

Memorandum

*Making Conservation
a California Way of Life.*

To: CHRIS SCHMIDT
Chief
Division of Transportation Planning

Date: January 9, 2019

File: P1580-0023

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

Subject: **INDIRECT COST ALLOCATION PLAN AUDIT – SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**

We performed an Indirect Cost Allocation Plan (ICAP) audit of the Southern California Association of Governments (SCAG) to determine whether SCAG's FY 2016/17 ICAP was presented in accordance with Title 2 Code of Federal Regulations (CFR) Part 200 and Caltrans's Local Assistance Program Manual (LAPM) Chapter 5. It was also performed to determine whether SCAG had a financial management system capable of accumulating and segregating costs that are reasonable, allowable, and can be allocated to projects. This audit of the financial management system also included testing of procurement and contract management systems to ensure compliance with state and federal regulations. The final report, along with SCAG's full response, is attached.

Based on audit work performed, we determined that SCAG's ICAP for the FY 2016/17 is presented in accordance with 2 CFR Part 200 and LAPM Chapter 5. The approved indirect cost rate for 2016/17 is 83.71 percent of total direct salaries and wages, plus fringe benefits. During the course of the audit, we found that SCAG's procurement practices and charging practices (related to properly segregating direct and indirect costs) were not in compliance with state and federal regulations. The noncompliant practices resulted in unallowable costs billed direct to Caltrans in the amount of \$2,617,813.

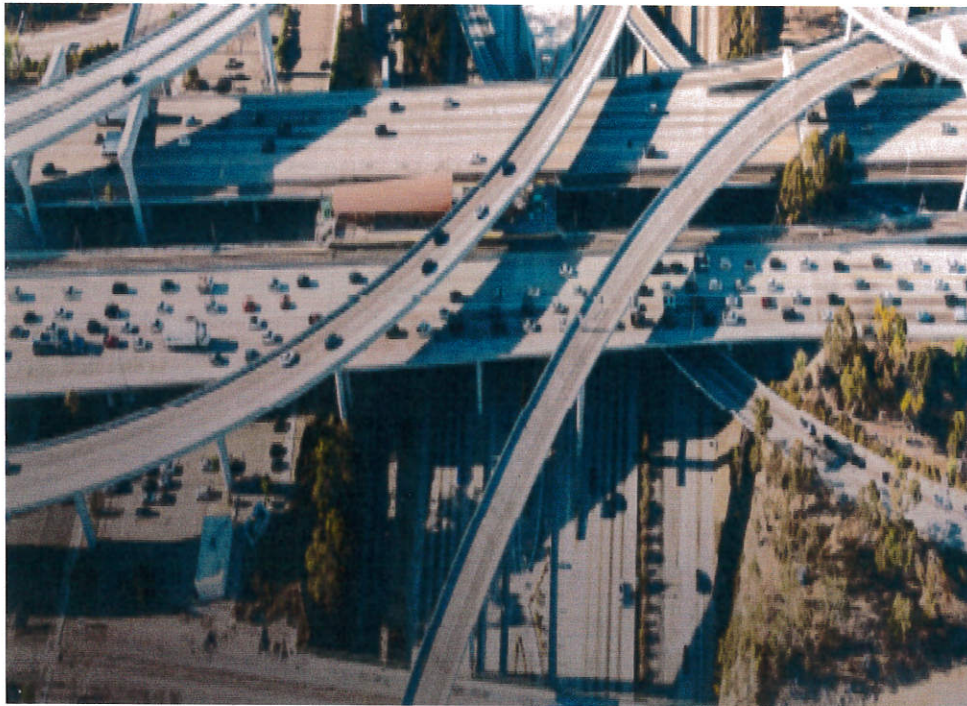
The FY 2016/17 ICAP audit was done in conjunction with the incurred cost audit of SCAG. Please refer to the Incurred Cost Audit report (P1580-0022) for further findings related to deficiencies in labor charging practices, procurement, and contract management.

Please provide our office with a corrective action plan addressing the recommendations in the report, including timelines, by March 11, 2019.

If you have questions or need additional information, contact MarSue Morrill, Chief, Planning and Modal Office, at (916) 323-7105.

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Southern California Association of Governments Indirect Cost Allocation Plan Audit



Audit Report

January 2019

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P1580-0023

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SUMMARY, OBJECTIVES, SCOPE, METHODOLOGY, BACKGROUND, AND CONCLUSION

SUMMARY

The Independent Office of Audits and Investigations (IOAI), California Department of Transportation (Caltrans), audited the Southern California Association of Governments' (SCAG) Indirect Cost Allocation Plan (ICAP) for fiscal year (FY) 2016/17. We found that SCAG's procurement practices and charging practices were not in compliance with state and federal regulations and SCAG's policies and procedures. The noncompliant practices resulted in unallowable costs billed direct to Caltrans in the amount of \$2,617,813. Additionally, the noncompliant charging practices impacted the allowability of SCAG's proposed ICAP rate that was accepted by IOAI on October 26, 2016. The audited ICAP rate for FY 2016/17 is 83.71 percent of total direct salaries and wages, plus fringe benefits. The audited rate is a final rate based on actual costs for FY 2016/17, therefore, there is no carryforward adjustments to future periods.

OBJECTIVES

The audit was performed to determine whether SCAG's FY 2016/17 ICAP was presented in accordance with 2 Code of Federal Regulations (CFR) Part 200 and Caltrans' Local Assistance Procedure Manual (LAPM) Chapter 5. It was also performed to determine whether SCAG had a financial management system, which includes procurement and contract management, capable of accumulating and segregating costs that are reasonable, allowable, and can be allocated to projects in compliance with Caltrans agreement requirements and state and federal regulations.

SCOPE

The scope of the audit was limited to select financial and compliance activities. The audit included interviews of SCAG staff necessary to obtain an understanding of SCAG's financial management system and reviews of SCAG's policies and procedures. It also included tests of select accounts to the general ledger and supporting documentation to assess allowability, allocability, and reasonableness of costs based on a risk assessment. It also included an assessment of the internal control system as related to the ICAP for the carry-forward year 2014/15. Additionally, the audit included review and tests of transactions related to costs incurred and billed to Caltrans in FY 2014/15 to evaluate compliance with Title 2 CFR Part 200, Title 48 CFR Chapter 1 Part 31, Title 49 CFR Part 18, California Public Contract Code, Caltrans' LAPM, and requirements stipulated in the SCAG's agreements with Caltrans. The audit field work was completed on April 30, 2018. Financial management system changes and transactions occurring subsequent to this date were not tested and, accordingly, our conclusion does not pertain to changes arising after this date. We believe that our audit provides a reasonable basis for our conclusion.

SCAG's management is responsible for the fair presentation of the ICAP and for ensuring costs incurred and billed to Caltrans are in compliance with applicable agreement provisions, and state

and federal regulations. Further, SCAG is responsible for ensuring the adequacy of their financial management system.

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 and procedures may deteriorate.

METHODOLOGY

IOAI conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that IOAI 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. IOAI believes 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 SCAG. Therefore, IOAI did not audit and is not expressing an opinion on SCAG's financial statements.

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

The accompanying ICAP was prepared on a basis of accounting practices prescribed in Title 2 CFR Part 200, and the Caltrans' LAPM Chapter 5, and is not intended to present the results of operations of SCAG in conformity with generally accepted accounting principles.

