

Memorandum

*Serious drought.
Help Save Water!*

To: KOME AJISE
Deputy Director
Planning and Modal Programs

Date: April 1, 2014

File: P1575-0023

From: WILLIAM E. LEWIS
Assistant Director
Audits and Investigations



Subject: **INCURRED COST AUDIT – CITY OF REDDING**

We have audited the costs claimed by and reimbursed to the City of Redding (City) totaling \$18,424,559 for work performed under projects HSIPL-5068(026), BRLS-5068(001) and ESPL-5068(029) with the California Department of Transportation (Caltrans). The audit was performed to determine whether the costs were supported and in compliance with the agreement provisions and State and federal regulations. This audit was performed as a management service to assist Caltrans in fulfilling its fiduciary responsibilities to State and federal regulatory agencies. Attached is the audit report that includes the City's response.

Based on our audit, we determined that reimbursed project costs totaling \$16,451,922 were supported and in compliance with respective agreement provisions, and State and federal regulations. However, reimbursed costs totaling \$1,972,637 did not comply with respective agreement provisions, and State and federal regulations. The total amount questioned may change as the City performs additional analysis of the conditions identified in the audit. In addition, based on our testing, we determined that the City was billing for indirect costs without prior approval by Caltrans, and it did not comply with agreement provisions and State and federal regulations for consultant procurements and contract management.

Please provide our office a Caltrans action plan related to the audit recommendations within 90 days of this memorandum. This audit and the follow-up action plan are a matter of public record and will be placed on the Caltrans internet website.

We thank you and your staff for their assistance provided during this audit. If you have questions or need additional information, please contact me at (916) 323-7122 or Zilan Chen, Chief, External Audits, at (916) 323-7877.

Attachment

- (1) Final incurred cost audit report for the City of Redding

KOME AJISE

April 1, 2014

Page 2 of 2

- c: Brian Crane, Director, City of Redding, Department of Public Works
- Michael Tritz, Deputy Secretary for Audits and Performance Improvements, California State Transportation Agency
- Janice Richard, Director of Financial Services, Federal Highway Administration
- Andre Boutros, Executive Director, California Transportation Commission
- Malcolm Dougherty, Director, Caltrans
- Richard Land, Chief Deputy Director, Caltrans
- John Bulinski, District Director, District 2, Caltrans
- Clark Paulsen, Chief, Division of Accounting, Caltrans
- Ray Zhang, Chief, Division of Local Assistance, Caltrans
- Ian Howat, District Local Assistance Engineer, District 2, Caltrans
- Dave Moore, Deputy Director, Planning and Assistance, District 2, Caltrans

P1575-0023
Incurred Cost Audit City of Redding Department of Public Works
March 2014

Zilan Chen
Chief, External Audits – Local Governments
Audits and Investigations
California Department of Transportation

REPORT CONTENTS

AUDIT REPORT	<u>Page</u>
Summary, Objectives, and Methodology	1
Scope and Background	2
Conclusion	3
 FINDINGS AND RECOMMENDATIONS	
1. Billing for Indirect Costs without Approval	4
2. Inadequate Procurement Procedures and Practices	5
3. Contract Administration Needs Improvements	9
 ATTACHMENTS	
I. List of Audited Projects and Questioned Costs	
II. Criteria	
III. List of Procurement Exceptions	
IV. List of Contract Management and Contract Provision Exceptions	
V. City Response	
VI. Areas of Procurement Policy and Procedures to be Improved	

Summary

The California Department of Transportation (Caltrans) Audits and Investigations (A&I) audited costs claimed, totaling \$ 18,424,559, by the City of Redding, Department of Public Works (City). The audit included costs incurred on projects HSIPL-5068(026), BRLS-5068(001) and ESPL-5068(029) during our audit period from April 1, 2010 through December 31, 2011. Based on our audit, we determined that reimbursed project costs totaling \$16,451,922 were supported and in compliance with respective agreement provisions, and State and federal regulations. However, reimbursed costs totaling \$1,972,637 (See Attachment I) were not in compliance with respective agreement provisions, and State and federal regulations. The total amount questioned may change as the City performs additional analysis of the conditions identified in the audit. In addition, based on our testing, we determined that the City was billing for indirect costs without prior approval by Caltrans, and it did not comply with agreement provisions and State and federal regulations for consultant procurements and contract management.

Objectives

The audit was performed to determine whether costs claimed by and reimbursed to the City were allowable, adequately supported, and in compliance with the respective agreement provisions, and State and federal regulations. The audit was performed as a management service to Caltrans to assist in its fiduciary responsibility.

The City is responsible for the claimed costs, compliance with applicable agreement provisions, State and federal regulations, and the adequacy of its financial management system to accumulate and segregate reasonable, allocable, and allowable costs.

Methodology

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. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of the City. Therefore, we did not audit and are not expressing an opinion on the City's financial statements.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the data and the records selected. An audit also includes assessing the accounting principles used and significant estimates made, as well as evaluating the overall presentation.

Scope

The scope of the audit was limited to financial and compliance activities. Our audit of the City's financial management system included interviews of City staff necessary to obtain an understanding of the City's financial management system. Based on the risk assessment performed, the audit focused on the City's procurement process and contract management of consultant contracts. The audit consisted of transaction testing of claimed costs to evaluate compliance with Title 2 Code of Federal Regulations (CFR), Part 225; Title 48 CFR, Ch. 1, Part 31; Title 49 CFR, Part 18; Title 23 CFR 635; Caltrans's Local Assistance Procedures Manual; and requirements stipulated in the City's Agreement with Caltrans. Our field work was completed on December 6, 2012, and transactions occurring subsequent to this date were not tested and, accordingly, our conclusion does not pertain to costs or credits arising after this date. We believe that our audit provides a reasonable basis for our conclusion.

Because of inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected. Also, projections of any evaluation of the financial management system to future periods are subject to the risk that the financial management system may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our findings and recommendations take into consideration the City's response dated February 4, 2014, to our November 14, 2013, draft report. Our findings and recommendations, the City's response, and our analysis of the response are set forth in the Findings and Recommendations of this report. Additionally, Finding 4 was deleted, and Findings 2 and 3, and the corresponding recommendations were modified due to additional information provided by the City. A copy of the City's full response is included as Attachment V. Documents referenced in the City's response may be provided upon request.

Background

The City of Redding is a general law city, incorporated under the laws of the State of California in 1887. A council of five members elected at large for alternating four-year terms governs the City. The Mayor, Vice-Mayor, City Manager, and City Attorney are appointed by the City Council. The City Clerk and City Treasurer are also elected officials and serve four-year terms.

