

# Statewide Procurement Practices

*Proposed Reforms Should Help Safeguard  
State Resources, but the Potential for  
Misuse Remains*

Presentation by  
California State Auditor

Joint Legislative Audit Committee  
Informational Hearing

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This presentation document is only intended to outline selected portions of Report 2002-112, *Statewide Procurement Practices: Proposed Reforms Should Help Safeguard State Resources, but the Potential for Misuse Remains* (March 2003). For a more complete explanation of the points outlined in this document, refer to the report.

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\* This figure was not presented in California State Auditor Report 2002-112, but is intended to further illustrate information contained in the report.

# AUDIT SCOPE

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- ◆ Audit the California Multiple Award Schedules (CMAS) program and the State's sole-source contracting procedures.
- ◆ Review the process used by Department of General Services when establishing the CMAS vendors' list.
- ◆ Review the procedures and practices used to identify qualified contractors and consultants when using noncompetitively bid and CMAS contracts to procure goods and services.
- ◆ The Joint Legislative Audit Committee also requested that we specifically include CMAS and noncompetitively bid procurements from Oracle, Logicon, and David Lema and Associates in our sample.
- ◆ Review procurements relating to the state Web portal.
- ◆ Departments for which we reviewed CMAS purchases:
  - ✓ **Department of Corrections**
  - ✓ **Department of Food and Agriculture**
  - ✓ **Department of Consumer Affairs**
  - ✓ **Department of Justice**
  - ✓ **Department of Motor Vehicles**
  - ✓ **Department of Transportation**
  - ✓ **Health and Human Services Data Center**
  - ✓ **Office of Emergency Services**
  - ✓ **Stephen P. Teale Data Center**

# AUDIT HIGHLIGHTS

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- ◆ State departments spend billions of dollars each year using the California Multiple Award Schedules (CMAS) program, master service agreements (MSAs), sole-source contracts, and emergency purchase orders.
- ◆ Before the governor's May 2002 Executive Order requiring departments to adhere to stricter contracting and procurement procedures, departments did not compare prices among CMAS vendors.
- ◆ Poor oversight and administration by the Department of General Services (General Services) contributed to the problems we identified with departments' purchasing practices.
- ◆ Without comparing prices, the State purchased millions in goods and services for the Web portal project.
- ◆ Estimated Web portal project costs given to administrative control agencies and the Legislative Analyst's Office were sometimes inaccurate.
- ◆ Before the Executive Order, departments frequently misused alternative procurement practices—sole-source contracts and emergency purchases.
- ◆ General Services' procedures for adding new vendors and products to the CMAS list are weak.
- ◆ The information technology system for the CMAS program does not contain the information needed to make efficient CMAS purchases and contains inaccurate expenditure data.
- ◆ Recent improvements recommended by General Services and the Governor's Task Force on Contracting and Procurement Review should address many of the weaknesses we identified, but further changes are needed.

## ***Departments Often Used CMAS to Purchase Goods and Services Without Comparing Prices or Determining Best Value***

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As you know, the Legislature enacted legislation in 1993 that allows for an alternative to the standard competitive bidding process. This program, known as the California Multiple Award Schedules Program or CMAS program, is modeled after the federal Multiple Award Schedules Program (FMAS), and allows the State to establish competitively bid contracts with multiple vendors who agree to provide a high volume of some good or service to the State. The underlying goal of this program is to achieve volume discounts for frequently used goods and services.

Once General Services establishes a California multiple award schedule for a product or service, state agencies can then purchase items from a list of pre-approved vendors without having to conduct a full-blown competitive bid process for each purchase. This program is designed to promote both competition and efficiency.

Under the CMAS program, California does not conduct the competitive bidding process. Instead, California relies on contracts that have been previously established between the federal government and vendors and “reestablishes” those contracts. California also relies on multiple award schedules that have been previously established by other states and local governments. While the FMAS contracts established by the federal government undergo a rigorous competition, multiple award schedules established by other states or local governments may be subject to varying degrees of competition, depending on the laws that govern competitive bidding for those entities.

In fiscal year 2000-01 state departments spent \$889 million purchasing goods and services from vendors participating in the CMAS program.

Prior to the May 2002 Executive Order, General Services ***recommended*** that departments compare prices among CMAS vendors before making purchases. However, there was ***no requirement*** that departments compare prices, and departments generally ignored the recommendation of General Services. (See Table 1)

**Examples:** OES made five purchases totaling \$1.5 million without comparing prices. Similarly, Corrections purchased computer hardware maintenance services totaling \$4.6 million, but could not provide us with documentation showing that it compared prices and services among CMAS vendors.

**Departments had three reasons for not comparing prices among CMAS vendors:**

- 1. General Services recommended, but did not require, that they compare prices.**
- 2. Several departments believed that CMAS vendors had already gone through a competitive evaluation; therefore, comparison shopping would not result in better prices.**
- 3. It was too difficult to obtain contracts and price lists from General Services or vendors making comparing prices problematic.**

CMAS contracts were also used extensively to purchase hardware, software, and consulting services for the state Web portal.

**When Developing the Web Portal, State Entities Disregarded Recommended Protocols for Using CMAS and Failed to Comply With the Terms of a Master Service Agreement**

The state Web portal is a multimillion-dollar project that facilitates Internet access to the State's government services. The Web portal has been commended for providing efficient access to government services. Our audit is not in any way intended to evaluate the merits of this state resource. Our audit focuses only on the planning and acquisition process that was used to acquire the hardware and software used to implement the Web portal.

Four state agencies purchased \$3.2 million of goods and services from one vendor and \$8.4 million in consulting services from another vendor without comparing prices or analyzing factors other than price. **(See Table 2)** By not comparing prices, the State cannot ensure that the costs of goods and services purchased were reasonable.

\$3.2 million of the purchases were from the StateStore and \$8.4 million were from Deloitte Consulting. These purchases were made by the Teale Data Center, Health and Human Services Data Center, and General Services.

These purchases were in large part made at the request of former officials of the Governor's Office.

**The StateStore's CMAS Contract Did Not Include Some Goods and Services Purchased for the Web Portal**

General Services purchased goods and services totaling more than \$181,000 from the StateStore that were not in the StateStore's CMAS contract.

The Teale Data Center purchased goods and services totaling \$509,000 from the StateStore that were not covered under the vendor's contract.

In a sample of 44 purchase orders that we reviewed at the nine departments, three contained at least one item that was not in the approved CMAS contract.

**Subsequent to the Executive Order, More Departments Did Compare Prices and Document Best Value**

In a sample of 25 purchases made after the May 2002 Executive Order, we found only two instances where departments did not obtain at least three price quotes.

# ***The Lack of Accountability for State Web Portal Project Purchases Resulted in Undisclosed Costs and Violations of State Policy***

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The Web portal project involved a series of purchases made by four state entities: the Enterprise Business Office and the Telecommunications Division, both within General Services; the Teale Data Center, and the Health and Human Services Data Center.

Purchases were made largely at the direction of former officials of the Governor's Office. These officials received advice from a Web council composed of officers from several large private businesses.

In total, the design, implementation, and maintenance of the Web portal required at least 84 purchases from 20 vendors. The departments used the CMAS program and master service agreements (MSAs) to make \$12.7 million of the \$15.2 million in purchases from August 2000 through December 2002. (See Table 2)

## **ALTHOUGH INITIATED BY THE GOVERNOR'S OFFICE, THE WEB PORTAL BECAME THE RESPONSIBILITY OF GENERAL SERVICES**

In April 2000, the Governor's Office submitted a feasibility study report to the Departments of Information Technology (DOIT) and Finance (Finance) indicating that development and maintenance for the Web portal would be \$4.5 million over six years.

In September 2000, General Services assumed administrative responsibility for the Web portal and subsequently submitted a feasibility study report estimating the costs at \$5.1 million.

Although General Services became the administrator, the former directors of eGovernment and Executive Information Services directed much of the purchasing and decision-making activities. (See Figure 1)

## **THE STATE'S FAILURE TO COMPARE PRICES CREATED THE APPEARANCE THAT SOME COMPANIES MAY HAVE HAD AN UNFAIR ADVANTAGE IN SELLING WEB PORTAL COMPONENTS TO THE STATE**

The Web portal was developed with guidance from a group of executives from several private businesses participating in the Web council, some of which later sold products to the State for the project.

Three companies—Broadbase Software, Broadvision, and Hewlett-Packard—sold hardware and software components to the State for the Web portal totaling \$2.5 million. Not comparing prices of goods and services offered by these companies to those offered by others creates an appearance of unfairness.

Former officials of the Governor’s Office, wanting to avoid the lengthy competitive bidding process, elected to use CMAS and an MSA for purchases for the Web portal project.

One of the former officials of the Governor’s Office selected the StateStore and Deloitte Consulting to provide the bulk of the goods and services for the Web portal project.

