



**AUDIT OF THE
CONTRACT PROGRAM
FOR THE PERIOD JULY 1, 2012, TO JUNE 30, 2014**

Department of Developmental Services

This audit report was prepared by the
California Department of Developmental Services
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EXECUTIVE SUMMARY

The Audit Branch of the Department of Developmental Services (DDS) has conducted an audit of DDS' Contract Management Unit (CMU) for the time period of July 1, 2012, through June 30, 2014.

The audit disclosed the following finding of non-compliance:

Finding 1: Payments Above the Contract Rate

The sampled review of the 30 contract agreements revealed one contractor, ACCO Engineered Systems, Inc., Contract Number SN129002, was reimbursed at a higher rate than the rate stated in the contract. The review of the invoices revealed ACCO Engineered Systems, Inc. was reimbursed at a monthly rate of \$3,612, instead of the monthly contract rate of \$3,071, resulting in an overpayment totaling \$12,984 from July 1, 2012, through June 30, 2014. This is not in compliance with the State Contracting Manual, Volume 1, Section 9.04.

CMU provided supporting documentation with its response which indicated that the over payment made to ACCO is \$3,246 and not the \$12,984 identified in the audit. The remaining over payment has since been reimbursed to DDS.

BACKGROUND

In order to reduce administrative costs and complete contracts in a more time efficient manner, DDS requested an exemption from the requirement that DDS contracts be approved by the DGS' Office of Legal Services (OLS). DGS granted DDS the exemption for certain contracts. The exemption is renewed every four years.

During the period under audit, Exemption Letters 8.5 and 8.6 were in effect from April 1, 2009, through March 31, 2013, and April 1, 2013, through March 31, 2016. One requirement for maintaining the exemption is that DDS must conduct a biennial audit to determine whether DDS' CMU is in compliance with the Public Contract Code (PCC) and with DGS' conditions for maintaining the exemption. The Exemption Letters 8.5 and 8.6 granted by DGS allows DDS to be exempt from the following contracts:

- Pursuant to PCC Section 10351, contracts under \$150,000 are subject to approval from DGS per PCC Section 10335; and
- Interagency Agreements under \$150,000 per Government Code, Section 11256.

OBJECTIVE, SCOPE, AND METHODOLOGY

This audit was conducted to determine whether DDS has complied with the requirements of the DGS Exemption Letters 8.5 and 8.6 for the period of April 1, 2009, through March 31, 2013, and April 1, 2013, through March 31, 2017, respectively.

The audit was conducted in accordance with the Standards for the Professional Practice of Internal Auditing. These standards require that audits are planned and performed to obtain reasonable assurance that the objective of the audit, as specified in the DGS' Contracting Program Audit Guide, is met. The audit considered relevant aspects of the internal control structure to determine whether the system is sufficiently providing reasonable assurance of compliance with contracting laws and policies. In accordance to PCC, Section 10351, a State agency must meet the following criteria in order to obtain an exemption approval of its contracts from DGS' OLS:

- Designates an agency officer who is responsible and directly accountable for the agency's contracting program.
- Establishes written policies and procedures and a management system that will ensure the State agency's contracting activities comply with applicable provisions of law and regulations and that it has demonstrated an ability to carry out these policies and procedures and implement the management system.
- Establishes a plan for ensuring that contracting personnel are adequately trained in contract administration and contract management.
- Conducts an audit of the contracting program every two years and reports to DGS as required.
- Establishes procedures for reporting to DGS and the Legislature on such contracts as the Legislature may require in the Budget Act.

The criteria used for this review was the DGS Contracting Program Audit Guide, State Contracting Manual, State Administrative Manual, State Cal-Card Agreement, and the PCC. Additionally, the Audit Guide must be used when an audit is required as a condition for an exemption approval of an agency's contract from DGS' OLS.

The objectives of this audit as specified in the DGS Contracting Program Audit Guide are:

- To determine whether the contracting program is complying with the legal requirements for exemption, specifically as to the oversight of all awarded contracts subject to exemption.
- To determine and document the system of internal controls.

- To determine whether the contracting system, if followed, can be reasonably relied upon to provide adequate internal controls and produce contracts in accordance with the law, State policies, and the best interests of the State.
- To test the effectiveness of the internal controls through evaluation of a sample of contracts awarded since the prior audit.
- To determine whether appropriate corrective actions have been implemented in response to previous audit findings.

