



INSPECTOR GENERAL

California Department of Transportation

DEPARTMENT OF GENERAL SERVICES CONTRACT DELEGATION AUDIT

Program Audit



Independent Office of Audits and Investigations

Bryan Beyer, Inspector General
Diana Antony, Chief Deputy

December 2022
23A.PROG01



For questions concerning the contents of this report, please contact (916) 323-7111 or email ioai.reports@dot.ca.gov.



Inspector General

California Department of Transportation

Bryan Beyer, Inspector General

Diana Antony, Chief Deputy

December 27, 2022

Tony Tavares, Director
California Department of Transportation
1120 N Street
Sacramento, CA 95814

Final Report – Department of General Services Contract Delegation, Program Audit

Dear Director Tavares:

Pursuant to Public Contract Code, Section 10351(a)(4), the Independent Office of Audits and Investigations (IOAI) has completed its audit of the California Department of Transportation's (Caltrans) contract delegation. The Department of General Services exempts contracts under \$150,000 from its approval under the condition that Caltrans meet the biennial audit requirement. This audit is the first of the two required audits.

Enclosed is the final report, which includes Caltrans' response to the draft report. The final audit report is a matter of public record and will be posted on IOAI's website.

A Corrective Action Plan (CAP) addressing the recommendations is due from Caltrans 60 days from receipt of this letter. Subsequent to the submission of the 60-day CAP, updated CAPs will be due every six months until all recommendations have been implemented. The CAP should be sent to ioai.reports@dot.ca.gov.

We appreciate the assistance and cooperation of Caltrans. If you have any questions regarding this report, please contact David Wong, Audit Chief, at (916) 764-9677.

Sincerely,

Diana Antony

Diana Antony, CPA, CIG
Chief Deputy Inspector General

Gavin Newsom, Governor

Independent Office of Audits and Investigations
P.O. Box 942874, MS-2 (916) 323-7111
Sacramento, CA 94274-0001 <https://oig.dot.ca.gov>

Tony Tavares
December 27, 2022
Page 2

cc: Mike Keever, Chief Deputy Director, Caltrans
Aaron Ochoco, Deputy Director, Administration, Caltrans
David Prizmich, Division Chief, Division of Procurement and Contracts, Caltrans
Ben Shelton, Audit Chief, Internal Audits Office, Caltrans

Contents

Terms Used in Report	vi
Summary	1
Introduction	2
Background	2
Scope and Methodology	3
Audit Results	4
Table 1 – Summary of Caltrans’ Corrective Action Plan Status	4
Finding 1- Although Caltrans Made Improvements, It Still Needs to Implement Additional Quality Controls to Improve the Accuracy of Its Contract Information.....	6
Table 2 – Contracts with Incorrect Values	8
Appendix A. Table of Methodologies	11
Auditee’s Response	13

Terms Used in Report

Term/Acronym	Definition
ADM-3059	Report of Utilization of Small/Micro Business and Disabled Veteran Business Enterprise State-Funded Contracts Only
Audit Guide	DGS Contracting Program Audit Guide for Departments With \$150K Exemption, April 2022
Caltrans	California Department of Transportation
CATS	Contract Administration and Tracking System
DGS	California Department of General Services
DPAC	Caltrans, Division of Procurement and Contracts
DVBE	Disabled Veteran Business Enterprise
Exemption Letter	DGS Exemption Letter No. 14.0
IOAI	Independent Office of Audits and Investigations
IT	Information Technology
OLS	DGS, Office of Legal Services
PCC	Public Contract Code
SCPRS	State Contract and Procurement Registration System

SUMMARY

The California Department of General Services (DGS) has statutory authority for the procurement of noninformation technology (IT) and IT goods and services for California state agencies. Specifically, Public Contract Code (PCC), Section 10335 requires all state contracts to be approved by DGS with certain exceptions. For example, DGS may exempt from its approval contracts under \$150,000 if the awarding state agency meets all the requirements set forth in PCC, Section 10351. On June 15, 2020, DGS issued Caltrans Exemption Letter 14.0 (exemption letter), covering the period July 1, 2020, through June 30, 2024. The exemption letter grants Caltrans delegated authority to procure contracts for non-IT goods and services under \$150,000. As part of the delegated authority, two audits are required during this exemption period. This audit is the first of the two required audits and its purpose is to determine whether Caltrans:

- Complied with the legal requirements for exemption.
- Documented and implemented a system of internal controls over contracting that can be reasonably relied upon and is effective to ensure compliance with the exemption letter.
- Implemented appropriate corrective actions in response to previous audit findings.