The StateStore is a reseller with a CMAS contract through which it sold the services and products of subcontractors to the State for the Web portal. These subcontractors included Broadbase Software, Broadvision, Interwoven, and Verity Software. **(See Figure 1)**

General Services and the Health and Human Services Data Center issued a total of 13 purchase orders to Deloitte Consulting totaling \$7.9 million based on the vendor’s MSA contract.

## **GENERAL SERVICES AND FORMER OFFICIALS OF THE GOVERNOR’S OFFICE DID NOT FOLLOW STATE POLICY GOVERNING INFORMATION TECHNOLOGY PROJECTS**

### **General Services Lacked Control Over the Web Portal Project**

General Services did not adequately coordinate and monitor Web portal purchasing and reporting activities. As a result, the special project reports submitted to DOIT, Finance, and the Legislative Analyst’s Office (LAO) did not accurately account for all Web portal purchases.

A decentralized purchasing method—with the former officials of the Governor’s Office directing purchases made by several state entities—made it difficult for General Services to account for all Web portal activities.

An original feasibility study report showed estimated costs of the Web portal at \$5.1 million. In November 2000, General Services submitted a special project report to DOIT, Finance, and the LAO indicating that the estimated Web portal costs would increase to \$6.8 million—a 32 percent increase. **(See Figure 2)**

At the time, state policy required a department to submit a special project report to DOIT, Finance, and the LAO if the total costs of an information technology (IT) project were expected to deviate by more than 10 percent from the previous estimate. A department should not implement any changes to IT projects until DOIT and Finance approve the special project report.

The next special project report, dated January 5, 2001, estimated the costs to be \$13.5 million, but provided no explanation for the significant increase in project costs. In fact, this report was not signed by the director of General Services or his designee as required by state policy. This report was approved by Finance.

According to information provided by Finance, it appears that the unsigned special project report was prepared by staff at the Employment Development Department following a meeting between Finance officials, a former Governor's Office official, and representatives from General Services.

Another special project report further increasing the cost of the Web portal to \$26.2 million was submitted by General Services on January 15, 2002. While the report included an explanation for the increased costs, it was not submitted until after the project enhancements had been made.

In the January 15, 2002, special project report General Services reported that it had contracted with Deloitte Consulting for \$5.2 million; however, by that time General Services and the Health and Human Services Data Center had already paid Deloitte Consulting \$5.7 million and had committed the State to paying the company another \$2.6 million.

### **Web Portal Special Project Reports Were Inaccurate Because They Failed to Include Some Actual and Projected Costs**

At least one special project report was inaccurate because it did not include more than \$1.3 million in Web portal costs incurred by General Services' Telecommunications Division and the Health and Human Services Data Center.

Former officials of the Governor's Office directed the Telecommunications Division to purchase \$1.1 million in consulting services and software for the Web portal. The Health and Human Services Data Center used its own funds to purchase \$250,000 in services for the Web portal from Deloitte Consulting.

These costs were not included in the special project reports because these entities were not reimbursed for portal-related purchases. Costs incurred by the Telecommunications Division were recovered through service fees charged to state departments for the State's telephone network.

Two special project reports understated estimates for future years' costs because they did not include any costs through fiscal year 2005-06. (See **Figure 2**)

The feasibility study and first two special project reports included costs from fiscal years 2000-01 through 2005-06. (These reports cover six fiscal years.)

A special project report, dated January 15, 2002, did not show any costs for fiscal years 2004-05 and 2005-06. (This report covers only four fiscal years.)

The most recent special project report, dated September 20, 2002, does not include costs for fiscal year 2005-06. (This report covers only five fiscal years.)

### **THE USE OF MULTIPLE DEPARTMENTS TO MAKE PURCHASES FOR THE WEB PORTAL RESULTED IN PAYMENTS FOR SOME SERVICES THAT WERE REQUIRED UNDER EARLIER AGREEMENTS**

On March 26, 2001, General Services' Telecommunications Division issued a \$173,000 purchase order to Deloitte Consulting for project management of ongoing operations and maintenance support of the Web portal. The terms of this contract duplicated some of the terms and services of another purchase order that General Services' Enterprise Business Office issued on January 29, 2001, to Deloitte Consulting. **(See Figure 3)**

In May 2001, the Health and Human Services Data Center entered into an agreement with Deloitte Consulting to create a plan to develop a Web portal mirror site.

Much of the content of reports submitted by Deloitte Consulting in fulfillment of its agreement with the Health and Human Services Data Center was already covered by earlier contracts between the consulting firm and the Enterprise Business Office.

Health and Human Services Data Center paid Deloitte Consulting for its services under the contract before receiving the required deliverables. According to the employee who approved the payment to Deloitte Consulting he did so based on assurances given to him by one of the former officials in the Governor's Office that the services called for had been provided.

### **RECENT ACTIONS BY GENERAL SERVICES AND THE TEALE DATA CENTER HAVE REDUCED WEB PORTAL MAINTENANCE COSTS**

The most recent special project report shows the costs for the Web portal to be \$20.3 million, a reduction of nearly \$6 million from the previous report. **(See Figure 2)**

On June 12, 2002, the interim director of DOIT said that although Deloitte Consulting's work product had been exemplary, its Web portal agreements were expensive and little had been done to transfer the consulting firm's expertise to state employees. As such, he recommended that General Services extend Deloitte Consulting's Web portal maintenance agreement until a competitively selected contractor became available.

General Services entered into an \$820,000 noncompetitively bid contact with Deloitte Consulting to maintain the Web portal starting July 1, 2002, and ending December 31, 2002. The new contract limited Deloitte Consulting's maintenance activities to normal work hours rather than the previous agreements, which called for maintenance activities by Deloitte Consulting 24 hours a day, seven days a week.

When the contract ended on December 31, 2002, state employees apparently were not ready to maintain all aspects of the Web portal; therefore, Teale entered into another six-month contract with Deloitte Consulting for \$350,000. Unlike the previous contract, this contract was competitively bid. (See **Figure 3**)

Teale solicited proposals from 20 different companies and six responded. Deloitte Consulting was ultimately selected; however, by using the competitive process Teale achieved a 39 percent average reduction in Deloitte Consulting's hourly rates from the rates paid on earlier, noncompetitively bid contracts.

## ***By Strengthening Its Review Processes, General Services Could Reduce Departments' Misuses of Sole-Source Contracts and Emergency Purchases***

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State law allows a department to purchase information technology (IT) goods and services and non-IT goods without competitive bidding if the department and General Services agree that there is only one good or service that can meet the State's needs. A contract established using this exception is commonly known as a sole-source contract.

An emergency purchase is allowed for a purchase that must be made immediately for the protection of public health, welfare, or safety.

### **STATE DEPARTMENTS IMPROPERLY USED SOLE-SOURCE CONTRACTS TO OBTAIN GOODS AND SERVICES**

General Services approved eight of 23 sole-source contract requests we reviewed even though the requests did not sufficiently justify the use of sole-source contracts.

- ✓ In four requests, the departments failed to provide the kind or degree of justification we expected to see.
- ✓ In one case, the department's justification was ambiguous.
- ✓ In the three remaining cases, the departments sought sole-source contracts because they did not have sufficient time to acquire the goods or services through the competitive bidding process.

### **In Addressing Concerns With Sole-Source Contracts, the State Should Consider Implementing Procedures Used by the Federal Government**

The federal government requires an agency to post a public notice when seeking approval of certain sole-source contracts, and if poor planning necessitates certain contracts, the agency must specify how it will avoid similar situations in the future.

In addition, in every sole-source contract, General Services should include provisions that protect the State's interest if the contract needs to be amended or if future goods and services are needed from the sole-source vendor.

## **DESPITE WELL-ESTABLISHED CRITERIA FOR EMERGENCY PURCHASES, DEPARTMENTS SUBMITTED INCORRECT OR INADEQUATE INFORMATION THAT GENERAL SERVICES IMPROPERLY APPROVED**

In our review of 25 purchase requests, all of which General Services approved, we found that in 17 cases the departments were requesting approval of emergency purchases. However, in the remaining eight cases the departments were requesting approval for reasons other than meeting emergency needs, such as seeking to purchase an item to meet a special need. Although it did not have the authority, General Services incorrectly exempted these from the State's competitive bidding process.

Of the 17 emergency purchases totaling \$21.3 million, nine totaling \$2.3 million completely failed to identify the existence of an emergency situation that fell within the statutory definition or to explain how the purchase related to addressing the threat posed by an emergency.

- ◆ In five cases, the departments did not have a clear understanding of what constitutes an emergency as defined by state law.
- ◆ In four cases, the departments did not adequately explain how the proposed purchase would address the threat posed by the emergency.
- ◆ In the remaining eight cases, the departments adequately justified the emergency need.

