



January 9, 2019

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit

Subject: Audit of Oversight Controls and Contract Compliance Related to the Interstate 5 High-Occupancy Vehicle Improvement Project: Pacific Coast Highway to San Juan Creek Road

Overview

The Internal Audit Department has completed an audit of oversight controls and contract compliance related to Segment 3 of the Interstate 5 High-Occupancy Vehicle Improvement Project. Based on the audit, consultants were procured in compliance with policy; however, some concerns were identified related to amendment processing. Also, invoices were generally paid in compliance with contract terms; however, one consultant was paid more than the contractually allowed amount for a specified task. Finally, a written Project Management Plan outlining the scope of work, constraints, and technical requirements of the project, was not prepared as required.

Recommendation

Direct staff to implement three recommendations provided in the Audit of Oversight Controls and Contract Compliance Related to the Interstate 5 High-Occupancy Vehicle Improvement Project: Pacific Coast Highway to San Juan Creek Road, Internal Audit Report No. 18-512.

Background

The Interstate 5 (I-5) High-Occupancy Vehicle (HOV) Improvement Project (Project) between Avenida Pico in the City of San Clemente and San Juan Creek Road in the City of San Juan Capistrano added HOV lanes in both directions of the I-5 from north of the I-5 Camino de Estrella interchange to south of the San Juan Creek Road undercrossing. The 5.7-mile project was funded by Measure M2, Orange County's voter-approved, half-cent sales tax for

transportation improvements, as well as state and federal funds. The Project was divided into three segments. The audit focused on Segment 3.

Discussion

The Internal Audit Department (Internal Audit) identified four amendments that were back-dated over two months, including one amendment that was back-dated over five months. Three of the four amendments were back-dated to dates that preceded the request for amendment, and one was processed after expiration of the underlying contract. Policy does not currently allow for back-dating of formal amendments. Internal Audit recommended that management enforce policy or update policy to include parameters for back-dating of formal amendments. Management agreed and indicated that training will be conducted to ensure staff are aware of policies and procedures for contract amendments.

Internal Audit also identified overpayment to the design and construction support consultant for one task outlined in the firm-fixed price contract. The contract includes an overall maximum, made up of firm-fixed amounts for each of nine tasks. The consultant submitted several invoices to OCTA, over-billing for one task and reflecting a corresponding elimination of another task. Internal Audit recommended management process formal amendments to reflect changes in firm-fixed pricing of individual tasks and ensure requests for amendments for additional services are processed in a timely manner. Management agreed and indicated that staff will be reminded of the need to request and process amendments in a timely manner.

Finally, Internal Audit noted that a Project Management Plan (PMP) was not prepared for this project. Procedures require that a written PMP be prepared for each project to communicate the scope of work, constraints, and technical requirements to all project participants. Internal Audit recommended management enhance controls to ensure compliance with procedures, or update procedures to reflect intended practices. Management agreed and indicated that staff will be reminded to ensure PMP's are prepared for each project, as required.

Summary

Internal Audit has completed an audit of Interstate 5 HOV Improvement Project: Pacific Coast Highway to San Juan Creek Road and offered three recommendations for improvement.

Attachment

- A. Audit of Oversight Controls and Contract Compliance Related to the Interstate 5 High-Occupancy Vehicle Improvement Project: Pacific Coast Highway to San Juan Creek Road, Internal Audit Report No. 18-512

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ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



Audit of Oversight Controls and Contract Compliance Related to the Interstate 5 High-Occupancy Vehicle Improvement Project: Pacific Coast Highway to San Juan Creek Road

Internal Audit Report No. 18-512

November 29, 2018



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Conclusion

The Internal Audit Department (Internal Audit) has completed an audit of oversight controls and contract compliance related to Segment 3 of the Interstate 5 High-Occupancy Vehicle (I-5 HOV) Improvement Project (Project). Based on the audit, project consultants were procured in compliance with Orange County Transportation Authority (OCTA) policy; however, some concerns were identified related to amendment processing. Also, invoices were generally paid in compliance with contract terms; however, one consultant was paid more than the contractually allowed amount for a specified task. Finally, while project progress is monitored and reported, a written Project Management Plan (PMP) outlining the scope of work, constraints, and technical requirements of the I-5 HOV Project was not prepared as required.

