

# Capitol Corridor Joint Powers Authority Incurred Cost Audit



Audit Report

March 2018

## PREPARED BY:

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

## **SUMMARY**

The California Department of Transportation (Caltrans), Independent Office of Audits and Investigations (A&I) audited reimbursed project costs totaling \$7,014,286 to the Capitol Corridor Joints Powers Authority (Capitol Corridor JPA). We found that \$30,443 of Capitol Corridor JPA's reimbursed costs did not comply with respective agreement provisions, and state and federal regulations.

## **OBJECTIVE**

This audit was performed to determine whether project costs claimed by Capitol Corridor JPA were allowable, supported, and in compliance with respective agreement provisions, state and federal regulations, and Capitol Corridor JPA's policies and procedures. The audit included costs incurred under the Interagency Transfer Agreement (Agreement) 75 Capitol Corridor JPA-2 between Caltrans and Capitol Corridor JPA. Our audit period was from July 1, 2015 through March 31, 2017.

## **SCOPE**

We conducted an incurred cost audit of Capitol Corridor JPA's costs charged to the Agreement between Caltrans and Capitol Corridor JPA to determine if costs were in compliance with the Agreement, and applicable laws and regulations. Further, we assessed Capitol Corridor JPA's financial management system to determine if it is capable of accumulating, segregating, and allocating costs. The audit comprised transaction testing of reimbursed project costs to evaluate compliance with Office of Management and Budget Circular A-87 (codified in Title 2 Code of Federal Regulations (CFR) Part 200), 49 CFR Part 18; and requirements stipulated in Capitol Corridor JPA's Agreement with Caltrans. The audit was limited to financial and compliance activities. Our field work was completed on January 3, 2018 and transactions occurring subsequent to this date were not tested and, accordingly, our conclusion does not include costs or credits arising after this date.

Capitol Corridor JPA is responsible for the claimed costs, and complying with applicable agreement provisions, and state and federal regulations. In addition, Capitol Corridor JPA is responsible to ensure their financial management system is able to accumulate and segregate reasonable, allocable, and allowable costs. 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.



## **METHODOLOGY**

We conducted our 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 during the audit provides a reasonable basis for our findings and conclusions. The audit was less in scope than an audit performed to express an opinion on the financial statements of Capitol Corridor JPA. Therefore, we did not audit and are not expressing an opinion on Capitol Corridor JPA's financial statements.

The audit of Capitol Corridor JPA's financial management system included interviews of Capitol Corridor JPA staff to obtain an understanding of Capitol Corridor JPA's financial management system. The audit comprised transaction testing of costs to evaluate compliance requirements stipulated in Capitol Corridor JPA'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 and significant estimates made by Capitol Corridor JPA, and evaluating the overall presentation of costs claimed.

## **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. Caltrans performs audits to ensure it is meeting its legal and fiduciary responsibilities and that state and federal funds are properly expended by local government agencies.

## **CONCLUSION**

Based on our audit, we determined Capitol Corridor JPA:

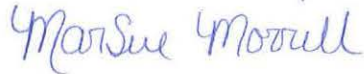
- Was reimbursed costs totaling \$30,443 that were not in compliance with respective agreement provisions and state and federal regulations.
- Did not procure professional services in accordance with state and federal regulations.

## **VIEWS OF RESPONSIBLE OFFICIALS**

Our findings and recommendations take in consideration Capitol Corridor JPA's response dated March 6, 2018 to our February 9, 2018 draft report. Our findings and recommendations, Capitol Corridor JPA's response, and our analysis of the response are set forth in the Findings and Recommendations of this report. A copy of Capitol Corridor JPA's full written response is included as Attachment II.

This report is intended as information for Caltrans management, California Transportation Commission, and Capitol Corridor JPA. The report is a matter for public record and will be placed on Caltrans' website, which can be viewed at <[www.dot.ca.gov/audits/INC.html](http://www.dot.ca.gov/audits/INC.html)>.