CONCLUSION

Based on audit work performed, we found that SCAG's procurement practices and charging practices (related to properly segregating direct and indirect costs) were not in compliance with state and federal regulations and SCAG's own policies and procedures. The noncompliant practices resulted in unallowable costs billed direct to Caltrans in the amount of \$2,617,813.

Additionally, the noncompliant charging practices affected the allowability of costs included in the FY 2014/15 carryforward and FY 2016/17 actual costs. This resulted in the accepted FY 2016/17 ICAP rate of 79.54 percent to be noncompliant with 2 CFR 200 and LAPM Chapter 5.

At the request of IOAI, SCAG recalculated the FY 2016/17 ICAP using actual costs to report a final rate. The audited rate includes an adjustment to the carryforward and the FY 2016/17 actual costs to account for unallowable costs identified during the audit. The audited rate is 83.71 percent of total direct salaries and wages, plus fringe benefits (see calculation of the audited rate below). The audited rate is a final rate based on actual costs for FY 2016/17, therefore, there is no carryforward adjustment to future periods.

	Actuals FY 2016/17	
Beginning Carryforward (2014/15)	\$(515,166)	
Indirect Costs	<u>\$12,516,900</u>	
Total Indirect Costs	\$12,001,825	(a)
Salaries & Fringe Benefits	\$14,336,804	(b)
Audited Rate	83.71%	(a)/(b)

The findings in this report detail the unallowable costs identified in the carryforward year of FY 2014/15 that required adjustment to both the FY 2014/15 and FY 2016/17 actual costs.

The FY 2016/17 ICAP audit was done in conjunction with the incurred cost audit performed of SCAG. Please refer to the Incurred Cost Audit report (P1580-0022) for further findings related to deficiencies in labor charging practices, procurement, and contract management.

VIEWS OF RESPONSIBLE OFFICIALS

Our findings and recommendations considered SCAG's response dated October 24, 2018, to our September 6, 2018, draft report. Our findings and recommendations, SCAG's response, and our analysis of the response are set forth in the Findings and Recommendations section of this report. A copy of the SCAG's full written response is included as Attachment V.

This report is a matter of public record and will be placed on IOAI's website which can be viewed at: ig.dot.ca.gov.

If you have any questions, please contact Carvin Seals Jr., Auditor, at (916) 323-7965, or Teresa Greisen, Audit Manager at (916) 323-7910.

MARSUE MORRILL, CPA
 Chief
 Planning and Modal Office
 Independent Office of Audits and Investigations
 January 9, 2019

FINDINGS AND RECOMMENDATIONS

FINDING 1 – Improper Procurement Practices

SCAG's procurement practices for ten IT consultant procurements tested did not support that fair and open competition was performed, or that proper procurement procedures were followed as required by Caltrans agreement provisions, state and federal procurement requirements, and SCAG's policies and procedures. The noncompliant procurement practices resulted in unallowable costs billed direct to Caltrans in the amount of \$627,179 and unallowable indirect costs included in the FY 2014/15 actual indirect cost pool in the amount of \$164,628. Specifically, we noted the following deficiencies:

1. SCAG did not comply with the Department of General Services Master Services Agreement (MSA) requirements to procure nine of the ten IT consultants. Specifically, SCAG did not maintain support or evidence that:
 - a) Solicitations for a minimum of three offers or documentation of a minimum of three responses were received from IT consultants on six out of ten procurements tested.
 - b) An evaluation was performed of the contractors' Scope of Work responses to the Request for Offers (RFO) and rationale for selection on all ten tested.
 - c) Verification of the contractors' certifications or resumes was performed on all ten tested.
2. SCAG entered into a contract with an IT consultant (Acro Service Corporation) with no documentation to support that a competitive procurement process was performed. Costs totaling \$57,596 are deemed unallowable.
3. SCAG amended nine of the IT consultant contracts 41 times, in excess of the original contract value (doubling to more than quadrupling the original contract value).
4. SCAG amended six out of the ten contracts after the contracts were expired. Costs incurred on two of the six were included in the FY 14/15 indirect cost pool (\$107,032). In addition, costs totaling \$627,179 on all six contracts were charged direct to several projects/work elements. These costs are disallowed.
5. SCAG did not obtain the required Regional Council approval on 23 contract amendments that exceeded either 30 percent of the original contract amount or \$75,000.
6. SCAG entered into one IT consultant contract with a contract term in excess of 36 months and amended three IT consultant contracts beyond a 36-month period without re-soliciting contracts.
7. SCAG did not document the specific circumstance for increasing the contract value over \$50,000 on 14 out of 41 amendments tested.

See Attachment I for detailed criteria.

See Attachment II for a summary of the IT consultant contracts tested.

The FY 2014/15 actual indirect cost pool will be adjusted by \$164,628 in unallowable indirect consultant costs.

RECOMMENDATION

We recommend SCAG:

- Reimburse Caltrans \$627,179 for the disallowed IT consultant contract costs identified above.
- Adjust the FY 2014/15 actual indirect cost pool by \$164,628 (\$57,596 + \$107,032) for the unallowable IT consultant costs identified above.
- Determine the amount incurred and included in the FY 2016/17 indirect cost pool for the seven unallowable IT consultant contracts and adjust the FY 2016/17 indirect cost pool accordingly.
- Ensure costs that are not in compliance with the state and federal procurement regulations are excluded from the indirect cost pool.
- Revise SCAG's Procurement Policy & Procedures Manual to ensure they are current and comply with all applicable state and federal regulations.
- Ensure management and staff receive proper training in procurement procedures.
- Ensure all documentation is maintained to support that proper procurement procedures are followed in accordance with state and federal regulations.
- Take Caltrans, Division of Local Assistance (DLA), A&E consultant procurement training either in person or online at <http://www.dot.ca.gov/hq/LocalPrograms/training.html>

SUMMARY OF AUDITEE'S RESPONSE

Finding 1.1a and b - SCAG agrees their procurement documentation procedures and practices require improvement and indicated they have implemented a new Finance Database System that tracks their procurements.

Finding 1.1c - SCAG pointed out that the Department of General Services qualified each vendor on the list of selected candidates form. The essential part of their review process was to determine if a candidate was qualified to perform our scope of work. This effectively verified their resume.

Finding 1.2 - SCAG agrees they should have done a better job at documenting that they checked to ensure they were using a valid competitive procurement and that Contracts staff did check websites used by Maricopa County.

Finding 1.3 and 1.5 - SCAG indicates their Board authorized staff to annually fund the IT contracts for the life of each project up to a combined maximum of \$940,000 each year. Given that approval, staff did not exceed Board-approved annual thresholds.

Finding 1.4 - SCAG makes note there were practical difficulties with meeting the amendment deadlines and SCAG relied on the retroactive language in the amendments. While this type of language is legally binding and commonly used in commercial contracts, SCAG now understands that the practice is not in compliance with state and federal requirements.

Finding 1.6 - SCAG stated that the 36-month rule was self-imposed in a version of their Procurement Manual prior to December of 2016 and proved to be impractical in cases such as this and thus revised the requirement.

Finding 1.7 - SCAG requests Caltrans to provide a citation as to what guidance is at issue so that they can respond or they can request Caltrans to remove this finding.

See Attachment V for SCAG's full response.

ANALYSIS OF AUDITEE'S RESPONSE

Finding 1.1 a and b - We appreciate SCAG's efforts to improve their processes. Any process changes subsequent to our fieldwork have not been reviewed or tested.

