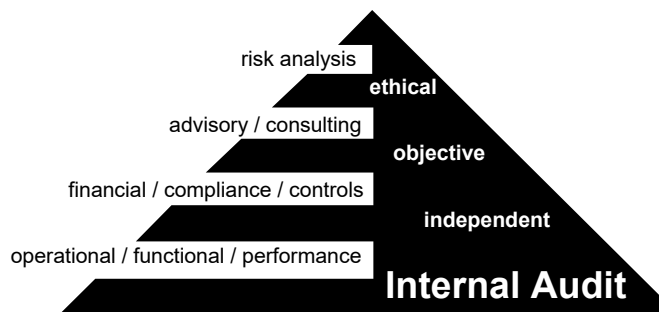


# ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



## Investigation and Limited Scope Review of Comprehensive Transportation Funding Programs Scope Change for Project No. 20-HBCH-CBT-3960

November 20, 2023



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**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT  
Investigation and Limited Scope Review of Comprehensive Transportation  
Funding Programs Scope Change for Project No. 20-HBCH-CBT-3960  
November 20, 2023**

**Table of Contents**

Conclusion .....	1
Background .....	1
Observations, Recommendations, and Management Response .....	4
Lack of Reference to Project V Scope Changes in CTFP Guidelines.....	4
Reporting of Scope Changes and Consideration of Impact to Future Funding Allocations .....	5

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT  
Investigation and Limited Scope Review of Comprehensive Transportation  
Funding Programs Scope Change for Project No. 20-HBCH-CBT-3960  
November 20, 2023**

## **Conclusion**

The Internal Audit Department (Internal Audit) of the Orange County Transportation Authority (OCTA) has completed an investigation of a report received through OCTA's Fraud Hotline (Hotline) on October 23, 2023, alleging that OCTA staff processed a fraudulent scope change for Project No. 20-HBCH-CBT-3960, Huntington Beach Southeast Rideshare Pilot Program, and misrepresented facts related to the scope change when requesting Board of Directors' (Board) approval. The report further alleged that the strategy of the scope change was for the purpose of positioning the replacement project to obtain funding under the 2024 call for projects, that prioritizes funding of previously awarded successful projects.

Internal Audit did not find any evidence of fraud, defined as any activity that relies on deception to achieve a gain. There was no indication that staff received a personal gain. However, Internal Audit identified a lack of reference, or criteria, for Project V scope changes in Comprehensive Transportation Funding Programs (CTFP) guidelines, resulting in Internal Audit being unable to opine on the allowability of the action. Internal Audit confirmed that facts related to the scope change were misrepresented in the request for Board approval. Internal Audit also confirmed that the action taken prioritizes the replacement project to receive funding as a previously awarded project.

## **Background**

### Fraud Hotline

Internal Audit administers the Hotline, which is operated by a third party and provides both a toll-free phone number and an internet site for filing anonymous complaints of fraud, waste, or abuse.

Complaints received through the Hotline are reviewed by Internal Audit to determine whether an investigation can be carried out and, if so, by whom. When appropriate, Internal Audit will investigate and determine whether the allegation can be substantiated. While conducting these investigations, Internal Audit may identify control weaknesses or opportunities to enhance existing policies and procedures. Findings and recommendations resulting from these investigations will be incorporated into limited scope review reports and will include management corrective action. Like any other Internal Audit report, recommendations will be tracked through implementation.

**ORANGE COUNTY TRANSPORTATION AUTHORITY**  
**INTERNAL AUDIT DEPARTMENT**  
**Investigation and Limited Scope Review of Comprehensive Transportation**  
**Funding Programs Scope Change for Project No. 20-HBCH-CBT-3960**  
**November 20, 2023**

On October 23, 2023, Internal Audit received an anonymous complaint alleging fraudulent scope change and misrepresentation to the Board. Specifically, the reporter alleged that:

- The scope change was fraudulent;
- OCTA staff misrepresented the City of Huntington Beach's (City) shift of programming funds for a project not yet started to another project already in progress as a modification of service area; and
- The scope change was an intentional strategy for the City's project to secure status as an existing Project V-funded project ensuring funding awards in future call cycles, and it was designed to circumvent CTFP guidelines.