Internal Audit also identified instances of letter amendments that were back-dated outside of the limits outlined in procedures; however, since this issue was addressed in Interstate 405: Project Management Contracts, Internal Audit Report No. 18-505, issued July 12, 2018, it was not included as a repeat finding for this audit.

Background

I-5 HOV Project

The I-5 HOV Project between Avenida Pico in the City of San Clemente and San Juan Creek Road in the City of San Juan Capistrano added HOV lanes in both directions of the I-5 from north of the I-5 Camino de Estrella interchange to south of the San Juan Creek Road undercrossing. The 5.7-mile project was funded by Measure M2 (M2), Orange County's voter-approved, half-cent sales tax for transportation improvements, as well as state and federal funds. The project was divided into three segments, Avenida Pico to Avenida Vista Hermosa (Segment 1), Vista Hermosa to Pacific Coast Highway (PCH) (Segment 2), and PCH to San Juan Creek Road (Segment 3). In addition to widening the I-5 to provide for the HOV lanes, Segment 3 also included the widening of the southbound PCH on-ramp to the southbound I-5 to provide for an additional lane. The \$230 million project opened for traffic in March of 2018.

OCTA typically delivers highway projects through five phases of effort. The phases in the process include planning; environmental; design; right-of-way acquisition; and construction. For this Project, OCTA was the lead agency for the planning, environmental, right-of-way, and design phases. OCTA also led the public outreach effort. The California Department of Transportation (Caltrans) was the lead agency for construction of the Project and was responsible for advertisement, bid opening, award, approval, and administration of the construction contract. The construction contractor is Shimmick Construction.

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Project Contracts

In addition to the cooperative agreement between OCTA and Caltrans for construction capital and construction management support, OCTA contracted with Hill International, Inc. (Hill) for construction management services under Agreement No. C-3-1820, TRC Solutions, Inc. (TRC) for design and construction support services under Agreement No. C-1-2544, and Caltrop Communications (Caltrop), which was later acquired by TRC, for public outreach services under Agreement No. C-3-1971.

Project Status Controls

During the environmental and design phase, there were monthly project development team meetings to discuss project issues. Attendees consisted of representatives from OCTA, Caltrans, the environmental or design consultants, and the cities of Dana Point, San Clemente, and San Juan Capistrano.

During the construction phase, weekly construction meetings are held with representatives from OCTA, Caltrans, the construction contractor, and the construction management (CM) consultant. There are also monthly project coordination meetings with representatives from Caltrans, OCTA, and the CM consultant. Caltrans also provides an internal Monthly Construction Progress Report to OCTA.

Invoice Review

Invoices for design, environmental, and CM services are initially reviewed by Project Controls staff based on a standard invoice review checklist. All invoices are also reviewed by the project manager for level-of-effort and for nature of work being performed. If invoices are over the project manager's signing authority, the invoice is routed to management with sufficient signing authority for approval. Accounts Payable reviews the invoices for proper signature authority prior to processing the payment.

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Objectives, Scope, and Methodology

The objectives were to ensure that procurements and amendments were handled in accordance with OCTA procurement policies and procedures, consultants and Caltrans provided services in accordance with their contracts, invoices paid to consultants and Caltrans adhered to contract payment provisions and were properly approved, and project administration and oversight controls were adequate.

The methodology consisted of identification and testing of controls to monitor and report project status, review of procurement and contract amendments for compliance with procurement policies and adequate support, and detailed testing of invoices paid on Project-related contracts for contract compliance and evidence of controls.