Finding 1.1c - Reviewing resumes does not support a competitive procurement. The list of vendors per the Department of General Services is to allow agencies to solicit consultants from the list and procure the consultants in accordance with state and federal procurement requirements.

Finding 1.2 – Staff checking several websites to ensure SCAG was using a valid competitive procurement does not address the finding. The finding was a lack of documentation to support competitive procurement.

Finding 1.3 and 1.5 – SCAG did request approval from their Board, however, the June 6, 2013, Board Report does not state for the “life of each project.”

The June 6, 2013, Board Report states, “*For the budgeted FY14 IT work plan, staff seeks approval to enter into multiple contracts under this MSA up to a combined maximum of \$940,000.*” It also states, “*To meet dynamic resource needs, staff desires to use a State of California Master Service Agreement (MSA) that was competitively procured and established for this specific purpose, i.e. to obtain IT resources from qualified, pre-approved vendors. As the IT workload varies from year to year, staff requests the Regional Council's approval on an annual basis. For FY 2013-2014, staff seeks authorization to enter into IT contracts up to a combined maximum of \$940,000.*”

Finding 1.7 - SCAG requested IOAI to provide a citation as to what guidance is at issue. SCAG's Procurement Policies & Procedures Section 8.3 (f) states, “*Note – Amendments may increase the contract's or PO's value over the informal procurement threshold (\$50,000). However, this should be rare and the procurement file must document the specific circumstances. Such amendments must still be processed in accordance with this Policy Manual.*” There was no documentation for the specific circumstances for increasing the contract amount in excess of \$50,000 on 14 amendments.

Based on the analysis of the responses, the finding remains as written.

FINDING 2 – Deficient Charging Practices

SCAG's charging practices related to billing indirect and direct costs to Caltrans were deficient and resulted in billings that were not in compliance with Caltrans agreement provisions and state and federal regulations. Specifically, SCAG billed an indirect rate for FY 2016/17 that included unallowable direct and indirect costs and billed indirect and ineligible direct labor costs to a direct project/work element. The charging practices implemented by SCAG did not ensure the proper segregation of direct, indirect, and unallowable costs in the accounting records and costs included on the billings to Caltrans. We identified the following unallowable costs that resulted from deficient charging practices:

Finding 2A - Unallowable Indirect Costs Included in the FY 2016/17 ICAP

In our testing of 41 transactions within 15 indirect cost accounts for the FY 2014/15 carryforward we found that SCAG included direct, unallowable, and unsupported costs in the indirect cost pool. Unallowable costs totaling \$196,617 were due to weak internal controls, improper charging practices, and non-compliant vendor procurements. Specifically, we found the following:

Legal Services Account – SCAG did not treat costs consistently. SCAG included \$82,494 of legal expenses from two vendors in the indirect cost pool that were direct legal expenses related to projects or other final cost objectives of SCAG. The legal costs for PC Law (\$57,495) are unallowable as the costs included direct and indirect costs that were not properly segregated. SCAG miscoded costs on one invoice as indirect instead of direct for Nossaman LLP (\$24,999).

Memberships – SCAG included \$49,875 of membership costs from four vendors in the indirect cost pool that appeared to be related to lobbying or were not supported by proper documentation. The costs paid to California Contract Cities Association (\$2,500) and National Association of the Regional Council (\$30,000) are unallowable as the entities perform lobbying activities for members, and the invoices did not identify and segregate the lobbying costs. The invoices from Mobility Advancement Group (\$12,500) and Coalition for America's Gateway & Trade Corridors (\$4,875) did not properly support the costs charged to FY 2014/15.

Computer Maintenance – SCAG included \$19,356 of computer maintenance costs from the consultant Granicus, Inc. that are unallowable as SCAG could not support that a competitive procurement was performed. SCAG used the City of San Jose's procurement of the consultant to contract with Granicus, Inc. and did not solicit their own bids for the work and did not maintain documentation supporting that a proper procurement was performed.

Travel – SCAG included \$44,892 (\$16,007 + \$9,942 + 18,943) of unallowable travel costs in the indirect cost pool related to commute mileage, travel mileage, and other travel expenses of the SCAG Executive Director.

- Our testing of travel expense claims (TECs) during our audit period found unallowable reimbursement of mileage costs to the Executive Director for the use of his personal vehicle and travel expenses that were not supported. Per the Executive Director's employment agreement, a monthly car allowance of \$1,035 was provided to cover all expenses related to

the employee's use of his personal vehicle for SCAG business related travel. As the car allowance provided compensation for the mileage related to business travel and the monthly car allowance was included in the fringe benefit costs billed to Caltrans, all mileage costs included on the Executive Director's TECs are unallowable as the cost was reimbursed through the fringe benefit rate. The unallowable mileage costs for FY 2014/15 totaled \$16,007 and will be removed from the indirect cost pool.

- We also found on the TECs tested that the purpose was not identified, and there was no other documentation to support that the Executive Director's travel was for an allowable business related purpose. State travel regulations and SCAG's travel policies and procedures require that the purpose of the travel be documented on the TEC to support and ensure all travel is for allowable business purposes. The unsupported travel costs totaled \$9,942.
- As part of our audit, we followed up on prior audit work performed and determined that SCAG did not adjust prior ICAPs for the Executive Director's reimbursement of commute mileage costs that were identified in a SCAG Internal Audit Report dated March 11, 2014. The report covered the period of July 2012 through June 2013. Commute mileage costs are unallowable. As SCAG did not adjust prior FY ICAP's for the commute costs of \$18,943, the FY 2014/15 indirect cost pool will be adjusted.
- We also identified an internal weakness in the approval process of the Executive Director's TECs. We found that the Chief Financial Officer (CFO) and the Internal Auditor approved the TECs of the Executive Director that lacked supporting documentation. The CFO and internal auditor are subordinate to the Executive Director and should not be approving his TECs. Additionally, the internal auditor's independence is jeopardized when approving the Executive Director's TECs.

We noted from reports obtained from SCAG that the Executive Director was reimbursed unallowable mileage costs in the amount of \$11,986 for FY 2016/17 that should be removed from the indirect cost pool of the FY 2016/17 ICAP.

See Attachment I for detailed criteria.

See Attachment III for summary of total unallowable indirect costs.

RECOMMENDATION

We recommend SCAG:

- Adjust the FY 2014/15 actual indirect cost pool by \$196,617 (\$82,494 + \$49,875 + \$19,356 + \$44,892) for the unallowable costs identified above.
- Remove \$11,986 from the indirect cost pool for FY 2016/17 for the unallowable travel costs identified above.
- Review all indirect accounts to ensure costs are in compliance with state and federal regulations; are properly segregated between direct, indirect and unallowable; and are supported by original source documentation.

- Adjust the FY 2016/17 indirect cost pool by all unallowable costs identified.
- Establish written policies and procedures for segregating direct and indirect legal costs in compliance with state and federal regulations.
- Establish written policies and procedures that prevent the Internal Auditor from reviewing and approving travel expense.
- Ensure staff provide adequate documentation supporting any and all travel expenses and comply with SCAG travel policies and procedures and Caltrans Agreement provisions related to travel. Also, report to the board monthly of all travel related expenses incurred by the Executive Director.

SUMMARY OF AUDITEE'S RESPONSE

Finding 2A

Legal Services - SCAG concurs with this finding with the exception of the RCS Investigations & Consulting LLC (\$3,592). The firm was hired to perform an investigation into an employee complaint which is an allowable indirect cost as an element of an organization's human resource program.