City Council members serve as the Governing Board of the Redding Joint Powers Financing Authority, the Redding Capital Services Corporation and Redding Redevelopment Agency. All five members of the City Council sit on the eight member Governing Board of the Redding Area Bus Authority and the six member Housing Authority's board. City staff provide the accounting and administrative services to all five agencies.

Conclusion

Based on our audit, we determined that reimbursed costs totaling \$16,451,922 were adequately supported and in compliance with agreement provisions, and State and federal regulations. However, reimbursed costs totaling \$1,972,637 were not in compliance with respective agreement provisions, and State and federal regulations. The total amount questioned may change as the City performs additional analysis of the conditions identified in the audit. In addition, based on our testing, we determined that the City was billing for indirect costs without prior approval by Caltrans, and it did not comply with agreement provisions and State and federal regulations for consultant procurements and contract management.

This report is intended for the information of the City, Caltrans Management, the California Transportation Commission, the Federal Highway Administration and the Federal Transit Administration. However, this report is a matter of public record and its distribution is not limited. In addition, this report and all attachments will be posted on Caltrans A&I website.

If you have any questions, please contact Lisa Moreno, Auditor, at (916) 323-7885, or Cliff Vose, Audit Manager, at (916) 323-7917.



**ZILAN CHEN, Chief
External Audits – Local Governments
Audits and Investigations**

March 28, 2014

FINDINGS AND RECOMMENDATIONS

Finding 1 - Billing for Indirect Costs Without Approval

The City of Redding, Public Works Department (City) has been billing for indirect costs without an approved Indirect Cost Rate Proposal (ICRP) over an extended period of time.

The Master Agreement between the City and the California Department of Transportation (Caltrans) as well as the Caltrans Local Assistance Procedures Manual (LAPM) require that an ICRP be prepared, submitted, and approved by Caltrans Audits and Investigations (A&I), each year, prior to the City billing for indirect costs. Also, federal regulations state that an agency must submit an ICRP rate for review and approval if requested. As a result, the City has billed and received reimbursement of indirect costs on State and federal projects without approval. (For criteria see Attachment II, Finding 1.)

City staff stated they were unaware they needed to seek approval from Caltrans to bill indirect costs and that the City was using a rate that had been approved by the City Council.

Recommendation

The City should take the following corrective actions:

- Identify unapproved indirect costs billed and reimbursed on the audited projects.
- Identify other State and federal funded projects and the time period that the City has billed and been reimbursed unapproved indirect costs.
- Work with Caltrans on the disposition of the unapproved indirect costs identified on the audited and other identified projects.
- Submit ICRP annually for all future years if the City wishes to claim indirect costs in accordance with 2 CFR 225 and the LAPM.

Caltrans Division of Local Assistance (DLA) should take the following corrective action:

- Ensures that the City identifies all unapproved reimbursed indirect costs on the audited projects.
- Ensure that the City identify all other projects with unapproved indirect costs billed and reimbursed and the time period involved.
- Work with Federal Highway Administration (FHWA) to determine the disposition of the unapproved indirect costs.
- Ensure indirect costs are not being reimbursed to local agencies without an approved ICRP.

City's Response

The City negotiated a Cost Allocation Plan and a subsequent Indirect Cost Rate with its cognizant agency in 1993. However the City was unaware that an annual approval of its indirect rate was required by Caltrans. Since notification by Caltrans, the City has taken action to submit five years of indirect rates to Caltrans to accept or approve. The following years were submitted: fiscal years 2009/2010, 2010/2011, 2011/2012, 2012/2013 and 2013/2014. For the City's full response see Attachment V.

Auditors Analysis of City's Response

The billing of indirect costs on federal transportation funded projects was not allowed for costs incurred prior to June 9, 1998 and the annual submission requirement to Caltrans was enacted in 2000 as per the LAPM. Subsequent to the end of the audit fieldwork, the City submitted its indirect cost rate proposals for five fiscal years. They are currently being reviewed for acceptance for billing. The City has not yet addressed indirect costs billed prior to fiscal year 2009/2010. Therefore, the finding remains.

Finding 2 – Inadequate Procurement Procedures and Practices

The City did not follow procurement procedures required by Title 49 Code of Federal Regulations (CFR), Part 18.36, Federal Aid Master Agreement 02-5068R, State Aid Master Agreement 0074S, and the LAPM. Also, the City lacks an adequate written procurement policy and procedures manual. Without following required procurement procedures, the City risks entering into contracts that may not be fair and reasonable.

Our audit included testing of the City's procurement procedures of two consultant contracts (C-3882, & 4672), which utilized a Request for Proposal (RFP) procurement process. We found significant issues with both procurements and therefore questioned all costs billed and reimbursed under the two contracts, totaling \$1,972,637 (see Attachment III) during the audit period of April 1, 2010 through December 31, 2011. (For criteria see Attachment II.)

Consultant Contract with TY-Lin

The City was unable to provide documentation to support that the selection of the consultant, TY-Lin for the Cypress Bridge, met federal regulations and that a fair and competitive procurement was performed. The City prepared a project specific RFP, but did not have the relative importance listed for each evaluation factor in the RFP as required by federal regulations. Further, although the City had score sheets for both the initial proposal evaluation and interview, the score sheets used did not reflect the criteria as stated in the advertised RFP. (For criteria see Attachment II, Finding 2, 2a to 2c.)

**Finding 2
(Continued)**

In addition, we found other contracting issues relating to this contract:

- The contract was originally executed for \$1,094,471 on April 9, 2002 with an end date of February 28, 2003. However, the contract has a start date of March 25, 2002, 15 days prior to the execution of the contract. As a result, the consultant may be performing work without an executed contract. (For criteria see Attachment II, Finding 2, 2f.)
- The City did not amend the contract prior to the expiration dates of the original or amended contract. Particularly, the original contract was amended on October 7, 2003, 220 days after the original contract ending date of February 28, 2003. The first amendment also failed to state a new ending date. The second amendment was executed on January 24, 2006, after the original contract expiration date, while still keeping the original contract ending date of February 28, 2003. It was not until the third amendment executed on October 26, 2006 that the City extended the expired contract to December 31, 2010. These amendments resulted in a non competitive procurement as they were amended after the contract expiration date and a total of \$3,087,825 were added through these amendments. Further, the City did not provide evidence that a required cost analysis was performed, and that the City had prepared justification of the non competitive procurement and obtained approval from Caltrans for the non competitive procurement. (For criteria see Attachment II, Finding 2, 2f.)

