



May 23, 2018

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer
Janet Sutter, Executive Director
Internal Audit

Subject: Brown Act Compliance, Internal Audit Report No. 18-508

Overview

The Internal Audit Department has completed an audit of Ralph M. Brown Act compliance. Based on the audit, the Orange County Transportation Authority operated substantially in compliance with the Ralph M. Brown Act; however, some instances of non-compliance with agenda posting requirements were identified. One recommendation was made to provide staff training and/or enhance procedures to ensure consistent compliance.

Recommendation

Direct staff to implement one recommendation provided in Brown Act Compliance, Internal Audit Report No.18-508.

Background

The Ralph M. Brown Act (Brown Act) guarantees the public's right to attend and participate in meetings of local legislative bodies. The Brown Act dictates agenda posting requirements for both regular and special meetings of the Board of Directors (Board) and its committees. The Brown Act specifies elements required to be included in public agendas, as well as the timing for public posting.

The Clerk of the Board (COB) is responsible for the Board and committee agenda process, including preparation and distribution of agendas, and ensuring compliance with Brown Act posting requirements.

Discussion

Agendas for regular Board and Board committee meetings are required to be posted at least 72 hours prior to the meeting in a location “freely accessible to members of the public”. To accomplish this, the COB uploads agendas to an electronic kiosk located at the OCTA headquarters building. In addition, agendas are made available through the OCTA website.

Internal Audit found that three committee agendas, out of eighty-six during calendar year 2017, were not posted to the publicly-available electronic kiosk, and another seven committee agendas were not posted within the timeframe dictated by the Brown Act.

Summary

Internal Audit has completed an audit of Brown Act compliance and offered one recommendation for improvement.

Attachment

- A. Brown Act Compliance, Internal Audit Report No. 18-508

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ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



Brown Act Compliance

Internal Audit Report No. 18-508

May 3, 2018



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Distributed to: Laurena Weinert, Clerk of the Board

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Brown Act Compliance
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Conclusion

The Internal Audit Department (Internal Audit) has completed an audit of compliance with the Ralph M. Brown Act (Brown Act). Based on the audit, the Orange County Transportation Authority (OCTA) operated substantially in compliance with the Brown Act; however, some instances of non-compliance with agenda posting requirements were identified. One recommendation was made to provide staff training and/or enhance procedures to ensure consistent compliance.

Background

The Brown Act is an open meeting law that guarantees the public's right to attend and participate in meetings of the local legislative body. The Brown Act dictates agenda posting requirements for both regular and special meetings of the Board of Directors (Board) and its committees. The Brown Act also specifies information and elements required to be included in public agendas, as well as the limitations and posting requirements for closed session items.

The Clerk of the Board (COB) Department reports to the Chief Executive Office and is staffed by the COB, a section manager, and two Board specialists. Among other duties, the COB is responsible for the Board and committee agenda process, including preparation and distribution of agendas, and ensuring compliance with posting requirements.

For regularly scheduled Board and committee meetings, the Brown Act requires agendas, be made available to the public 72 hours prior to the meeting date. For special meetings, agendas are required to be made available at least 24 hours in advance of the meeting date. The Brown Act dictates elements that must be included on agendas and requires that agendas be posted for public viewing and be made available on the agency website. OCTA agendas are posted for public viewing through an outdoor, electronic kiosk located OCTA administrative office.

A closed session item is discussed by the legislative body in private without the attendance of the public or press. Closed sessions are allowed only to the extent expressly authorized by the Brown Act. Allowable topics include litigation, real property negotiations, and labor negotiations.

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Objectives, Scope, and Methodology

The objectives were to assess the adequacy and effectiveness of controls to ensure compliance with the Brown Act.

The methodology consisted of review of controls to ensure timely posting of agendas, testing of all agendas for compliance with posting requirements and testing of a judgmental sample of agendas for compliance with closed session item requirements, testing of a haphazard sample of agendas for inclusion of required elements relating to the public's right to address the legislative body and right to special accommodation due to disability. For all judgmental samples, any conclusions are limited to the sample items tested since sampling is non-statistical.

The scope was limited to key elements and requirements of the Brown Act as evidenced during calendar year 2017.

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 Comment, Recommendation, and Management Response

Public Posting of Agendas to Electronic Kiosk

Three committee agendas, out of eighty-six during calendar year 2017, were not posted to the publicly-available electronic kiosk, and another seven agendas were not posted within the timeframe dictated by the Brown Act. The Brown Act requires agencies to publicly post regular meeting agendas 72 hours in advance. OCTA uses an electronic kiosk located at the headquarters building to display these agendas.

Recommendation 1:

Internal Audit recommends management provide additional training to staff and/or enhance procedures to ensure agendas are posted in a timely manner.

Management Response:

Management agrees with the findings that there were instances of non-compliance with the publicly-available electronic kiosk agenda-postings and believes substantial compliance was met. Management has implemented enhanced checklist procedures, and the COB Department has performed additional staff training on the enhanced procedures to ensure compliance with the Brown Act agenda-posting mandates.