

Coachella Valley Association of Governments
Financial and Management System
Audit Report



Audit Report

December 2018

PREPARED BY:

California Department of Transportation
Independent Office of Audits and Investigations – MS 2
Post Office Box 942874
Sacramento, California 94274

AUDIT TEAM

MarSue Morrill, Chief, External Audits-Local Governments

Luisa Ruvalcaba, Audit Manager

Gerald Lee, Auditor-in-Charge

P1560-0022

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SUMMARY, SCOPE, METHODOLOGY, BACKGROUND, AND CONCLUSION

SUMMARY

The Independent Office of Audits and Investigations (IOAI), California Department of Transportation (Caltrans), audited the financial management system (FMS) of the Active Transportation Program (ATP) grant recipient, Coachella Valley Association of Governments (CVAG). We found that CVAG's accounting system is capable of accumulating and segregating reasonable and allowable costs that can be allocated to projects, however, we found deficiencies in CVAG's procurement process and contract management procedures.

SCOPE

The audit included testing transactions reimbursed from projects "Coachella Valley Link" ATPL-6164 (022) and "Signal Synchronization" CML-6164 (021). Our audit period was from May 1, 2015, through August 1, 2018.

We conducted our audit to determine if CVAG's FMS, which includes consultant procurement and contract management processes, complied with the requirements in the Master Agreement (Agreement) between CVAG and Caltrans and applicable laws and regulations.

The audit was comprised of transaction testing of reimbursed project costs to evaluate compliance with Office of Management and Budget Circular A-87, 49 Code of Federal Regulations (CFR) Part 18, (both superseded by Title 2 CFR Part 200), and requirements stipulated in CVAG's Agreement with Caltrans. The audit was limited to assessing financial and compliance activities and related internal controls. Our field work was completed on August 13, 2018. Transactions occurring subsequent to this date were not tested and, accordingly, our conclusion does not include costs or credits arising after this date.

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

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 and 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 CVAG. Therefore, we did not audit and are not expressing an opinion, on CVAG's financial statements.

The audit included interviews of staff, review of prior audit reports, review of transactions, and obtaining an understanding of CVAG's FMS. The audit was comprised of transaction testing of costs to evaluate compliance with the requirements stipulated in CVAG's Agreement with Caltrans.

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 by CVAG.

BACKGROUND

Caltrans has a legal and fiduciary responsibility to ensure that all state and federal funds passed through Caltrans are expended in compliance with state and federal laws, regulations, and Agreements. The IOAI performs audits to ensure Caltrans is meeting their legal and fiduciary responsibilities and that state and federal funds are properly expended by local government entities.

IOAI audits projects from the Active Transportation Program (ATP). ATP was created to encourage increased use of active modes of transportation. The ATP consolidated various transportation programs into a single program from a combination of state and federal funds. Most recently, the Road Repair and Accountability Act of 2017 (Senate Bill 1) added approximately \$100 million per year in available funds for the ATP.

CONCLUSION

Based on our audit, we identified the following deficiencies:

- CVAG did not comply with all required procurement procedures.
- CVAG did not properly manage consultant contracts to ensure the consultants performed services in accordance with the terms, conditions, and specifications of the contracts tested.

VIEWS OF RESPONSIBLE OFFICIALS

Our findings and recommendations take in account CVAG's response dated November 14, 2018, to our November 6, 2018, draft report. Our findings and recommendations, CVAG's response, and our analysis of the response are set forth in the Findings and Recommendations section of this report. The report is a matter of public record and will be placed on Caltrans' webpage, which can be viewed at: ig.dot.ca.gov.

If you have questions, please contact Luisa Ruvalcaba, Audit Manager, at (916) 323-7888.

Originally signed by:

MARSUE MORRILL, CPA
Chief
Planning and Modal Office
Independent Office of Audits and Investigations

December 18, 2018

FINDINGS AND RECOMMENDATIONS

FINDING 1 – Deficiencies in Procurement Process

Coachella Valley Association of Governments (CVAG) entered into a consultant contract with Advantec that was not procured in accordance with the procurement requirements stipulated in the Master Agreement between the California Department of Transportation (Caltrans) and CVAG. Specifically, we noted the following deficiencies:

- CVAG received five responses to a Statement of Qualification (SOQ) but only four of the responses were evaluated.
- CVAG could not locate conflict of interest forms for five of their evaluators.
- We were unable to verify that CVAG performed profit negotiations.

