



March 22, 2023

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit Department

Subject: State and Federal Consulting Contracts, Internal Audit Report No. 23-512

Overview

The Internal Audit Department of the Orange County Transportation Authority has completed an audit of state and federal consulting contracts. Based on the audit, invoices were paid in accordance with the contracts, and there are controls in place to monitor consultants and provide required reporting. One recommendation has been made to ensure compliance with procurement policy.

Recommendation

Direct staff to implement the one recommendation provided in State and Federal Consulting Contracts, Internal Audit Report No. 23-512.

Background

The Government Relations Division (Government Relations) is responsible for securing state and federal funding, influencing legislative and regulatory actions, and assisting in the development and execution of the Board of Directors (Board)-approved legislative agendas for Sacramento and Washington D.C. Each year, Government Relations secures the Board's approval of both a federal and state legislative platform and presents a staff evaluation of the state and federal legislative advocacy consultants. The Orange County Transportation Authority entered into the following contracts: Agreement No. C-0-2369 with Topp Strategies LLC (Topp) for state legislative and advocacy consulting services; Agreement No. C-8-1750 with Potomac Partners DC (Potomac) for federal legislative advocacy and consulting services; and Agreement No. C-1-3819 with Cardinal Infrastructure, LLC for federal strategic regulatory and consulting services.

Topp provides verbal updates at every Legislative and Communications Committee meeting, and Potomac's monthly legislative reports are included in Government Relations' reports to the Board. All three consultants submit monthly invoices, which are reviewed and approved by Government Relations.

The policy and procedure manual from the Contracts Administration and Materials Management (CAMM) Department sets forth the general procurement policy and standards that govern the conduct of OCTA procurement activities.

Discussion

Procurements for the state and federal legislative advocacy contracts did not meet all requirements set forth by procurement policy. For the federal legislative advocacy procurement, one evaluator did not fill out Proposal Evaluation Forms (scoring forms); however, CAMM's selection summary included scores from this evaluator. In addition, there were a few minor discrepancies between CAMM's scoring summary and the scoring forms of two other evaluators. For the state legislative advocacy procurement, the Procurement Plan named six evaluators; however, only four evaluators participated, which did not comply with procurement policy that requires a minimum of five evaluators for procurements greater than \$250,000. In addition, scoring forms were not on file for three of the four evaluators. Finally, while a Procurement Plan memo was prepared, the project manager and CAMM manager had not signed off. Internal Audit recommended that CAMM ensure procurements comply with policy. Management agreed and indicated they will ensure evaluation forms are completed and confirm that scores agree to the final scoring summary.

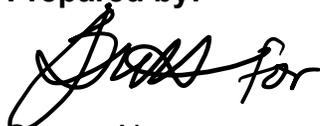
Summary

Internal Audit has completed an audit of state and federal consulting contracts and has offered one recommendation for improvement.

Attachment

A. State and Federal Consulting Contracts

Prepared by:



Serena Ng
Senior Manager, Internal Audit
714-560-5938

Approved by:



Janet Sutter
Executive Director, Internal Audit
714-560-5591

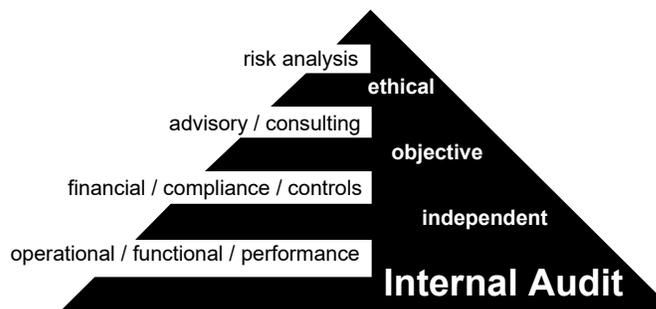
ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



State and Federal Consulting Contracts

Internal Audit Report No. 23-512

March 10, 2023



Audit Team: Serena Ng, CPA, Senior Manager *Sutter for*
Janet Sutter, CIA, Executive Director

Distributed to: Lance Larson, Executive Director, Government Relations
Andrew Ofelie, Chief Financial Officer
Pia Veesapen, Georgia Martinez, Kristin Jacinto, Ric Teano