The scope of this audit, as specified in the DGS Contracting Program Audit Guide, requires that the audit include, but is not limited to, the following:

- In accordance to PCC, Section 10351, a limited review of the internal controls over the contracting laws and policies to gain reasonable assurance of compliance with applicable laws and regulations.
- Review of a selection of contracts, including interagency agreements, to ensure compliance with DGS' contracting procedures and requirements.
- Review of supporting documentation to ensure timely payment and compliance with applicable payment requirements.

The procedures performed for this audit included, but were not limited to, the following:

- Reviewed the Contracting Program Audit Survey to gain an understanding of policies and procedures used by CMU. A self-survey was completed by CMU and reviewed by the auditor. Follow-up discussions were conducted to obtain clarification of procedures as needed.
- A sample of 50 contracts was selected. This sample included contracts from developmental centers and DDS headquarters of various dollar amounts, contractors and contract types.
- The sampled contracts were reviewed for the entire contracting process. Each contract was reviewed for compliance to the applicable laws and regulations. This review included: the contract request, bidding process (when applicable), awarding of the contract, contract transmittal, contract terms, and funding for the contract.
- The initial invoice for each contract was examined to determine whether the services provided were consistent with the services in the contract, as well as to verify that the payment was consistent with the payment provision of the contract.
- Contracts in the audit sample that were identified as not being subject to approval by DGS' OLS were reviewed to verify the basis for exemption as well as verify that the contract was stamped "exempt."

- Contracts in the audit sample that were submitted to DGS for approval were reviewed to verify that the contracts were stamped “approved” and that amendments were submitted to DGS for approval, as required. The effectiveness of controls for the timely submission of contracts to DGS for approval was also evaluated.
- Contracts in the audit sample that were identified as meeting the criteria for DDS delegated approval were examined to determine whether the contracts complied with general contracting criteria, as required by DGS. These general contracting criteria are contained in the DGS Contracting Program Audit Guide which was used for this examination.
- The contracts in the audit sample included 11 interagency agreements. These agreements were reviewed to determine if DGS’ approval was obtained for the agreements that exceeded the delegation amount. The agreements were reviewed to ensure it contained the required financial control and competitive bidding language. In addition, the interagency agreements were examined to determine if agreements were used to circumvent contracting requirements.

In addition to the 50 contracts sampled:

- 178 small-dollar-value contracts for fiscal years 2012-13 and 2013-14 were reviewed to determine whether contracts were being split in order to circumvent applicable contracting criteria, as well as to verify that they met the criteria for issuing a service order.
- Twelve Cal-Card statements were randomly selected from DDS headquarters and the Developmental Centers to review Cal-Card purchases. Invoices and backup documents were examined to determine whether any of the Cal-Cards purchased were prohibited by DDS’s Cal-Card Handbook. The purchases on the Cal-Card statements were reviewed for evidence of splitting payments to circumvent purchase regulations and policies.

In addition, payments reflected on the Cal-Card invoices were reviewed to determine whether payments were made within 45 days of the invoice date, as required under the guidelines for the Cal-Card Program.

- All audit findings that were identified in the prior DDS audit of the Contract Program were reviewed to determine the degree and completeness of corrective actions taken. The prior audit contained four findings. From the review of these prior findings, all of the findings were fully resolved.

CONCLUSION

Based upon the DGS Contracting Program Audit Guide for the review period of July 1, 2012, through June 30, 2014, DDS did not comply with one item identified in the Finding and Recommendation section of this audit report.

Errors or irregularities may still occur and remain undetected due to inherent limitations in any internal control structure. Furthermore, projection of any evaluation of the structure in future periods is subject to the risk that procedures may become inadequate due to changes in conditions, diminished design effectiveness, and/or deterioration of policies and procedures. Based upon the procedures performed, there were no conditions identified that would constitute a significant deficiency in the design or operations of the internal control structure. However, our consideration of the internal control structure was limited and would not necessarily disclose all conditions.

VIEWS OF RESPONSIBLE OFFICIALS

DDS issued the draft audit report on May 29, 2015. The finding in the audit report was discussed at a formal exit conference with DDS' CMU on June 2, 2015. The views of the responsible officials are included in the final audit report.

RESTRICTED USE

This audit report is solely for informational purposes used by the DDS and the DGS. This restriction does not limit the distribution of this audit report, which is a matter of public record.