The common theme throughout many of the unjustified emergency purchases was that the departments failed to properly plan for a competitive bidding process for items used in the regular course of business.

## **A FAILURE TO ADEQUATELY JUSTIFY SOLE-SOURCE AND EMERGENCY PURCHASES MAY RESULT IN QUESTIONS ABOUT THE VALIDITY OF THE CONTRACTS**

If a contract is established without competition and fails to satisfy the statutory requirements for either a sole-source contract or an emergency purchase, a court might conclude that it is not enforceable as a valid contract.

We did not attempt to determine whether any particular contract is invalid; however, it is important to understand that a court may set it aside as void and unenforceable.

## ***General Services Needs to Strengthen Its Oversight of State Purchasing Activities***

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### **INSUFFICIENT AUDITS AND REVIEWS WEAKEN GENERAL SERVICES' ABILITY TO MONITOR DEPARTMENTAL PURCHASING PRACTICES**

By law, General Services is required to annually review the purchasing activity of departments that have been granted purchasing authority and audit those departments every three years.

According to General Services' records, it has completed only 60 percent of the required reviews since fiscal year 1999-2000.

The Procurement Division is responsible for conducting reviews of departments that have been delegated purchasing authority.

Between July 1999 and January 2003, the Procurement Division had completed 105 of the 174 required reviews. Less than half of these reviews were completed within the required three years.

The Audits Division has the responsibility to perform comprehensive audits of state departments that have delegated purchasing authority. The audits the division conducts include examinations of CMAS purchases as well as sole-source contracts and emergency purchases.

Since July 1998, the Audits Division has completed only 19 audits of the 40 departments it includes in its audit rotation.

### **MORE FREQUENT REVIEWS OF CMAS VENDORS WOULD HELP GENERAL SERVICES TRACK CONTRACT COMPLIANCE**

Reviews of CMAS vendors determine whether the CMAS contract included the goods and services purchased and whether the purchasing department paid the correct price.

Of the 2,300 active CMAS vendors reported by General Services as of August 2002, it had reviewed only 29 from July 1998 through September 2002.

### **GENERAL SERVICES NEEDS TO IMPROVE ITS PROCESS FOR ADDING NEW VENDORS AND PRODUCTS TO THE CMAS LIST**

General Services allows contracts between other public entities and multiple-award vendors to serve as the basis for state CMAS contracts. In other words, rather than awarding its own base contract under the CMAS program, General Services requires a vendor to submit a written offer

of products, services, and prices that reside on an existing federal or other government entity's multiple award contract. The four types of base contracts that allow a vendor to participate in the CMAS program are as follows:

- ✓ **Applicant holds a federal multiple-award schedules (FMAS) contract:** Applicant has a multiple-award contract with the federal government that was awarded through a competitive bidding process that considered price. The FMAS was developed by the federal General Services Administration (GSA). The applicant must submit a copy of that contract to General Services.
- ✓ **Applicant piggybacks off another vendor's FMAS contract:** Applicant does not have a contract with the federal government, but agrees to offer products and/or services at the same prices as a vendor who does have a multiple award contract with the federal government. The applicant must also submit other qualifying information.
- ✓ **Applicant holds a non-GSA multiple-award contract:** Applicant has a multiple-award contract with a non-GSA entity. Non-GSA includes other federal, state, or local agencies. The applicant must submit to General Services the solicitation document used by the non-GSA entity to request bids from vendors. In addition, the applicant must submit its contract to General Services to show that a price comparison was part of the evaluation criteria used by the non-GSA entity when awarding the contract.
- ✓ **Applicant piggybacks off another vendor's non-GSA contract:** The applicant does not have a multiple-award contract but agrees to provide goods and/or services at the same prices as the vendor that has a multiple-award contract with a non-GSA entity. The applicant must also submit other qualifying information.

As of October 2002, 87 percent of CMAS contracts were with vendors who piggyback off of another vendor's multiple award schedule contract. (See Figure 4)

### **Despite Following Its Established Procedures for Awarding CMAS Contracts, General Services Cannot Verify That Base Contracts and Amendments Were Competitively Awarded**

We reviewed a sample of seven contracts and found that General Services obtained the necessary information from the applicant vendors. However, we could not determine whether General Services independently verified the information provided by the vendors.

Two of the contracts that we tested were with the StateStore, a private reseller specializing in the state government IT market. According to General Services' records, between January 2000 and June 2002, the State made more than 900 purchases totaling approximately \$32 million from the StateStore.

The StateStore's CMAS contract that was used to make purchases for the Web portal is based on a multiple-award contract that was originally established between the StateStore and the Merced County FOCUS program. Merced County started the FOCUS program in 1997 as a way to establish multiple-award contracts for IT goods and services. Unlike CMAS, FOCUS vendors are required to pay Merced County a percentage of the revenue generated by the contract. Vendors pay the fee when other governments, including the State, use a FOCUS contract as a basis for their own multiple-award schedules. CMAS vendors use FOCUS contracts as the basis for CMAS contracts more frequently than any other non-GSA entity's contracts. (See Figure 4)

### **General Services Did Not Confirm That the FOCUS Program Followed the Requirements for Vendors Specified in the Request for Proposal**

In its request for proposal, Merced County required its applicants to meet the following requirements:

- ◆ Demonstrate that the prices of products and services offered represent the most competitive pricing given to state and local government entities.
- ◆ Offer only prices that reflect an across-the-board percentage discount for every item submitted.
- ◆ Specify the percentage discount offered.

Despite this language, the StateStore submitted a bid to Merced County that did not meet these requirements. General Services did not question the inconsistencies between Merced County's request for proposal and the StateStore's submitted bid. In August 2000, General Services added the StateStore to the CMAS list based on the FOCUS contract granted to the StateStore in May 2000.

Between August 2000 and March 2002, the StateStore amended its FOCUS contract 20 times, adding new product lines and updating prices for existing lines. State officials requested most of the amendments so that the StateStore's CMAS contract could likewise be amended, thereby enabling the State to purchase specific goods and services for the Web portal.

The premise behind the CMAS amendment process is that all base contracts and any subsequent amendments have been competitively assessed. In the case of the Merced County FOCUS program, competitive assessment did not occur.

We found that most of the updates to the StateStore's contract with Merced County were approved within two days. On six occasions, the updates were approved on the same day and in one of the six requests, Merced County updated its contract with the StateStore with four new product lines in little more than an hour.

## **INACCURATE DATA CAUSED GENERAL SERVICES TO SOMETIMES OVERCHARGE DEPARTMENTS USING THE CMAS PROGRAM**

General Services charged departments an administrative fee of 1.21 percent of each CMAS purchase. Purchases from small business vendors are exempt.

We reviewed 90 CMAS purchases at nine departments and found 24 instances in which General Services had either entered the incorrect amount into the system or had no record of the transaction.

Departments are responsible for submitting CMAS purchase orders to General Services. Therefore, missing records may be the result of departments failing to submit the required information to General Services

For 10 incorrectly recorded transactions we found that General Services had overcharged departments by more than \$219,000.

General Services charges the departments electronically and later sends billing information to the departments. However, most of the nine departments we reviewed indicated that they do not reconcile the billing information they receive from General Services to their CMAS purchase orders.

# ***Recommendations of the Governor's Task Force on Contracting and Procurement Review Should Improve Controls on Contracting and Procurement***

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In May 2002, the governor issued an Executive Order creating the Governor's Task Force on Contracting and Procurement Review. In August 2002, the task force made 20 recommendations designed to improve the contracting and procurement processes of the State (**Appendix B**). The recommendations focus on the use of the CMAS program and noncompetitively bid contracts and on establishing contracting and procurement standards for state departments and General Services. In general, we believe the task force's recommended changes, if properly implemented, should address many of the weaknesses in the CMAS program and noncompetitive bidding procedures we identified in the audit report.

## **KEY TASK FORCE RECOMMENDATIONS**

### **To departments:**

- ✓ Must solicit and obtain at least three price quotes, including at least one from a small business when making a CMAS purchase.

### **To General Services:**

- ✓ Develop standards and criteria for potential CMAS vendors that are not part of the federal multiple-award schedules program.
- ✓ Adopt a policy prohibiting departments from using CMAS or master agreements for large IT projects unless approved as part of feasibility study reports.
- ✓ Perform random audits and compliance reviews of departments' contracting and procurement transactions.
- ✓ Develop a uniform set of policies, procedures, and processes for contracting and procurement activities.
- ✓ Develop and deliver a comprehensive training and certification program for state contracting and procurement officials.
- ✓ Implement a comprehensive electronic procurement system for all state contract and procurement transactions.
- ✓ Ensure legal review of all high-risk transactions, including large IT projects.
- ✓ Involve stakeholders in continuous improvement of contracting and procurement processes.