Memberships - SCAG disagrees with the disallowance of membership dues associated to National Association of Regional Council (NARC). SCAG contends the NARC membership dues consists of two components and the invoice delineates \$15,000 for Calendar Year Membership Dues and Transportation Dues of \$15,000. Transportation Dues are not related to lobbying.

Computer Maintenance - SCAG concurs.

Travel - SCAG stated that it as the intent of the Board for the car allowance to cover expenses such as insurance, tolls, parking, and depreciation in addition to mileage reimbursement. Therefore, the reimbursement is not a double billing. SCAG additionally states that the contract language left the mileage issue open to interpretation and has clarified the issue in in the Executive Director's most recent contract.

ANALYSIS OF AUDITEE'S RESPONSE

Legal Services - Based on the analysis of the response regarding the legal costs for RCS Investigation & Consulting LLC that was hired to perform an investigation into an employee complaint that relates to the organization's human resource program, \$3,592 for RCS Investigation & Consulting LLC costs have been removed from the finding.

Memberships - The National Association of Regional Council's website states, "Its primary mission is to assist Regional Councils and Metropolitan Planning Organizations (MPOs) to better serve their member local governments – and their regions – more effectively. NARC represents and advocates for and provides services to its member councils of government and metropolitan planning organizations." National Association of Regional Council's website is clear that it provides various services that includes lobbying. The invoice tested during the audit did not

specify what percentage of the dues related to lobbying related activities versus not lobbying related activities and SCAG did not provide support to dispute the finding.

Travel – Based on our review of, the Executive Director employment contract seeking additional reimbursement through travel expense claims for mileage and including the monthly car allowance as part of SCAG’s fringe benefit calculation compensates SCAG twice for the same cost.

Based on the analysis of the responses, the finding remains as written except for the removal of the finding relating to RCS Investigation & Consulting LLC invoice.

Finding 2B – Unallowable Labor Costs

The Incurred Cost Audit (dated July 24, 2018) identified indirect and ineligible costs charged to Work Element 120 which was established for direct costs related to development and administration of the Overall Work Program. This will impact the FY 2016/17 ICAP. Eligible tasks included the development of the Overall Work Program, preparation of the annual budget and amendments to the budget, and preparation of Quarterly Progress Reports. In our incurred cost audit, we found that SCAG accountants and contract administrators charged time for the review and approval of consultant invoices which were ineligible and indirect in nature. SCAG’s charging practices remained unchanged for FY 2016/17 and unallowable costs were billed to Work Element 120. Based on an analysis of SCAG’s labor reports for FY 2016/17, \$1,625,797 of indirect labor related to accountants, contract administrators, and an internal auditor were inappropriately charged direct to Work Element 120. See Attachment IV for a summary of the unallowable direct labor costs.

SCAG does not have adequate policies and procedures related to labor charging practices. In addition to billing ineligible costs identified, the inappropriate charging practices result in SCAG lacking accurate historical information related to actual costs for future budget purposes and overhead rate calculations.

See Attachment I for detailed criteria.

RECOMMENDATION

We recommend SCAG:

- Reimburse Caltrans \$1,625,797 in unallowable labor costs.
- Ensure billings to Caltrans are based on actual labor costs incurred.
- Develop and implement written policies and procedures for proper and consistent labor charging practices. Ensure procedures define appropriate charging practices for staff meetings and other non-project or work element activities.

AUDITEE’S RESPONSE

The practice of charging time to WE 120 other than that of Budget & Grants staff was begun many years ago after consultation with District 7. Since the practice is no longer permissible, SCAG’s

FY18 actuals and FY19 budget will charge those hours to the Indirect Cost budget. SCAG requests that the costs disallowed from WE 120 in FY15 be charged to the Indirect Cost budget in that year.

ANALYSIS OF AUDITEE'S RESPONSE

As SCAG has already been reimbursed directly for the finding amount, SCAG will need to repay Caltrans the full \$1,625,797 as indicated in the finding. Once SCAG repays the disallowed costs, they can make a request to Caltrans Division of Transportation Planning and DLA to include the disallowed costs in the FY 2016/17 indirect cost pool. If the request is approved, SCAG will then be required to resubmit a revised FY 2016-17 ICAP to IOAI that includes the adjustments for review and approval prior to seeking reimbursement for any variance in the rate.

Based on the analysis of the response, the finding remains as written.

ATTACHMENT I AUDIT CRITERIA

Finding 1 (Improper Procurement Practices)

- 1a. California Public Contract Code §10340 (a) states, in part, “State agencies shall secure at least three competitive bids or proposals for each contract.”
- 1b. User Instruction for MSA 57175 specifies the ordering department’s responsibilities as following:
 - Solicitation of a minimum of three (3) offers and document responses;
 - Evaluation of the contractors’ Statement of Work (SOW) response(s) to the RFO and rationale for selection;
 - Verification of contractor’s certifications and resumes as defined on the SOW;
- 1c. 49 CFR Part 18.36 and 2 CFR 200.319 (a) states in part, “All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements....”
- 1d. State Contracting Manual 5.81 states in part, “Competitive bidding requirements and exemptions should be evaluated when contemplating an amendment (PCC 10355). A.1.b, the amendment does one, but not both, of the following and there is no change in the scope of work, i., adds time only to complete performance, not to exceed one year...**or** ii., the amendment adds not more than 30%) not to exceed \$250,000) of the original contract....”
- 1e. Caltrans LAPM Chapter 10.8 states in part, “A consultant contract may be amended at any time. The most common amendment is to extend the ending date of the contract. All contract amendments must be fully executed before the ending date of the contract.”
- 1f. SCAG’s Procurement Policy and Procedures Manual:
 - a. 8.3.1 K. states, “Once the term of the contract has expired, no further amendments can be made (i.e., an amendment must be fully executed before the ending date of the contract)”
 - b. 3.5 states, in part, “while contract amendments are limited to no more than thirty (3) percent of the original total amount of the contract, any amendment(s) with an individual or aggregate amount of \$75,000 or greater requires Regional Council Approval.”
 - c. 7.11 states, “Consistent with the State of California Contract Manual, Section 7.8, each consultant agreement should be re-solicited after a total of thirty-six (36) months consecutive with the same consultant (including any amendment to extend the contract’s term), unless Caltrans or the Federal government gives SCAG statutory authority or a written exemption.”
- 1g. 8.3.1 F. states, in part, “Amendment may increase the contract’s or PO’s value over the informal procurement threshold. (\$50,000) However, this should be rare and the procurement file must document the specific circumstance.”

ATTACHMENT I AUDIT CRITERIA

- 1h. Public Contract Code Part 2, Chapter 2, Article 4, Section 10371 (c) states, "Each state agency shall, prior to signing a consulting services contract totaling five thousand dollars (\$5,000) or more, prepare detailed criteria and a mandatory progress schedule for the performance of the contract and shall require each selected contractor to provide a detailed analysis of the costs of performing the contract."
- 1i. Caltrans LAPM Chapter 10.8 states, in part, "Contract amendments are required to modify the terms of the original agreement for changes such as extra time, added work, or increased costs."