FINDING AND RECOMMENDATION

Finding 1: Payments Above the Contract Rate

The sampled review of the 30 contract agreements revealed one contractor, ACCO Engineered Systems, Inc., Contract Number SN129002, was reimbursed at a rate higher than rate stated in the contract. In accordance with the contract agreement, ACCO Engineered Systems, Inc. was to provide monthly preventative maintenance service at a monthly rate of \$3,071. However, from the review of the monthly invoices, ACCO Engineered Systems, Inc. was reimbursed at \$3,612 instead of the contract rate of \$3,071. This resulted in an overpayment to ACCO Engineered Systems, Inc., totaling \$12,984 from July 1, 2012 through June 30, 2014. This occurred because the Sonoma Developmental Center Contract Manager and the DDS Accounting Section, Accounts Payable Unit did not compare the payments against the contract. (See Attachment A.)

CMU provided supporting documentation with its response which indicated that the over payment made to ACCO is \$3,246 and not the \$12,984 identified in the audit. The remaining over payment has since been reimbursed to DDS.

State Contracting Manual, Volume 1, Section 9.04 states in part:

“(A) Typical responsibilities of the contract manager are as follows:

- (7) Monitor the contract to ensure compliance with all contract provisions:
 - (a) Monitor progress of work to ensure that services are performed according to the quality, quantity, objectives, timeframes, and manner specified in the contract; e.g., review progress reports and interim products.
- (9) Review invoices to verify work performed and costs claimed in accordance with the contract.

Recommendation:

The CMU and the Accounts Payable Unit must review the contracts to ensure the payments made are in accordance with the terms of the contract.

EVALUATION OF RESPONSE

As part of the audit report process, CMU has been provided with a draft report and was requested to provide a response to the finding. CMU's response dated June 16, 2015, is provided as Appendix A. This report includes the complete text of the finding in the Finding and Recommendation section as well as a summary of the finding in the Executive Summary section.

DDS' Audit Branch has evaluated CMU's response. CMU's response addressed the audit finding and provided reasonable assurance that corrective action would be taken to resolve the issue. During the follow-up review of the next scheduled audit, the DDS Audit Branch will confirm that CMU has implemented the corrective action as identified in their response to the draft audit report.

Finding 1: Payment Above the Contract Rate

CMU concurs with the finding and will continue to train the Contract Analysts, Contract Managers, Developmental Center's Fiscal Officers and Accounts Payable staff on the importance of monitoring the contracts and corresponding invoices to verify the services are completed before payments are approved. CMU stated that the overpayment made to ACCO is \$3,246 and not the \$12,984 identified in the audit. CMU explained this was due to the billing methodology used by ACCO, which spread the yearly costs for the Building Automation System (BAS) maintenance services across 24 months. ACCO agreed to perform four BAS maintenance service visits at an amount of \$3,246 per visit for a total of \$12,984. However, only three of the four scheduled maintenance service visits were completed. Therefore, ACCO has agreed to refund SDC the amount of \$3,246 for one uncompleted BAS maintenance service visit. The remaining over payment has since been reimbursed to DDS.

**DEPARTMENT OF DEVELOPMENTAL SERVICES
AUDIT OF CONTRACT PROGRAM
PAYMENTS ABOVE CONTRACT RATE
AUDIT PERIOD JULY 1, 2012 TO JUNE 30, 2014**