# STATE AUDITOR RECOMMENDATIONS

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## STATE DEPARTMENTS

Ensuring that the State receives the best value when acquiring goods and services requires all state departments to make changes in their purchasing procedures, including the following:

- ◆ Disseminate the reforms arising from the May 2002 Executive Order and the task force's recommendations to all departmental purchasing personnel.
- ◆ State department officials should stress adherence to CMAS and noncompetitive bid contracting requirements and reject requested purchases when these requirements are not met.
- ◆ Require that their legal counsel review sole-source contracts and emergency purchases for compliance with statutory requirements before submitting them to General Services.
- ◆ State departments should institute procedures to accurately identify and monitor their procurement needs to ensure that sufficient time exists to properly plan for the acquisition of goods and services. Additionally, departments should continuously assess the effects of legislative and other requirements on their procurement needs.

## TEALE DATA CENTER

To ensure that the State's investment in the Web portal is a prudent use of taxpayer resources, the Teale Data Center should:

- ◆ Continue to competitively bid purchases of goods and services for the Web portal project.
- ◆ Monitor project expenses by recording estimated costs when contracts and purchase orders are initiated and actual costs when they are paid.
- ◆ Submit special project reports to Finance and LAO when required, and ensure that reported costs accurately reflect actual expenditures and commitments to date.
- ◆ Make certain that special project reports contain estimates for the same number of fiscal years so that reviewers can easily identify changes in overall projected costs.

## DEPARTMENT OF GENERAL SERVICES

As the administrator of the State's contracting and purchasing procedures, General Services should take the following actions:

- ◆ Clarify the distinction between an emergency purchase and a sole-source contract and develop a form that clearly lays out the required information to justify each type of noncompetitively bid purchase.
- ◆ Require its Office of Legal Services to review all sole-source contract requests above a certain price threshold.
- ◆ Increase the frequency of its audits and reviews of CMAS vendors.
- ◆ Obtain assurance that other government entities' processes for awarding and amending multiple-award contracts are in accordance with CMAS goals before accepting these contracts as bases for CMAS contracts.
- ◆ Implement the recommendations made by the task force. Immediate actions General Services should take include the following:
  - ✓ Enforce the laws that limit the conditions under which the State can make sole-source and emergency purchases. Reject all sole-source and emergency purchase requests that fail to meet statutory requirements.
  - ✓ If General Services believes that it is in the State's best interest to grant more latitude for making noncompetitively bid purchases, it should seek changes in legislative authority for such purchases.
  - ✓ Consider reducing or eliminating the delegated purchasing authority of departments that fail to comply with contracting and procurement requirements.
  - ✓ Consult with departments to determine what can be done to facilitate monthly reconciliations of CMAS purchasing and billing activities.
  - ✓ Explore the cost of upgrading its existing Web site to include more comprehensive information about CMAS vendors, including a complete price list of available goods and services for each vendor.
- ◆ Develop a standard form that departments must complete to document their quotes from CMAS vendors. The form should also be used to document each department's basis for determining best value when cost is not the determining factor in the purchase.

- ◆ Consider adopting maximum-quantity levels that would prompt departments to seek additional discounts from CMAS vendors.
- ◆ Facilitate meetings with Finance and department internal auditors to revise existing audit procedures to include CMAS and noncompetitively bid contracts.
- ◆ Develop training classes that provide comprehensive coverage of noncompetitively bid contracts and CMAS purchasing and require mandatory attendance by all state purchasing personnel.
- ◆ Ensure that all state purchasing personnel are represented in its efforts to improve the contracting and procurement processes and that information is effectively disseminated to state departments. In addition, General Services should facilitate periodic meetings with state departments to discuss various procurement issues and exchange ideas and solutions with other departments.

## **LEGISLATURE**

- ◆ To emphasize the need for departments to obtain the best prices when using the CMAS program, the Legislature should consider revisiting existing CMAS statutes to include language that requires departments to obtain at least three price quotes before making CMAS purchases.
- ◆ The Legislature should also consider amending the law to specifically require General Services to review state departments' IT purchases every three years as it is now required to review non-IT purchases.

**TABLE 1**

**Before the May 2002 Governor's Executive Order,  
Departments Did Not Consistently Compare Prices or  
Document Best Value for CMAS Purchases**

Department	Governor's Executive Order	Compared Prices	Documented Best Value
Department of Corrections	Before	1 of 4*	1 of 4*
	After	2 of 3	2 of 3
Department of Food and Agriculture	Before	0 of 5	0 of 5
	After	1 of 1†	1 of 1†
Department of Consumer Affairs	Before	3 of 4‡	4 of 5
	After	3 of 3	3 of 3
Department of Justice	Before	2 of 5	2 of 5
	After	2 of 2§	3 of 3
Department of Motor Vehicles	Before	3 of 5	3 of 5
	After	3 of 3	3 of 3
Department of Transportation	Before	3 of 5	4 of 5
	After	3 of 3	3 of 3
Health and Human Services Data Center	Before	2 of 5	2 of 5
	After	3 of 3	3 of 3
Office of Emergency Services	Before	0 of 5	0 of 5
	After	2 of 3	2 of 3
Stephen P. Teale Data Center	Before	2 of 5	2 of 5
	After	3 of 3	3 of 3

\* One purchase order was from a statewide contract; price comparison or best value documentation is not applicable.

† Only one purchase made through the CMAS program had been approved when we conducted our fieldwork.

‡ One purchase order we tested was for an expansion of an existing contract; price comparison is not applicable.

§ One purchase order was for a noncompetitively bid contract; price comparison is not applicable.

Note: This table is presented on page 19 of the California State Auditor Report 2002-112.

**TABLE 2**

**For the State's Web Portal, Four Agencies Made 84 Purchases Worth \$15 Million  
From August 2000 Through December 2002  
(Dollars in Thousands)**

State Department	StateStore Incorporated		Deloitte Consulting		Other Vendors		Total	
	Purchase Amount	Number of Purchases	Purchase Amount	Number of Purchases	Purchase Amount	Number of Purchases	Purchase Amount	Number of Purchases
Enterprise Business Office of the Department of General Services	\$1,160	8	\$7,530*	10	\$ 10	3	\$ 8,700	21
Telecommunications Division of the Department of General Services	40	1	980	3	100	2	1,120	6
Stephen P. Teale Data Center	1,810†	11	0	0	2,590	43	4,400	54
Health and Human Services Data Center	270	1	690‡	2	0	0	960	3
<b>Totals</b>	<b>\$3,280</b>	<b>21</b>	<b>\$9,200</b>	<b>15</b>	<b>\$2,700</b>	<b>48</b>	<b>\$15,180</b>	<b>84</b>

\* The Enterprise Business Office made one purchase of \$820,000 using an approved noncompetitively bid contract.

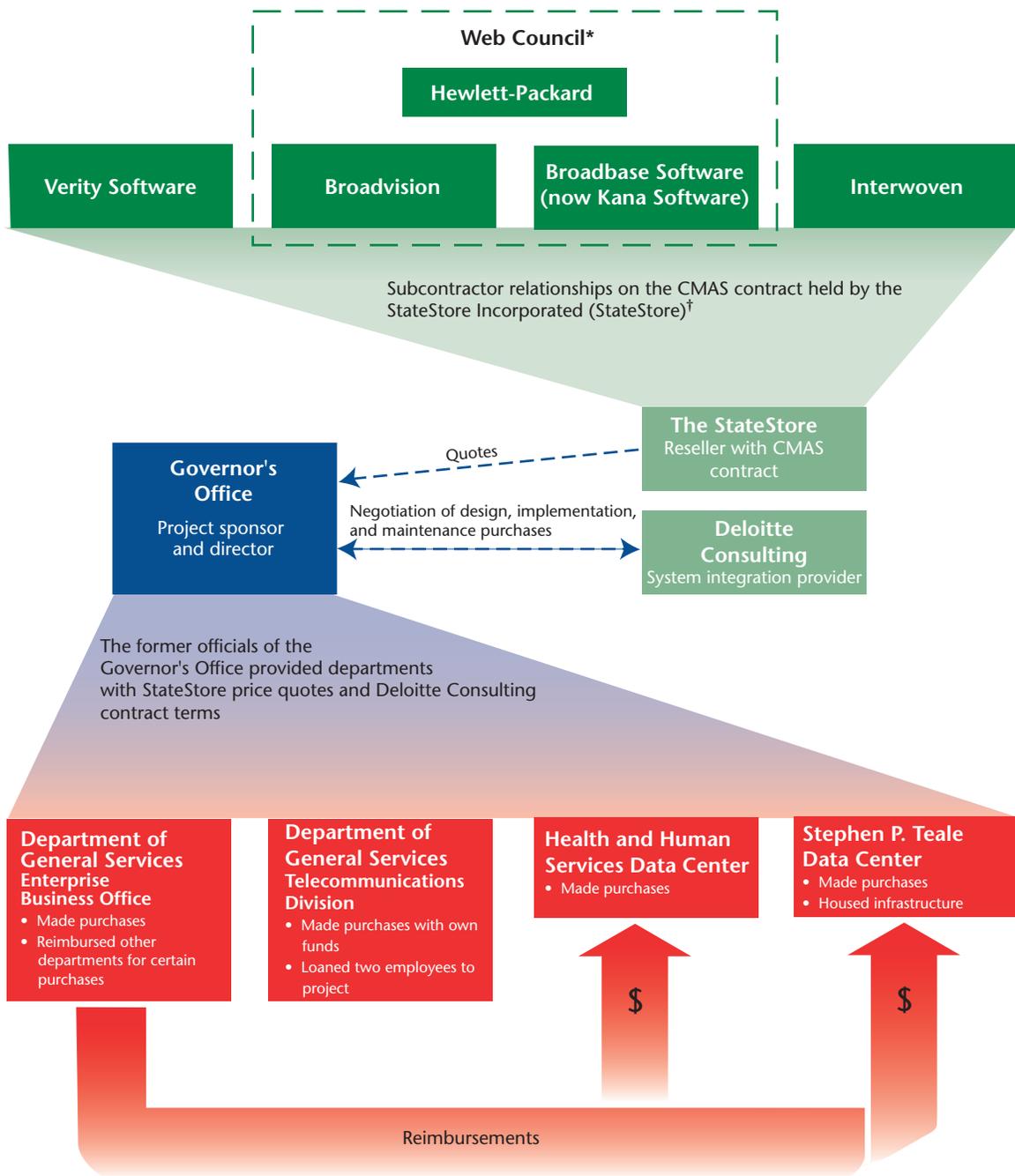
† One \$83,000 purchase made after the May 2002 Executive Order did not involve the CMAS program; Teale Data Center obtained a comparative quote for this purchase.