Based on our audit, we obtained reasonable assurance that Caltrans complies with the legal requirements for exemption and maintains an adequate and effective system of internal control over contracting. We also determined Caltrans implemented corrective action in response to our prior audit and fully implemented seven of the ten recommendations. Although Caltrans made improvements, three recommendations remain open. Caltrans still needs to implement additional quality controls to improve the accuracy of its contract information.

INTRODUCTION

Background

DGS has statutory authority for the procurement of nonIT and IT goods and services for California state agencies, with certain exceptions. For example, DGS may exempt from its approval contracts under \$150,000 if the awarding state agency meets all the requirements set forth in PCC, Section 10351. On June 15, 2020, DGS issued Caltrans an exemption letter, covering the period July 1, 2020, through June 30, 2024, which grants Caltrans delegated authority to procure contracts for non-IT goods and services under \$150,000. Pursuant to PCC, Section 10351(a)(4), two audits are required during this exemption period and must be conducted in accordance with the *DGS Contracting Program Audit Guide for Departments With \$150K Exemption* (audit guide). This audit is the first of the two required audits.

Caltrans' Division of Procurement and Contracts (DPAC) is responsible for delegated procurement and contracting functions, including the procurement of IT and non-IT commodities, service contracts, architectural and engineering contracts, minor public works contracts, the CAL-Card Administration and Compliance Program, property control, and compliance reporting. Other divisions within Caltrans execute additional types of contracts consistent with applicable statutes and may be statutorily exempt from contracting regulations, including DGS approval and/or competitive bidding. For example, Caltrans Division of Engineering Services is responsible for major public works contracts, which are not subject to DGS approval. DPAC uses the Contract Administration and Tracking System (CATS) to track Caltrans contracts and capture data from contract creation to execution. CATS is also used to generate statistical data reports and manage records retention of completed contracts¹.

In May 2020, we conducted an audit for the previous exemption period. We identified five findings and recommended Caltrans to:

1. Improve CATS' accuracy and consistency.
2. Comply with the Utilization of Small/Micro Business and Disabled Veteran Business Enterprises reporting requirements.
3. Ensure contractors only start work once contracts are approved by DGS.
4. Comply with Cal-Card payment requirements.
5. Ensure conflict of interest statements are consistently signed by Legal Division staff.

¹Except from DPAC's Instruction Manual for Non-IT Service Contracts.

SCOPE AND METHODOLOGY

The purpose of this audit is to determine whether Caltrans:

- Complied with the legal requirements for exemption.
- Documented and implemented a system of internal controls over contracting that can be reasonably relied upon and is effective to ensure compliance with the exemption letter.
- Implemented appropriate corrective actions in response to previous audit findings.

The audit scope included all non-IT executed contracts and service agreements paid through Cal-Card for the audit period of July 1, 2020, to August 26, 2022. The audit population of 4,904 included all non-IT executed contracts, including contracts exempted from DGS approval, contracts within and outside the delegated amount of \$150,000, and small dollar value contracts (under \$10,000). We limited our audit planning and performed procedures in accordance with the audit guide, which prescribes specific audit procedures on the abovementioned types of non-IT executed contracts and service agreements paid through Cal-Card.

We gained an understanding of relevant policies and procedures, inspected documentation provided by DPAC and obtained from Caltrans' website, collected and analyzed data, and interviewed DPAC and Caltrans Division of Accounting staff with direct knowledge of areas relevant to the audit objectives.

