with state requirements governing those types of procurements.

Response: CDTFA concurs with these findings. Corrections were made to existing Acquisition processes and documents as required. In addition, a new policy and procedure manual has been submitted to DGS's Procurement Division as part of the purchasing authority application process.

### 3.e Prompt Payment of Vendors

Invoice processing policies and procedures are not ensuring the prompt payment of vendors.

Response: CDTFA concurs with these findings. CDTFA has updated the prompt payment of vendors' policies and procedures, the Accounting Branch's Accounting Analysis created a late payment penalty calculator, training presentations for all CDTFA program management are in development, and staff is receiving additional cross training.

In addition to the responses provided above, CDTFA also plans to conduct additional refresher training for program on various topics including contract renewals and adherence to procurement policies and procedures. Program training is tentatively scheduled for 2018. A more detailed training plan will be provided in the next update.

If you have any questions concerning the CDTFA response please contact me or Katie S. Hagen, Chief Deputy Director, at (916) 324-4490.

Sincerely,



Nick Maduros, Director

cc: Ms. Marybel Batjer  
Ms. Katie Hagen  
Ms. Edna Murphy  
Ms. Sara Sheikholeslam  
Ms. Ester Cabrera  
Mr. Chris Holtz

**CALIFORNIA STATE BOARD OF EQUALIZATION  
COMPLIANCE AUDIT**

**EVALUATION OF CDTFA'S RESPONSE**

We have reviewed the response by the California Department of Tax and Fee Administration (CDTFA) to our draft report. The response to the recommendations is satisfactory. We appreciate the efforts taken or being taken by CDTFA to improve its business management functions and services.