Consultant Contract with PB America

The City was unable to provide documentation to support that the selection of the consultant, PB America for the Construction Engineering of Cypress Bridge, met federal regulations and that a fair and competitive procurement was performed. The contract was executed for \$4,998,598, and through four amendments, the contract was increased to \$6,150,000. The City prepared a project specific RFP, but did not have the relative importance listed for each evaluation factor in the RFP as required by federal regulations. Further, although the City had score sheets for both the proposal evaluation and interview, the score sheets did not reflect the criteria as stated in the advertised RFP. Also, although the contract was executed on March 15, 2007, the contract had a start date of December 1, 2006, 104 days prior to the execution of the contract. As a result, the consultant may be performing work without an executed contract. (For criteria see Attachment II, Finding 2, 2a, to 2f.)

Federal regulations state that grantees selection procedures will ensure that all solicitations identify all requirements which the proposers must fulfill and all other factors to be used in evaluating bids or proposals. The regulations also state that requests for proposals will be publicized and identify all evaluation factors and their relative importance. Without identifying the

**Finding 2
(Continued)**

relative importance of the selection criteria in the RFP, and evaluating proposals on criteria not identified in the RFP, the City violated both provisions. Also, firms submitting proposals do not know the basis of selection.

The City stated that a written procurement policy and procedures manual was not necessary because the procurement requirements are in the LAPM, and there are enough City staff that know the rules to be able to train new employees. The City also stated staff was not aware the relative importance of the criteria was required to be in the RFP, although it was a requirement in the LAPM.

Recommendation

The City should take the following corrective actions:

- Cease to bill Caltrans on the two RFP procured contracts identified above until notified by Caltrans.
- Review project billing records to identify all costs billed and reimbursed for project BRLS-5068(001) associated with the two questioned RFP contracts and notify Caltrans of the review results.
- Review other RFP procurements used to bill cost on the audited projects to determine if they were procured in accordance with all State and federal regulations and notify Caltrans of the review results.
- Provide DLA with a plan, including an estimated time for the completion of the reviews and assessment.
- Update the City written policies and procedures to ensure compliance with State and federal regulations when the projects are funded by State and/or federal funds.
- Ensure proper procurement procedures are followed in accordance with Title 49 CFR Part 18.36, Title 23 CFR, LAPM, Master Agreements between the City and Caltrans.
- Identify, and include all evaluation criteria and factors with their relative importance in future RFPs.
- Ensure that future score sheets and interview agree with the criteria and factors included in the advertised RFP.
- Ensure in the future that any contract amendments are signed prior to the expiration date of the original contract, or subsequent amendments.
- Seek training for management and staff in proper procurement practices.
- Maintain adequate documentation to support procurement in accordance with required State and federal regulations.

**Recommendation
(Continued)**

Caltrans DLA should take the following corrective action:

- Consult with the FHWA to determine if Caltrans should seek reimbursement from the City for all questioned costs identified above and any other amounts associated with the two questioned contracts; or identify Caltrans rationale for not seeking repayment and address the audit recommendations.
- Ensure that the City performs a review of the procurements of other contracts that were used to bill State and federal funds on the audited projects and determine if Caltrans should seek reimbursement for any other costs associated with any questioned procurements or contracts identified in the City's review.
- Ensure the City develops and implements a written procurement policy and procedures manual that is in accordance with federal and State regulations.

City's Response

The City does have written procurement policies and procedures and also uses the LAPM in its procurement process. The City agrees the criteria written in the RFP did not contain the relative importance factors but stated that the criterion in the RFP reflects the criteria used to evaluate the proposals and interviews of the Consultant contracts. The City contends that the work for the two consultant contracts in question did not start until after the contracts were signed. For the TY-Lin contract, the City agrees that it amended an expired contract due to an unintentional oversight but was rectified later through another amendment that extended the contract date. The City does not view the amendments as non-competitive procurements since they were within the scope of the original RFP. For the City's full response see Attachment V.

**Auditor's Analysis
of the City's
Response**

We reviewed the written procurement policies and procedures that were not made available at the time of the audit but provided with its written response. We modified this section of the finding accordingly. However, we found areas in the City's procurement policies and procedures that the City should improve to ensure procurement for State and federal transportation funded projects are in compliance with Title 49 CFR Part 18.36 and the LAPM. Please see Attachment VI for details.

The City sent copies of the first invoices to show that there were no items billed prior to the contracts being signed. However, we noted the work period covered in one of the invoices included 10 days prior to when the contract was signed. When the contract was amended after the expiration of the original contract, any future amendments are void. Therefore the finding remains.

**Finding 3 -
Contract
Administration
Needs
Improvements**

The City did not maintain an adequate contract administration process to ensure that consultants were providing services in accordance with the terms, conditions, and specifications of its contracts. As a result, the City risks billing Caltrans costs that are not supported.

Specifically, the audit found the following:

Consultant Contract Administration

In our testing of contract management, we identified deficiencies with the City's management of the two consultant agreements. (See Attachment IV for details.) Specifically, we reviewed seven invoices and found the following exceptions:

- Two invoices included individuals billed that were not on the cost proposal and did not have the project manager's approval. (For criteria see Attachment II, Finding 3, 3c, 3d.)
- The City managed the two contracts tested as actual cost plus fixed fee contracts despite the fact the contract did not define the type of contracts to be used. In addition, the contracts did not specify the amount of a negotiated fixed fee to be reimbursed as required for an actual cost plus fixed fee contract, and the language of the contracts, including the cost proposals, appeared to be for specified hourly rate contracts. We noted the consultants provided the City with new rates each year, however, these new rates were not in accordance with the contract language. Five invoices tested included billing rates that were different than the rates stated in the signed contract. (For criteria see Attachment II, Finding 3, 3c, and 3d.)

The City staff stated that they did not know they were supposed to obtain and approve changes in personnel or approve updated salary and personnel rates when key personnel or rates changed.

Consultant Contract Provisions

The City's third party consultant contracts did not include all required fiscal provisions in accordance with State and federal regulations, guidelines, and agreements. As a result, the City risks not being able to hold the consultant responsible or accountable for noncompliance to these regulations.

Specifically, in our testing of three consultant contracts (see Attachment IV for details), we found the following exceptions (for criteria see Attachment II, Finding 2, 2e and Finding 3):

- Two consultant contracts had only a target completion date.
- Two consultant contracts had record retention for three years from end of contract instead of three years from the date of final payment.