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



**MARSUE MORRILL, CPA**

**Chief**

**External Audits – Local Governments**

**Independent Office of Audits and Investigations**

**March 30, 2018**

## FINDINGS AND RECOMMENDATIONS

### FINDING 1 – Noncompliance with Agreement’s Requirements

Capitol Corridor Joint Powers Authority (Capitol Corridor JPA) did not adhere to the contractual requirements stipulated in the Interagency Transfer Agreement (Agreement) with the California Department of Transportation (Caltrans). As a result, we are disallowing \$30,443 (\$22,553 in marketing and \$7,890 in administration costs) of costs billed to Caltrans. Specifically, we noted the following issues:

- Capitol Corridor JPA entered into a contract via a Management Decision Document (MDD) with Corey, Canapary & Galanis (CCG) with an effective date of January 1, 2016. Capitol Corridor JPA billed Caltrans \$19,151 for work on the CCG contract that was performed in May 2015 and invoiced on December 2, 2015, prior to the effective start date of the contract. Capitol Corridor JPA did not safeguard assets and work performed did not have proper authorization, therefore, the billed costs are disallowed.

49 Code of Federal Regulations (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. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.”*

Public Contract Code 10346 states, *“Contracts may provide for ... costs incurred in the performance of the contract... No state agency shall make progress payments on a contract unless it first has established procedures, approved by the department, which will ensure that the work or services contracted are being delivered in accordance with the contract.”*

- Travel costs were billed to Caltrans at rates higher than the rates allowed per the Agreement. We found \$1,500 of administration costs and \$164 of marketing costs billed were in excess of the allowed travel reimbursement rates. Therefore, these costs are disallowed.

The Agreement states *“In no event shall project related transportation and subsistence costs of AUTHORITY (Capitol Corridor JPA) and its contractors and subcontractors exceed rates authorized to be paid to STATE employees under current STATE Department of Personnel Administration rules.”*

- Vehicle repairs and maintenance costs totaling \$2,242 were billed to Caltrans for vehicles owned by Bay Area Rapid Transit (BART). Capitol Corridor JPA was unable to provide any source documentation to support the need for the vehicles or usage to substantiate the costs applicability to Capitol Corridor JPA. Therefore, these costs are disallowed.

49 CFR 18.20 (b) (6) states in part, *“accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.”*

- Capitol Corridor JPA billed Caltrans \$7,386 in unallowable costs (\$3,238 of marketing and \$4,148 of administration costs). The costs consisted of meals for staff meetings and board meetings, meals while on non-travel status, a microwave and operations related costs and are disallowed.

2 CFR 225 A. 3. e. (3) states in part, “...Funds are used in compliance with all applicable Federal statutory and regulatory provisions, costs are reasonable and necessary for operating these programs...”

Capitol Corridor JPA staff thought all the above identified costs were allowable. By not properly identifying and billing only eligible costs, Capitol Corridor JPA could continue to over bill Caltrans.

## RECOMMENDATION

We recommend Capitol Corridor JPA:

- Reimburse Caltrans \$30,443 for the disallowed costs identified above.
- Establish procedures to ensure that costs for services and goods are within the contractual requirements.
- Ensure contract managers or those in similar positions are aware of contract terms, proper invoice review, and contract management practices.

