



February 24, 2021

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit Department

Subject: OC Streetcar Project Management Consultant: Oversight Controls and Contract Compliance, Internal Audit Report No. 21-503

Overview

The Internal Audit Department of the Orange County Transportation Authority has completed an audit of oversight controls and contract compliance related to the OC Streetcar project management contract. The audit found evidence of compliance with procedures for project management oversight and reporting. In addition, invoices were generally paid in compliance with contract provisions, policies, and procedures; however, recommendations have been made to recover identified double-billings, and to clarify requirements and improve controls over review of rates for consultant staff added to contracts.

Recommendation

Direct staff to implement two recommendations provided in OC Streetcar Project Management Consultant: Oversight Controls and Contract Compliance, Internal Audit Report No. 21-503.

Background

The Orange County Transportation Authority (OCTA) is implementing a modern streetcar running between the Santa Ana Regional Transportation Center in the City of Santa Ana and the intersection of Harbor Boulevard and Westminster Avenue in the City of Garden Grove, in cooperation with the two cities. The project, with a 4.15-mile route, includes ten streetcar stops in each direction, comprised of four shared center platforms and six side platforms in each direction. The project also includes a maintenance and storage facility that will accommodate up to 15 streetcar vehicles.

The current project budget is \$424,361,000. Funding includes Federal Transit Administration New Starts discretionary and Measure M2 funding. The project is in the construction phase, and the current estimate of construction completion is October 2022.

Discussion

Testing of \$21 million in consultant invoices identified double-billings of \$5,857. Most instances involved the consultant requesting reimbursement for the same costs, or charging the same labor hours in two different monthly invoices. The Internal Audit Department (Internal Audit) recommended that management recover these double-billed costs, and management proceeded to deduct the amount from the current invoice. Also, consultant staff previously billed under labor classifications were added to the contract with rate increases that did not comply with requirements established by the contract or procurement policy. Further, there is a discrepancy between contract requirements and procurement policy language. Internal Audit recommended that management reconcile differences between the contract and policy requirements for establishing labor rates of staff being moved from labor classifications to named personnel. Additionally, controls should be developed to ensure compliance with these requirements. Management agreed to amend the contract language to be more consistent with policy requirements and to implement additional controls.

Summary

Internal Audit made two recommendations to recover double-billed costs, and reconcile requirements for establishing billing rates of consultant staff moved from labor classifications to named contract personnel.

Attachment

- A. OC Streetcar Project Management Consultant: Oversight Controls and Contract Compliance, Internal Audit Report No. 21-503

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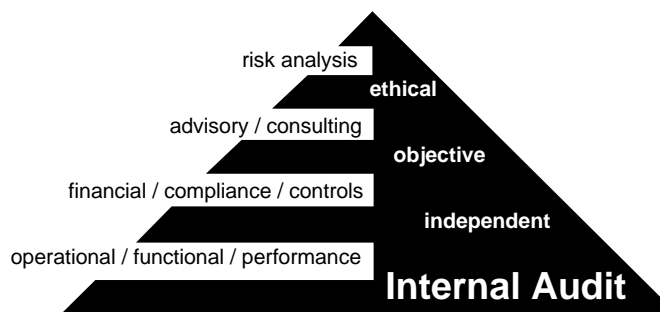
ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



OC Streetcar Project Management Consultant: Oversight Controls and Contract Compliance

Internal Audit Report No. 21-503

February 11, 2021



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Conclusion

The Internal Audit Department (Internal Audit) of the Orange County Transportation Authority (OCTA) has completed an audit of oversight controls and contract compliance related to the OC Streetcar project management contract. The audit found evidence of compliance with procedures for project management oversight and reporting. In addition, invoices were generally paid in compliance with contract provisions, policies, and procedures; however, recommendations have been made to recover identified double-billings, and to clarify requirements and improve controls over review of rates for consultant staff added to contracts.

Exceptions related to the use of payment requests were also identified; however, similar exceptions were reported in a prior audit, and the exceptions identified pre-dated management's actions to address the prior audit exceptions.

Background

OC Streetcar Project

OCTA is implementing a modern streetcar running between the Santa Ana Regional Transportation Center in the City of Santa Ana and the intersection of Harbor Boulevard and Westminster Avenue in the City of Garden Grove, in cooperation with the two cities. The OC Streetcar Project, with a 4.15-mile route, is being implemented as part of the Measure M2 Project S – Transit Extensions to Metrolink. The project includes ten streetcar stops in each direction, comprised of four shared center platforms and six side platforms in each direction. Each stop will include a canopy, benches, leaning rails, trash cans, lighting, changeable message signs, video cameras, a public address system, and ticket vending machines, which will be procured separately. The project also includes a maintenance and storage facility that will accommodate up to 15 streetcar vehicles.

The current project budget is \$424,361,000. Funding includes Federal Transit Administration (FTA) New Starts discretionary funding. The project is in the construction phase, and the current estimate of construction completion is October 2022.

Contract

Effective June 1, 2015, OCTA entered into Agreement No. C-4-1854 with HDR Engineering, Inc. (HDR), for project management consultant services. A Limited Notice to Proceed, established before contract execution, was issued for the period February 23 through May 31, 2015. The agreement is a time-and-expense contract with a maximum obligation set at \$21,557,909, and an initial term through February 22, 2020. The agreement also includes two, two-year option terms. The first option term had been exercised and the maximum obligation increased to \$29,026,290.