Finding 2 (Deficient Charging Practices)

2A (Unallowable Indirect Costs included in the FY 2016/17 ICAP)

- 2a. 2 CFR Part 200.413 (a) states, "Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (F&A) costs."
- 2b. 2 CFR 200.403 (d) states, "Costs must meet the following general criteria in order to be allowable under federal awards: be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost."
- 2c. 2 CFR 200.450 (a) states, "Lobbying. The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost."
- 2d. 49 CFR Part 18.36 and 2 CFR 200.319 (a) states, in part, "All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section."
- 2e. Executive Director's Employment Agreement states, in part, "Subsection (f) Section 3.06 (Employee Benefits) of Article 3 (Obligations of Employer) is hereby amended to read in it's entirely as follows: (f) Employee shall receive an allowance of \$1,035 per month to cover the Employee's use of his personal vehicle for SCAG business,...and reasonable travel-related expenses...."
- 2f. SCAG's Travel Policy Section VI states, in part, "Prior to approving the reimbursement request, the manager or director should review the expenditures..... Travel Expense Reimbursement Form Requirements: (1) dates and times when expenses occurred.... (2) Location of each trip and any additional justification required....."

ATTACHMENT I
AUDIT CRITERIA

Finding 2B (Unallowable Labor Costs)

- 2a. 2 CFR Part 200.404 (c) states, “Any costs allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons.”

**ATTACHMENT II
INDIRECT COST ALLOCATION PLAN AUDIT
OF
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**

UNALLOWABLE INDIRECT AND DIRECT IT CONSULTANT COSTS

Consultant	Contract Number	Original Contract Amount	Final Contract Amount	Contract Execution Date	Contract Expiration Date	Number of Amendments	Number of Amendments on Expired Contracts	Number of Amendments with no Documentation	Consultant Contracts with Unallowable Costs	Unallowable Amounts in the FY 2014/15 ICAP	Unallowable Costs Billed Direct FY 2014/15 thru 2016/17
AgreeYa Solutions, Inc.	13-034-C1	\$ 34,000	\$ 243,000	3/12/2013	7/31/2013	6	2	1	X	\$ 101,018	-
Allied Network Solutions, Inc.	14-004-C1	\$ 124,000	\$ 503,000	8/6/2013	6/30/2015	6	3	4	X	-	\$ 185,629
Celer Systems, Inc.	15-025-C1	\$ 90,000	\$ 260,000	2/5/2015	6/30/2015	2	2	1	X	-	-
22 nd Century Technologies, Inc.	15-018-C1	\$ 75,000	\$ 292,110	2/2/2015	6/30/2015	3	2	1	X	-	\$ 188,104
22 nd Century Technologies, Inc.	15-018-C2	\$ 75,000	-	2/5/2015	-	-	N/A	-	-	-	-
Logic House Ltd. Corp.	14-005-C1	\$ 170,000	\$ 478,896	10/15/2013	6/30/2015	3	2	2	X	-	\$ 78,485
Acro Service Corp.	13-017-C1	\$ 100,000	\$ 373,600	11/15/2012	-	4	N/A	2	1	\$ 57,596	-
RADgov, Inc.	13-016-C1	\$ 175,000	\$ 627,632	9/24/2012	12/19/2013	5	3	3	X	\$ 6,014	\$ 174,961
AgreeYa Solutions, Inc.	14-021-C1	\$ 156,000	\$ 255,201	6/3/2014	-	7	N/A	-	-	-	-
Civic Resource Group, LLC	14-021-C1	\$ 162,181	\$ 204,293	6/5/2015	-	5	N/A	-	-	-	-
TOTAL						41	14	14		\$ 164,628	\$ 627,179

Note:

1 - Lack of documentation supporting competitive procurement as SCAG piggybacked off of the Arizona County of Maricopa's contract.

X - Amendment on an Expired Contract

**ATTACHMENT III
INDIRECT COST ALLOCATION PLAN AUDIT
OF
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**

TOTAL UNALLOWABLE INDIRECT COSTS

Account Description	Vendor	Unallowable Amounts in the FY 2014/15 ICAP
Consultant	AgreeYa Solutions, Inc.	\$101,018
	Acro Services Corp	\$57,596
	Radgov, Inc.,	\$6,014
		<u>\$164,628</u>
Legal Services	PC Law	\$57,495
	Nossaman, LLP	\$24,999
		<u>\$82,494</u>
Equipment Repairs & Maintenance	Granicus, Inc.	<u>\$19,356</u>
Memberships	Mobility Advancement Group	\$12,500
	Coalition for America's Gateway	\$4,875
	California Contract Cities Assoc.	\$2,500
	NARC	\$30,000
		<u>\$49,875</u>
Travel	E.D	<u>\$44,892</u>
	TOTAL	<u>\$361,245</u>

**ATTACHMENT IV
INDIRECT COST ALLOCATION PLAN AUDIT
OF
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**

UNALLOWABLE DIRECT LABOR COSTS - FY 2016-17

	A	B	C = A x B	D = A + C	E = D X 79.54%	F = D + E
	Labor less TDA Labor charged to PL & 5303	Fringe Benefit Percentage	Total Fringe Benefits	Total Labor plus FB	Indirect Costs	Total Disallowed Direct Labor, FB & IC Costs
Accountants	\$ 173,152	78.87%	\$ 136,565	\$ 309,716	\$ 246,348	\$ 556,065
Internal Auditor	\$ 37,877	78.87%	\$ 29,873	\$ 67,750	\$ 53,889	\$ 121,639
Contracts Administration	\$ 360,815	78.87%	\$ 284,575	\$ 645,390	\$ 513,343	\$ 1,158,733
Totals	<u>\$ 571,843</u>		<u>\$ 451,013</u>	<u>\$ 1,022,856</u>	<u>\$ 813,580</u>	<u>\$ 1,836,436</u> (1)

Federal Reimbursement Rate 88.53% (2)

Total Disallowed Amount \$ 1,625,797 (3) = 1 X 2

ATTACHMENT V

October 24, 2018

Mr. William E. Lewis, Assistant Director
California Department of Transportation
Independent Office of Audits and Investigations
1304 O Street Suite 200
Sacramento, CA 95814
Sent via email to william.lewis@dot.ca.gov

Subject: SCAG Response to Draft Audit Report of Incurred Cost Audit

Dear Mr. Lewis:

This letter is to officially transmit SCAG's written responses to the draft Indirect Cost Allocation Plan audit report.

First, I want to express my appreciation on behalf of the SCAG staff and Regional Council for the thorough and diligent work effort that your team has put into conducting the Incurred Cost Audit and preparing the draft report.

We all truly appreciate that conducting audits is to ensure that SCAG has sound business practices and is in compliance with Caltrans agreement provisions and state and federal regulations. Which is critically important to carrying out the mission of SCAG, its federal, state and local partners.

As we've discussed, SCAG had not been audited by Caltrans for more than ten years at the inception of this audit. Therefore, we sincerely appreciate the opportunity to take the findings and improve our organization and business practices in a timely manner.

Attached to this letter, SCAG has included its written responses as part of the draft report provided for ease of Caltrans reference. Additionally, SCAG has attached relevant documentation referred to in the responses for ease of reference.

As noted in the responses, SCAG has already begun to implement recommendations and findings that it is in agreement with and will work quickly to implement others after the final disposition of this Audit is confirmed.

Thank you again for the opportunity to work together on this important effort.