**Finding 3 –
(Continued)**

- One consultant contract did not include the right to audit for State and federal governments.
- All three consultant contracts did not include a clearly stated basis of payment.

The City stated that the City’s contracts are reviewed by City legal counsel and were believed to be adequate. The above deficiencies are based on the requirements of the 1999 Master Agreement between the City and Caltrans. Also, the current 2007 Master Agreement between the City and Caltrans includes additional contract provisions that were not noted above as missing.

Recommendation

The City should take the following actions:

- Ensure that staff assigned as contract managers have knowledge of contract terms, and ensure contractor work is complete, accurate, and consistent with terms, conditions and specifications of the contract.
- Train staff that engage in contract management functions on the applicable regulations and ensure the regulations are followed.
- Properly document changes in consultants’ personnel and rates.
- Document contract management policies and procedures in writing.
- Ensure third party consultant contracts include all appropriate contract languages as required by State and federal regulations, guidelines and the most current Master Agreement.

City’s Response

The City disagrees with the finding in general but agrees to some of the elements related to the consultant contract provision issue. The City believes that it has managed its contracts according to the contract terms and State and federal regulations and billed accordingly. The City submitted documentation to show the level of effort when there was a change in personnel and that the change of rates were within the escalation stated in the cost proposal. The termination clause included in the City’s third party contracts is all encompassing for cause and convenience. This is done to avoiding disputes of weather a breach is “material”. The City believes all three contracts are actual cost plus fixed fee type contract and meet the intent of the sample contract language set out by the LAPM. For City’s full response see Attachment V.

**Auditor’s Analysis
to City’s Response**

Based on the City’s response, for clarification, we modified the second bullet of the consultant contract administration issue, and deleted the item related to termination cause for the consultant contract provisions issue.

The fact that the contracts did not clearly state the method of payment contributed to the issue of the contracts not being managed within the parameter of the contract language. Therefore, this portion of the finding remains.

Audit Team

Zilan Chen, Chief, External Audits-Local Governments
Cliff Vose, Audit Manager
Lisa Moreno, Auditor
Ashna Singh, Auditor
Derek Pixley, Auditor

Attachment I
List of Audited Projects and Questioned Costs

Project	Amount expended in audit period	Questioned Costs		
		Procurement*	Total	Finding #
HSIPL-5068 (026)	\$ 597,342.56	\$ -	\$ -	
BRLS-5068 (001)	\$ 16,977,451.86	\$ 1,972,636.81	\$ 1,972,636.81	2
ESPL-5068 (029)	\$ 849,765.00	\$ -	\$ -	
Total	\$ 18,424,559.43	\$ 1,972,636.81	\$ 1,972,636.81	

*Procurement questioned costs only include amounts expended during the audit period.

Attachment II
Criteria

Finding 1

- 1a. Article IV Section 8 in the Federal Master Agreement 02-5068R states, “*An Indirect Cost Rate Proposal and Central Service Cost Allocation Plan and related documentation are to be provided to STATE (Caltrans Audits & Investigations) annually for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect cost incurred within each fiscal year being claimed for federal reimbursement.*”
- 1b. 2 CFR Part 225 Appendix E (D)(1)(a) states, in part, “All departments or agencies of the governmental unit desiring to claim indirect costs under Federal awards must prepare an indirect cost rate proposal and related documentation to support these costs...” and (D)(1)(d) states, in part, “Indirect cost proposals must be developed (and, when required, submitted) within six months after the close of the governmental unit's fiscal year . . .”
- 1c. Caltrans Local Assistance Procedures Manual (LAPM) Chapter 5 states, in part, “Should the local agency seek reimbursement of their indirect costs, they must receive an Approval Letter of Indirect Costs Rate for the fiscal year involved from Caltrans’ Audits and Investigations prior to billing for indirect costs.”

Finding 2

- 2a. 49 CFR 18.36 (d)(3)(i) states in part, “Requests for proposals will be publicized and identify all evaluation factors and their relative importance...”
- 2b. 49 CFR 18.36 (b)(9) states, in part, “Grantees and subgrantees will maintain records sufficient to detail the significant history of the procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.”
- 2c. The LAPM, Section 10.5, states in part, “The criteria and relative weights must be included in the RFP, and the same criteria and relative weights must be used in the evaluation sheets.”
- 2e. Article I Section 6 in the Federal Master Agreement 02-5068R states, in part, “ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in LPP 95-07, Reengineering,” and subsequent approved revisions and Local Programs Manual updates, hereafter referred to as Reengineered Procedures) relating to the Federal –aid Program...”
- 2f. LAPM, Chapter 10.7-Consultant Selection, page 10-24 states, “All contract amendments must be fully executed before the ending date of the contract....and all contract amendments must be in writing and fully executed by the consultant and local agency before reimbursable work begins on the amendment.”

Attachment II
Criteria

- 2g. 2 CFR 225, Appendix A Section A.2 states in part “governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices. ...and assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.”
- 2h. 49 CFR, Part 18.36 (d)(4)(ii) states, “Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.”

Finding 3

- 3a. 49 CFR 18.20 (b)(3) states, “Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. “
- 3b. 49 CFR 18.36 (b)(2) states, “Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.”
- 3c. LAPM Chapter 10 states, "The consultant should not substitute key personnel (Project Manager and others listed by name in the cost proposal) or subcontractors without prior written approval from the local agency. The consultant must request and justify the need for the substitution and obtain approval from the local agency prior to use of different subcontractor on the contract. The proposed substituted person must be as qualified as the original, and at the same rate or lower cost."
- 3d. City’s third party consultant contract between the City and PB Americas, Inc. states, in part, “City shall pay Consultant for services rendered pursuant to this Contract, at the times and in the manner set forth in Exhibit B (Cost Proposal), attached and incorporated herein. The payments specified in Exhibit B shall be the only payments to be made to Consultant for services rendered pursuant to this Contract...”
- 3e. LAPM Chapter 10, Exhibit 10-D “Consultant Agreement Outline” of the LAPM states in part, Date of Beginning and Completion, Record Retention, Payments, etc....
- 3f. 49 CFR part 18.36(i) (2) states, “Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement.”
- 3g. Chapter 10.7 of the LAPM states in part, “For audit purposes, project records and documentation shall be kept for three (3) years after payment of the final federal and/or state voucher...”