## SUMMARY OF CAPITOL CORRIDOR JPA’S RESPONSE

Capitol Corridor JPA appealed for reconsideration of all costs disallowed in Finding 1 deeming them as valid and necessary costs. In addition, they stated the following:

- They agreed that the MDD with CCG was approved in January 2016 although they claim the MDD was prepared and routed in mid-2015 with a delay caused by Capitol Corridor JPA’s Legal and Risk Management Department. Capitol Corridor JPA states they benefitted from the service received. They will also ensure current and future MDDs are fully executed before actual contract work is done.
- Capitol Corridor JPA states that in 1999 they were informed by Caltrans to follow the Fund Transfer Agreement which referred to the OMB Circular which referred to federal [travel] reimbursement rates. Capitol Corridor JPA states their travel reimbursement procedure have been revised to be in compliance with the state’s travel reimbursement requirements.
- Per Capitol Corridor JPA, the Managing Agency allowed them to use one of their vehicles to conduct field inspections and install signs for free. Capitol Corridor JPA determined it was a more cost-effective option than having employees charge their own vehicle’s mileage. As a result, the maintenance and repair charges were necessary to keep the loaned vehicle running. Capitol Corridor JPA now leases their own vehicle and maintains log sheets to track the usage.
- Capitol Corridor JPA disagrees that the printing of recovery coupons is an operational related charge because their Operating Agreement with AMTRAK does not include such provisions. Capitol Corridor JPA’s policy is to provide coupons for service delays which they consider to be administrative/marketing costs. Relative to the other questioned costs, Capitol Corridor JPA provided meeting agendas and participant lists and stated their staff meetings often extend through lunch time. They also claimed the microwave was for staff use. According to Capitol Corridor



JPA they have revised their procedures in providing and billing for staff meals.

See Attachment II for Capitol Corridor JPA's complete response.

## **ANALYSIS OF CAPITOL CORRIDOR JPA'S RESPONSE**

The documentation and explanations in Capital Corridor JPA's response were provided and considered during our audit field work. As no additional support was provided it is still our conclusion that these costs are unallowable and our finding remains. We appreciate Capital Corridor JPA's decision to implement revised procedures. Any new procedures implemented subsequent to our fieldwork have not been audited.

## **FINDING 2 – Lack of Proper Procurement Practices**

Capitol Corridor JPA lacked procurement policies and procedures and did not maintain supporting documentation for the procurements of professional services work as required by the Agreement, and state and federal regulations. See Table I below for a summary of deficiencies noted. We found that Capitol Corridor JPA relied partly on BART's procurement policies and procedures when procuring contracts, but used them only as a guide rather than adopting them as Capitol Corridor JPA policies and procedures. In addition, Capitol Corridor JPA's staff stated that they could not provide most of the documentation to support the procurements because the information was retained in their Outlook email communication that had not been saved. Without documented procurement policies and procedures, Capitol Corridor JPA cannot support that they have selected the most qualified consultants at a fair and reasonable price.

See Attachment I for Deficiencies in Procurement Records.

## **RECOMMENDATION**

We recommend Capitol Corridor JPA:

- Establish and follow written procurement policies and procedures in conformance with state and federal requirements. Alternatively, Capitol Corridor JPA can fully adopt BART's procurement policies and procedures rather than use as a guide.
- Maintain all project and contract information in a centralized location outside of Outlook and retain the information in accordance to the contract record retention requirement.
- Train staff on proper procurement practices in compliance with state and federal rules and regulations and the Agreement's requirements and communicate the importance of retaining the records for future audit or review purposes.
- Take Caltrans, Division of Local Assistance online Procurement A&E Contracts training, at <http://www.dot.ca.gov/hq/LocalPrograms/AE/index.htm>.

## **SUMMARY OF CAPITOL CORRIDOR JPA'S RESPONSE**

Capitol Corridor JPA acknowledged that they did not retain hard copies outside of their Outlook email communication and stated that they were unaware of some of the procurement requirements. For the

independent cost estimate and price cost analysis, the Capitol Corridor JPA indicated that they follow Section VII of the MDD that allows for certification that costs have been analyzed and determined to be fair and reasonable. Capitol Corridor JPA also stated they have updated their procedures to ensure that all verification and documentation records identified as procurement deficiencies in Table 1 are maintained.

See Attachment II for Capitol Corridor JPA's complete response.