‡ In one instance, the Health and Human Services Data Center used the CMAS program rather than an MSA to purchase \$450,000 in services.

Note: This table is presented on page 22 of the California State Auditor Report 2002-112.

**FIGURE 1**

**Numerous Private and State Entities Had Roles in Developing the State Web Portal**



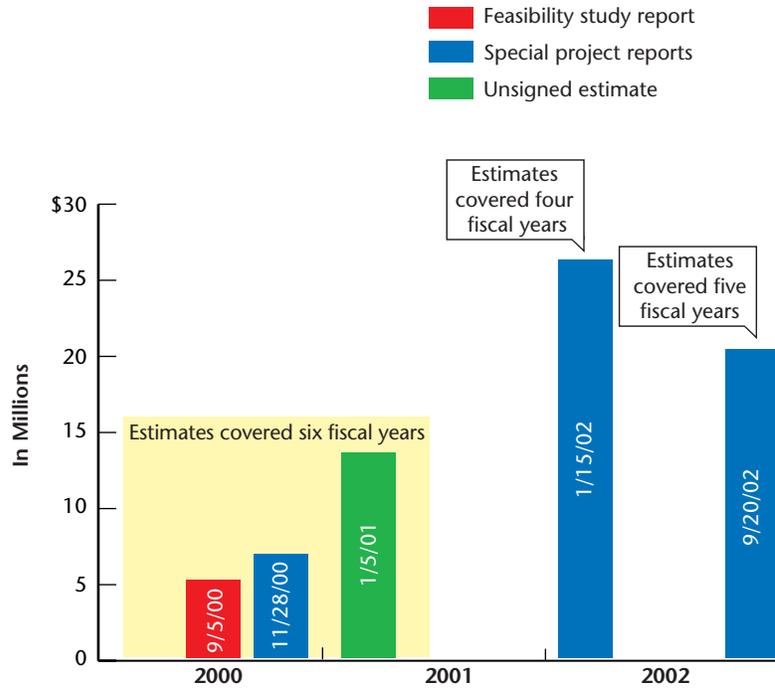
\* Additional Web Council members were Arcot Systems Inc., EDS, Ariba, Primus Corporation, and Sybase.

† The StateStore is a separate entity from CAL-Store, formerly known as the California State Computer Store, which is the name of a master purchase agreement.

Note: This figure is presented on page 28 of the California State Auditor Report 2002-112.

**FIGURE 2**

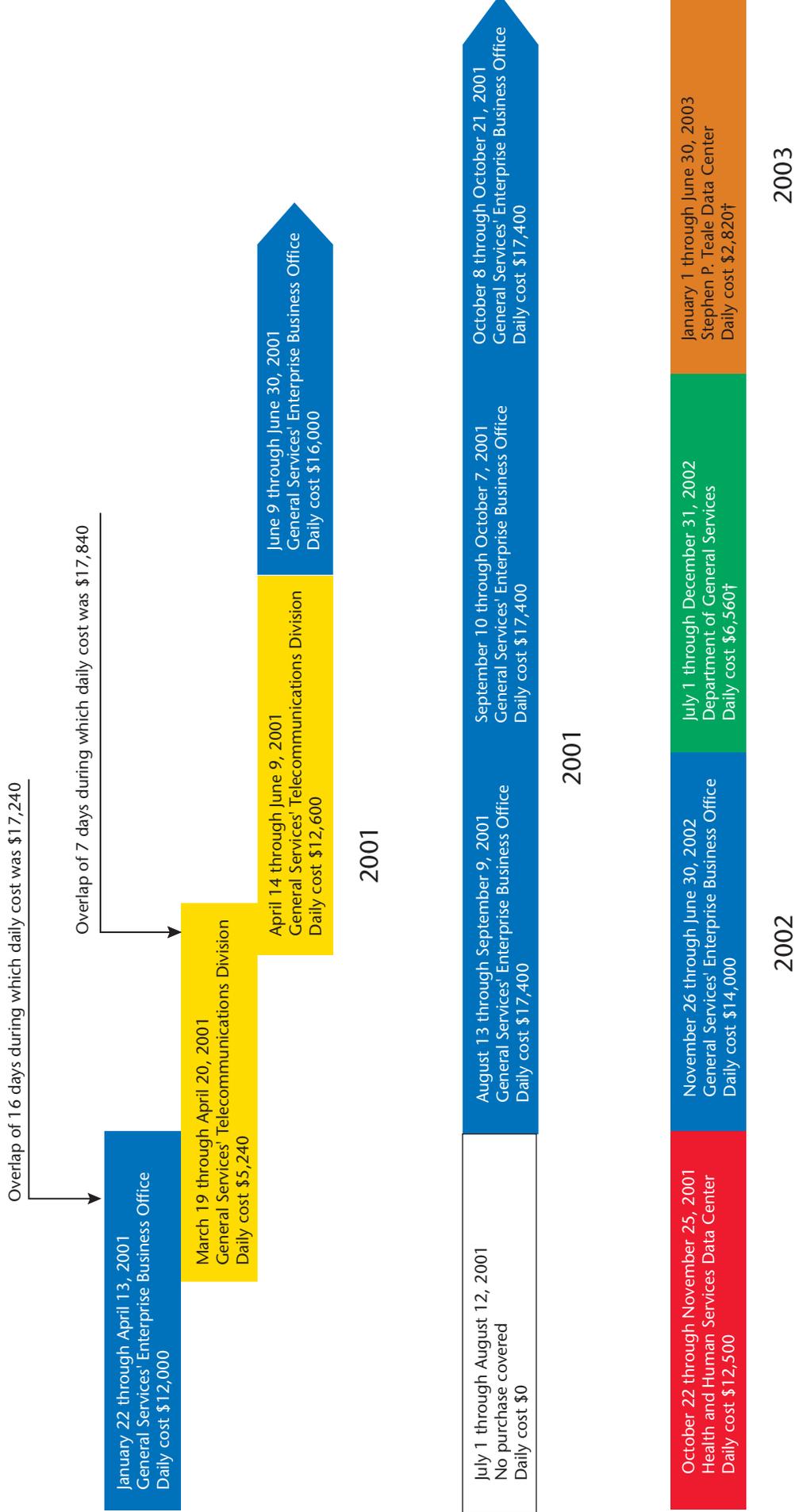
**Web Portal Project Cost Estimates Increased Dramatically Between September 2000 and 2002**



Note: This figure is presented on page 34 of the California State Auditor Report 2002-112.