Attachment II
Criteria

- 3h. 49 CFR part 18.36(i)(10) states, “Access by the grantee, subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts and transcriptions.”
- 3i. Chapter 10.7 of the LAPM states, in part, “The contract shall provide that the consultant and subcontractors shall maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred. Such materials must be available for inspection and audit by federal, state, and local agency authorized representatives; and copies thereof shall be furnished, if requested.”
- 3j. Chapter 10.2 of the LAPM states, in part:
The type of contract must be specified. Four types are permitted depending on the scope of services to be performed.
- Actual Cost-Plus-Fixed Fee
 - Cost Per Unit of Work
 - Specific Rates of Compensation
 - Lump Sum
- 3k. CFR 48 Part 16 – Selecting Contract Types

Attachment III
ICURRED COST AUDIT FOR CITY OF REDDING
LIST OF EXCEPTIONS APPLICABLE TO PROCUREMENTS FINDING 2

Project Name	Cypress Bridge	Cypress Bridge
Project Code	BRLS-5068(001)	BRLS-5068(001)
Caltrans Division Funding for Project	Division of Local Assistance	Division of Local Assistance
Consultant Awarded the Contract	TY-Lin	PB
Type of Services	PS&E/CE	CE
Fund Type	Federal/State	Federal
Term of Contract	Original Contract 1 st Amendment 2 nd Amendment 3 rd Amendment	4/9/02-2/28/03 10/7/03 1/24/06 10/26/06
		3/15/07-4/30/11
Executed Contract Amount	\$1,094,471	\$4,998,598
Dollars Added through Amendments	\$3,087,825	\$1,151,402
Total Contract Amount	\$4,173,296	\$6,150,000*
Questioned Costs Billed to and Reimbursed by Caltrans 7/1/10 -12/31/11	\$61,296	\$1,911,341
Finding 2		
Retained procurement records	No	No
Listed relative importance of each evaluation factor in the RFP	No	No
Amended expired contract	Yes	No
Contract started prior to the execution of the agreement	Yes	Yes
Adequate written procurement procedures	No	No

*Amount of total contract as indicated by the City.

**Attachment IV
City of Redding
List of Exceptions for Finding 3 - Contract Administration**

Consultant Contract Management

Vendor	Invoice #	Project #	Consultant charged individuals not listed on the cost proposal.	Consultant invoiced for labor hours that could not be supported.
PB America	42-427219	BRLS-5068(001)	✓	✓
PB America	41-424651	BRLS-5068(001)	✓	✓
TY Lin	1007161	BRLS-5068(001)		✓
TY Lin	1008186	BRLS-5068(001)		✓
TY Lin	1009115	BRLS-5068(001)		✓

Consultant Contract Provisions

Vendor	Project Code	End Dates Not Clearly Stated	Basis of payment not clearly stated	Record Retention 3 years after final payment	Right to Audit to State and federal government
TY Lin Contract 1	BRLS-5068(001)	✓	✓	✓	✓
TY Lin Contract 2	BRLS-5068(001)	✓	✓		
TY Lin Amendment 1-3	BRLS-5068(001)		✓		
PB America	BRLS-5068(001)		✓	✓	

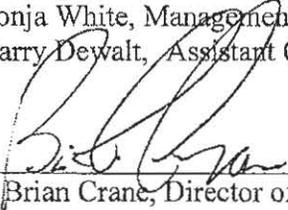
✓ - Identifies deficiency

CITY OF REDDING

RESPONSE

P1575-0023
California Department of Transportation Incurred Cost Audit
February 2014

Prepared by: James Triantafyllou, Project Coordinator
Dennice Maxwell, Director of Finance
Sonja White, Management Analyst
Barry Dewalt, Assistant City Attorney

Approved by: 
Brian Crane, Director of Public Works

2/4/2013
Date

Background The City of Redding with the population of under 100,000, relies on federal and state funding for many significant capital improvement projects. The California Department of Transportation (Caltrans) Audits and Investigations (A&I) audit was a comprehensive audit of the City of Redding's (City) financial management system, procurement process and contract management of consultant contracts as describe in the A&I audit. The audit started on April 24, 2012 and the final draft was provided to the City on November 14, 2013. A&I conducted interviews with several departments including Finance, Purchasing and Public Works.

Conclusion The City in practice, procedure and good faith conducts its business and attempts to be the best steward of public funds by complying with voluminous federal, state and local regulations. The audit does not reveal any gross mismanagement, negligence or attempt to defraud the federal or state government. It does however reveal and the City acknowledges some shortcomings in delivery of federal and state funds. The City's action plan to develop and enhance procedures; provide training as required; and seek guidance and consultation with Caltrans local assistance should reduce or eliminate many of the items identified in this audit. Based on the City's response below the A&I's questioned reimbursed costs totaling \$1,972,637 are reasonable, allocable and allowable costs.

FINDING/RESPONSE/ACTION

Finding 1.1 The City of Redding, Public Works Department (City) has been billing for indirect costs without an approved Indirect Cost Rate Proposal (ICRP) over an extended period of time.

Response The City negotiated a Cost Allocation Plan and a subsequent Indirect Cost Rate with the Department of Housing and Urban Development (HUD), which is the City's cognizant agency, in 1993. The City was unaware that an annual approval from HUD was required and was not required by Caltrans to submit annually until recently. The City had continued to apply an ICR to grants and contracts since that time, incorporating the rate in labor costs. The ICR has periodically been adjusted by City Council action. The City was notified through the findings of this audit that the ICR was to be negotiated on an annual basis. Since this notification, the City has taking corrective action to submit ICRPs for the last five years, as described below. The ICRPs have been accepted by Caltrans and are currently being reviewed. The proposed rates for each year exceed the rate that was being billed.

Action The City of Redding has submitted Indirect Cost Rate Proposals for the following: FY 2009-10, FY 2010-11, FY 2011-12, FY 2012-13, and FY 2013-14. The proposals have been accepted by Caltrans External Audits - Local Government ICAP Unit and are currently being reviewed for approval.

Based on preliminary conversations with ICAP it is anticipated that the ICRP rates listed below will be approved. The table below shows a comparison of the rate billed on state and federal-funded projects to the ICRP rate submitted for approval.

Fiscal Year	Billed Rate	ICRP Rate
2009-10	93%	104.2%
2010-11	93%	97.6%
2011-12	93%	99.0%
2012-13	93%	112.5%
2013-14	0	112.5%

It appears the City has been billing below an allowable ICR.

The City has identified the unapproved indirect costs billed to date on the audited projects and compared them with what would be eligible with the new proposed ICR. They are as follows;

Project	Invoiced	ICRP Rate
BRLS-5068(001)	\$405,670	\$457,100
HSIPL-5068(026)	\$103,150	\$113,574
*ESPL-5068(029)	\$0	\$0

*This project only funded the construction contract, no staff time.