### **ANAYLSIS OF CAPITOL CORRIDOR JPA'S RESPONSE**

Capitol Corridor JPA's certification of independent cost estimate is done subsequent to receiving and opening the cost proposal. The independent cost estimate must be done prior to receiving and opening cost proposals so that Capitol Corridor JPA can assess the reasonableness of costs. In addition, there was no support for why Capitol Corridor JPA certified that the cost price analysis was reasonable. Based on the above our finding remains. We appreciate Capital Corridor JPA's decision to implement revised procedures. Any new procedures implemented subsequent to our fieldwork have not been audited.

### **FINDING 3 – Lack of Internal Control on Tracking Sponsorship Tickets Received**

Capitol Corridor JPA did not have a process in place to track the disposition of game tickets received as part of their sponsorship agreement with the Athletics Investment Group LLC (d.b.a The Oakland Athletics). Per the agreement, the sponsor was to receive 154 tickets and two field visits to various Oakland Athletics games for marketing. Capitol Corridor JPA distributed some of the tickets but were unable to provide any record showing who received the tickets, and if or how they were given to benefit marketing. If 'giveaways' received through sponsorship agreements are not properly tracked, Capitol Corridor JPA cannot support that the 'giveaways' are used for the intended purpose.

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. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.*"

### **RECOMMENDATION**

We recommend Capitol Corridor JPA implement a process to track the distribution of any marketing giveaways to support who they are given to and the purpose.

### **SUMMARY OF CAPITOL CORRIDOR JPA'S RESPONSE**

Capitol Corridor JPA requested the finding title to be revised. Capitol Corridor JPA stated that they have established a log that details the tickets, number of tickets, date, and recipient for such sponsorship agreements.

See Attachment II for Capitol Corridor JPA's complete response.

**ANALYSIS OF CAPITOL CORRIDOR JPA'S RESPONSE**

The finding title was revised. We appreciate Capital Corridor JPA's decision to implement revised procedures. Any new procedures implemented subsequent to our fieldwork have not been audited.

# ATTACHMENT I

## Deficiencies in Procurement Records

Requirement	Conifer Creative	ADC Partners	HDR Engineering
<p>Documentation to support all proposals were received before the deadline, e.g. date/time stamped or logged to support date/time of receipt.  <i>49 CFR 18.36 (b) (9) states "Grantees and subgrantees will maintain records sufficient to detail the significant history of a 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."</i></p>	No	No	No
<p>Independent cost estimate prepared prior to acceptance of proposals.  <i>49 CFR 18.36 (f) states "...grantees must make independent estimates before receiving bids or proposals..."</i></p>	No	No	No
<p>Evidence of proposed price/cost being analyzed.  <i>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."</i></p>	No	No	No
<p>Evidence of proposed profit being negotiated.  <i>49 CFR 18.36 (f) (2) states "Grantees and subgrantees will 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."</i></p>	No	No	No
<p>Evaluation scoresheets used to score proposals received were retained.  <i>49 CFR 18.36 (b) (9) see above for language.</i></p>	No	Yes	Yes
<p>Verification that winning bidder was not suspended or debarred.  <i>49 CFR 18.35 states "Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."</i></p>	No	No	No



Attachment I, Continued

Requirement	Conifer Creative	ADC Partners	HDR Engineering
<p>Request for proposal lacked a statement that a second round of evaluations would be conducted between the top three firms to determine the final selection.  <i>49 CFR 18.36 (c) (3) (ii) states "Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals."</i></p>	No	Yes	Yes
<p>Evaluation scoresheets were not dated to so it could not be determined when the evaluations were performed.  <i>49 CFR 18.36 (b) (9) states "Grantees and subgrantees will maintain records sufficient to detail the significant history of a 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."</i></p>	No	Yes	Yes
<p>Executed contracts included a performance start date that was before the date the same contracts were executed.  <i>49 CFR 18.36 (b) (2) "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"</i>            (Since audit sample did not include testing of any costs billed prior to the above contract execution dates we are not disallowing costs.)</p>	No	No	Yes
<p>Procurement lacked justification to support source  <i>49 CFR Part 18.36 (d) (4) (i) states, "Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies: (A) The item is available only from a single source; (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; (C) The awarding agency authorizes noncompetitive proposals; or (D) After solicitation of a number of sources, competition is determined inadequate."</i></p>	Yes	No	Yes