**FIGURE 3\***

**Purchases From Deloitte Consulting for Web Portal Maintenance and Operation**

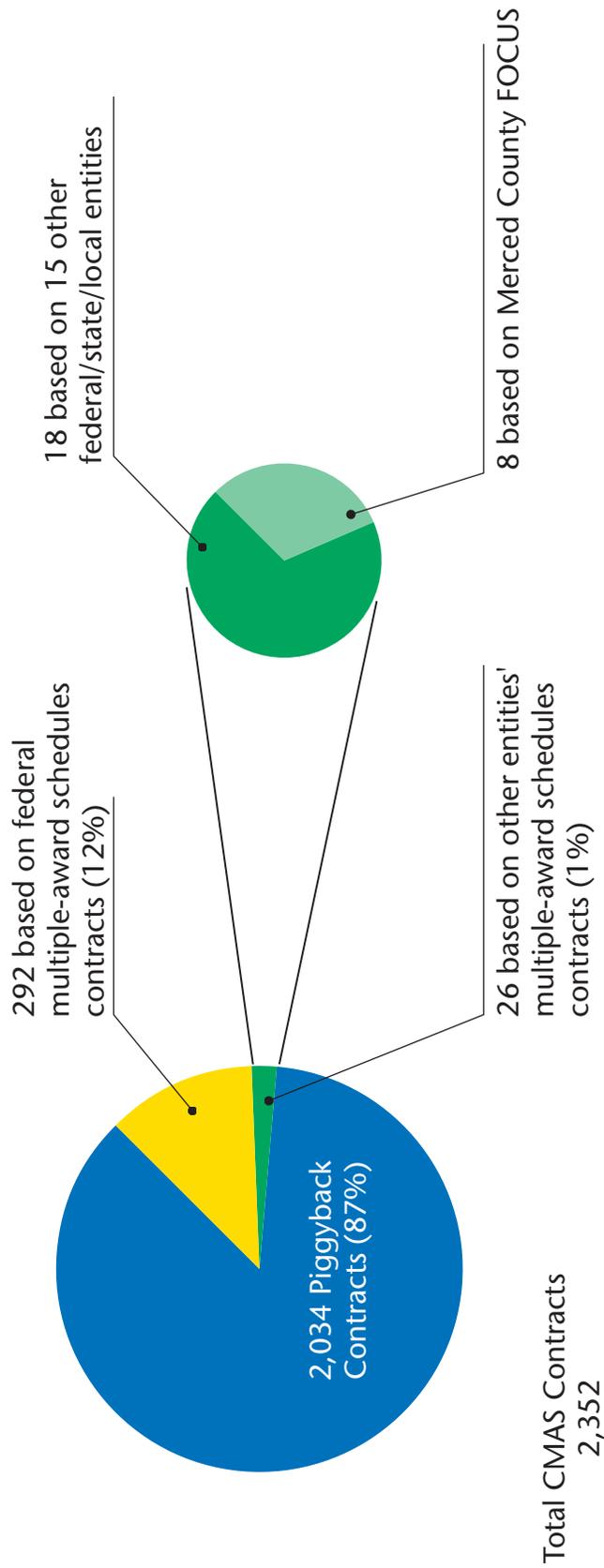


\* This figure was not presented in California State Auditor Report 2002-112, but is intended to further illustrate information contained in the report.

† Services covered Monday through Friday, except state holidays.

FIGURE 4\*

Numbers and Types of California Multiple Award Schedules Contracts  
(As of October 2002)



\*This figure was not presented in California State Auditor Report 2002-112, but is intended to further illustrate information contained in the report.

## APPENDIX B

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### ***Recommendations From the August 2002 Governor’s Task Force on Contracting and Procurement Review***

In May 2002, the governor issued an Executive Order creating the Governor’s Task Force on Contracting and Procurement Review (task force) to examine the State’s contracting and procurement procedures and recommend any statutory, regulatory, or administrative changes necessary to ensure that departments use open and competitive bidding to the greatest extent possible in awarding state contracts. In addition, the governor asked the task force to recommend any statutory or regulatory changes to ensure adequate oversight of the procurement processes by state agencies and departments. The task force completed its directive from the governor in August 2002, recommending purchasing reforms, subsequently approved by the governor, that call for significant changes in the State’s contracting and procurement procedures.

Table B.1 on the following pages list the task force recommendations as well as the approach the Department of General Services (General Services) has indicated it will use to implement the recommendations and its timeline for doing so.

**TABLE B.1**

Task Force Recommendation	Approach and Implementation Status as of February 14, 2003
<p>1. General Services shall broaden the scope of the Quality Assurance Program so that state agencies conducting any state procurement are required to do so under authority granted by General Services, including orders placed with contractors holding leveraged procurement instruments established by General Services such as the California Multiple Award Schedules (CMAS) program and master agreements.</p>	<p>General Services issued a memo to all departments on January 31, 2003, announcing the inclusion of leveraged procurement instruments such as the CMAS program, master service agreements, Statewide Commodity Contracts, and State Price Schedules in its Quality Assurance Program. To fully implement this recommendation, General Services is developing training modules on leveraged procurements that will be included in the General Services' Training and Certification Program for Procurement Professionals (see Recommendation 8). Standards and assessment tools are being developed (see Recommendation 6) and these will be used in conjunction with regular compliance reviews to establish purchasing authority dollar levels commensurate with criteria established for compliance. General Services is also revising its Purchasing Authority Manual to include chapters regarding use of leveraged procurement instruments, which will contain instructions on conducting leveraged procurements for state agencies.</p>
<p>2. General Services shall adopt a policy that prohibits the acquisition of large-scale information technology (IT) system integration projects through the use of CMAS or master agreement orders, unless otherwise approved as a part of a feasibility study report.</p>	<p>General Services met with the Department of Finance to develop criteria to be used to redefine "large-scale system integration" projects. This criteria is being incorporated into a Management Memo that has a target release date of late February 2003. The acquisition process will actually be approved via the Information Technology Procurement Plan, which will be reflected in the Management Memo.</p>
<p>3. Specifically, with respect to the CMAS program, state agencies shall be required to follow the Management Memo 02-19 requirements to continue to solicit and obtain three price quotations, including at least one certified small business CMAS contractor, before placing an order. In addition, no single order should exceed \$500,000.</p>	<p>Management Memo 02-19 established the policy. CMAS program materials are currently being updated to reflect the requirements of the Management Memo. The update will be disseminated via General Services' Procurement Division's Web page in mid-March 2003.</p>
<p>4. General Services shall develop written standards and criteria that will apply to any CMAS agreements established with vendors that do not hold federal General Services Administration (GSA) supply schedules.</p>	<p><b>Vendors Without Base Agreements:</b></p> <p>General Services has written standards and criteria that apply to any CMAS agreements established for vendors that do not hold federal GSA agreements, or nonfederal multiple award agreements.</p> <p><b>Nonfederal-Based Agreements:</b></p> <p>General Services revised its written standards and criteria for CMAS agreements that are based on nonfederal GSA supply schedules to:</p> <ul style="list-style-type: none"> <li>• Allow negotiated products, services, and prices only if the federal government approves them.</li> <li>• Require that the award of the nonfederal GSA supply schedule be based on minimum product and/or service requirements.</li> </ul> <p>Evidence of multiple award and competitive bid or cost-compared pricing will continue to be required.</p> <p>In addition, General Services has, among other things, initiated a partnership with the vendor community (Information Technology Association of America) to formulate additional CMAS reforms.</p>

**Task Force Recommendation**

**Approach and Implementation Status as of  
February 14, 2003**

5. General Services shall perform random audits or compliance reviews of state agencies' contracting and procurement transactions executed under authority granted by General Services, including services contracts. General Services should also establish protocols to enable state agencies that have internal auditors to conduct audits and report the results to General Services.

To implement this recommendation, General Services doubled the number of staff dedicated to performing compliance reviews and overhauled the database of agencies to be reviewed to include those that have been purchasing without delegation\* using leveraged procurement instruments (Recommendation 1). Additionally, General Services refined its compliance criteria and developed templates for the compliance review reports. New review staff have been immersed in intensive training and will begin on-site training at a state agency in February 2003. The on-site training will cover both goods and IT acquisitions.

With the addition of the leveraged procurements into the purchasing authority program, staff will develop review criteria and increase review accountability and reporting to cover these issues. The purchasing authority and quality assurance manager is working with General Services' external auditors to define protocols for agencies' internal auditors and to define the requirements for review of non-IT services contracts.

6. General Services shall establish consistent standards tied to dollar thresholds that must be met for a state agency to be granted higher levels of procurement authority. These standards should take into consideration training, certification, demonstration of competency, and demonstrated capability to conduct self-audit or assessment through various means.

General Services is addressing the recommendation as part of its revision of the Purchasing Authority Manual. The revised manual will include a revised request for purchasing authority form that will include the standards. The first segment of the revised manual is scheduled for release June 30, 2003. Implementation of this recommendation will interface with Recommendations 8 and 19.

7. General Services shall develop a uniform set of policies, procedures, and processes to apply to all state contracts and procurements to ensure that the outcomes are consistent and fair, and foster competition. As a part of the recommendation, General Services should undertake an initiative to align the laws governing contracting and procurement of goods, services, and IT, including the award-protest processes.