The City will continue to work with Caltrans on how to proceed with the audited projects once the ICR is approved.

The City will submit an ICRP annually for all future years in accordance with 2 CFR, Part 225 and the Local Assistance Procedure Manual (LAPM).

Finding 2.1

City lacks a written procurement policy and procedures manual.

Response

The City does have written procurement policies and procedures. They are as follows; Redding Municipal Code Title 4, "Revenue and Finance"; City Council Policy 1501, "Selection of Technical Consultants"; "Basic Purchasing Policies and Procedures" (Exhibit 2.1) and the City uses the Caltrans Local Assistance Procedures Manual (LAPM). Staff uses these policies and procedures in the procurement process.

A&I misunderstood staff remarks regarding the need for a written procurement policy and procedures manual. Staff told A&I the City did have procurement policies and procedures as provided above and the City follows the LAPM which is a very important document in delivering federal and state projects. The City views the LAPM as a written procedure that is followed in addition to City's procurement policies and procedures for federal and state funded projects. In addition, staff responded to A&I's questions regarding the procurement process that staff would need to refer to the procedures for specific requirements. Staff did not know they would be tested from memory the complete City procurement process or on material in the LAPM. As A&I is aware there are twenty chapters in the LAPM that covers many federal and state requirements and regulations.

Actions

The City realizes the importance of complying with federal and state regulations and the LAPM. The City will be undertaking the review of all City policies and procedure in the coming year and will make addressing the compliance with previously mentioned items a priority. In cooperation with Caltrans District 2 Local Assistance (DLA) the Public Works Department (PWD) will develop a procedure for staff to use in procuring and managing consultant contracts, to ensure staff complies with the LAPM, City/Caltrans master agreements and federal and state regulations.

Consultant Contract with TY-Lin (C-3882)

Finding 2.2

The City was unable to provide documentation to support that the selection of the consultant, TY-Lin for the Cypress Bridge, met federal laws and that a fair and competitive procurement was performed.

Response

The City did perform a fair and competitive selection of this consultant and has the documentation of the proposal ranking sheets, interview ranking sheets and other selection items to support this. The A&I had mistaken the City audit with another local agency audit, which did not have score sheets, and acknowledge this by modifying the draft findings accordingly. The City's proposal evaluation score sheets do reflect the criteria as stated in Section X, "Evaluation Criteria" of the RFP (Exhibit 2.2). A&I is correct that the evaluation criteria in the RFP does not state the relative importance

of the criteria. However, the City did not receive any inquiries from consultants prior to the proposal due date relating to the evaluation criteria and all proposals were evaluated with the same criteria. In addition the City did not receive any protests by the consultants with regards to the final selection or selection process. Therefore, the consultants were not biased by the selection process and it is the City's opinion that this did create a fair and competitive selection.

Actions

The City will continue to ensure that the stated evaluation criteria in RFP's and in the proposal selection agree and that the relative importance is also included. The City will include these requirements in the new PWD procedure.

Finding 2.3

The contract had a start date of March 25, 2002, 15 days prior to the execution date of the contract April 9, 2002. As a result, the consultant may be performing work without an executed contract.

Response

The contract actually stated "...commence work on *or about* March 25, 2002..." and In accordance with the provisions of the contract the consultant did not perform any work prior to the execution date of the contract, April 9, 2002. Although the first contract invoice (Exhibit 2.3) was for the month of April 2002 no work was performed prior to the execution date.

Actions

The City will incorporate language from LAPM Exhibit 10-R, Article IV, "Performance Period", into future contracts.

Finding 2.4

The City did not amend the contract prior to the expiration dates of the original or amended contract. It was not until the third amendment executed on October 26, 2006 that the City extended the expired contract to December 31, 2010.

Response

The City recognizes this unintentional administrative oversight to amend the term of the contract to extend the contract date. This was later recognized during the course of the project as identified by A&I and the term of the contract was modified to bring the contract current with the third contract amendment. The third contract amendment consented by both parties to extend the original contract term therefore any work conducted after February 28, 2003 and prior to the third amendment was made part of the contract. The City does have internal controls to notify contract administrators three months prior to termination of the contract called "Tickle Date". This date is entered into the City's Clerks contract tracking program and for some unknown reason there was a lapse in the procedure on this project. The lapse was not due to a deficient notification procedure rather from an unfortunate oversight in coordination of this complex multi-agency project.

Actions The City will incorporate language from LAPM Exhibit 10-R, Article IV, "Performance Period", into future contracts. City staff contract administrators will be trained on the importance of the contract performance period and execution of contract amendments to modify the term prior to contract expiration dates. The City will incorporate performance period compliance in the new PWD procedure.

Finding 2.5 The amendments resulted in a non-competitive procurement as they were amended after the contract expiration date. The City did not provide evidence that a required cost analysis was performed, and that the City had prepared justification of the non-competitive procurement and obtained approval from Caltrans for the non-competitive procurement.

Response The City does not view the contract amendments as a non-competitive procurement because the amendments did not change the scope of services but increased the level of effort required to complete the services originally contemplated and procured through the RFP process. The City did not engage in procurement for a new project with the amendments. As such, reason has it that a cost analysis or City prepared justification of non-competitive procurement was not submitted to Caltrans or in the file. The City cannot ascertain the relevance of A&I's reference in Attachment II, Finding 2f to non-competitive selection.

Action The City will incorporate language from LAPM Exhibit 10-R, Article IV, "Performance Period", into future contracts. City staff contract administrators will be trained on the importance of the contract performance period and execution of contract amendments to modify the term prior to contract expiration dates. The City will incorporate performance period compliance in the new PWD procedure.

Consultant Contract with PB America (PB) (C-4672)

Finding 2.6 The City was unable to provide documentation to support that the selection of the consultant, PB America for the Construction Engineering of Cypress Bridge, met federal laws and that a fair and competitive procurement was performed.

Response The City did perform a fair and competitive selection of this consultant and has the documentation of the proposal ranking sheets, interview ranking sheets and other selection items to support this. The A&I had mistaken the City audit with another local agency audit, which did not have score sheets, and acknowledge this by modifying the draft findings accordingly. The City's proposal evaluation score sheets do reflect the criteria as stated in Section X, "Evaluation Criteria" of the RFP (See Exhibit 2.6), albeit not verbatim. A&I is correct that the evaluation criteria in the RFP does not state the relative importance of the criteria. However, the City did not

receive any inquiries from consultants prior to the proposal due date relating to the evaluation criteria and all proposals and consultants were evaluated with the same criteria. In addition the City did not receive any protests by the consultants with regards to the final selection or selection process. Therefore, the consultants were not biased by the selection process and it is the City's opinion that this did create a fair and competitive selection.