Measure M2 Ordinance Investment Plan

The Renewed Measure M Transportation Investment Plan (Investment Plan) defines Project V Community-Based Transit/Circulators projects as including community-based circulators, shuttles, and bus trolleys that cannot duplicate or compete with existing transit services.

Attachment B to the Ordinance states that allocations shall be determined pursuant to a countywide competitive procedure adopted by OCTA, and the procedure shall include an evaluation process and methodology applied equally to all candidate Community-Based Transit/Circulator projects.

**Objectives, Scope, and Methodology**

The objective of the investigation and limited scope review was to determine whether the allegations could be substantiated. The scope was limited to the scope change for Project No. 20-HBCH-CBT-3960, Huntington Beach Southeast Rideshare Pilot Program.

In conducting the investigation and limited scope review, Internal Audit employed the following methodology:

- Reviewed the Board staff report for the 2020 Measure M2 Community-Based Transit Circulators (Project V) Call for Projects Programming Recommendations;
- Reviewed the Board staff report for the CTFP Semi-Annual Review – March 2023, which included the scope change request for the project (staff report for the March 2023 CTFP semi-annual review);
- Interviewed Planning Division personnel and management involved in the subject CTFP project, reviewed relevant emails and documents provided by personnel and/or available in the project file;
- Reviewed the CTFP Guidelines, 2020 Call for Projects; and
- Reviewed the CTFP Guidelines, 2024 Call for Projects.

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT  
Investigation and Limited Scope Review of Comprehensive Transportation  
Funding Programs Scope Change for Project No. 20-HBCH-CBT-3960  
November 20, 2023**

This report is the result of an investigation of a complaint received through the OCTA Hotline and does not represent an audit conducted in accordance with Generally Accepted Government Auditing Standards.

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT  
Investigation and Limited Scope Review of Comprehensive Transportation  
Funding Programs Scope Change for Project No. 20-HBCH-CBT-3960  
November 20, 2023**

## **Observations, Recommendations, and Management Response**

### Lack of Reference to Project V Scope Changes in CTFP Guidelines

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Internal Audit is unable to opine on whether the scope change was unallowable or violated requirements because CTFP guidelines do not provide guidelines or requirements for scope changes to Project V projects. The CTFP semi-annual review staff reports indicate “Agencies may request minor scope changes if project benefits as committed to in the initial application can still be delivered.” A definition of “minor scope change” is not included.

In response to a 2020 Project V call for projects, the City applied for funding of a two-year pilot program to provide a demand responsive shared-ride hailing service in southeast Huntington Beach. In the application, the City referred to the planning of another project in the downtown area (i.e. downtown Circuit shuttle) as an additional program that would complement the pilot program. In December 2022, the City communicated that the originally planned pilot program was not feasible and sought to cancel the project or reprogram the funds to the existing downtown Circuit shuttle. The downtown Circuit shuttle has operated in the southwest portion of the City since July 2021, under funding by the South Coast Air Quality Management District (AQMD) and the City’s general fund.

The City marked scope change in its response to the March 2023 semi-annual review and provided a narrative of the existing downtown Circuit shuttle project with maps of the service area. There was no evidence to describe how the scope change was evaluated and determined to be an allowable change, or that staff evaluated the replacement project against the originally proposed project prior to seeking Board approval for the change.

#### **Recommendation 1:**

Internal Audit recommends that CTFP guidelines be revised, with Board approval, to add guidance as to acceptable scope and/or programming changes, the documentation required by cities to request changes, and criteria used by OCTA in evaluating changes against requirements. Staff should conduct and document evaluation of scope changes, prior to seeking Board approval, to ensure defined requirements are met and to ensure reprogrammed projects, if allowed, are evaluated against projects as originally scored when the funding was approved.