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Project Management, Oversight, and Monitoring

The Regional Rail Program Management Procedures define the roles and responsibilities of staff and establishes project management procedures that include requirements for the development of a Project Management Plan. Procedures also provide guidance on the preparation and update of a risk register that outlines risks that may impact the project cost, schedule, and/or technical functionality during the design, construction, start-up, operations, and revenue service phases.

Quarterly meetings are held with the FTA and its Project Management Oversight Contractor (PMOC). HDR prepares the FTA quarterly briefing book with OCTA project management review and approval. After the meetings, the FTA PMOC prepares a detailed report.

The Project Controls section prepares monthly status reports and schedules for active capital projects, including the OC Streetcar, and posts these documents to the intranet.

Beginning in 2019, quarterly updates on the OC Streetcar Project are provided to the Board of Directors (Board). The OC Streetcar Project is also included in the quarterly Measure M2 and Capital Action Plan progress reports provided to the Board.

Project Controls staff reviews consultant invoices using an invoice review checklist. Staff verifies labor rates are consistent with the contract, invoiced labor hours are adequately supported, and other direct costs are based on contract rate schedules or include adequate support. After Project Controls' review, OC Streetcar project staff reviews the invoices for level of effort and reasonableness of travel costs, and the invoices are then reviewed and approved by management with appropriate signature authorization. Once approved, invoices are forwarded to Accounts Payable for processing.

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Objectives, Scope, and Methodology

The objectives were to assess project management and oversight controls and evaluate contract compliance related to the OC Streetcar project management consultant contract.

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.
- Risk Assessment
 - OCTA identifies risks to the achievement of its objectives across the entity and analyzes risks as a basis for determining how the risks should be managed.
- Control Activities
 - OCTA selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- Information and Communication
 - OCTA obtains or generates and uses relevant, quality information to support the functioning of internal control.
- 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, testing the monthly Project Controls status reports and quarterly reports to the Board for evidence of project status reporting to management and the Board, assessing invoice review procedures and testing invoices paid for contract compliance and evidence of controls, and testing certain project management documentation, including a Project Management Plan and risk register, for compliance with procedures. The methodology also included testing evidence of the quarterly meetings with the FTA and its PMOC, including briefing books prepared by HDR, and monitoring reports prepared by the PMOC.

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.

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The scope was limited to the OC Streetcar project management, including the HDR contract for project management. The scope excluded the design, construction, construction management, vehicles, quality management, and public communications contracts. The scope included all invoices paid from inception, and all quarterly meetings with the FTA and its PMOC. The scope also included selected requirements from the Program Management Procedures and status reporting presented or posted in the last two years. The judgmental sample of status reporting 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.

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

Invoice Double-Billing

Testing of \$21 million in consultant invoices identified double-billings of \$5,857. Most instances involved the consultant requesting reimbursement for the same costs, or charging the same labor hours in two different monthly invoices.

Recommendation 1:

Internal Audit recommends management recover these double-billed costs.

Management Response (Capital Programs):

Management agrees with the recommendation. The \$5,857 in double-billed costs has been deducted from HDR's current invoice #2019-10.

Consultant Staff Added to Contract after Billing under Labor Classifications

Consultant staff previously billed under labor classifications were added to the contract with rate increases that did not comply with requirements established by the contract or Contracts Administration and Materials Management (CAMM) Policy (policy). Further, there is a discrepancy between contract requirements and policy.

To address a prior audit finding related to escalation controls, the HDR contract was amended to require that personnel working for six continuous months be added to the contract as named personnel with hourly rates "as last billed". CAMM policy indicates that staff may be added and billed at rates escalated beyond the contract escalation rate, provided written approval is obtained from the Project Manager (PM). As such, CAMM policy suggests that personnel may be added at rates other than "last billed".

Four consultant staff were added to the contract with rate increases that exceeded the 3.75 percent contract escalation maximum. For three of these staff, the agreement file contained an email from the PM erroneously confirming that the individuals' rates did not exceed the contract escalation maximum. There was no evidence of review or approval for the fourth staff person.

Two other consultant staff were added to the contract at rate increases within the contract escalation maximum, which appears to meet CAMM policy requirements, but not the contract requirement.

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Recommendation 2:

Internal Audit recommends that management reconcile differences between the contract and CAMM policy requirements for establishing labor rates of staff being moved from labor classifications to named personnel. Additionally, controls should be developed to ensure compliance with these requirements.

Management Response (Finance and Administration):

Management agrees with the recommendation and will amend the language in the appropriate templates, namely time-and-expense agreements, that utilize classifications to ensure consistency with the CAMM policy. Additionally, CAMM will make this clarifying change to the affected agreements as they come up for amendments.

CAMM will continue to follow the practice of ensuring that all supporting documentation including the PM's written approval of labor rates, or any other actions, are submitted prior to processing the amendments. In those instances where the labor rate exceeds the contract allowable escalation, the PM's written authorization and justification will be sought, reviewed, and maintained in the file. CAMM staff will continue to validate the labor rate calculation for consultant staff being added to the agreement against the applicable payroll register or offer of employment.

Management Response (Capital Programs):

Management agrees with the recommendation and will implement additional controls to ensure that labor rate escalations for staff being moved from labor classifications to named personnel complies with both contract and policy requirements.

Capital Programs maintains a spreadsheet for each contract that includes classification rate schedules. The classification spreadsheet identifies the monthly billing by individual and their approved billing rate. The PM's written approval of labor rates will now include the approved classification billing rate as part of the justification memo for individuals added to the contract.