Action

The City will continue to ensure that the stated evaluation criteria in RFP's and in the proposal selection agree and that the relative importance is also included. The City will include these requirements in the new PWD procedure.

Finding 2.7

The contract has a start date, of December 1, 2006, prior to the execution date, of the contract March 15, 2007. As a result, the consultant may be performing work without an executed contract.

Response

The contract actually stated "...commence work on *or about* December 6, 2006..." and In accordance with the provisions of the contract the consultant did not perform any work prior to the execution date of the contract, March 15, 2002 and did not invoice the City for any work prior to that date. Attached Exhibit 2.7 is the first contract invoice. In addition the Contract had been written prior to the Caltrans pre-award audit and the date wasn't modified when the pre-audit was finally complete several months later.

Action

The City will incorporate language from LAPM Exhibit 10-R, Article IV, "Performance Period", into future contracts.

**Additional
City Actions**

The City will/has take/taken the following corrective actions:

- Review other RFP procurements used to bill cost on the audited projects for compliance with state and federal regulations and will notify DLA of the City's findings.
- On June 6, 2013, the City sent several staff engineers/contract managers (five) to the five day Caltrans Local Assistance Training "Federal Aid Series" training.
- The City will continue to seek proper procurement and contract administration training.
- The City will include provisions in the new PWD procedure with regard to maintaining adequate documentation to support procurement in accordance with state and federal regulations, and the LAPM.

Finding 3 The City did not maintain an adequate contract administration process to ensure that consultants were providing services in accordance with the terms, conditions, and specifications of its contracts. As a result, the City risks billing state and federal fund costs that are not supported.

Consultant Contract Administration

Finding 3.1 Two invoices included individuals billed that were not on the cost proposal and did not have the project manager's approval. (PB invoice 41 and 42).

Response The City was actively involved in project staffing with regards to the PB contract (C-4672) and invoicing. After review of PB invoices identified by A&I there were no changes to key personnel (ie Project Manager, Resident Engineer, Structures Inspector, Civil inspector.) and the invoices were submitted in accordance with the contract requirements. Staff was added and revised as the construction project proceeded. Attached Exhibit 3.1 contains sample email correspondence regarding staffing and billing rates coordination and approvals.

Actions The City will continue to review and approve staffing changes to verify that invoices are in accordance with the contract.

Finding 3.2 Five invoices included different billing rates than the rates stated in the signed contract.

Response A&I identified two PB invoices and three TY-Lin invoices in the audit per Attachment IV.

The City reviewed the two PB (C-4672) contract invoices and billing rates and Exhibit 3.2a obtained from A&I. Section 2 of the contract provides for the compensation and reimbursement of costs and refers to Exhibit B (Exhibit 3.2b). Page 1 of 9 in Exhibit B provides for labor escalation of 5% and page 6 of 9 provides a schedule of staff and hourly rates (Exhibit 3.1b). A&I used the schedule in Exhibit B page 6 of 9 for determining the staff and hourly rates in effect for the invoice dates in its review. The City used the email correspondence and updated rate schedules received from PB and the project manager when making payment on the invoices. As long as the rates did not exceed the 5% escalation amount we accepted the rates as billed. Exhibit 3.1c provides you with the PB rates in effect for the two invoices reviewed. The contract file maintained by the Finance Department contains all of this correspondence and each rate change is flagged with a post-it and the date the change covers is referenced on the post-it. All staff billing rates were lower than the contract rate except for one, Ryan George. Attached Exhibit 3.1 (email dated 12/12/08, Item 5) is an email in which the increased rate was discussed with the City and approved.

The City reviewed the three TY-Lin (C-3882) invoices and billing rates. All

staff billing rates were lower than the contract rate except for one, Thomas Post. The contract Section II Compensation and Reimbursement of Costs, Item A states in part “The payments specified in Exhibit B...shall be the only payments made... unless the City’s representative approves, in writing, additional payments...” The invoices were reviewed and approved in writing by signature of the contract manager thereby approving the minor rate increase to Thomas Posts’ pay rate.

In addition, A&I applied a contracted hourly rate of \$90 (Sr. CAD Draftsperson) for Kevin Bewsey, a Sr. Highway Design (SHD Engineer) Range C. The appropriate contracted hourly rate of \$135 should be used for this classification and the invoiced billed for his time was \$125, which is less than the \$135.

The City believes that all of the invoiced costs for both contracts are supported.

Actions

The City recognizes that contract managers need to be diligent in contract compliance and will focus on ensuring that contract provisions are followed on future projects.

Consultant Contract Provisions

The City’s third party consultant contracts did not include all required fiscal provisions in accordance with State and federal regulations, guidelines, and agreements. As a result, the City risks not being able to hold the consultant responsible or accountable for noncompliance to these regulations.

Finding 3.3

Two consultant contracts had only a target completion date.

Response

The City did use the “target date” method in two contracts and in one of the contracts through an amendment corrected the completion date to a specific date.

Action

The City will incorporate language from LAPM Exhibit 10-R, Article IV, “Performance Period”, into future contracts.

Finding 3.4

Two consultant contracts had no termination clause for cause.

Response

TY Lin (C-3900 & C-3882) – Both of these contracts has a termination section. The applicable termination section is Section 16. That section does exactly what 49 CFR part 18.36(i)(2) wants it to do. It proposes a means for termination and the means by which it will be effected (written notice per Section 16 & 19); and the basis for settlement (we pay reasonable value of services provided to date). The contract language does not break termination down to “for cause” or “for convenience”. The City prefers to draft its

contracts in a way most favorable to the public interest. When a contract can be drafted to avoid having to demonstrate “cause” by means of a material breach of contract and can instead be drafted to allow rather liberally for termination “for convenience”, then the City will draft to omit termination “for cause”. By avoiding dispute as to whether a breach is “material”, City entirely eliminates the potential for an adverse conclusion that the breach was not material and that City’s termination of the contract represents a breach of contract. The City doesn’t want to get into legal battles about whether there was a material breach. If you have the right to terminate for convenience, there can be no legal objection. The City believes this CFR is intended to protect the interests of the grant recipient.

