



March 26, 2014

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit Department

Subject: Review of Oversight Controls and Contract Compliance Related to the Tustin Metrolink Station Parking Expansion Project

Overview

The Internal Audit Department has completed a review of oversight controls and contract compliance related to the Tustin Metrolink Station Parking Expansion project. Based on the review, controls to monitor and report the status of the project were adequate and consultants provided services in accordance with their contracts; however, recommendations were made to improve change order procedures, strengthen monitoring of contract expiration dates, and develop written project management procedures.

Recommendation

Direct staff to implement three recommendations offered in the Review of Oversight Controls and Contract Compliance Related to the Tustin Metrolink Station Parking Expansion Project, Internal Audit Report No. 13-527.

Background

The Tustin Metrolink Station Parking Expansion project consisted of the construction of a multi-level parking structure that increased parking capacity at the Tustin Metrolink station from 317 spaces to 824 spaces. The Orange County Transportation Authority (OCTA) was the lead agency for design and construction of the facility on behalf of the City of Tustin (Tustin). Tustin is responsible for oversight and maintenance.

OCTA entered into contracts with consultants for design, construction, and construction management services. Nine construction change orders (CCO) to

the construction agreement were executed at agreed prices, with each CCO including multiple items.

Discussion

The Internal Audit Department (Internal Audit) reviewed a sample of three CCO's and found that the cost estimates for most items in the CCO's were prepared on or after the contractor's quotations. While this project was not funded with federal dollars, federal guidelines and best practices require independent cost estimates be prepared prior to receiving bids or proposals from contractors. For one CCO item, Internal Audit noted that the work was performed prior to the cost estimate, the contractor's quotation, and the effective date of the CCO to add the work. Internal Audit recommended that independent cost estimates for CCO's be prepared prior to receipt of contractor's quotes and prior to performance of work, in compliance with Federal Transit Administration requirements. Management agreed, noting that an independent cost estimate should be made for all CCO's when first identified.

Internal Audit also noted that both the design and construction management contracts expired before amendments were executed to extend the expiration dates. Internal Audit recommended that project management monitor the expiration dates of contracts and extend contract terms prior to contract expiration. Management agreed and will distribute a memorandum to project managers reminding them to monitor consultant support contract expiration dates to ensure they account for the term of the construction contract and construction close-out efforts.

Finally, Internal Audit noted that the Rail Programs Department (Department) does not maintain its own project management procedures. Internal Audit recommended that the Department develop written project management procedures tailored to the types of projects handled in the Department. Management agreed to append any specific guidance and procedures applicable to projects managed by the Department to the Highway Programs Department's Program Management Procedures.

Summary

Based on the procedures performed, controls to monitor and report the status of the project were adequate; however, three recommendations were made to improve change order procedures, strengthen monitoring of contract expiration dates, and develop written project management procedures.

Attachment

- A. Review of Oversight Controls and Contract Compliance Related to the Tustin Metrolink Station Parking Expansion Project, Internal Audit Report No. 13-527

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INTERNAL AUDIT DEPARTMENT**



**Review of Oversight Controls and Contract
Compliance Related to the Tustin Metrolink Station
Parking Expansion Project**

Internal Audit Report No. 13-527

March 4, 2014



Internal Audit Team: Janet Sutter, CIA, Executive Director
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Conclusion

The Internal Audit Department (Internal Audit) has completed a review of oversight controls and contract compliance related to the Tustin Metrolink Station Parking Expansion (TMSPE) project. Based on the review, controls to monitor and report the status of the project were adequate and consultants provided services in accordance with their contracts; however, Internal Audit has recommended management improve change order procedures, strengthen monitoring of contract expiration dates, and develop written project management procedures.

Exceptions related to contract amendments were also identified; however, similar issues have been addressed in other audit reports and the exceptions identified during testing pre-dated the recommendations made in those reports.

Background

TMSEP Project

The project consisted of the construction of a multi-level parking structure that increased the parking capacity at the Tustin Metrolink station from 317 spaces to 824 spaces. Additional project features include the use of Intelligent Transportation Systems to enhance parking operations and the infrastructure for a video surveillance system and related communication systems.

The Orange County Transportation Authority (OCTA) was the lead agency for design and construction of the facility on behalf of the City of Tustin (Tustin). Tustin is responsible for oversight and maintenance.

Total project funding was \$17.6 million:

- \$1.1 million State Transportation Improvement Program–Regional Improvement Program;
- \$8.25 million Measure M; and
- \$8.25 million Proposition 116¹.

The budget was as follows:

- Design of \$1.1 million;
- Construction of \$14 million; and
- Construction management, right-of-way acquisition/utilities/support, public awareness/outreach, project management and contingency of \$2.5 million.

¹ The Proposition 116 funding is part of the \$121.3 million transferred from the City of Irvine to OCTA for a rail program of projects pursuant to Agreement No. C-8-1400.

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The project was delivered under budget at a total project cost of \$15.4 million.