General Services recognizes that the laws and rules governing state acquisitions may be inconsistent and ambiguous. The current organizational structure of the contracting and procurement functions may lead to inefficiencies or duplication of effort. To clarify the current method for conducting the acquisition of goods and services and improve its current methodologies, General Services is in the process of retaining a consulting firm to assist in implementing this recommendation. The request for proposal has been issued, proposals have been received, and proposal evaluations are now underway. It is anticipated that a contract will be awarded in late February 2003.

The selected contractor is to perform a substantial review of the statutes, codes, and regulations relating to state acquisitions; federal requirements imposed on the State; and the State Administrative Manual, the California Acquisition Manual, the State Contracting Manual, and other relevant documents. The selected contractor will also make recommendations to simplify and promote uniformity among all state procurement and contracting approaches.

In addition, the contractor will examine the organizational structure for policy development and implementation and provide recommendations for improvements. The contractor will also conduct an assessment of the internal structure and responsibilities for review and approval of individual contracting and procurement actions, and make recommendations to improve the procedures. General Services expects work on the contract to be completed by the end of July 2003.

*continued on the next page*

\* Purchasing delegation is the authority to procure goods or IT goods and services with a value over \$100. General Services' Procurement Division makes these delegations to state departments that have demonstrated the capability to make purchases that adhere to state statute and policy. The Procurement Division monitors the delegation holders' purchasing program through purchasing program compliance and quality review.

8. General Services shall develop and deliver a comprehensive training and certification program for state contracting and procurement officials. Signature authority of individuals at state agencies should be linked to the level of training, experience, and proficiency achieved, as should the procurement authority of each state agency.

The first step in developing a comprehensive training program is to assess the needs of those to be trained. To do this, General Services entered into an interagency agreement with the Center for Management and Organization Development, California State University, Northridge (CSUN) to (a) identify the knowledge, skills, and abilities (i.e., competencies) required by individuals with procurement and contracting responsibilities, (b) conduct a needs assessment based on these competencies, and (c) recommend a comprehensive training program designed to enhance individual competencies. The training program would ultimately link successful completion of the program (including passing tests) to certification and to granting agency purchasing authority.

To identify the knowledge, skills, and abilities comprising the procurement official's job, two focus groups were established from among the "best" at their jobs and represented agencies throughout the State. Using the results of the focus groups, a questionnaire was designed and made available online via the Internet and also mailed to these individuals. The results provide invaluable insight into the specific training needs of the group. It is significant to note that managers and journey-level procurement officers agreed strongly on the training needs of those working in the procurement field. Respondents indicated that procurement staff at all levels need foundation training in areas such as the emergency acquisition process, noncompetitive acquisitions, and file documentation. Based on the findings of the task force and the survey results, General Services will be phasing in a series of courses in state acquisitions over the next six months. The first classes offered will be Acquisition Ethics and Leveraged Procurements in April 2003. General Services is developing a basic program that will lead to a certificate for procurement and contracting personnel. A certification will be linked to an agency's purchasing authority. General Services expects to offer the first course in this series at the beginning of fiscal year 2003-04. In addition, General Services is:

- Categorizing the survey findings for additional programs at the intermediate and advanced levels. It will identify specialized topics, based on the survey findings, for career development workshops.
- Discussing with legal staff an appropriate means of delivering training on high-risk contracts.
- Exploring the possibility of providing selected programs online.
- Discussing with both the Department of Personnel Administration (DPA) and the CSUN (a) the best means for registering and tracking participants, (b) techniques for evaluation and testing, and (c) the award of professional development certificates.

9. General Services shall adopt clear standards of conduct for contracting and procurement officials. Violations of the standards should be subject to disciplinary action.

California Government Code, sections 19572 et. seq. and 19990 specify the current statutory grounds for discipline in the state civil service system. Though these particular sections may encompass some of the commonly occurring defalcations involved in state contracting abuses, it is their initial assessment that a code of conduct is needed to set more specific criteria and standards for those involved in state contracting. This will provide a firm basis for discipline under the more general statutory sections and will also provide clear warning regarding prohibited activities for both civil servants and exempt employees. Because of the many required procedures involved in civil service discipline (e.g., progressive discipline), stakeholders (DPA and unions) need to be involved in development of procurement conduct standards. Meeting with these parties was to begin the second week in February 2003. These ethical standards will be part of the core curriculum in the contracting training to be conducted by General Services. General Services has begun the process of collecting standards of conduct from other jurisdictions. The completion date for this activity should be June 2003.

**Task Force Recommendation****Approach and Implementation Status as of  
February 14, 2003**

10. General Services shall adopt clear standards of conduct for vendors that do business with the State. Violators of the standards should be subject to suspension or debarment.

General Services is currently evaluating best practices by researching the federal government and other states. It will then evaluate current statutes and regulations to see where gaps exist and changes need to be made, determine if the appeal process can be used in the administrative process, establish criteria for authority and process, and establish criteria for standards of conduct. General Services characterized the implementation of this recommendation as long term.

11. General Services shall meet with industry representatives and state stakeholders to develop model contract terms and conditions that will protect the State's interests and mitigate risk for all parties.

General Services implemented the first phase of this recommendation in January 2003 when it posted new model contract language on the Procurement Division Web site. A letter signed by the department director will go out soon, requiring agencies to use the new provisions in all bids and disallowing modifications without prior approval from General Services. General Services met with the Information Technology Association of America, an organization of IT industry representatives, and with both state and private counsel. As a result, General Services made significant revisions to the IT General Provisions and IT purchasing modules now posted on the Procurement Division Web site. IT General Provisions and non-IT Commodities General Provisions were separated into two documents. The IT General Provisions were modified as follows:

- The Limitation of Liability clause was revised to limit a contractor's liability to two times the purchase price, and the purchase price was defined.
- The Indemnification clause was changed to require the State to notify the contractor of any claim and to give the contractor control over the defense of any action on a claim, subject to certain conditions.
- The Rights in Data clause was modified to give the State "Government Purpose Rights" to any work product prepared by the contractor. The contractor retains property rights.
- The Patent, Copyright, and Trade Secret Indemnity clause was changed to clarify the language.

These changes to the IT General Provisions bring the State's contract language more in line with industry standards and with what other states are doing. It is expected that the revisions will result in more businesses bidding on contracts and ultimately lower costs to the State for IT projects.

12. General Services shall facilitate industry and state stakeholder participation in continuous improvement of contracting and procurement processes through the establishment of advisory councils.

General Services' Procurement Division recognizes that customer input is vital to the successful implementation and continuous improvement of procurement and contracting processes. In implementing this recommendation, General Services has established working advisory groups comprising industry and state stakeholders. For industry stakeholder participation, several supplier participants were selected based on recommendations from the Procurement Division's acquisition management team and the supplier community. The industry working group will provide guidance and expertise on many of the reform initiatives while providing their perspective on state government contracting practices used to obtain an array of goods and services. For state stakeholder participation, existing focus groups established by other initiatives, as well as the General Services' Partnership Council, have been called upon to provide input on procurement and contracting processes. The state working group is composed of top-level executives from throughout state government. These executives will lend their expertise to the Procurement Division in several areas. Both groups are being asked to act as sounding boards as General Services brings forward major issues relating to procurement reform recommendations. Their input will be collected and disseminated to various management teams to resolve issues and assist in implementation. These working groups will be available on an ongoing basis to provide their input on issues as they arise.

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Task Force Recommendation	Approach and Implementation Status as of February 14, 2003
<p>13. General Services shall implement an integrated system for tracking contracts and procurements for goods and services executed by state agencies.</p>	<p>The first phase in implementing this recommendation was completed when General Services launched a pilot contract and procurement registration system with eight state agencies in December 2002. The system captures data such as agency name, contract type, amount, term, and amendment information. This system was to be implemented on February 18, 2003. General Services will then begin working on the tracking component of the project. This Internet-based system will capture detailed information on contracts and procurements and will provide General Services' management with data it needs to oversee the statewide contract and procurement functions.</p>
<p>14. General Services shall implement a comprehensive electronic procurement (eProcurement) system for all state contract and procurement transactions, to include the following:</p> <ul style="list-style-type: none"> <li>• Public access to contracting and procurement opportunities, as well as historical information.</li> <li>• Links to online policies and procedures and decision support system, and online training.</li> <li>• Product and pricing comparisons.</li> <li>• Rules-based approval routing so that no transaction can be issued without appropriate approvals.</li> <li>• Reverse auctions, in which the requirement is advertised and bids are placed online. The prices can be seen but the vendors names remain confidential until the bidding (auction) is closed.</li> <li>• Data capture for all transactions, and generation of required reports, eliminating redundant reporting wherever possible.</li> </ul>	<p>General Services established the successful CAL-Buy Phase I project and is currently developing the requirements for Phase II of the eProcurement initiative. The CAL-Buy Phase I eProcurement system, which was implemented in March 2001, currently automates purchasing from over 250 statewide commodity contracts by over 300 buyers in five state agencies (General Services, Corrections, Transportation, Highway Patrol, and Youth Authority), and seven local governments. CAL-Buy successfully reduced the procurement cycle time, saving the State both time and money. CAL-Buy implemented several features for increased accountability, including automated workflow for approval of orders based on dollar thresholds, enforcement of contract expiration dates, and a detailed audit trail of all activity related to purchases. CAL-Buy made ordering from certified small businesses just as easy as from large ones, and approximately 46 percent of the \$38 million spent to date has been awarded to small businesses. While CAL-Buy is in maintenance and operations mode, General Services is analyzing the options for moving forward with Phase II and this procurement reform recommendation. It is General Services' intention that Phase II will include automating more contracts such as the CMAS program and master service agreements and adding functionality for contract management and one-time buys. In response to the fiscal challenges currently facing the State, it is prudent to first implement eProcurement within General Services, and later as a roll out to other state agencies. By starting with General Services, the eProcurement system will be fully tested, features utilized and enhanced, and risk minimized prior to moving out to the rest of state government. This approach will help to maximize the success of eProcurement and fully address the requirements within this reform recommendation.</p>