In addition, LAPM (2/1/98) Exhibit 10-D, “Consultant Agreement Outline” Section 6.i “Termination or abandonment” and LAPM (5/8/13) Exhibit 10-R, A&E Sample Contract Language, Article VI “Termination”, doesn’t mention or have any specific language terms for termination “for cause”.

Action City will review the contract termination section with DLA for approval.

Finding 3.5 Two consultant contracts had record retention for three years from end of contract instead of three years from the date of final payment.

Response LAPM (2/1/98) Exhibit 10-D, “Consultant Agreement Outline” Section 4, “Record Retention” states “This time period must be at least three years from after **final payment to the consultant**”. LAPM (5/8/13) Exhibit 10-R, A&E Sample Contract Language, Article XII “Retention of Records/Audit” states “All parties shall make such materials available...for three years from final payment **under the contract**.” All three audited contracts have the language required by the LAPM.

Finding 3.6 One consultant contract did not give the right to audit for State and federal governments.

Response A&I is correct one of the three contracts (C-3900) did not contain language giving the right to audit for the state and federal governments. These rights were granted in subsequent project contracts (C-3882 & C-4672) and has been included in state and federal funded City projects since.

Action The City will incorporate language from LAPM (5/8/13) Exhibit 10-R, Article XII, “Retention of Records/Audit”, into future contracts.

Finding 3.7 All three consultant contracts did not include a clearly stated basis of payment.

Response The City was unable to find A&I’s stated reference 3j Chapter 10.1 in either version of the LAPM. The City believes that A&I is referring to Chapter 10.2 of the LAPM. LAPM (2/1/98) Exhibit 10-D, Consultant Agreement

Outline, Section 3, "Payments" simply states in part "State the basis of payment for the services to be furnished. The services may be considered as a whole or by units. The agreement establishes a method of payment as the work progresses. The agreement sets a maximum limit on the total amount payable." The City believes that all three contracts are actual cost plus fixed fee and clearly state the basis of payment that meets the intent of the sample contract language referenced above.

Action

The City on more recent contracts has revised its payment clause to more closely reflect the sample clause in the LAPM and as identified in pre-award audits for other projects.

**Additional
City Actions**

The City will/has take/taken the following actions:

- The City will include provisions in the new PWD procedure with regard to contract managers having knowledge of contract terms; ensure terms and provisions are followed; properly document changes in key personnel; and that state and federal regulations, and the LAPM are followed.
- The City is also conducting a review of the City's standard Consultant and Professional Services contract and will incorporate appropriate language as required by state and federal regulations, guidelines and the most current Master Agreement, for state and federal funded projects.

Finding 4.1

The City did not maintain records containing date and time of when bid proposals were received for all three IFBs tested.

Response

A&I misunderstood City staff. Staff did state that IFBs are publically opened and in addition if A&I wanted records or information as to the City's process that the bid proposal submission and opening process is handled in the City Clerk's office. Since A&I had been interviewing and auditing other City departments staff thought that A&I would contact the City Clerk's office to verify. Copies of date and time records for the three bid proposals are attached as Exhibit 4.1.

Finding 4.2

Seven invoices were not account coded.

Response

A&I provided the City with support for a total of five invoices. Two invoices pertained to the PB contract and three invoices pertained to the TY contract. The current procedures in place for paying an invoice by the Finance Department with multiple Job Order Number (JO#'s) / account codes are as follows:

When the contract is approved the Finance Department contacts the appropriate Department to request the JO# or #'s, "account code", that will be associated with the contract. Often times a contract will be

paid/administered through the use of only one JO#. The contract and contract transaction log maintained by the contract administrator are noted with the appropriate JO# or #'s. See Exhibit 4.2a for an example of this. The PB contract was paid/administered through out it's duration with the use of only one JO# assigned to it. Because the contract had only one JO# assigned the Finance Department's current procedure would only require the approving Department to provide an approving signature for payment. Both of the PB invoices reviewed by A&I (#42-427219 & #41-424651) did include not only the approving signature but also the JO# "account code" (Exhibit 4.2b). The TY-Lin contract started out with multiple JO#'s assigned to it. Beginning on 7/1/07 the contract encumbrance changed and the charges were encumbered only under one JO# (Exhibit 4.2c). The invoices (1007161, 1008186, & 1009115) reviewed by A&I pertained to work that was completed 5/29/10 – 8/27/10. During this time the contract only had one JO# assigned to it and therefore, the Finance Department only required an approving signature for payment.

**Additional
City Actions**

The City will/has take/taken the following actions:

- Maintain adequate documentation to support procurement in accordance with required State and Federal regulations.
- Ensure invoices are account coded with the appropriate JO#'s when the contract provides for multiple JO#'s.
- The City will incorporate account coding of invoices in the new PWD procedure.

Attachment VI

Suggested Procurement Policy and Procedures Improvements.

The City provided a copy of its written procurement policy and procedures in its response to the draft audit report. We reviewed the policy and procedures and found them to be inadequate and have identified areas that can be improved upon as noted below. Specifically, the manual does not reference State and federal regulations when procuring contracts for transportation projects which use State and/or federal funds. This list is not all inclusive and the City should review Title 49 CFR 18.36, the Local Assistance Program Manual, and any other State or federal regulation that may affect the procurement of goods and services when using State and federal transportation funds.

RFP/RFQ

- Who (not specific names) and how many will be included in the selection committee
- Defined each selection criteria and their relative importance
- Cost estimate (who prepares this and when(before receipt of proposals))
- Advertisement (where, how long and how documented)
- Selection (when each of the following is done)
 - Review of RFP/RFQ
 - Interview
- Receiving of Bids (process of who receives and what is done with them, etc)
- Profit negotiations/cost analysis (who performs both, how are they documented and where documents are maintained)
- Conflict of Interest (Is this discussed, are the required forms completed and signed by all selection committee members, etc.)
- Protest procedures (when, where, how etc)
- Retention of records (all procurement records and for how long)

IFB

- Engineer Estimate
 - Who develops
 - What is to be in estimate
 - Who approves
- Advertisement (where, how long and how documented)
- How are rejected bids documented
- Responsiveness of bidders
- If bids are over/under engineer estimate
- Retention of records
- Protest procedures (when, where, how etc)
- Conflict of interest

Sole Source

- Define why sole source is used
- Documentation to be kept justifying sole source
- Retention of Records
- Authority to approve
- Conflict of Interest

Small Purchase

- Who has approval
- Justification for selection
- How determine price is fair and reasonable
- Retention of records
- Conflict of Interest