In addition, we assessed the sufficiency and appropriateness of the computer-processed information that we used to support our findings, conclusions, and recommendations. To assess the reliability of CATS, we performed electronic testing for obvious errors in accuracy and completeness, reviewed related documentation, and worked with DPAC to identify data problems. As noted in this audit report, we identified contract codes, contract end dates, and contract values that did not match with the supporting documentation. Nevertheless, we determined the data was sufficiently reliable for the purposes of responding to our audit objectives.

Based on our planning, we developed specific methods for gathering evidence to obtain reasonable assurance to address the audit objectives. Appendix A details our methods.

We conducted this audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT RESULTS

Based on our audit procedures, we obtained reasonable assurance that Caltrans complies with the exemption letter and maintains an adequate and effective system of internal control over contracting. We also determined Caltrans implemented corrective action in response to our prior audit and fully implemented seven of the ten recommendations. The status of the remaining three recommendations is further detailed in Finding 1 below. Table 1 summarizes the status of Caltrans' corrective actions.

Table 1 – Summary of Caltrans' Corrective Action Plan Status

Finding #	May 2020 Audit Report Recommendations	Corrective Action Implemented?
1.a	Review, modify, and simplify the contract category code descriptions to ensure accurate and consistent categorization of contracts.	Partial
1.b	Ensure executed contracts are only reopened in CATS to make changes approved by Branch Chiefs and such changes are tracked to preserve data integrity.	Yes
2.a	Remind Contract Managers to obtain the <i>Report of Utilization of Small/Micro Business and Disabled Veteran Business Enterprise State-Funded Contracts Only</i> (ADM-3059) from the prime contractors within 60 days from receipt of final payment.	Yes
2.b	Continue to partner with the Office of Civil Rights on efforts to ensure contract managers obtain and submit the ADM-3059.	Yes
3.a	Work with the Division of Maintenance to establish departmental procedures for processing Hazardous Material Spill contracts to include a timeline for contract managers to submit complete contracts packages for DPAC's approval. In addition, DPAC should establish a timeline for contract execution.	Yes

Finding #	May 2020 Audit Report Recommendations	Corrective Action Implemented?
3.b	Once contract processing procedures are established, determine if payments could be made within the 45-day Cal-Card requirement. If unable to meet this requirement, consider an alternative payment method.	Yes
4.a	Ensure contractors start work only after the contract receives all appropriate approvals.	No
4.b	Design a process to ensure timely submission of contracts to approvers with a sufficient amount of time before the contract start date.	No
5.a	Provide training to the Legal division staff on conflict of interest.	Yes
5.b	Remind Caltrans Chief Counsel to ensure that any Legal Division staff involved in the processing of contracts over \$100,000 sign the COI statement per DPAC Delegation Agreement.	Yes

Source: Analysis by the Independent Office of Audits and Investigations.

Caltrans made significant progress, especially in the area of meeting Disabled Veteran Business Enterprise (DVBE) reporting requirements. In our prior audit, we found 92.3 percent of the sampled contracts with targeted DVBE goals did not have the required *Report of Utilization of Small/Micro Business and Disabled Veteran Business Enterprise State-Funded Contracts Only* (ADM-3059) in the contract files. This form requires a prime contractor to report achieved DVBE participation.

In response to this finding and the passage of Senate Bill 588 (Chapter 80, Statutes of 2020), Caltrans issued DPAC Policy Bulletin 22-01 (policy bulletin) to all staff on August 26, 2021 (see text box below). The policy bulletin outlined the new statutory requirements and emphasized that contract managers shall notify prime contractors whose contracts require DVBE participation and were executed on or after January 1, 2021, in writing that the ADM-3059 must be submitted with the final invoice. If the prime contractor fails to submit the ADM-3059 within the 30-day period, \$10,000 (or the full amount if less than \$10,000) shall be permanently withheld from the prime contractor's final invoice.

Based on a sample tested under our current audit, we found all contract files contained the ADM-3059.