Local Assistance Program Manual (LAPM) Chapter 10.6 Receive/Evaluate Statement of Qualifications (SOQ) and Develop Shortlist section states in part, *“The consultant selection committee reviews the submitted SOQ according to the published criteria and weighting factors”* and Notify Consultants of Shortlist section also states in part, *“All consultants that submitted an SOQ must be notified of the results of the review.”*

LAPM Chapter 20.2 Procedural Deficiencies section states in part, *“The following are considered procedural deficiencies on A&E (Architectural and Engineering) consultant contracts and may jeopardize federal and /or state funding on completed or on-going projects.... No conflict of interest signed by panel members or evidence an appropriate Code of Ethics was followed in accordance with federal requirements.”*

2 Code of Federal Regulations Part 200.323 (b) states, *“Entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.”*

CVAG could not explain why the deficiencies occurred as the project manager who oversaw the above procurement process is no longer with CVAG. These deficiencies put Caltrans at risk that contracts could be unfairly awarded, the selection panel members could have conflicts of interest in the award of the contract, and that the profit may not be fair and reasonable.

RECOMMENDATION

We recommend CVAG:

- Update their procurement policies and procedures to ensure CVAG’s process conforms with the procurement requirements stipulated in the Agreement between CVAG and Caltrans and train staff accordingly.
- Have staff working on procurements take the Caltrans, Division of Local Assistance (DLA)

Online Architectural and Engineering Procurement training at:
<http://www.dot.ca.gov/hq/LocalPrograms/AE/index.htm>

SUMMARY OF RESPONSE FROM CVAG

- CVAG adopted Chapter 10 of the LAPM on December 4, 2017. CVAG will follow the selection and contracting procedures detailed in this chapter.
- All CVAG staff working on federal or state funded transportation projects have been informed to take the Caltrans DLA Online A&E Procurement training. In addition, all CVAG staff working on transportation projects were registered to receive e-mail notifications of all upcoming Caltrans training programs for future reference. Whenever feasible, CVAG staff will make every effort to participate in these training programs in person.

See Attachment I for CVAG's full response.

ANALYSIS OF CVAG'S RESPONSE

We appreciate CVAG's efforts to comply with our recommendations. We have not audited or reviewed any processes implemented subsequent to our fieldwork.

FINDING 2 – Contract Management Needs Improvement

CVAG did not properly manage their consultant contracts to ensure the consultants were performing services in accordance with the terms, conditions, and specifications of the contracts tested. Specifically, we noted the following deficiencies:

- CVAG did not require consultants to identify the names of personnel on the consultants' billings to CVAG. We reviewed eight consultant billings and noted that five of the billings did not identify the key personnel to ensure they were included in the contract cost proposal.
- Terra Nova, CVAGs' prime contractor, was paid in advance for work to be performed.
- CVAG submitted two Requests for Reimbursements (RFR) to Caltrans with a period longer than six months from a proceeding RFR.

LAPM, Chapter 10.8 Administer the Contracts section states, "*Contract administration activities help to ensure that contractual obligations are completed satisfactorily. Generally, these activities include:*

- *Reviewing invoices to ensure costs claimed are in accordance to the method of payment and contract cost proposal, approving payments;*
- *If new consultant personnel are added or substituted, labor rates must be verified prior to approving invoices.*"

Federal Master Agreement 08-6164F15 Article IV- 7 states in part, "*Payments to ADMINISTERING AGENCY can only be released by STATE as reimbursement of actual allowable PROJECT costs already incurred and paid for by ADMINISTERING AGENCY.*"

LAPM, Chapter 5, states, in part, *“Per Master Agreement, an invoice must be submitted at least every six months to avoid being classified as inactive and risk de-obligation.”*

CVAG based their billing solely on the percentage of work completed and neglected to identify the staff who actually performed the work. In addition, CVAG indicated they were not aware that they were paying for costs that had not occurred and that a change of staff resulted in the delays of RFRs being submitted to Caltrans. As a result of these deficiencies, Caltrans may reimburse CVAG for consultant’s staff that are not qualified, may pay for work that was not be performed, and runs the risk of losing project funding.

RECOMMENDATION

We recommend CVAG ensure:

- Costs billed are properly identified and in accordance with the contract cost proposal.
- Payments are made on a reimbursement basis and not in advance of work being performed.
- RFRs are submitted to Caltrans at least every 6 months.

SUMMARY OF RESPONSE FROM CVAG

- CVAG will have consultants identify on invoices any personnel working on a project to properly identify billed costs. CVAG will make a note to the file about staff changes and ensure that new billed costs are in accord with the contract cost proposal.
- CVAG indicated the invoice dated March 1, 2017, which included the March 8, 2017, advance payment, was actually received on March 14, 2017. A review of subsequent invoices did not show the charges being invoiced again. CVAG will be more prudent in reviewing future invoices to ensure that charges included are meant only for the specific period mentioned.
- CVAG will set calendar reminders and ensure that RFRs are submitted to Caltrans at least every 6 months in order to avoid risks of having funds de-obligated.