## **ATTACHMENT II**

### **Audit Response from the Capitol Corridor Joint Powers Authority**

The Capitol Corridor Joint Powers Authority submitted their response embedded in our draft report which is included on the following pages.

## FINDINGS AND RECOMMENDATIONS

### FINDING 1 – Noncompliance with ITA’s Requirements

The Capitol Corridor Joint Powers Authority (Capitol Corridor JPA) did not adhere to the contractual requirements stipulated in the Interagency Transfer Agreement (ITA) with the California Department of Transportation (Caltrans). As a result, we are disallowing \$30,443 (\$22,553 in marketing and \$7,890 in administration costs) of costs billed to Caltrans. Specifically, we noted the following issues:

- Capitol Corridor JPA entered into a contract via a Management Decision Document with Corey, Canapary & Galanis (CCG) with an effective date of January 1, 2016. Capitol Corridor JPA did not maintain internal controls, and billed Caltrans \$19,151 for work on the CCG contract that was performed in May 2015 and invoiced on December 2, 2015, prior to the effective start date of the contract. Therefore, the costs are disallowed.

49 Code of Federal Regulations (CFR) 18.20 (b) (3) states in part, *“Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets...”*

- Travel costs were billed to Caltrans at rates higher than the rates allowed per the ITA. We found \$1,500 of administration costs and \$164 of marketing costs billed were in excess of the allowed travel reimbursement rates. Therefore, these costs are disallowed.

The ITA states *“In no event shall project related transportation and subsistence costs of AUTHORITY (Capitol Corridor JPA) and its contractors and subcontractors exceed rates authorized to be paid to STATE employees under current STATE Department of Personnel Administration rules.”*

- Vehicle repairs and maintenance costs totaling \$2,242 were billed to Caltrans for vehicles owned by Bay Area Rapid Transit (BART). Capitol Corridor JPA was unable to provide any source documentation to support the need for the vehicles or usage to substantiate the costs applicability to Capitol Corridor JPA. Therefore, these costs are disallowed.

49 CFR 18.20 (b) (6) states in part, *“accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.”*

- Various unallowable costs totaling \$7,386 were billed to Caltrans. The costs consisted of meals for staff meetings and board meetings, meals while on non-travel status, a microwave and operations related costs. The disallowed costs consist of \$3,238 in marketing costs and \$4,148 in administration costs.

## ATTACHMENT II *Continued*

2 CFR 225 A. 3. e. (3) states in part, “...*Funds are used in compliance with all applicable Federal statutory and regulatory provisions, costs are reasonable and necessary for operating these programs...*”

Capitol Corridor JPA staff thought the costs were allowable. By not properly identifying and billing only eligible costs, Capitol Corridor JPA could continue to over bill Caltrans.

### **RECOMMENDATION**

We recommend Capitol Corridor JPA:

- Reimburse Caltrans \$30,443 for the disallowed costs identified above.
- Establish procedures to ensure that costs for services and goods are within the contractual requirements.
- Ensure contract managers or those in similar positions are aware of contract terms, proper invoice review, and contract management practices.

### **SUMMARY OF CAPITOL CORRIDOR JPA’S RESPONSE**

1. The Management Decision Document (MDD) with Corey, Canapary and Galanis (CCG) was prepared and routed mid 2015. Due to the delays with review and approval with Legal and Risk Management Departments, approval was signed January 2016.