Excerpts from DPAC Policy Bulletin 22-01

On September 11, 2020, Senate Bill (SB) 588 was chaptered into law which amended Military and Veterans Code, Section 999.5 to disallow an awarding department from crediting toward its DVBE participation goal any contract with a DVBE that is not certified at the time of award or does not meet and maintain DVBE certification requirements. Additionally, Military and Veterans Code, Section 999.5 was amended to require a prime contractor who entered into a subcontract with a DVBE to certify the following upon completion of the awarded contract:

- The total amount the prime contractor received under the contract.
- The name(s) and address(es) of its DVBE subcontractor(s) and the contract number.
- The amount and percentage of work the prime contractor committed to provide to its DVBE subcontractor(s) and the amount each DVBE received
- from the contractor.
- All payments under the contract have been made to its DVBE subcontractor(s).

SB 588 also added Military and Veterans Code, Section 999.7, which applies to contracts entered into on or after January 1, 2021. This section mandates an awarding department to withhold \$10,000, or the full amount if less than \$10,000, from payment of the prime contractor's final invoice until the prime contractor complies with certification requirements. A prime contractor that fails to meet this requirement shall be given up to 30 calendar days to submit the required certification. If the prime contractor fails to comply within the given timeline, \$10,000 (or the full amount if less than \$10,000) shall be permanently deducted from the final payment.

Additionally, we found that Caltrans complied with Cal-Card payment requirements and that Caltrans Legal Division staff attended conflict of interest training and signed the conflict of interest statements. While Caltrans took corrective actions to improve the accuracy and consistency of CATS in response to our prior audit, improvements are still needed as described in Finding 1.

Finding 1- Although Caltrans Made Improvements, It Still Needs to Implement Additional Quality Controls to Improve the Accuracy of Its Contract Information

In our prior audit, we found inaccurate and inconsistent categorization of contracts due to CATS' limitations (i.e., inability to add additional category codes). To improve its functionality, Caltrans upgraded CATS from a stand-alone application to a web-based solution, allowing users to edit and add additional contract codes, obtain contract information on an ad hoc basis, and maintain contract records electronically. Before the upgrade, DPAC performed an assessment to ensure the contracting

category coding structure was updated (i.e., added new categories, deleted unused categories, or updated outdated categories). CATS now has the ability to track edits made to contract information and prevent modification after contracts are closed.

Although Caltrans took additional corrective actions in response to our prior audit's recommendations, it still needs to include specific guidance and better-quality control procedures to improve the reliability of its contract information. We selected 109 contracts for testing and identified the following instances of non-compliance. Refer to Appendix A for further details on our methodologies.

Contract Information Inaccuracies

We found contract information discrepancies for 10 of 109 contracts tested. The errors included the misclassification of contracts, incorrect contract values, and incorrect contract end dates.

- *Misclassified Contracts.* A category code is used to properly classify the type of contract, dictate the appropriate solicitation and approval process to follow, and determine the required elements to include in the contract. Five contracts were not classified correctly.
- *Incorrect Contract Values.* The contract value is associated with the cost of the goods or services being procured and dictates other reporting requirements, such as DVBE goals and utilization achieved. Three contracts were entered with an incorrect value as shown in Table 2.
- While the value for contract number 42B3566 was a data entry error, the other two contracts' values were for the overall value of the project inclusive of other costs that should not have been included. For contract 65A0686TO070, the contract value reflected in CATS was for the entire on-call project which was then broken out into separate task orders. For contract 02-A1919, the contract value in CATS included the bid amount, supplemental work, and contingencies. According to DPAC staff, the amount in CATS should only reflect the task order amount for contract 65A0686TO070 and the bid amount for contract 02-A-1919. However, this practice was not clearly stated the DPAC's CATS Instruction Manual for Non-IT Service Contracts or the Caltrans Non-IT Service Contract Manual.

Table 2 – Contracts with Incorrect Values

Contract Number	(a) Contract Value Reflected in CATS	(b) Contract Value Per Executed Contract/Task Order	(a)-(b) Dollar Variance
42B3566	\$1,500,000	\$150,000	\$1,350,000
65A0686TO070	\$14,582,360	\$100,771	\$14,481,589
02-A1919	\$164,350	\$149,400	\$14,950

Source: Analysis by the Independent Office of Audits and Investigations.