See Attachment I for CVAG’s full response.

ANALYSIS OF CVAG’S RESPONSE

We appreciate CVAG’s efforts to comply with our recommendations. We have not audited or reviewed any processes implemented subsequent to our fieldwork. In regard to the March 14, 2017, received date, CVAG did not provide support for the date so the finding remains.

Attachment I: CVAG Response

COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS

73-710 Fred Waring Dr., Suite 200, Palm Desert, CA 92260 · (760) 346-1127 · www.cvag.org



November 13, 2018

Mrs. MarSue Morrill, CPA
 Chief, External Audits-Local Governments
 PO Box 942874
 Sacramento, CA 94274-0001

REF: Coachella Valley of Governments Financial and Management System Audit Report

Dear Mrs. Morrill:

We are in receipt of Caltrans Headquarters Financial and Management System Audit Report for Coachella Valley of Governments (CVAG) dated November 2018 that Gerald Lee, Auditor-in-Charge, sent to us via e-mail on November 5, 2018.

Gary Leong, Deputy Executive Director, Martin Magaña, Transportation Director, and I, have reviewed the report and had an exit interview conference call with Mr. Lee and Mrs. Luisa Ruvalcaba, Audit Manager, on March 6, 2018 regarding the audit report and have the following responses related to the recommendations made in the findings.

FINDING 1 – Deficiencies in Procurement Process Recommendations

- CVAG update their procurement policies and procedures to ensure CVAG's process conforms with the procurement requirements stipulated in the Agreement between CVAG and Caltrans and train staff accordingly.

Response – On December 4, 2017, CVAG adopted Caltrans' Chapter 10, Consultant Selection, as the procedures manual for the procurement of private consultants to perform architectural, engineering, environmental, land surveying, construction engineering or construction management and related services for federal-aid or state funded projects. CVAG will follow the selection and contracting procedures detailed in this chapter.

- Have staff working on procurements take the Caltrans, Division of Local Assistance Online Architectural and Engineering Procurement training at:
<http://www.dot.ca.gov/hq/LocalPrograms/AE/index.htm>

Response – All CVAG staff working on federal-aid or state funded transportation projects have been informed to take the Caltrans Division of Local Assistance Online Architectural and Engineering Procurement training offered on the website.

In addition, all CVAG staff working on transportation projects have been registered to receive e-mail notifications of all upcoming Caltrans training programs for future reference. Whenever feasible, CVAG staff will make every effort to participate in these training programs in person.

FINDING 2 – Contract Management Needs Improvement Recommendations

- Costs billed are properly identified and in accordance with the contract cost proposal.

Response – CVAG will have consultants identify on invoices any personnel working on a project to properly identify billed costs. Should there be any consultant staff changes, CVAG will make a note to the file about the staff changes and ensure that new billed costs are in accord with the contract cost proposal.

- Payments are made on a reimbursement basis and not in advance of work being performed.

Response – This finding is in reference to Terra Nova Planning & Research, Inc., CVAG's prime environmental contractor for CV Link, who seemingly was paid in advance once for work to be performed.

When this matter is reviewed based on this invoice alone, it appears that Terra Nova was paid in advance for work to be performed. The invoice was dated March 1, 2017 for the period 2/1/17 – 2/28/17. But included in the invoice were charges dated 3/8/17 totaling \$831.51.

However, further review and discussions revealed that the invoice was actually prepared after 3/1/17 and CVAG only received the invoice on 3/14/17. The 3/8/17 charges had already been incurred when the invoice was being created but were inadvertently included in the invoice. So technically, no amounts were paid in advance. A review of subsequent invoices does not show the charges being invoiced again.

CVAG will be more prudent in reviewing future invoices to ensure that charges included are meant only for that specific period mentioned.

- RFRs are submitted to Caltrans at least every 6 months.

Response – Due to staff turnover, there was a lapse in submitting RFRs to Caltrans in a timely manner. CVAG will set calendar reminders and ensure that RFRs are submitted to Caltrans at least every 6 months in order to avoid risks of having funds de-obligated.

Thank you for the opportunity to respond to these Findings. We take these audits seriously and always strive to improve procedures so that future audits are flawless.

Should you have any questions or need additional information please contact Martin Magaña at (760) 346-1127, ext. 116 or via email at mmagana@cvag.org.

Sincerely,

Originally signed by:

IOM Kirk
Executive Director