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
State and Federal Consulting Contracts
March 10, 2023**

Table of Contents

Conclusion	1
Background	1
Objectives, Scope, and Methodology	3
Audit Comment, Recommendation, and Management Response.....	5
Compliance with Procurement Policy	5

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
State and Federal Consulting Contracts
March 10, 2023**

Conclusion

The Internal Audit Department (Internal Audit) of the Orange County Transportation Authority (OCTA) has completed an audit of state and federal consulting contracts. Based on the audit, invoices were paid in accordance with the contracts, and there are controls in place to monitor consultants and provide required reporting. One recommendation has been made to ensure compliance with procurement policy.

Background

The Government Relations Division (Government Relations) is responsible for securing state and federal funding, influencing legislative and regulatory actions, and assisting in the development and execution of the Board of Directors' (Board)-approved legislative agendas for Sacramento and Washington D.C. Each year, Government Relations secures the Board's approval of both a federal and state legislative platform, which serves as a Board-approved policy for legislative activity. Each year, management presents a staff evaluation of the state and federal legislative advocacy consultants to the Board.

OCTA entered into Agreement No. C-0-2369 with Topp Strategies LLC (Topp), to provide state legislative and advocacy consulting services, with an initial term of January 1, 2021, through December 31, 2022, and a maximum cumulative payment obligation of \$420,000. Under the agreement, OCTA pays Topp a fixed monthly rate of \$17,500, and Topp submits a written summary of meetings attended on behalf of OCTA and a list with status of the issues advocated for OCTA during the month. Amendment No. 1 exercised the first option, extending the term to December 31, 2024, at an increase of \$420,000 to the maximum cumulative payment obligation.

OCTA entered into Agreement No. C-8-1750 with Potomac Partners DC (Potomac), to provide federal legislative advocacy and consulting services, with an initial term of January 1, 2019, through December 31, 2020, and a maximum cumulative payment obligation of \$480,000. Under the agreement, OCTA pays Potomac a fixed monthly rate of \$20,000, and Potomac submits a written monthly activity and status report including key advocacy activities undertaken on behalf of OCTA during each month. Amendment No. 1 exercised the first option term, extending the term to December 31, 2022, at an increase of \$480,000 to the maximum cumulative payment obligation. Amendment No. 2 exercised the option term, extending the term to December 31, 2024, at an increase of \$480,000 to the maximum cumulative payment obligation.

OCTA entered into Agreement No. C-1-3819 with Cardinal Infrastructure, LLC (Cardinal), to provide federal strategic regulatory and consulting services, with a term of April 1, 2022, through March 31, 2024, and a maximum cumulative payment obligation of \$336,000. Under the agreement, OCTA pays a fixed monthly rate of \$14,000, and Cardinal submits on a monthly basis a progress report that describes the work performed and activities conducted during the invoice period.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
State and Federal Consulting Contracts
March 10, 2023**

Topp provides verbal updates at every Legislative and Communications Committee meeting and Potomac's monthly legislative reports are included in Government Relations' reports to the Board. All three consultants submit monthly invoices, which are reviewed and approved by Government Relations.

Government Relations submits quarterly reports on lobbying activity to the California Secretary of State in accordance with California's Political Reform Act. Government Relations also updates and submits lobbying disclosure forms to the Federal Transit Administration (FTA) every year.

The policy and procedure manual from the Contracts Administration and Materials Management department (CAMM) sets forth the general procurement policy and standards that govern the conduct of OCTA procurement activities. CAMM's pre-award procedures include establishing procurement plans and selecting the proposal evaluation committee. Negotiated procurements with a total dollar value greater than \$250,000 require a minimum of five evaluation committee members (evaluators). The evaluators are to read and score each proposal as well as provide narrative statements to explain the rationale for scoring. A short list of firms, whose technical scores fall into a competitive range, are invited to participate in an interview. CAMM prepares a spreadsheet summary showing the overall scores for short-listed firms given by each evaluator. If a single proposal is received and it is determined that there were no restrictive elements in the procurement, then CAMM is to follow the same procedures as those detailed for competitive negotiated procurements, which include an evaluation by an evaluation committee, scoring, and an interview.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
State and Federal Consulting Contracts
March 10, 2023**

Objectives, Scope, and Methodology

The objectives were to evaluate internal controls and contract compliance related to the federal and state consulting services contracts.