Sincerely,

Darin Chidsey, Interim Executive Director

FINDINGS AND RECOMMENDATIONS

FINDING 1 – Improper Procurement Practices

SCAG’s procurement practices on the 10 Information Technology (IT) consultant procurements tested did not support that fair and open competition was performed, or that proper procurement procedures were followed as required by Caltrans Agreement provisions, state and federal procurement requirements and SCAG’s policies and procedures. The noncompliant procurement practices resulted in unallowable costs billed direct to Caltrans in the amount of \$627,179 and unallowable indirect costs to be included in the FY 2014/15 actual indirect cost pool in the amount of \$164,628. Based on our review of the 10 IT consultant procurements we noted the following noncompliant actions:

- 1) SCAG did not comply with the Department of General Services Master Services Agreement (MSA) requirements to procure 9 of the 10 IT consultants. Specifically, SCAG did not maintain support or evidence that:
 - a) Solicitations for a minimum of 3 offers or documentation of a minimum of 3 responses were received from IT consultants on 6 out of 9 procurements tested.
 - b) An evaluation was performed of the contractors’ Scope of Work responses to the Request for Offers (RFO) and rationale for selection on all 9 tested.
 - c) Verification of the contractor’s certifications or resumes was performed on all 9 tested.
- 2) SCAG entered into a contract with an IT consultant (Acro Service Corporation) with no documentation to support a competitive procurement process was performed. SCAG stated they relied on the procurement performed by the Maricopa County of Arizona.
- 3) SCAG amended nine of the IT consultant contracts 41 times, in excess of the original contract value (doubling to more than quadrupling the contracts).
- 4) SCAG amended 6 out of 10 contracts after the contracts were expired.
- 5) SCAG did not obtain the required Regional Council approval on twenty-three contract amendments that exceeded either 30 percent of the original contract amount or \$75,000.
- 6) SCAG entered into 1 IT consultant contract with a contract term in excess of 36 months and amended 3 IT consultant contracts beyond a 36 month period without re-soliciting contracts.
- 7) SCAG did not document the specific circumstance for increasing the contract value over \$50,000 on 14 out of 41 amendments.

See Attachment II for a summary of the IT consultant contracts tested. SCAG's procurement actions demonstrate a lack of understanding of state and federal procurement regulations and a lack of proper oversight to ensure staff comply with its own policies and procedures.

Based on our testing of the 10 non-compliant IT consultant procurements, 6 were amended on expired contracts. Costs incurred on all 6 are unallowable. Costs incurred on 2 of the 6 were included in the FY 14/15 indirect cost pool (\$107,032) and additional costs on all 6 were charged direct to several projects/work elements (627,179). One of the 10 consultant contracts is unallowable due to a lack of documentation that fair and open competition was achieved (\$57,596). The FY 2014/15 actual indirect cost pool will be adjusted by \$164,628 in unallowable indirect consultant costs.

See Attachment I finding 1 for detailed criteria.

RECOMMENDATION

We recommend SCAG perform the following:

- Reimburse Caltrans \$627,179 in unallowable IT consultant contract costs directly billed.
- Adjust the FY 2014/15 actual indirect cost pool by \$164,628 for the unallowable IT consultant costs.
- Determine the amount incurred and included in the FY 2016/17 indirect cost pool for the seven unallowable IT consultant contracts. Adjust the FY 2016/17 indirect cost pool by this amount.
- Ensure costs that are not in compliance with the state and federal procurement regulations are excluded from the indirect cost pool.
- Revise SCAG's Procurement Policy & Procedures Manual to ensure they are current and comply with all applicable state and federal regulations.
- Ensure management and staff receive proper training in procurement procedures
- Ensure all documentation is maintained to support that proper procurement procedures are followed in accordance with state and federal regulations.

AUDITEE'S RESPONSE

Finding 1.1 (a) and (b):

SCAG agrees that our procurement documentation procedures and practices require improvement. As we explained to the auditors, much of the required procurement documentation was inadvertently purged due to a change in our electronic file storage policy. During the course of the audit, we provided the auditors with supplementary evidence and documentation that we believe demonstrates that SCAG competitively procured these contracts in accordance with the Department of General Services Master Service Agreement requirements. (Please see Exhibit 1)

It should also be noted that in a report to our board about these contracts we specifically state, "To gain even greater cost reductions, unlike most MSA, this MSA would require staff to compete

each of the projects among at least 3 of the 120 approved vendors on the MSA.” This is an indication that competition was performed.

Further, to help ensure that we maintain proper file documentation we have implemented a new Finance Database System that tracks our procurements, Contracts staff revised its Checklist procedure for processing procurements to clarify how and where documents are to be maintained, and the Contracts Manager reviews the file at five (5) key stages (creation of the solicitation, consultant selection, contract issuance, any amendment and close out) to ensure all required parts of the file are properly stored, are accurate and complete.

Finding 1.1 (c):

We would like to point out that the Department of General Services qualified each vendor to the list we selected candidates from. The essential part of our review process was to determine if a candidate was qualified to perform our scope of work. This effectively verified their resume.

Finding 1.2:

While we agree we should have done a better job at documenting that we checked to insure we were using a valid competitive procurement, Contracts staff did verify this by checking the following websites:

- <https://www.bidsync.com/bidsync-app-web/vendor/links/BidDetail.xhtml?bidid=1903849&roundId=null>. This is a link to Bid #11143-RFP - TEMPORARY STAFFING AND RELATED SERVICES issued by Maricopa County which closed on January 19, 2012. This is proof there was a competitive procurement.
- www.seattle.gov/purchasing/docs/bids/RFP1400.pdf shows this MSA listed on the U.S. Communities Purchasing Alliance website which is proof it was valid.

This documentation was and still is available at the links shown above.

Finding 1.3:

At the June 6, 2013 SCAG Board meeting, the Board authorized staff to annually fund these contracts for the life of each project up to a combined maximum of typically \$940,000 each year. Given that approval, staff did not exceed Board-approved annual thresholds. The majority of the amendments were administrative in nature and all amendments were consistent with Board approval.

Finding 1.4:

There were practical difficulties with meeting the amendment deadlines and SCAG relied on the retroactive language in the amendments. While this type of language is legally binding and commonly used in commercial contracts, we now understand that the practice is not in compliance with state and federal requirements. SCAG has developed a more effective way to process amendments and notify executive management of potential bottlenecks in processing amendments through the implementation of its Finance Database System,

Finding 1.5:

At the June 6, 2013 SCAG Board meeting, the Board authorized staff to annually fund these contracts for the life of each project up to a combined maximum of typically \$940,000 each year. We did not exceed this threshold.

Finding 1.6:

The 36-month rule was self-imposed in a version of our Procurement Manual prior to December of 2016 and proved to be impractical in some cases, this being one. In the December 2016 Procurement Manual we include a more effective procedure to extend a contract beyond 36-months (i.e., the SCAG project manager must provide written justification for the extension to the Chief Financial Officer for approval).

Finding 1.7:

SCAG requests Caltrans to provide a citation as to what guidance is at issue so that we can respond or we request Caltrans to remove this finding.