Task Force Recommendation	Approach and Implementation Status as of February 14, 2003
<p>15. General Services shall ensure active legal participation in all high-risk contracting or procurement transactions. At a minimum, the following types of transactions should be identified as high risk:</p> <ul style="list-style-type: none"> <li>• All large-scale IT system integration projects.</li> <li>• Transactions in which there is a history of protest or litigation for this or like contracts.</li> <li>• Public safety.</li> <li>• Acquisition of unique or specially manufactured goods or services.</li> <li>• Complex projects.</li> <li>• Proposed deviations from standard processes or terms and conditions (e.g., advance payments, modification to warranty, indemnity, or liability language, etc.).</li> <li>• High-profile transactions.</li> <li>• Potential conflicts of interest.</li> <li>• Hazardous activity.</li> <li>• Federal matching funds.</li> <li>• Goods and IT goods contracts over \$500,000, IT services contracts over \$200,000, and non-IT services contracts over \$50,000.</li> </ul>	<p>Managers from General Services' Office of Legal Services (Legal Services) and the Procurement Division have established an implementation team to work out the process-related details involved in providing expanded legal services for assistance in the development and review of IT and commodity contracts, especially those identified as high risk. This involves the identification of roles and responsibilities, a roll-out plan for state agencies, and identifying opportunities to optimize contracting and control processes. Legal Services has dedicated additional staff for expanded legal services and has formed an IT team to provide in-depth analysis of contracts and contract-related issues. In addition, it has established regular office hours in the Procurement Division in order to be more accessible to Procurement Division staff. Delegation of review policy development is pending a determination of contract proficiency levels in other departmental legal staffs.</p>
<p>16. General Services shall develop and deliver training to state agencies on conducting an initial, high-risk review of contract and procurement transactions, using criteria established by General Services. State agencies shall forward to General Services for review and approval contracts that meet any of the high-risk criteria.</p>	<p>For the initial phase of this recommendation, General Services has developed a list of high-risk transactions that require review and approval by General Services' legal staff. Included in this list are contracts for goods over \$500,000, IT services over \$200,000, and combination contracts of IT goods and services over \$200,000. These are categories of contracts that have not been subject to legal review in the past. General Services is preparing a Management Memo to announce this policy. Training in high-risk contracts will be covered in General Services' Training and Certification Program for procurement professionals (Recommendation 8). Delegation of high-risk contract review to client agencies will be considered after General Services has had an opportunity to evaluate these contracts and determine which are appropriate for delegation.</p>
<p>17. General Services shall develop electronically based model contract templates with standard terms and conditions for use by state agencies to expedite review processes for low-risk contracts.</p>	<p>The completion of Recommendation 11 was the first step in the implementation of this recommendation. To improve the model contract provisions, General Services' staff met with the Information Technology Association of America, an industry group, and agreed on the new model contract provisions that were posted on General Services' Web site in January 2003. Completion of that task provides one part of the foundation legal work necessary for the development of the model contract templates needed for this recommendation. General Services will continue to review and revise model contract language in preparation for the development of model contract templates.</p>

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Task Force Recommendation	Approach and Implementation Status as of February 14, 2003
18. General Services shall require each state agency to designate official(s) responsible for all contracting and procurement within the state agency.	In mid-November, General Services sent a memo to department directors and agency secretaries requesting their cooperation in identifying a procurement and contracting officer. General Services completed a roster of procurement and contracting officers on January 31, 2003.
19. General Services shall authorize individual signature authority for contracting and procurement officials, based on position held, experience, training, and certification.	General Services researched current requirements relating to contract signature authority in California statutes and surveyed state agencies for procedures currently in effect. They also contacted other states to determine current methodologies for granting contract signature authority. General Services also surveyed other states and the federal government for best practice approaches. Policy is being developed that will interface with Recommendations 6 and 8.
20. After six months, and again after 12 months, General Services shall evaluate the effectiveness of its efforts to implement all short-term recommendations and prepare a report to the governor on the status of those efforts.	General Services characterized the implementation of Recommendations 1, 2, 3, 4, 5, 11, 12, 13, 15, 16, 18, and 19 as short term and included the evaluation of its effectiveness in implementing the recommendations in its six-month report to the governor on February 14, 2003.

Sources: *Recommendations*: Executive Summary, The Governor’s Task Force on Contracting and Procurement Review Report, August 2002. *Approach and Implementation Status*: Department of General Services’ Report to the Governor on the Implementation of the Recommendations of the Task Force on Contracting and Procurement Review, February 14, 2003.

## APPENDIX C

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### ***History of Maximum Purchase Limits for the California Multiple Award Schedules Program***

Table C.1 on the following page shows the dollar thresholds and general guidelines for purchases departments made using the California Multiple Award Schedules (CMAS) program established by the governor's May 20, 2002, Executive Order on contracting practices as well as the thresholds and guidelines established before and after the order. The dollar limits for information technology (IT) goods and services and non-IT services were lowered by the Executive Order but went back to their previous levels during the interim period between May and August 2002, when the Governor's Task Force on Contracting and Procurement Review made its recommendations. The most significant changes to CMAS purchasing practices during this interim period were stricter requirements for departmental use of the CMAS program and increased departmental oversight of CMAS purchases. Since August 20, thresholds have remained constant, but restrictions on exemptions have increased. Specifically, General Services no longer allows departments to use CMAS contracts for any purchases that exceed the dollar thresholds. By eliminating exemptions to the CMAS dollar thresholds, General Services compels departments to use alternative procurement methods, greatly reducing the risk that the CMAS program is used inappropriately.

**TABLE C.1**

**History of CMAS Maximum Purchase Limits**

Date	IT Goods and Services	Non-IT Goods	Non-IT Services
<b>Pre-Executive Order</b>			
Before February 2001	\$500,000	\$100,000	Not Allowed
February 2001 through May 19, 2002	500,000	100,000	\$250,000
<p>Exemptions to limits had to be approved by requesting department director and General Services. After February 2001 change, purchases of non-IT services greater than \$35,000 required General Services' approval.</p> <p>Until January 2002, comparing contracts and offers was strongly encouraged but not required. Beginning in January 2002, guidance was ambiguous about whether comparing contracts and offers was required.</p>			
<b>Executive Order and Interim Guidelines</b>			
May 20, 2002, Executive Order	\$100,000	\$100,000	\$100,000
<p>Any purchase over \$100,000 must be competitively bid, with some exceptions.</p>			
May 28 through August 19, 2002, interim guidelines	500,000	100,000	250,000
<p><b>No exemptions allowed.</b> Purchases of non-IT services over \$35,000 had to be approved by General Services. Some additional requirements implemented for purchases between \$100,000 and the \$250,000 and \$500,000 maximums.</p> <p>Three price quotes required with some exceptions.</p>			
<b>Post-Executive Order and Formal Guidelines</b>			
August 20, 2002, to present	\$500,000	\$100,000	\$250,000
<p>Three price quotes required with some exceptions.</p>			
August 20, 2002, through January 20, 2003	<p><b>No exemptions allowed.</b> Purchases of IT goods and services exceeding \$250,000 had to be approved by department director or the next highest ranking official. Purchases of non-IT services <b>exceeding \$50,000</b> must be approved by General Services.</p>		
January 21, 2003, to present	<p><b>No exemptions allowed.</b> Purchases of IT goods and services exceeding \$250,000 <b>must also be approved by the agency secretary.</b> Purchases of non-IT services exceeding \$50,000 must be approved by General Services.</p>		