- **Incorrect Contract End Dates.** The contract's effective start and end date indicates the duration of a contract. We found two contracts have incorrect end dates of June 30, 2023. The contracts had end dates much earlier than reflected in CATS. For contract numbers 07A5068 and 42B3566, the effective end dates were February 28, 2023 (4 months earlier) and June 30, 2022 (1 year earlier), respectively.

Caltrans Non-IT Service Contracts Manual (May 19, 2022 version), Section 2.5.2 C, states:

DPAC Branch Chiefs are responsible for ensuring CATS data entries are complete and accurate prior to signing a contract or an amendment and Contract Analyst must obtain approval from a DPAC manager, or a manager from a program with appropriate delegation authority, prior to submitting a request to the CATS Administrator.

DPAC management stated that these discrepancies were due to data entry errors. Inaccurate data could lead Caltrans to make misinformed decisions during the contract development process.

Costs Incurred Prior to Contract Execution

From our sample of 109 contracts, we selected 23 contracts to test for costs incurred prior to contract execution and found two instances of non-compliance. Specifically, a contract for security guard services (contract number 07A5071) required DGS, Office of Legal Services, approval since the contract's value was \$9,818,331. The contract was executed on May 24, 2021, but costs were incurred during January 2021, almost 4.5 months earlier than the effective start date. Similarly, a contract for an expert witness (contract number 42B3566) also required DGS, Office of Legal Services (OLS), approval as the value of the contract was \$150,000. The contract was executed on August 10, 2020, but costs were incurred one month earlier.

The State Contracting Manual, Volume 1, Chapter 4.09 (A), states:

The approval by DGS/OLS is the final, formal approval of the contract. When DGS/OLS' approval is required, contracts for services should not begin before receipt of approval; payment for services may not be made until the contract is approved by DGS/OLS or, in the case of an exempt contract, until it is formally approved by the agency.

Based on our review of the contract files, the contracts were submitted late to DGS for approval. Caltrans may not have had the authority to pay for work done by contractors prior to approval which could lead to payment disputes.

Contract Information Not Found in SCPRS

Managed by DGS, the State Contract and Procurement Registration System (SCPRS) is an internet-based application developed as a contract tracking system that provides a centralized database of acquisitions of goods and services. From our sample of 109 contracts, we tested 11 contracts and found two contracts were not in SCPRS. The State Contracting Manual, Volume 1, Chapter 4.12 D, states that agencies must report all acquisitions of goods and services, regardless of dollar amount, in FI\$Cal SCPRS².

DPAC staff were unable to determine why the records were not included in SCPRS since the transfer of executed contract data is performed electronically by Caltrans IT. Although this transfer is done on an ongoing basis, DPAC does not conduct a periodic review to confirm the data transfer was complete. If Caltrans cannot ensure that its contracting activities comply with applicable statutory requirements as required by the exemption letter, Caltrans may be at risk of losing its contract delegation.

Recommendations

We recommend Caltrans:

1. Update CATS to reflect the correct contract information supported by corresponding documentation maintained in the contract files.
2. Update guidance to provide clear direction and provide training to key staff to emphasize the importance of data accuracy.
3. Establish and implement data quality controls to ensure that CATS includes accurate information, including, but not limited to, category codes, contract values, and effective start and end contract execution dates.

²Although Caltrans has not transitioned to FI\$Cal as of the date of this report, Caltrans is required to report in FI\$Cal SCPRS.

4. Submit contracts timely for DGS approval to ensure costs are incurred within the effective contract execution dates.
5. Establish and implement data quality controls to ensure the transfer of contract information to SCPRS is accurate, complete, consistent, timely, and valid.