Contracts

OCTA entered into the following contracts related to the project:

- Agreement No. C-7-1195 with Tustin to outline roles and responsibilities;
- Agreement No. C-8-1053 with Watry Design, Inc. for planning and preparation of plans, specifications, and estimates;
- Agreement No. C-0-1529 with Bomel Construction Company, Inc. for construction; and
- Agreement No. C-9-0883 with Griffin Structures Inc. for construction management (CM) services.

Nine construction change orders (CCO) to Agreement No. C-0-1529 were executed at agreed prices. Each CCO included multiple items.

Project Status Controls

During the construction phase, weekly construction meetings were held on site and attended by the construction contractor, the CM consultant, OCTA project management and contract administrator, and the City of Tustin Engineer. The design consultant also attended some of these meetings.

Quarterly Measure M progress reports are submitted to OCTA's Board of Directors (Board), and these progress reports included discussion of the TMSPE project.

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Objectives, Scope and Methodology

The objectives were to ensure that the procurements were done in accordance with OCTA procurement policies and procedures, the consultants/contractors provided services in accordance with their contracts, invoices paid to consultants/contractors were in compliance with the contract payment provisions and were properly approved, and controls to monitor and report the status of the project were adequate.

The methodology consisted of identification and testing of controls to monitor and report project status, review of procurement of consultant contracts, review of compliance with significant consultant contract provisions such as payments, review of a sample of contract amendments and CCO's, and review of invoices paid against consultant contracts.

The scope is limited to the TMSPE project. The scope included the design, construction, and CM contracts, all amendments to the design and CM contracts, and a judgmental sample of three CCO's. The scope also included all invoices paid on the construction and CM contracts and invoices paid on the design contract from fiscal year 2009-10 to completion.

This review was conducted in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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Audit Comments, Recommendations, and Management Responses

Noteworthy Accomplishments

There were adequate controls to monitor and report on the status of the project. Weekly status meetings with project management, the contract administrator, consultants, and Tustin staff were held during construction phase. The Quarterly Measure M progress reports submitted to the Board included discussion of the TMSPE project.

The project was completed within budget and on schedule.

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Construction Change Orders

Cost estimates for most items in CCO's were prepared on or after the contractor's quotations. While this project was not funded with federal dollars, federal guidelines and best practices require independent cost estimates be prepared prior to receiving bids or proposals from contractors.

For one CCO item, work was performed prior to the construction manager's cost estimate, the contractor's quotation, and the effective date of the CCO to add the work.

Recommendation 1:

Internal Audit recommends that independent cost estimates for CCO's be prepared prior to receipt of contractor's quotes and prior to performance of work, in compliance with Federal Transit Administration requirements.

Management Response:

Management agrees with the recommendation. Work attributable to contract changes should not be performed without a change directive being approved by the OCTA project manager and issued by the OCTA designated construction manager (CM). An independent cost estimate should be made for all proposed construction CCOs when first identified. The extent of the cost/price analysis, and thus the extent of the independent cost estimate, will be based on the particular circumstances of the change. A fully detailed independent cost estimate will then be used by the CM to reconcile and determine the adequacy of any costs provided by the contractor. OCTA has developed a Construction Management Procedures Manual for the railroad grade separation program of projects being implemented by OCTA. This manual will be appended to integrate any specific guidance needed for projects managed by the Rail Programs Department.

Contracts Amended After Expiration

Both the design and CM contracts expired before amendments were executed to extend the expiration dates.

The amendment to the design contract revising the expiration date from January 31, 2012 to June 30, 2012, was effective June 11, 2012. The amendment to the CM contract revising the expiration date from December 31, 2011 to March 31, 2012, was dated February 1, 2012.

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Recommendation 2:

Internal Audit recommends that project management monitor the expiration dates of contracts and extend contract terms prior to contract expiration.

Management Response:

Management agrees with the recommendation. A memorandum will be distributed to project managers reminding them to monitor consultant support contract expiration dates to assure the term of the construction contract and construction closeout effort is accounted for.

Project Management Procedures

The Rail Programs Department does not maintain its own project management procedures. Staff indicated that the Highway Project Delivery Department procedures and the Facilities Engineering Construction Management Manual are used. However, certain documents identified in the Highway Project Delivery Department's Program Management Procedures were not prepared for this project and the Construction Management Manual includes only the construction phase, and not the full project cycle.

Recommendation 3:

Internal Audit recommends that the Rail Programs Department develop written project management procedures tailored to the types of projects handled in the department.

Management Response:

Management agrees with the recommendation. The Highway Programs Department maintains a Program Management Procedures manual which serves as a set of procedures to effectively manage and monitor projects and develop strategies for delivering the entire capital improvement program. This manual defines the objectives of the program and the roles and responsibilities of department staff, and presents project management procedures to successfully manage OCTA projects from preliminary engineering through project completion. This manual will be appended to integrate any specific guidance needed for projects managed by the Rail Programs Department and utilized by all capital project managers in the Capital Programs Division.