



MEMORANDUM

Date: February 23, 2024 File No.: 4201

To: Galit Lipa, State Public Defender
Office of the State Public Defender
770 L Street, Suite 1000
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 Office of the State Public Defender's (OSPD) delegated purchasing program. The objective of our audit was to determine whether procurement transactions are being conducted in accordance with the terms and conditions of OSPD's purchasing authority delegation agreements with the Department of General Services (DGS), which include dollar threshold limits for various categories of procurements.

OSPD'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 the 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 August 23, 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 OSPD'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: Charlene Bennett, Chief, Administration, OSPD
Purchasing Authority Management Section (PAMS), Procurement Division,
DGS

**GOVERNMENT OPERATIONS AGENCY
DEPARTMENT OF GENERAL SERVICES**

**AUDIT OF THE
OFFICE OF THE STATE PUBLIC
DEFENDER**

**FOR COMPLIANCE WITH STATE
DELEGATED PURCHASING PROGRAM
REPORT NO. 4201**

OFFICE OF AUDIT SERVICES

DECEMBER 2023

**OFFICE OF THE STATE PUBLIC DEFENDER
DELEGATED PURCHASING PROGRAM AUDIT
REPORT NO. 4201**

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STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES
AUDITOR'S REPORT

DATE: February 23, 2024

TO: Galit Lipa, State Public Defender
Office of the State Public Defender

This report presents the results of our compliance audit of the delegated purchasing program of the Office of the State Public Defender (OSPD). 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 OSPD'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.

Overall, we concluded that OSPD 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 OSPD in addressing these issues.

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

It should be noted that when advised of areas for improvement during our audit fieldwork, OSPD'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. OSPD'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 OSPD'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: Charlene Bennett, Chief, Administration, OSPD
Purchasing Authority Management Section (PAMS), Procurement Division,
DGS

OFFICE OF THE STATE PUBLIC DEFENDER

DELEGATED PURCHASING PROGRAM AUDIT

FINDINGS AND RECOMMENDATIONS

The following presents our detailed findings and recommendations developed based on our compliance audit of OSPD'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 August 28, 2023 through December 20, 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 and 2023-2024 fiscal years. Our transaction tests included the review of 14 delegated non-IT and IT procurements, including 4 leveraged procurement agreement transactions.

DELEGATED PURCHASING PROGRAM

Overall, we concluded that OSPD has implemented a delegated purchasing program that ensures compliance with the state's primary procurement requirements. However, our tests disclosed a number of 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 OSPD staff involved either missing or inadequate procurement documentation for the following areas:

- SB/DVBE certification verification printout missing or not current (SCM Vol.2, Sections 1200, 1602)
- Missing Bidder Declaration (SCM Vol. 2, Section 1202)
- DVBE Declaration missing or not current (SCM Vol. 2, Section 1201)
- No Commercially Useful Function (CUF) evaluation and determination by the buyer (SCM Vol. 2, Section 1200.1)

- Purchase Order (PO) had no general provisions or had outdated version of the general provisions (SCM Vol. 2, Section 1403.3)
- Solicitation had link to outdated version of the general provisions (SCM Vol. 2, Section 1403.3)
- Solicitation had no Russia economic sanctions verbiage (Broadcast Bulletin P-7-22, Executive Order N-6-22)
- FI\$Cal and procurement files had conflicting procurement methods and file documentation not supporting the method listed in FI\$Cal (SCM Vol. 2, Section 303)
- Std. 16 not consistently reported to Department of Fair Employment and Housing - DFEH (SCM Vol. 2, Section 2200.4)
- Bid/quote worksheet not used and not retained (SCM Vol. 2, Section 1405.2)
- Missing seller's permit verification printout (SCM Vol. 2, Section 1403.3)
- Leverage Procurement Agreement (LPA) terms and conditions not referenced on the PO (SCM Vol. 2, Section 1602)

RECOMMENDATIONS

Strengthen existing policies and procedures over OSPD's delegated purchasing program that includes the following areas:

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 insufficient areas noted above to ensure they understand and comply with State purchasing requirements.
3. Revise the file checklist to require that the buyer check the bidder's SB/DVBE certification against Cal eProcure and retain a printout in the procurement file.
4. Revise the file checklist to require that the buyer evaluate and determine CUF and initial or sign the CUF evaluation and determine form.
5. Revise the file checklist to require staff to use and retain a bid/quote worksheet in the file.

CONCLUSION

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



**Office of the State
Public Defender**

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SACRAMENTO OFFICE

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February 9, 2024

Olivia Haug, Manager
Department of General Services
Office of Audit Services
707 3rd Street, 8th Floor,
West Sacramento, CA 95605

Re: Audit Report: Delegated Purchasing Program, File No. 4201

Dear Olivia Haug:

The Office of the State Public Defender appreciates your efforts and those of Management Auditor Christine Pham to ensure that OSPD's procurement transactions are being conducted in accordance with the terms and conditions of our delegated authority. It is because we take the findings seriously and share your commitment to compliance that our team immediately began implementing your recommendations as you brought them to their attention during the audit review process. Our responses to your recommendations noted in the report follow:

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

The Policy and Procedures Manual (PPM) has been reviewed and will be revised to incorporate the audit recommendations. Management will ensure they are followed.

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

Staff received updated training in the areas of concern as they were brought to our attention during the audit engagement. Updated instructions will be created to assist with ongoing compliance.

3. **Revise the file checklist to require that the buyer check the bidder's SB/DVBE certification against Cal eProcure and retain a printout in the procurement file.**

OSPD Contract and Procurement Checklists are being updated to require recent SB/DVBE printout and that it be saved in the procurement folder.

4. **Revise the file checklist to require that the buyer evaluate and determine CUF and initial or sign the CUF evaluation and determine form.**

OSPD Contract and Procurement Checklists are being updated to require CUF evaluation to be properly completed and included for all procurements.

5. **Revise the file checklist to require staff to use and retain a bid/quote worksheet in the file.**

OSPD Contract and Procurement Checklists are being updated to require use and retention of a bidder quote worksheet and to include "no-bids".

In addition to the updates noted above, the procurement team management will also implement periodic effectiveness tests to confirm the implemented corrective actions are functioning as intended and are modified, as appropriate, for changes in conditions.

Thank you for bringing these areas of improvement to our attention.

Please contact Charlene Bennett, Chief of Administration at (916) 322-2130 if you have questions related to this response.



Galit Lipa
State Public Defender

**OFFICE OF THE STATE PUBLIC DEFENDER
(OSPD)**

EVALUATION OF OSPD'S RESPONSE

We have reviewed the response by the Office of the State Public Defender (OSPD) to our draft report. The response to the recommendations is satisfactory. We appreciate the efforts taken or being taken by OSPD to improve its delegated purchasing functions.

As a part of our operating duties, we are responsible for following up on audit recommendations and will require a six-month status report on the implementation of those recommendations that have not been fully implemented. By August 23, 2024, please provide us with a copy of the updated PPM and revised OSPD Contract and Procurement Checklists.