



May 23, 2018

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit 

Subject: Cooperative Agreement with Metrolink for the Control Point Fourth Project, Internal Audit Report No. 18-504

Overview

The Internal Audit Department has completed an audit of the cooperative agreement with the Southern California Regional Rail Authority for the Control Point Fourth Project. The purpose of the audit was to assess controls in place to ensure compliance with agreement terms, policies, and procedures. Based on the audit, controls are generally adequate; however, several weaknesses have been identified in the process for selecting contractors for these projects. As a result, the Internal Audit Department recommended that Orange County Transportation Authority project management staff implement oversight controls to determine that contractors are procured in compliance with guidelines and best practices.

Recommendation

Direct staff to implement one recommendation provided in the Cooperative Agreement with Metrolink for the Control Point Fourth Project, Internal Audit Report No. 18-504.

Background

The Control Point Fourth Project (Project) is a track and signal improvement on the Orange subdivision railroad in the City of Santa Ana. The Project consists of a new power turnout to the Union Pacific Railroad (UPRR) spur, replacing an existing hand-thrown turnout, and construction of a new power derail on the UPRR connecting track, as well as associated signal and communications modifications necessary for a control point at Fourth Street.

In 2012, Orange County Transportation Authority (OCTA) staff secured \$4 million in Federal Transit Administration (FTA) grant funds for construction of the Project. On July 29, 2016, OCTA entered into Cooperative Agreement No. C-6-1208 with the Southern California Regional Rail Authority (Metrolink) for the design and construction of the Project, in an amount not to exceed \$3,971,200. Metrolink acts as the lead agency and utilizes existing, competitively procured on-call contractors for signal design, signal installation, and track construction. OCTA provides project management oversight and funds the Project through quarterly advances, based on cash flow projections.

Discussion

On April 9, 2018, the Board of Directors requested that this item be continued and revised to include Metrolink's management response to the audit findings by the Metrolink Internal Audit Department (Metrolink Internal Audit). Additional information has been added below regarding Metrolink's management response and status of corrective actions.

The Internal Audit Department (Internal Audit) found that contractors procured to perform design and engineering services and signal construction activities were selected by the Metrolink project manager without obtaining competitive proposals from all contractors on the on-call bench.

In addition, several issues related to the procurement process for track construction were reported in an audit by Metrolink Internal Audit in the Contract Audit: Veolia Transportation Maintenance and Infrastructure, Inc (VTMI). The audit included review of the Contract Task Order (CTO) issued for the Project and outlined several weaknesses and violation of FTA guidelines. The audit found that staff regularly issues time and materials CTO's, which are considered the least preferable strategy by the FTA, without documenting how this type of contract was determined to be most appropriate. Also, the CTO issued to VTMI for construction and rehabilitation work on the Project was not within the scope of work for the contract. Finally, the audit cited a lack of records of negotiation. Metrolink management responded that procedures would be revised by July 16, 2018 to incorporate recommended changes to practices, and training will be provided to applicable staff within four weeks of the revised policy issuance date. Also, Metrolink management agreed to incorporate audit recommendations related to the contract scope of work into a new contract expected to be awarded in the summer of 2019. All Metrolink outstanding recommendations are tracked and reported to the member agencies and Metrolink's Board of Directors on a quarterly basis.

Internal Audit recommended that OCTA project management staff review with Metrolink staff the process for procuring contractors for OCTA projects to ensure compliance with regulatory guidelines and best practices. Management agreed and indicated that staff will inquire of Metrolink as to the procurement process for future OCTA projects.

In addition, OCTA project management staff reported that Metrolink has invited OCTA participation in the evaluation and selection of contractors for a project now underway.

Summary

Internal Audit has completed an audit of the Cooperative Agreement with Metrolink for the Control Point Fourth Project.

Attachment

- A. Cooperative Agreement with Metrolink for the Control Point Fourth Project, Internal Audit Report No. 18-504

Prepared by:



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**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT**



**Cooperative Agreement with Metrolink for the
Control Point Fourth Project**

Internal Audit Report No. 18-504

March 6, 2018



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**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Cooperative Agreement with Metrolink for the Control Point Fourth Project
March 6, 2018**

Table of Contents

Conclusion	1
Background	1
Objectives, Scope, and Methodology	2
Audit Comment, Recommendation, and Management Response.....	3
Exercise Oversight of Contractor Procurements for OCTA Projects.....	3

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Cooperative Agreement with Metrolink for the Control Point Fourth Project
March 6, 2016**

Conclusion

The Internal Audit Department (Internal Audit) has completed an audit of the cooperative agreement with the Southern California Regional Rail Authority (Metrolink) for the Control Point Fourth Project (Project). The purpose of the audit was to assess controls in place to ensure compliance with agreement terms, policies, and procedures. Based on the audit, controls are generally adequate; however, several weaknesses have been identified in the process for selecting contractors for these projects. As a result, Internal Audit recommended that Orange County Transportation Authority (OCTA) project management staff implement oversight controls to determine that contractors are procured in compliance with guidelines and best practices.