- CCG was contracted to do a survey for 2015 and we have provided the auditors the 88 page summary report titled Capitol Corridor 2015 Rider Study. The delivered report has provided benefit to CCJPA in terms of capturing information on Capitol Corridor customer, including usage, demographics and overall satisfaction with greater focus on rider characteristics. This is a legitimate incurred expense with substantial benefit to addressing ridership issues of CCJPA and is part of the 2015 Business Plan as approved by the State.

We are appealing for reconsideration of the \$19,151 payment to CCG as this study was necessary and project deliverable has clearly provided benefit to CCJPA.

CCJPA will ensure current and future MDDs be fully executed before actual contract work is done.

2. In a meeting held in 1999, Caltrans informed CCJPA management that CCJPA was to follow the Fund Transfer Agreement which referred to the OMB Circular for cost reimbursement rates. Consistent with this instruction and since CCJPA’s dedicated staff are all BART employees, CCJPA adopted BART’s Management Procedure 20 – Reporting and Reimbursement of Employee Expenses, which follows federal guidelines in reimbursing travel related expenses.. In addition, BART’s lodging reimbursement procedure as documented in the Collective Bargaining Agreement (CBA) states: “*When assigned outside the District in excess of twenty four (24) hours, employees of the District may, in lieu of receiving reimbursement for actual costs of travel, elect to receive actual receipted cost of lodging, plus an allowance established by the District’s Management Procedure No. 20, Section II, Travel Outside the District as reimbursement of all other travel costs.*”



## ATTACHMENT II *Continued*

We are appealing for reconsideration of \$1,500 and \$164 of Administrative and Marketing expenses respectively as these were valid and necessary expenses to discharge administrative functions of CCJPA.

Going forward, notwithstanding what Caltrans instructed CCJPA to follow back in 1999 and the Managing Agency's reimbursement procedures, we have since revised our procedure in billing Administrative and Marketing related travel expenses to Caltrans to comply with State reimbursement limits.

3. CCJPA personnel regularly conduct field inspections to ensure oversight and contract compliance of vendors and partners. Additionally, CCJPA staff deliver and install signs to stations that would require travel along the 170-mile corridor and 16 stations. These activities are not covered in our Operating Agreement with Amtrak and are part of CCJPA's responsibilities to oversee and manage the service. The Managing Agency has for years, allowed free use of a used 1996 Jeep Cherokee. To keep the vehicle running, \$2,242 was paid for mechanical service. The vehicle was used instead of the employee charging for mileage, which CCJPA estimates would be a less cost-effective approach compared to using the dedicated vehicle. The vehicle user logs the destination on a day calendar but was unfortunately eventually discarded. Payment for vehicle mechanical repair is a necessary and reasonable expense that clearly benefited CCJPA.

We are appealing for reconsideration of \$2,242 disallowance as this was a valid and necessary expense to discharge CCJPA's Administrative functions. CCJPA has since leased a vehicle for \$584 per month since the 1996 Jeep Cherokee broke down and reached the end of its useful life. A log sheet is now maintained to track usage.

4. Disallowed cost of \$3,238 was for the printing service of 50,000 copies of recovery coupon which technically works as a compensation for service delay. Per CCJPA's Service Recovery policy, these coupons are provided to passengers when the trip is delayed by at least 30 minutes, and allows discounted purchase of on-board food/beverages. CCJPA's Operating Agreement with AMTRAK does not include provision for printing services and expenses of similar nature, these are accounted for as part of Administrative/Marketing expenses reimbursed by the State. As this is a CCJPA program/policy, and Amtrak does not produce its own mechanism for offering this discount, therefore CCJPA must produce materials for Amtrak personnel to hand out to passengers.

We are appealing for reconsideration of \$3,237.92 printing service charge because this is clearly within the scope of Administrative/Marketing functions of CCJPA.

The remaining \$4,012 of disallowed expense relate to Staff meeting expenses and \$136 for the purchase of a microwave for use of CCJPA staff. Meeting Agenda and participants list were provided, these meetings often extend through lunch time. Microwave is a staple office appliance located at the pantry for CCJPA staff use. We are appealing for reconsideration of the \$4,148 disallowance.