No.	Contract Number	Contractor Name	Service Month	Monthly Preventive Maintenance (MPM) Paid	Monthly MPM per Contract	Overpayment
1	SN129002	ACCO Engineered Systems, Inc.	Jul-12	\$3,612.00	\$3,071.00	\$541.00
2	SN129002	ACCO Engineered Systems, Inc.	Aug-12	\$3,612.00	\$3,071.00	\$541.00
3	SN129002	ACCO Engineered Systems, Inc.	Sep-12	\$3,612.00	\$3,071.00	\$541.00
4	SN129002	ACCO Engineered Systems, Inc.	Oct-12	\$3,612.00	\$3,071.00	\$541.00
5	SN129002	ACCO Engineered Systems, Inc.	Nov-12	\$3,612.00	\$3,071.00	\$541.00
6	SN129002	ACCO Engineered Systems, Inc.	Dec-12	\$3,612.00	\$3,071.00	\$541.00
7	SN129002	ACCO Engineered Systems, Inc.	Jan-13	\$3,612.00	\$3,071.00	\$541.00
8	SN129002	ACCO Engineered Systems, Inc.	Feb-13	\$3,612.00	\$3,071.00	\$541.00
9	SN129002	ACCO Engineered Systems, Inc.	Mar-13	\$3,612.00	\$3,071.00	\$541.00
10	SN129002	ACCO Engineered Systems, Inc.	Apr-13	\$3,612.00	\$3,071.00	\$541.00
11	SN129002	ACCO Engineered Systems, Inc.	May-13	\$3,612.00	\$3,071.00	\$541.00
12	SN129002	ACCO Engineered Systems, Inc.	May-13	\$0.00	\$3,246.00	(\$3,246.00)
13	SN129002	ACCO Engineered Systems, Inc.	Jun-13	\$3,612.00	\$3,071.00	\$541.00
14	SN129002	ACCO Engineered Systems, Inc.	Jul-13	\$3,612.00	\$3,071.00	\$541.00
15	SN129002	ACCO Engineered Systems, Inc.	Aug-13	\$3,612.00	\$3,071.00	\$541.00
16	SN129002	ACCO Engineered Systems, Inc.	Sep-13	\$3,612.00	\$3,071.00	\$541.00
17	SN129002	ACCO Engineered Systems, Inc.	Oct-13	\$3,612.00	\$3,071.00	\$541.00
18	SN129002	ACCO Engineered Systems, Inc.	Nov-13	\$3,612.00	\$3,071.00	\$541.00
19	SN129002	ACCO Engineered Systems, Inc.	Nov-13	\$0.00	\$3,246.00	(\$3,246.00)
20	SN129002	ACCO Engineered Systems, Inc.	Dec-13	\$3,612.00	\$3,071.00	\$541.00
21	SN129002	ACCO Engineered Systems, Inc.	Jan-14	\$3,612.00	\$3,071.00	\$541.00

**DEPARTMENT OF DEVELOPMENTAL SERVICES
AUDIT OF CONTRACT PROGRAM
PAYMENTS ABOVE CONTRACT RATE
AUDIT PERIOD JULY 1, 2012 TO JUNE 30, 2014**

No.	Contract Number	Contractor Name	Service Month	Monthly Preventive Maintenance (MPM) Paid	Monthly MPM per Contract	Overpayment
22	SN129002	ACCO Engineered Systems, Inc.	Feb-14	\$3,612.00	\$3,071.00	\$541.00
23	SN129002	ACCO Engineered Systems, Inc.	Mar-14	\$3,612.00	\$3,071.00	\$541.00
24	SN129002	ACCO Engineered Systems, Inc.	Apr-14	\$3,612.00	\$3,071.00	\$541.00
25	SN129002	ACCO Engineered Systems, Inc.	May-14	\$3,612.00	\$3,071.00	\$541.00
26	SN129002	ACCO Engineered Systems, Inc.	May-14	\$0.00	\$3,246.00	(\$3,246.00)
27	SN129002	ACCO Engineered Systems, Inc.	Jun-14	\$3,612.00	\$3,071.00	\$541.00
Total Overpayment				\$86,688.00	\$83,442.00	\$3,246.00
Recovery from ACCO Engineered Systems, Inc.						(\$3,246.00)
Balance						\$0.00

APPENDIX A

**CUSTOMER SUPPORT SECTION
CONTRACT MANAGEMENT UNIT**

**RESPONSE
TO THE AUDIT FINDING**

(Certain documents provided by the Community Support Section Contract Management Unit as attachments to its response are not included in this report due to the detailed and sometimes confidential nature of the information).

M e m o r a n d u m

Date: June 16, 2015

To: Edward Yan, Manager
Audits Branch
Department of Developmental Services

From: Pamela S. Robison
Section Chief/ Contracts Manager
Customer Support Section
Department of Developmental Services

Subject: Response to the Draft Audit Report of the Department of Developmental Services' Contracts Management for the Period of July 1, 2012 through June 30, 2014

Thank you for the opportunity to review and comment on the draft audit report. The Department of Developmental Services' (DDS) response to the finding and recommendation in the draft report follows:

FINDING 1: Payment Above the Contract Rate

The sampled review of 30 contract agreements revealed one contractor, ACCO Engineered Systems, Inc. (ACCO), contract number SN129002, was reimbursed at a rate higher than the rate stated in the contract. In accordance with the contract agreement, ACCO was to provide monthly preventative maintenance service at a monthly rate of \$3,071. However, from the review of the monthly invoices, ACCO was reimbursed at \$3,612 instead of the contract rate of \$3,071. This resulted in an overpayment to ACCO, totaling \$12,984 from July 1, 2012 through June 30, 2014. This occurred because the Sonoma Developmental Center's (SDC) contract manager and the DDS' Accounting Section, Accounts Payable Unit, did not compare the invoices against the contract before approving and processing for payment.