ANAYLSIS OF AUDITEE'S RESPONSE

FINDING 2 – Deficient Charging Practices

SCAG's charging practices related to billing indirect and direct costs to Caltrans were deficient and resulted in billings that were not in compliance with Caltrans Agreement provisions and state and federal regulations. Specifically, SCAG billed an indirect rate for FY 2016/17 that included unallowable direct and indirect costs and billed indirect and ineligible labor costs as direct to a direct project/work element. SCAG is responsible for developing and implementing charging practices that ensure compliance with state and federal regulations when state and federal funds are expended. The charging practices implemented by SCAG did not ensure the proper segregation of direct, indirect and unallowable costs in the accounting records and costs included on the billings to Caltrans. We identified the following unallowable costs that resulted from deficient charging practices:

Finding 2A - Unallowable Indirect Costs included in the FY 2016/17 ICAP

SCAG included costs in the indirect cost pool of the FY 2014/15 carryforward that were not in compliance with Caltrans ICAP Submission requirements, and state and federal regulations. The 2 CFR 200 requires that unallowable costs be segregated and excluded from the indirect cost pool. Our testing of 41 transactions within 15 indirect cost accounts found that SCAG included direct, unallowable and unsupported costs in the indirect cost pool. Unallowable costs of \$200,209 were due to weak internal controls, improper charging practices and non-compliant vendor procurements. Specifically, we found the following:

Legal Services Account - SCAG included \$86,086 of legal expenses from 3 vendors in the indirect cost pool that were direct legal expenses related to projects or other final cost objectives of SCAG. The legal costs for PC Law (\$57,495) are unallowable as the costs included direct and indirect

costs that were not properly segregated. SCAG miscoded costs on 2 invoices as indirect instead of direct for RCS Investigations & Consulting LLC (\$3,592) and Nossaman LLP (\$24,999).

Memberships – SCAG included \$49,875 of membership costs from 4 vendors in the indirect cost pool that were related to lobbying or not supported by proper documentation. The costs paid to California Contract Cities Association (\$2,500) and National Association of the Regional Council (\$30,000) are unallowable as the entities perform lobbying activities for members and the invoices did not identify and segregate the lobbying costs. The invoices from Mobility Advancement Group (\$12,500) and Coalition for America’s Gateway & Trade Corridors (\$4,875) did not properly support the costs charged to FY 2014/15.

Computer Maintenance – SCAG included \$19,356 of computer maintenance costs from the consultant Granicus, Inc. that are unallowable as SCAG could not support that a competitive procurement was performed. SCAG used the City of San Jose’s procurement of the consultant to contract with Granicus, Inc., and did not solicit their own bids for the work or maintain documentation supporting a proper procurement was performed.

Travel – SCAG included \$44,892 of unallowable travel costs in the indirect cost pool related to commute mileage, travel mileage and other travel expenses of the SCAG Executive Director.

Our testing of travel expense claims (TECs) during our audit period found unallowable reimbursement of mileage costs to the Executive Director for the use of his personal vehicle and travel expenses that were not supported. Per the Executive Director’s employment agreement, a monthly car allowance of \$1,035 was provided to cover all expenses related to the employees’ use of his personal vehicle for SCAG business related travel. As the car allowance provided compensation for the mileage related to business travel and the monthly car allowance was included in the fringe benefit costs billed to Caltrans, all mileage costs included on the Executive Director’s TECs are unallowable as the reimbursement was a double billing. The unallowable mileage costs for FY 2014/15 total \$16,007 and will be removed from the indirect cost pool.

We also found on the TEC’s tested, the purpose was not identified and there was no other documentation to support that the Executive Director’s travel was for an allowable business related purpose. State travel regulations and SCAG’s travel policies and procedures require that the purpose of the travel be documented on the TEC to support and ensure all travel is for allowable business purposes. The unsupported travel costs total \$9,942.

As part of our audit, we followed up on prior audit work performed and determined that SCAG did not adjust prior ICAPs for the Executive Director’s reimbursement of commute mileage costs that were identified in a SCAG Internal Audit Report dated March 11, 2014. The report covered the period of July 2012 through June 2013. Commute mileage costs are unallowable. As SCAG did not adjust prior FY ICAP’s for the commute costs of \$18,942, the FY 2014/15 indirect cost pool will be adjusted.

We also identified an internal weakness exists in the approval process of the Executive Director’s TECs. We found that the Chief Financial Officer (CFO) and the Internal Auditor approved the TEC’s of the Executive Director. The CFO and internal auditor are subordinate to the Executive

Director and should not be approving his TEC's. Additionally, the internal auditor's independence is jeopardized when he is required to approve the Executive Director's TECs.

Federal cost principles as noted in Attachment I, require that unallowable costs be segregated and excluded from the indirect cost pool. The FY 2014/15 indirect cost pool will be adjusted by the total unallowable costs identified in the audit. See Attachment III for summary of unallowable costs.

We noted from reports obtained from SCAG, that the Executive Director was reimbursed unallowable mileage costs in the amount of \$11,986 for FY 2016/17 that should be removed from the indirect cost pool of the FY 2016/17 ICAP.

See Attachment I finding 2A for detailed criteria.

RECOMMENDATION

We recommend SCAG do the following:

- Adjust the FY 2014/15 actual indirect cost pool by \$200,209 for the unallowable the unallowable costs identified above.
- Determine the amount incurred and included in the FY 2016/17 indirect cost pool for the unallowable Granicus consultant contract and travel costs related to the Executive Director (audit noted \$11,986).
- Review all indirect accounts to ensure costs are in compliance with state and federal regulations; are properly segregated between direct, indirect and unallowable; and are supported by original source documentation.
- Adjust the FY 2016/17 indirect cost pool by all unallowable costs identified.
- Establish written policies and procedures for segregating direct and indirect legal costs in compliance with state and federal regulations.
- Establish written policies and procedures that prevent the Internal Auditor from reviewing and approving travel expense forms as a conflict exists when that position also performs audits of SCAG's TECs.
- Ensure staff provide adequate documentation supporting any and all travel expenses and comply with SCAG travel policies and procedures and Caltrans Agreement provisions related to travel.

AUDITEE'S RESPONSE

Finding 2A

Legal Services

We concur with this finding with the exception of the RCS Investigations & Consulting LLC (\$3,592). The firm was hired to perform an investigation into an employee complaint which is an allowable indirect cost as an element of an organization's human resource program.

Memberships

The National Association of Regional Council's membership consists of two components. The invoice delineates \$15,000 for Calendar Year Membership Dues and Transportation Dues of \$15,000. Transportation Dues are not related to lobbying. The NARC website describes its activities in the Transportation arena as follows: The National Association of Regional Councils (NARC) supports Councils of Government (COGs), Metropolitan Planning Organizations (MPOs), and Rural Planning Organizations (RPOs) – large, small, urban, and rural – in transportation planning and programming to promote regional solutions to national transportation needs that support economic growth, environmental sustainability, and enhanced mobility.

Computer Maintenance

We concur with this finding.

Travel

We concur with the travel findings related to documentation of trip purpose in the Executive Director's travel expense claims, the reimbursement of commute mileage and with the finding concerning the approval of the Executive Director's travel expense claims by the Chief Financial Officer and the Internal Auditor. The approval by the Internal Auditor was ended as a result of the Internal Audit Peer Review of 2015.

In regard to the reimbursement of the Executive Director's car expenses, SCAG wants to clarify that it was the intent of the Board to pay the Executive Director a monthly car allowance of \$1,035.00 to cover expenses such as insurance, tolls, parking and depreciation in addition to mileage reimbursement. Therefore, the reimbursement of the Executive Director's mileage costs are not a double billing. The basis of this agreement reflects the extensive number of miles the Executive Director was required to drive for business purposes. SCAG acknowledges that the Executive Director's contract language left the mileage issue open to interpretation. This issue was clarified in the Executive Director's most recent contract as follows:

“Employee shall receive an allowance of \$2135.00 per month to cover all costs of Employee's use of his personal vehicle for SCAG business including, but not limited to, mileage costs, toll road fees, parking costs, and fuel expenses. This supplemental expense allowance will be paid monthly as part of a non-accountable plan in accordance with applicable regulations of the United States Treasury Department, Internal Revenue Service, and all such payments shall be reported as income.”