We have since revised our procedure in providing and billing staff meals.



**FINDING 2 – Lack of Proper Procurement Practices**

Capitol Corridor JPA lacked procurement policies and procedures and did not maintain supporting documentation for the procurements of professional services work as required by the ITA, and state and federal regulations. See Table I below for a summary of deficiencies noted. We found that Capitol Corridor JPA relied partly on BART’s procurement policies and procedures when procuring contracts, and used them only them as a guide rather than adopting them as Capitol Corridor JPA policies and procedures. In addition, Capitol Corridor JPA’s staff stated that they could not provide most of the documentation to support the procurements because the information was retained in their Outlook email communication that had not been saved. Without documented procurement policies and procedures, Capitol Corridor JPA cannot support that they have selected the most qualified consultants at a fair and reasonable price.

**Table I**  
Deficiencies in Procurement Records

Requirement	Conifer Creative	ADC Partners	HDR Engineering
<p>Documentation to support all proposals were received before the deadline, e.g. date/time stamped or logged to support date/time of receipt.  <i>49 CFR 18.36 (b) (9) states “Grantees and subgrantees will maintain records sufficient to detail the significant history of a 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.”</i></p> <p>CCJPA has since updated its procedures to retain hardcopies of email submissions with a date.</p>	<p>No</p> <p>Electronic proposals received by deadline. Records lost due to email switch to Outlook. Hardcopies not retained.</p>	<p>No</p> <p>Electronic proposals received by deadline. Records lost due to email switch to Outlook. Hardcopies not retained.</p>	<p>No</p> <p>Physical proposals were hand-delivered by deadline, but not date-stamped.</p>
<p>Independent cost estimate prepared prior to acceptance of proposals.  <i>49 CFR 18.36 (f) states “...grantees must make independent estimates before receiving bids or proposals...”</i></p> <p>CCJPA’s Management Decision Document (MDD) Section VII allows for Sponsoring Department to certify “that costs have been analyzed and determined to be fair and reasonable” based on four different criteria.</p> <p>Evidence of proposed price/cost being analyzed.  <i>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.”</i></p> <p>CCJPA’s Management Decision Document (MDD) Section VII allows for Sponsoring Department to certify “that costs have been analyzed and determined to be fair and reasonable” based on four different criteria.</p>	<p>No</p> <p>No</p>	<p>No</p> <p>No</p>	<p>No</p> <p>No</p>



**ATTACHMENT II *Continued***

<p>Evidence of proposed profit being negotiated. 49 CFR 18.36 (f) (2) states "<i>Grantees and subgrantees will 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.</i>"</p>	No	No	No
<p><b>CCJPA was unaware of this requirement.</b> Evaluation scoresheets used to score proposals received were retained. 49 CFR 18.36 (b) (9) see above for language.</p>	No	Yes	Yes
<p><b>CCJPA has since updated its procedures to retain hardcopies of dated scoresheets.</b> Verification that winning bidder was not suspended or debarred.</p>	No	No	No
<p>49 CFR 18.35 states "<i>Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."</i></p>	No	No	No
<p><b>CCJPA was unaware of this requirement, but has since updated its procedures to include this verification process.</b> Verification of scoring panel member's independence. 49 CFR 18.36 (b)(3) states, in part, "<i>Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in the selection, or in the award or administration of a contract...if a conflict of interest...would be involved...</i>"</p>	No	No	No
<p><b>Scoring panel members were all independent, but verification was not obtained.</b></p>	No	No	No
<p><b>CCJPA has since updated its procedures and scoresheets to ensure this verification and signature of the scoring panel member.</b></p>	No	No	No
<p>Request for proposal lacked a statement that a second round of evaluations would be conducted between the top three firms to determine the final selection. 49 CFR 18.36 (c) (3) (ii) states "<i>Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.</i>"</p>	No	Yes	Yes
<p><b>CCJPA has since updated its procedures to ensure this is included.</b> Evaluation scoresheets were not dated to so it could not be determined when the evaluations were performed. 49 CFR 18.36 (b) (9) states "<i>Grantees and subgrantees will maintain records sufficient to detail the significant history of a 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.</i>"</p>	No	Yes	Yes

