DGS **MEMORANDUM**

Date: February 7, 2008 File No. 7182

To: Melissa Jones, Executive Director
California Energy Commission
1516 9th Street
Sacramento, CA 95814

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

Subject: **AUDIT REPORT: CONTRACTING PROGRAM**

This report presents the results of our audit of the California Energy Commission's (Commission) contracting program. On September 8, 2004, the Director of the Department of General Services (DGS) signed Exemption Letter No. 60.03 which granted the Commission's request to process contracts without DGS review and approval. In brief, subject to a number of limitations, the exemption allows various types of contracts under $75,000 to be processed without DGS review and approval during the four-year period of October 1, 2004 through September 30, 2008. As a condition of the exemption, two audits are required to be performed of the Commission's contracting program during the four-year exemption period. Based on the Commission's request, the DGS Office of Audit Services agreed to conduct the first audit required under the terms of the exemption.

The objective of our audit was to determine compliance with the terms and conditions of Exemption Letter No. 60.03. In general, the exemption requires that the Commission maintain an adequate and effective system of internal control over contracting and that the system be sufficient to ensure compliance with the State's contracting laws, policies, and procedures. Our audit was conducted in accordance with U.S. generally accepted auditing standards.

Based on the results of our fieldwork conducted over the period March 14, 2007 through July 20, 2007, we concluded that the Commission is conducting its contracting program in compliance with the terms and conditions of its exemption. The Commission's contracting policies and procedures are sufficient to provide reasonable assurance of compliance with the State's contracting laws, policies, and procedures.

During our review we identified a number of areas for improvement within the Commission's contracting program. These areas included our concern that policies and procedures were not ensuring full compliance with State Contracting Manual (SCM) or Purchasing Authority Manual (PAM) provisions governing the: (1) notification of the Department of Fair Employment and Housing of contract awards over $5,000 (SCM 7.15.A); (2) obtaining of contractor certifications including those related to nondiscrimination program compliance (SCM 4.08.A.5) and maintenance of a drug-free workplace (SCM 4.08.A.6); (3) entering of contract awards into the State's centralized database of contract and purchase transactions (PAM Chapter 8); and, (4) preparation of a performance evaluation form within 60 days of the completion of a consulting services contract of $5,000 or more (SCM 3.02.5).

In addition, we observed that a number of consulting services contracts (service orders) for amounts under $5,000 were processed by the Business Services Office instead of the Contracts Office. Because of the significant statutory requirements for processing these types

of contracts, including a requirement that contracts of $1,000 or more contain detailed performance criteria and a schedule of performance (SCM 3.02.1), in our opinion, all consulting services contracts should be processed under the oversight of Contracts Office personnel who have been trained in the State's service contracting requirements.

Since the degree of noncompliance noted during our review was not significant to the overall contracting program of the Commission, the above issues are not further discussed in this report. However, they were discussed with Commission contracts and business services management personnel who indicated that appropriate action had been or was being taken to address our concerns. The next audit required under the terms of the exemption will contain follow-up work to confirm that appropriate actions have been taken to ensure full compliance with the State's contract requirements.

To determine compliance, we reviewed policies and procedures, tested a sample of contracts awarded during the 2005 and 2006 calendar years, interviewed parties involved and performed other tests as deemed necessary.

We greatly appreciated the cooperation and assistance provided by the Commission's personnel.

If you need further information or assistance on this report, please contact me at (916) 376-5058, or Fred Daniels, Audit Supervisor, at (916) 376-5063.

RICK GILLAM, Chief
Office of Audit Services

Staff: Christopher Harris

cc: Linda A. Cabatic, Deputy Director, Legal Services, DGS
Betty LaFranchi, Manager, Human Resources and Support Services
Cheryl Raedel, Manager, Contracts, Grants and Loan Office