The State Contracting Manual, Volume 1, Section 9.04, states in part:

- “(A) Typical responsibilities of the contract manager are as follows:
- (7) Monitor the contract to ensure compliance with all contract provisions:

"Building Partnerships, Supporting Choices"

(a) Monitor process of work to ensure that services are performed according to the quality, quantity, objectives, timeframes and manner specified in the contract; e.g., review progress reports and interim products.

(9) Review invoices to verify work performed and costs claimed in accordance with the contract.”

Recommendation

ACCO must reimburse DDS \$12,984 for services provided above the monthly contract rate. In addition, the SDC's contract manager and the Accounts Payable Unit must review the contract to ensure payments are made in accordance with the terms of the contract.

Response to Finding 1:

The Department of Developmental Services concurs with the finding.

This finding does not represent DDS' standard process for contract invoicing and payment approval. Normally, contract service invoices are generated after services are performed. The contract manager receives an invoice and reviews it against internal logs that document the services were completed as specified in the invoice. The contract manager then approves the invoice for payment.

In this situation, the contractor, ACCO, performed preventive maintenance and repairs on the chiller equipment at SDC. ACCO explained to the SDC's contract manager that spreading the yearly cost for the Building Automated System (BAS) maintenance service across twelve months was their customary billing practice. In effect, this practice helped some customers by eliminating large bi-annual payments. In conforming to the contractor's usual billing practice, the department erred at both the contract manager and the accounting oversight levels in approving these invoices for payment.

The BAS maintenance service was performed by FM Booth who is the designer of the existing BAS. Upon reconciliation of invoices from FM Booth to ACCO, it was discovered that only three of the four scheduled maintenance service visits were completed. ACCO confirmed that the first BAS maintenance service visit, scheduled for November 2012, was not completed by FM Booth. ACCO agreed to refund SDC for the BAS service visit that was not performed in the amount of \$3,246. Attached are copies of the invoices from FM Booth for the three BAS service visits:

(1) May 2013, (2) November 2013, and (3) May 2014.

Also attached is a copy of an e-mail dated June 9, 2015 from ACCO's project manager which confirms the missing visit and acknowledges the credit due to SDC. The Fiscal Officer will follow-up with ACCO for this credit to ensure receipt.

Corrective Action Plan

The DDS' Contract Management Unit will continue to train the Contract Analysts, Contract Managers, Developmental Centers' (DC) Fiscal Officers and Accounts Payable staff on the importance of monitoring the contracts and corresponding invoices to verify the services are completed before payment is approved.

Starting in July 2015, CMU will work with the Developmental Centers Division management, and the DCs' Fiscal Officers to develop a quarterly audit of the service maintenance contract invoices to ensure they continue to conform to invoicing practices and that all invoices are properly authorized for payment.

Thank you for the opportunity to respond to the draft findings and recommendations. Please contact me if you have further questions or need any additional information.



engineered systems
 Established 1934
 Building Services Division
 6265 San Fernando Road
 Glendale, California 91201-2214
 818 / 244-6671

THE DOCUMENT IS ALTERATION PROTECTED. SEE REVERSE FOR DETAILS.

Wells Fargo Bank
 11-24/1210 10

DATE
 6/24/2015

AMOUNT
 \$3,246.00

PAY Three Thousand Two Hundred Forty Six Dollars and 00 Cents

Authorized Representatives of
AGCO Engineered Systems, Inc.
 Two Signatures Required Over \$10,000.00

TO THE ORDER OF
SONOMA DEVELOPMENTAL CENTER
 CID# 4535
 PO Box 985
 Eldridge CA 96431

[Signature]
 VOID AFTER 6 MONTHS

THIS DOCUMENT IS ALTERATION PROTECTED. SECURITY FEATURES INCLUDE FIBER PAPER AND MICROPINT, VOID FEATURE PANTS, AND BLEED THRU NUMBERS

Total Net	Vendor	Check Date	Control Number
\$3,246.00	SONOMA DEVELOPMENTAL CENTER	6/24/2015	[Redacted]
\$3,246.00	Abate to SN [Redacted] Contract 7/1/2012 - 6/30/2014	REFUND	6/11/2015