**ATTACHMENT II *Continued***

<p>Executed contracts included a performance start date that was before the date the same contracts were executed.  <i>49 CFR 18.36 (b) (2) "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"</i>                  (Since audit sample did not include testing of any costs billed prior to the above contract execution dates we are not disallowing costs.</p>	<p align="center">No</p> <p align="center"><b>Contract papers were significantly delayed for signature by legal and Risk Management departments</b></p>	<p align="center">No</p> <p align="center"><b>Contract papers were significantly delayed for signature by legal and Risk Management departments</b></p>	<p align="center">Yes</p>
<p>Procurement lacked justification to support source  <i>49 CFR Part 18.36 (d) (4) (i) states, "Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies: (A) The item is available only from a single source; (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; (C) The awarding agency authorizes noncompetitive proposals; or (D) After solicitation of a number of sources, competition is determined inadequate."</i></p>	<p align="center">Yes</p>	<p align="center">No</p> <p align="center"><b>(D) No other proposals were received.</b></p>	<p align="center">Yes</p>

**RECOMMENDATION**

We recommend Capitol Corridor JPA:

- Establish and follow written procurement policies and procedures in conformance with state and federal requirements. Alternatively, Capitol Corridor JPA can fully adopt BART's procurement policies and procedures rather than use as a guide.
- Maintain all project and contract information in a centralized location outside of Outlook and retain the information in accordance to the contract record retention requirement.
- Train staff on proper procurement practices in compliance with state and federal rules and regulations and the ITA's requirements and communicate the importance of retaining the records for future audit or review purposes.
- Take Caltrans, Division of Local Assistance online Procurement A&E Contracts training, at <http://www.dot.ca.gov/hq/LocalPrograms/AE/index.htm>.

**FINDING 3 – Lack of Internal Controls**

Capitol Corridor JPA did not have a process in place to track the disposition of game tickets received as part of their sponsorship agreement with the Athletics Investment Group LLC (d.b.a The Oakland Athletics). Per the agreement, the sponsor was to receive 154 tickets and two field visits to various Oakland Athletics games for marketing. Capitol Corridor JPA was unable to provide any record showing who received tickets and if or how they were given to benefit marketing. If 'giveaways' received through sponsorship agreements are not properly tracked, Capitol Corridor JPA cannot support that the 'giveaways' are used for the intended purpose.

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. Grantees and subgrantees must*



## ATTACHMENT II *Continued*

*adequately safeguard all such property and must assure that it is used solely for authorized purposes.”*

### **RECOMMENDATION**

We recommend Capitol Corridor JPA implement a process to track the distribution of any marketing giveaways to support who they are given to and the purpose.

### **SUMMARY OF CAPITOL CORRIDOR JPA'S RESPONSE**

Please be specific on the header of Finding #3 to reflect “Lack of Internal Control on tracking sponsorship tickets received.” The term Internal Control encompasses a broad array of areas and leaving it as is could be misleading.

CCJPA staff kept game tickets associated with this sponsorship agreement in a locked cabinet in a locked office. The CCJPA staff person who oversaw the sponsorship agreement was responsible for disposition of the game tickets, and for ensuring that terms of the agreement were fulfilled with regard to ticket ‘giveaways.’ We do not dispute that close records of who received tickets were not maintained, however, tickets were kept in a secure place and were distributed in accordance with the sponsorship agreement. CCJPA has now established a log that details the tickets, number of tickets, date, and recipient for such sponsorship agreements.