APPENDIX A. TABLE OF METHODOLOGIES

Audit Objectives	Methods
<p>Objective 1</p> <p>To determine whether Caltrans complied with the legal requirements for exemption.</p>	<p>Reviewed the exemption letter to determine the requirements, which includes:</p> <p>Notation on Contracts</p> <ul style="list-style-type: none"> Selected a judgmental sample of 10 contracts. Verified that contracts exempted by authority of the Exemption Letter are stamped as “Exempt from DGS Approval Per DGS Exemption Letter.” <p>Exemption Requirements</p> <ul style="list-style-type: none"> Confirmed Caltrans designates an agency officer as responsible and directly accountable for the agency’s contracting program. Determined whether Caltrans established written policies and procedures and a management system that will ensure the agency’s contracting activities comply with applicable provisions of law and regulations. Reviewed Caltrans’ plan for ensuring that contracting personnel are adequately trained in contract administration and contract management. Reviewed established procedures for reporting to DGS and the Legislature on such contracts as the Legislature may require in the Budget Act.
<p>Objective 2</p> <p>To determine whether Caltrans documented and implemented a system of internal controls over contracting that can be reasonably relied upon and is effective to ensure compliance with the exemption letter.</p>	<p>Obtained the audit population from DPAC, which included executed non-IT contracts and Cal-Card service agreements from DPAC from July 1, 2020, to August 26, 2022. The list comprised of the following:</p> <ul style="list-style-type: none"> 4,904 contracts with a value of \$3,389,882,359. 5,380 CAL-Card service agreements with a value of \$3,913,013. <p>To perform the audit procedures prescribed by the audit guide, we stratified the contracts of 4,904 using CATS category codes as follows:</p> <ul style="list-style-type: none"> Contracts exempted from DGS approval DGS approval and approved contracts compliance (\$150,000 and over) Delegated contracts (\$10,000 - \$149,999.99) Small Dollar Value Contracts (under \$10,000) Interagency agreements

Audit Objectives	Methods
	<p>Selected a judgmental sample of 109 contracts and 28 Cal-Card service agreements from those categories. In addition, three sub-samples were selected from the 109 contracts to determine whether:</p> <ul style="list-style-type: none"> Contractors reported DVBE sub-contractor usage. Payments were made prior to execution of contracts. Contract information was entered into Fi\$CaL SCPRS. <p>Used testing tools prescribed by the audit guide to determine whether the system of internal controls over contracting is documented, can be reasonably relied upon, and is effective to ensure compliance with the Exemption Letter issued by DGS.</p>
<p>Objective 3</p> <p>To determine whether Caltrans implemented appropriate corrective actions in response to previous audit findings.</p>	<p>Reviewed our May 2020 prior audit report.</p> <p>Confirmed that Caltrans submitted corrective action plans and assessed whether appropriate corrective action was taken by reviewing supporting documentation.</p>

AUDITEE'S RESPONSE

CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN NEWSOM, GOVERNOR

California Department of Transportation

OFFICE OF THE DIRECTOR
 P.O. BOX 942873, MS-49 | SACRAMENTO, CA 94273-0001
 (916) 654-6130 | FAX (916) 653-5776 TTY 711
www.dot.ca.gov



December 21, 2022

Mr. Bryan Beyer, CIG
 Inspector General
 Independent Office of Audits and Investigations
 P.O. Box 942874, MS-2
 Sacramento, CA 94274-0001

Dear Mr. Beyer:

The Division of Procurement and Contracts (DPAC) agrees with the draft report for the Department of General Services Contract Delegation, Program Audit, and will provide a Corrective Action Plan within 60 days.

If you have any questions regarding this response, please contact Char Krantz at (916) 926-7466 or via email at char.krantz@dot.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tony Tavares'.

TONY TAVARES
 Director

c: David Wong, CPA, CIGA, Audit Chief, IOAI
 Elena Guerrero, Senior Management Auditor, IOAI
 Mike Keever, Chief Deputy Director, Caltrans
 Aaron Ochoco, Deputy Director, Administration
 Ben Shelton, Audit Chief, Caltrans Internal Audits Office
 David L. Prizmich, Division Chief, DPAC
 Tracy Gentry, Deputy Division Chief, DPAC
 Lindy Cruz, Deputy Division Chief, DPAC
 Rajit Sharma, Deputy Division Chief, DPAC
 Char Krantz, Office Chief, DPAC

"Provide a safe and reliable transportation network that serves all people and respects the environment"



Independent Office of Audits and Investigations

P.O. Box 942874, MS-2
Sacramento, CA 94274-0001
(916) 323-7111 | oig.dot.ca.gov