Background

Control Point Fourth Project

The Project is a track and signal improvement on the OCTA-owned Orange subdivision railroad in the City of Santa Ana. The Project consists of a new power turnout to the Union Pacific Railroad (UPRR) spur, replacing an existing hand-thrown turnout, and construction of a new power derail on the UPRR connecting track, as well as associated signal and communications modifications necessary for a control point at Fourth Street. The Project provides for greater efficiency and reliability of passenger rail service on the main line by allowing the UPRR freight trains to access the spur track using an automated turnout.

In 2012, OCTA staff secured \$4 million in Federal Transit Administration (FTA) grant funds for construction of the Project. On July 29, 2016, OCTA entered into cooperative agreement no. C-6-1208 (Agreement) with Metrolink for the design and construction of the Project in an amount not to exceed \$3,971,200. Metrolink acts as the lead agency and utilizes existing, competitively procured on-call contractors for signal design, signal installation, and track construction. OCTA provides project management oversight and funds the Project through quarterly advances, based on cash flow projections. Advance requests are reviewed and approved in accordance with OCTA invoice review procedures. Expenditure reports, along with supporting invoices and other documentation, are reviewed by OCTA project controls staff and are forwarded to Grants Administration staff for submission to the FTA for reimbursement.

The Project is currently in construction and is expected to be completed in March 2018.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Cooperative Agreement with Metrolink for the Control Point Fourth Project
March 6, 2016**

Objectives, Scope, and Methodology

The objectives were to assess and test controls to ensure compliance with the Agreement and OCTA policies and procedures.

The methodology consisted of identifying and testing of controls to monitor and report project status; review of contractor procurement files for evidence of compliance with federal requirements, policies, and procedures; review of the results of Metrolink Internal Audit report 2017-15-CA; testing of OCTA's review, approval, and processing of quarterly advance payment requests and drawdown invoice submissions for compliance with policies and procedures; and testing of grant reimbursement requests for completeness and timeliness.

The scope was limited to the Agreement and all related quarterly advance requests, submissions of expenditure documentation, and grant reimbursement requests through October 2017, as well as the current design and signal construction on-call benches and related Contract Task Orders (CTO) issued for the Project through June 2017. For expenditure testing, a judgmental sample of fifteen personnel charges were selected with a bias toward selecting multiple employees, for tracing to timesheets. Since the sample was non-statistical, any conclusions would be 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.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Cooperative Agreement with Metrolink for the Control Point Fourth Project
March 6, 2016**

Audit Comment, Recommendation, and Management Response

Exercise Oversight of Contractor Procurements for OCTA Projects

Contractors procured to perform design and engineering services and signal construction activities were selected by the Metrolink project manager without obtaining competitive proposals from all contractors on the on-call bench.

Metrolink's operating procedures state that requests for proposals should be sent to multiple contractors so that project managers can make informed decisions as to which contractor to select. However, for the Project, the Metrolink project manager selected specific contractors directly from the on-call benches without obtaining competitive proposals.

In addition, several issues related to the procurement process for track construction were reported in an audit by Metrolink Internal Audit titled Contract Audit: Veolia Transportation Maintenance and Infrastructure, Inc (VTMI). The audit included review of the CTO issued for the Project and outlined several weaknesses and violation of FTA guidelines. The audit found that staff regularly issues time and materials CTO's, which are considered the least preferable strategy by the FTA, without documenting how this type of contract was determined to be most appropriate. Also, the CTO issued to VTMI for construction and rehabilitation work on the Project was not within the scope of work for the contract. Finally, the audit cited a lack of records of negotiation.

Recommendation 1:

Internal Audit recommends management review with Metrolink staff the process for procuring contractors for OCTA projects to ensure compliance with regulatory guidelines and best practices.

Management Response:

Management agrees with the recommendation. Metrolink should follow its internal policies and procedures to solicit requests for proposals to issue a CTO from their on-call bench of consultants or contractors to obtain competitive proposals. Additionally, as identified in an audit by Metrolink Internal Audit, Metrolink should document how a CTO is determined to be the most appropriate procurement method and include records of negotiation. Metrolink also needs to verify the proposed work is allowable in the scope of work for the contract. OCTA will follow-up with Metrolink on OCTA projects to inquire how services will be procurement prior to procurement activities.