ANAYLSIS OF AUDITEE'S RESPONSE

Finding 2B – Unallowable Labor Costs

The Incurred Cost Audit (dated July 24, 2018) identified indirect and ineligible costs were charged to work element 120 which was established for direct costs related to Development and Administration of the Overall Work Program (OWP). Eligible tasks included the development of the OWP; preparation of the annual budget and amendments to the budget; and preparation of Quarterly Progress Reports. Our incurred cost audit found that SCAG accountants and contract administrators charged time for the review and approval of consultant invoices which were

ineligible and indirect in nature. SCAG's charging practices remained unchanged for FY 2016/17 and unallowable costs were billed to WE 120. Based on an analysis of SCAG's labor reports for FY 2016/17, \$1,625,797 of indirect labor related to accountants, contract administrators and an internal auditor were inappropriately charged direct to WE 120. See Attachment IIIA for a summary of the unallowable direct labor costs.

SCAG does not have adequate policies and procedures related to labor charging practices. In addition to billing ineligible costs identified, the inappropriate charging practices result in SCAG lacking accurate historical information related to actual costs for future budget purposes, and overhead rate calculations.

See Attachment I finding 2B for detailed criteria.

RECOMMENDATION

We recommend SCAG do the following:

- Reimburse Caltrans for \$1,625,797 in unallowable labor costs.
- Ensure billings to Caltrans are based on actual labor costs incurred.
- Develop and implement written policies and procedures for proper and consistent labor charging practices. Ensure procedures define appropriate charging practices for staff meetings and other non-project or work element activities.

AUDITEE'S RESPONSE

The practice of charging time to WE 120 other than that of Budget & Grants staff was begun many years ago after consultation with District 7. Since the practice is no longer permissible, SCAG's FY18 actuals and FY19 budget will charge those hours to the Indirect Cost budget. SCAG requests that the costs disallowed from WE 120 in FY15 be charged to the Indirect Cost budget in that year.

ANAYLSIS OF AUDITEE'S RESPONSE

Exhibit 1

As the audit noted, 3 of the 9 files tested (contracts 14-021-C1, 14-021-C2 and 14-005-C1) did contain documentation of a minimum of 3 responses were solicited or received from IT consultants. Further, SCAG submits the following table showing the documents we previously provided to the Caltrans auditors, listed by contract:

SCAG Contract No	Supporting Documentation
15-025-C1	<p>List showing the 3 vendors we contacted, the names of the 11 resumes we received and the 5 candidates that we evaluated and interviewed. The list summarizes the results of the process. We basically were conducting a job interview to select an individual from a vendor to provide as needed Information Technology expertise on various projects.</p> <p>Further, the file named "RFP Response from Spruce Tech" shows the Request for Offer (RFO) and that we solicited as well as received an offer from Spruce Technology. This demonstrates that we solicited and evaluated offers from at least Spruce Technology and Celer Systems, given we selected Celer Systems.</p> <p>Per the RFO (pg. 1, 2nd paragraph, last sentence) our selection was based on Celer Systems' candidate being the most qualified, after what amount to a job interview.</p>
15-018-C2	<p>List showing the 3 vendors we contacted, the names of the 9 resumes we received and the 4 candidates that we interviewed. The list summarizes the results of the process.</p> <p>Further, the file named "FW Interview for the EGIS Consultants and PM Recommendation," demonstrates that we evaluated and interviewed candidates from RadGov and 22nd Century Technologies.</p> <p>Like all the other candidate interviews, our selection was based on 22nd Century Technologies' candidate being the most qualified.</p>
15-018-C1	<p>A list showing the 3 vendors we contacted, the names of the 9 resumes we received and the 4 candidates that we interviewed. The list summarizes the results of the process.</p> <p>Further, a document in the contract file named "FW Interview for the EGIS Consultants and PM Recommendation," demonstrates that we evaluated and interviewed candidates from RadGov and 22nd Century Technologies.</p> <p>Like all the other candidate interviews, our selection was based on 22nd Century Technologies' candidate being the most qualified</p>

SCAG Contract No	Supporting Documentation
14-021-C1	<p>RFO we issued to 9 vendors. Section J1 of the contract file also lists the 9 vendors we contacted as well as the 1 offer we received and evaluated (from Civic Resource Group – in Section G of the contract file). The offer contained sufficient information to make an award and an interview was not held. Section J1 in the contract file states why we selected Civic Resources Group</p>
14-021-C2	<p>RFO we issued to 9 vendors (same list as 14-021-C1). Section J1 of the contract file also lists the 9 vendors we contacted and the 2 offers we received (both in Section G of the contract file). The offers contained sufficient information to make an award (to a different vendor than 14-021-C1) and interviews were not held.</p> <p>Section J1 in the contract file states why we selected AgreeYa Solutions.</p>
14-005-C1.	<p>File named “For Caltrans 9-26-17 Contract 14-005-C1” in the contract file contains documents to support our evaluation and interview of vendors.</p> <p>File section J in the contract file states why we selected Logic House.</p>
14-004-C1	<p>File named “Solicitation e-mail and response from Cambria Solutions” in the contract file shows we solicited an offer from Allied Network Solutions (pg. 1 – also discusses our evaluation of the candidates interviewed and recommends hiring Abhishek Sharma, Allied Network Solutions. This email also shows we solicited an offer from Cambria Solutions (pg. 2 and 3) as well. The 4th pg. shows the RFO. The vendors it was emailed to are blind copied.</p> <p>Like all the other candidate interviews, our selection was based on Allied Network Solutions’ candidate being the most qualified.</p>
13-034-C1	<p>File named “SCAG Solicitation and Resume Submission from RadGov”, on the bottom of the email thread shows the RFO email (the vendors it was emailed to are blind copied), and RadGov’s offer. The contract file also contains a file named “Three Vendor Selected” containing the names of the 3 vendors we solicited (yellow highlighted). Given we selected AgreeYa, our customary practice would be to evaluate at least AgreeYa and RadGov.</p> <p>Further, the contract file contains the following documents to support that we evaluated/interviewed vendors.</p> <ol style="list-style-type: none"> 1. “Email Regarding Solicitation for Candidates” – to document our intent to solicit offers from 10 vendors; 2. “Web Content editor interview questions-arlg” – to document the interview questions we asked; and 3. “Web content Editor SOW” – to document the project’s work scope.

SCAG Contract No	Supporting Documentation
	Like all the other candidate interviews, our selection was based on the AgreeYa Solutions' candidate being the most qualified.
13-030-C1	<p>File named "FW AV Technician - Call for Resumes for SCAG IT Services Division" shows the work scope, and states we emailed the offers to 7 vendors Robert Half, (RHI) AgreeYa, Radgov, Modis, LogicHouse, Acro, and Sierra. The email thread also shows a separate email to RHI.</p> <p>Like all the other candidate interviews, our selection was based on RadGov's candidate being the most qualified.</p>
13-030-C1	<p>File named "Three Vendors Selected" contains the 3 vendors that we evaluated and interviewed. The file also contains a document named "Candidate Solicitation and Vendor Response E-mail" and it shows the 4 resumes we received from RadGov.</p> <p>The file summarizes the results of the process, but not the actual evaluations or interviews.</p> <p>Like all the other candidate interviews, our selection was based on RadGov's candidate being the most qualified</p>