#### **Management Response:**

Unlike many of the other CTFP programs, which are focused on construction of transportation infrastructure, the Project V program provides funding for various types of transit services to serve communities not served by regional transit. Due to the nature of

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT  
Investigation and Limited Scope Review of Comprehensive Transportation  
Funding Programs Scope Change for Project No. 20-HBCH-CBT-3960  
November 20, 2023**

this program and performance, it is difficult to anticipate the types of changes that may be requested.

Staff acknowledges that existing documentation and operating procedures can be improved for evaluating and approving scope changes for Project V grants, while flexibility is important to serve diverse community needs, being responsive to the dynamic nature of transit demand and providing timely responses to local agencies.

To address this, OCTA staff will:

- By June 30, 2024, update operating procedures and implement standardized forms and checklists for documenting Project V scope change requests, including the required information from cities and OCTA's evaluation criteria and analysis.
- Review scope changes against original project scoring and ensure proposed changes deliver comparable or better benefits to the public, consistent with program goals.
- Improve communication of scope change analysis in reports to the Board, so the rationale and impacts are clear.
- By June 30, 2024, review the CTFP - Project V program guidelines and consider changes to address scope changes.

### **Reporting of Scope Changes and Consideration of Impact to Future Funding Allocations**

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Internal Audit substantiated the allegation related to misrepresentation of the scope change to the Board. Internal Audit also confirmed that the scope change allows the City to apply for 2024 funding as an existing Project V-funded project, a category which is given the highest priority in the 2024 call for projects.

The staff report for the March 2023 CTFP semi-annual review stated the City had requested a scope change for the operations and maintenance phase of the Southeast Rideshare Pilot Program and describes the change as a service area modification for coverage in the southwesterly section of the city limits. This description infers a change to service area for an operating project; however, there was no project operating, and the change represented a reprogramming of funds awarded to one project that was never initiated, to a similar project that has operated since July 2021 under funding by the South Coast AQMD and the City's general funds.

The Hotline report alleged that the action taken by OCTA unfairly positions the City to be awarded funding in the upcoming call for projects when other cities with existing city-funded projects are not eligible to apply. OCTA staff acknowledged that when working on the scope change, management was updating CTFP guidelines and considering

**ORANGE COUNTY TRANSPORTATION AUTHORITY**  
**INTERNAL AUDIT DEPARTMENT**  
**Investigation and Limited Scope Review of Comprehensive Transportation**  
**Funding Programs Scope Change for Project No. 20-HBCH-CBT-3960**  
**November 20, 2023**

whether to only allow existing Project V-funded services to apply. As such, staff were aware that, without the scope change, the City's project might not have been eligible for consideration in the next call cycle.

On November 11, 2023, the 2024 Project V Program Guidelines and Call for Projects was approved by the Board. The staff report advised that the Project V program is highly competitive due to interest in the program and limited funding and, as such, funding to continue existing Project V-funded services is to be prioritized.

**Recommendation 2:**

Internal Audit recommends management return to the Board, with a clear description of the action and its impact on future funding decisions, and request consideration of approval. Going forward, management should ensure accurate and complete communications with the Board.

**Management Response:**

- The Board approved the original Project V grant in 2020, the City started another pilot project in 2021 (serving a different area than the awarded project), and the Board approved the grant scope change in 2023 to fund the continuation of the other pilot project.
- Staff recognizes that the scope change approved for the City ride-share in June 2023 should have been presented to the Board in a more accurate and complete manner.
- To address this, OCTA will bring forward a more detailed description of the City scope change to the Board in an upcoming staff report. This will clearly outline the timing, nature of changes, and draft recommendations that the revised pilot aligns with the intent and public benefits of the original grant award.
- Moving forward, OCTA will ensure scope changes are communicated openly with all relevant details, so the Board has a full understanding of the status, rationale, and impacts of any proposed modifications to Project V grants.