According to Generally Accepted Government Auditing Standards, internal control is the system of processes that an entity's oversight body, management, and other personnel implement to provide reasonable assurance that the organization will achieve its operational, reporting, and compliance objectives. The five components are control environment, risk assessment, control activities, information and communication, and monitoring.¹ The components and principles that were evaluated as part of this audit are:

- Control Environment
 - OCTA demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives.
- Control Activities
 - OCTA selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- Monitoring
 - OCTA evaluates and communicates internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management and the Board, as appropriate.

The methodology consisted of testing procurements and amendments for compliance with selected procurement policies and procedures, confirming that Government Relations secured Board approval of the federal and state legislative platforms and presented the annual staff evaluation of Potomac and Topp, confirming that Potomac's monthly synopsis are in Government Relations' reporting to the Board, and that Topp provided verbal status updates to the Legislative and Communications Committee, testing a sample of lobbying reports to the state and FTA, and testing invoices paid on the three consultant contracts.

The scope is limited to Agreement No. C-0-2369 with Topp, Agreement No. C-8-1750, Agreement No. C-8-1750 with Potomac, and Agreement No. C-1-3819 with Cardinal. The scope included all invoices paid to the three consultants from contract inception through 2022. The scope also included annual legislative platforms, annual staff evaluation of Topp and Potomac, consultant update reporting, and lobbying reporting to the state and FTA in the last two years. The judgmental sample was selected to provide coverage of the more recent activity. Since the sample is non-statistical, any conclusions are limited to the sample items tested.

¹ See U.S. Government Accountability Office publication, "Standards for Internal Control in the Federal Government," available at <http://www.gao.gov/products/GAO-14-704G>, for more information.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
State and Federal Consulting Contracts
March 10, 2023**

We conducted this performance audit in accordance with GAGAS. 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.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
State and Federal Consulting Contracts
March 10, 2023**

Audit Comment, Recommendation, and Management Response

Compliance with Procurement Policy

Procurements for the state and federal legislative advocacy contracts did not meet all of the requirements set forth by procurement policy.

For the federal legislative advocacy procurement, one evaluator did not fill out Proposal Evaluation Forms (scoring forms); however, CAMM's summary, supporting selection of the firm, included scores from this evaluator. In addition, there were a few minor discrepancies between CAMM's summary and the scoring forms of two other evaluators.

For the state legislative procurement, the Procurement Plan memo identified six evaluators; however, only four evaluators participated, which did not meet CAMM's procedures requiring a minimum of five evaluators for procurements greater than \$250,000. In addition, scoring forms were not on file for three of the four evaluators that participated. Finally, the project manager and CAMM manager had not signed off on the Procurement Plan memo, as evidence of concurrence.

Recommendation 1:

Internal Audit recommends that CAMM ensure that procurements comply with policy.

Management Response (CAMM):

CAMM agrees with the recommendation and will ensure that evaluators complete the evaluation forms and confirm that scores on the forms are updated to reflect the final scores.

The state legislative procurement initially exceeded the minimum number of evaluation members as six evaluators were set to participate on the evaluation committee. However, due to last minute scheduling conflicts following receipt of the proposal, two of the evaluators were no longer able to participate in the evaluation process. For procurements greater than \$250,000, CAMM will ensure that the minimum number of five evaluators remain on the evaluation committee even if there are evaluators that drop out of the evaluation process as occurred in the procurement for state legislative services. If the committee falls below five members, CAMM will make every effort to identify substitute evaluator(s) and move forward with the procurement.

The scoring forms and signed Procurement Plan memo were originally completed and placed in the physical working contract file. During this procurement, staff was directed to begin working remotely to comply with the State's stay-at-home orders due to the coronavirus pandemic and upon return to the office, staff was unable to locate these documents. CAMM has implemented protocols for electronic filing of documents to

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
State and Federal Consulting Contracts
March 10, 2023**

reduce the number of physical contract files and move into a more paperless environment. All file documents are now saved into an electronic repository on SharePoint and only federally funded contract files are being saved in physical files, as well as in SharePoint.