The scope is limited to the I-5 HOV Project, Segment 3. It included contracts with Hill, TRC, and Caltrop, as well as Agreement Nos. C-3-1504 and C-1-2887 with Caltrans, and all related amendments. The scope also included invoice payments made to Hill, TRC, and Caltrop from January 2016 to mid-2018, invoice payments on Agreement No. C-3-1504 from January 2017 to June 2018, and the sole payment made on Agreement No. C-1-2887 with Caltrans in February 2013.

We conducted this performance audit 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 that 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

Amendment Processing

Four amendments were back-dated over two months, including one amendment that was back-dated over five months. Further, three of the four amendments were back-dated to dates that preceded the request for amendment. Current policy does not allow for back-dating of formal amendments; only letter amendments.

In addition, one amendment was processed after the underlying contract had expired.

Recommendation 1:

Internal Audit recommends management enforce policy or update the policy to include parameters for back-dating of formal amendments. Management should also remind staff that amendments should be requested in a timely fashion to ensure processing before contracts expire.

Management Response (Finance and Administration):

Management agrees with the recommendation to enforce the current policy regarding processing of formal amendments. Contract Administration and Materials Management Department (CAMM) management will conduct training for CAMM staff and review the requirements for processing formal amendments. Staff is also working with the general counsel's office to address the changes in contract templates to eliminate any conflicts related to the interpretation of the "effective dates". CAMM also plans to conduct training for OCTA staff on the amendment process in 2019 through the Procurement 101 training series.

Enforcement of Contract Task-Pricing

The design and construction support consultant submitted invoices, and was paid, amounts that exceeded the firm fixed price for a specified task under the contract.

The contract for design and construction support services with TRC includes a maximum contract obligation amount and lists individual firm fixed prices for each of nine tasks identified in the scope of work. In accordance with contract terms, invoices submitted by TRC specify the task number and corresponding billed amount.

In 2015, two amendments were processed to increase the firm fixed price for Task No. 7 "Construction Support" with a corresponding increase to the contract maximum obligation.

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In 2017, without an amendment, TRC submitted several invoices to OCTA reflecting an increase in the firm fixed price amount for Task No. 7, with no increase to the contract maximum obligation. Instead, TRC reduced the entire firm fixed price of Task No. 8 "Project Close-out" (\$31,566) and increased Task No. 7 by the same amount. Capital Programs Invoice Review Checklists include verification of contract task firm fixed pricing; however, the invoices were authorized for payment.

Internal Audit noted that only four of 21 invoices reviewed were submitted timely. In fact, two invoices, covering multiple months, were submitted immediately after amendments were processed to increase the pricing of individual tasks and the maximum contract obligation.

Recommendation 2:

Internal Audit recommends that changes to firm fixed pricing of individual tasks, as established in the contract, be made through the amendment process. Management should ensure amendments needed for additional services are requested and processed in a timely manner.

Management Response (Capital Programs):

Management agrees with the recommendation to request amendments for changes to firm fixed pricing of individual tasks, as established in contracts which were procured with price as a factor. Management will reinforce with staff the need to request and process amendments for additional services in a timely manner.

Preparation of Project Management Plan

A PMP was not prepared for this project.

The Highway Programs' Program Management Procedures were developed to facilitate the delivery of the M2 Capital Improvement Program and serve as a set of procedures to effectively manage and monitor projects.

These procedures require that a written PMP be prepared for each project to communicate the scope of work, constraints, and technical requirements to all project participants.

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Recommendation 3:

Management should either update its procedures to reflect state and federal requirements or enhance controls to ensure that projects comply with all relevant procedures identified in the Program Management Procedures manual.

Management Response (Capital Programs):

Management agrees with the recommendation and will review the relevant procedures from the Program Management Procedures Manual with staff to ensure that projects are in compliance. Project managers will ensure that project management plans are prepared for each project.