



July 8, 2015

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit

Subject: Review of Agreement No. C-4-1816 with Woodruff, Spradlin & Smart for Legal Services

Overview

The Internal Audit Department has completed a review of Agreement No. C-4-1816 with Woodruff, Spradlin & Smart for legal services. Based on the review, the procurement for legal services was handled in accordance with policy and procedures and oversight, and payment controls are adequate. One recommendation was made to ensure invoices include the agreement number and vendor certification language, as required by the agreement.

Recommendation

Direct staff to implement recommendation provided in the Review of Agreement No. C-4-1816 with Woodruff, Spradlin & Smart for Legal Services, Internal Audit Report No. 15-511.

Background

The Orange County Transportation Authority utilizes an external law firm to provide general counsel and liability defense services. Following a competitive procurement for these services, Woodruff, Spradlin & Smart (WSS) was selected by the Board of Directors. The agreement with WSS became effective January 1, 2015, for an initial term of five years with one, five-year option term. The agreement is a time-and-expense contract that specifies fully-burdened hourly rates by labor category, subject to an annual adjustment relative to the Consumer Price Index.

WSS utilizes a time-and-expense accounting system and accumulates details of activities performed and expenses incurred by project each month. Invoices

for general counsel services are sent to the Finance and Administration Division where the details of charges are reviewed with management at a monthly invoice review meeting. Invoices for litigation services are sent to the Chief Risk Officer for review and approval.

Discussion

The agreement requires that invoices include the agreement number and a certification that the invoice is “a true, complete and correct statement of reimbursable costs...” Review found that WSS invoices did not include the agreement number or a signed certification. Since the prior agreement with WSS had not been closed and an agreement number was not listed, Accounts Payable staff had processed litigation services invoices against the prior agreement. Internal Audit recommended that management close out the prior agreement and enforce invoice requirements going forward. Management agreed and indicated that corrective action has been taken.

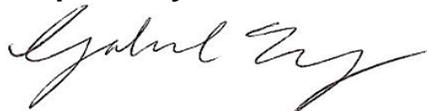
Summary

The Internal Audit Department has completed a review of Agreement No. C-4-1816 with Woodruff, Spradlin & Smart for Legal Services, and made one recommendation that management close out the prior agreement for legal services and ensure invoices include an agreement number and vendor certification language, as required.

Attachment

- A. Review of Agreement No. C-4-1816 with Woodruff, Spradlin & Smart for Legal Services

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Approved by:



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ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



Review of Agreement No. C-4-1816 with Woodruff, Spradlin & Smart for Legal Services

Internal Audit Report No. 15-511

June 19, 2015



Performed by: Janet Sutter, CIA, Executive Director
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Distributed to: Darrell Johnson, Chief Executive Officer, Executive Office
Ken Phipps, Andrew Oftelie, Sean Murdock, and Al Gorski

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Review of Agreement No. C-4-1816 with Woodruff, Spradlin & Smart
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Conclusion

The Internal Audit Department (Internal Audit) has completed a review of Agreement No. C-4-1816 (Agreement) with Woodruff, Spradlin & Smart (WSS) for legal services. Based on the review, the procurement for legal services was handled in accordance with policy and procedures, and oversight and payment controls are adequate. One recommendation was made to ensure invoices include the agreement number and vendor certification language, as required by the Agreement.

Background

The Orange County Transportation Authority (OCTA) utilizes an external law firm to provide general counsel and liability defense services. From November 1994 until December 2014, OCTA contracted with WSS under Agreement No. C-94-852 for these services. In late 2014, WSS notified the Board of Directors (Board) that Mr. Kennard Smart, the key attorney for OCTA, would be retiring from the firm and would no longer be available to serve as OCTA's general counsel. As a result, the Board's Executive Committee directed staff to prepare a request for proposals to solicit bids for legal services. Offers were received and reviewed and WSS was selected.

The Agreement became effective January 1, 2015, for an initial term of five years with one, five-year option term. The Agreement is a time-and-expense contract that specifies fully-burdened hourly rates by labor category, subject to an annual adjustment relative to the Consumer Price Index.

WSS utilizes a time-and-expense accounting system and accumulates details of activities performed and expenses incurred by project each month. Invoices for general counsel services are sent to the Finance and Administration Division where the details of charges are reviewed with management at a monthly invoice review meeting. Invoices for litigation services are sent to the Chief Risk Officer for review and approval.

Costs incurred, per calendar year, are approximately \$7 million. Over half of this amount represents legal services related to right-of-way activities.

Objectives, Scope, and Methodology

The objectives were to determine whether legal services were procured in compliance with OCTA policy and procedures, to evaluate and test controls over the accumulation, summarization, and payment of legal services invoices, and to assess compliance with key contract terms.

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The methodology consisted of interviews with applicable WSS and OCTA staff, review of Agreement No. C-4-1816 between OCTA and WSS, review of the procurement file for evidence of compliance with CAMM policy and procedures, review of evidence of insurance from WSS, review of written procedures for the invoice review and payment process, review of a sample of monthly reports and invoices, and review of Chief Executive Officer and/or Board approval for subcontractor's rates and maximum obligation.

The scope included general counsel and litigation services provided to OCTA during the period January 1, 2015 through March 31, 2015. The scope did not include services provided to the Los Angeles - San Diego - San Luis Obispo Rail Corridor Agency.

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 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

Invoice Review

The Agreement requires that invoices include the agreement number and a certification that the invoice is “a true, complete and correct statement of reimbursable costs...”

Review found that WSS invoices did not include the agreement number or a signed certification. Since the prior agreement with WSS had not been closed and an agreement number was not listed, accounts payable staff had processed litigation services invoices against the prior agreement.

Recommendation 1:

Internal Audit recommends that management closeout the prior agreement and enforce invoice requirements.

Management Response:

Management agrees with the recommendation and has taken the following steps to ensure the invoice requirements are met and that expenditures are charged to the correct agreement. Management will ensure that each invoice received from WSS going forward is certified per the requirements of the agreement and includes the contract number. WSS has also agreed to certify all future and prior invoices received by OCTA since the effective date of the new agreement. In addition, staff has closed out the prior agreement to ensure that no charges can be made to that agreement going forward. Staff has also ensured that all charges since the effective date of the new agreement, January 1, 2015, have been charged to the new agreement.