

# Chemehuevi Transit Authority Pre-award Audit Report



Audit Report

April 2019

# PREPARED BY:

California Department of Transportation  
Independent Office of Audits and Investigations – MS 2  
Post Office Box 942874 Sacramento, California 94274-0001  
<http://www.ig.dot.ca.gov>

## AUDIT TEAM

MarSue Morrill, Chief, Planning and Modal Office  
Luisa Ruvalcaba, Audit Manager  
Yung Jo Ryoo, Auditor-in-Charge  
Gerald Lee, Auditor

P1560-0029

*“Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California’s economy and livability”*

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# SUMMARY, SCOPE, METHODOLOGY, AND CONCLUSION

## SUMMARY

The Independent Office of Audits and Investigations (IOAI), California Department of Transportation (Caltrans), audited the financial management system (FMS) of the Chemehuevi Indian Tribe (Tribe), a federally recognized Indian Tribe and the governing body of Chemehuevi Transit Authority. We found the Tribe's accounting system does accumulate and segregate costs, however, the Tribe distributes staffs' salary costs based on budget, not on actual activities. Further, we found the procurement procedures did not contain adequate supporting detail, and a construction contract was tested and found not to have been procured in accordance to federal procurement standards.

## SCOPE

The scope of the audit was limited to reviewing and testing the Tribe's FMS, which includes procurement and contract management. We tested the FMS internal controls. Specifically, we evaluated the ability of the Tribe's accounting system to determine if it could accumulate and segregate reasonable and allowable costs that can be allocated to projects. We also tested the Tribe's contract procurement practices. The audit consisted of inquiries of Tribe personnel to obtain an understanding of the Tribe's FMS and to evaluate compliance with Title 2 Code of Federal Regulations Part 200. The audit was limited to financial and compliance activities. Our field work was completed on March 18, 2019. Changes to the FMS subsequent to March 18, 2019, were not tested and, accordingly, our conclusion does not pertain to changes arising after this date.

The Tribe is responsible for the design and maintenance of their FMS. Because of inherent limitations in any system, misstatements due to error or fraud may occur and not be detected. Also, projections of any evaluation of the FMS and the procurement process to future periods are subject to the risk that the FMS 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 and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of the Tribe. Therefore, we did not audit and are not expressing an opinion on the Tribe's financial statements.

## CONCLUSION

Based on our audit, we determined the Tribe's accounting system does accumulate, segregate, and allocate reasonable and allowable project costs, however, we found the following deficiencies:

- Salary costs are distributed to the projects based on budget instead of actual activities.
- Procurement procedures lacked detail to assist the Tribe staff to procure consultant contracts in compliance with Caltrans, state, and federal requirements.
- A construction contract was tested and found not to have been procured in accordance to federal procurement standards.

## **VIEWS OF RESPONSIBLE OFFICIALS**

Our findings and recommendations take into account the Tribe's response dated April 2, 2019, to our March 28, 2019, draft report. Our findings and recommendations, the Tribe's response, and our analysis of the response are set forth in the Findings and Recommendations section of this report. The report is a matter of public record and will be placed on IAOL's webpage, which can be viewed at [ig.dot.ca.gov](http://ig.dot.ca.gov).

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

## FINDINGS AND RECOMMENDATIONS

### FINDING 1 – Deficiency in Salary Costs Distribution

During the review of the Chemehuevi Indian Tribe's (Tribe) payroll process, it was noted that salary costs are distributed to projects based on the budget instead of the actual activities staff worked on. Salary costs based on budget instead of actual activities are unallowable when charged to federal awards.

2 CFR 200.430.(i) (1) states that "*Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed.*"

2 CFR 200.430.(i) (1) (viii) states in part, "*Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards.*"

Caltrans' Master Agreement for Federal-Aid Projects, Article VI. 7 states that "*Payment to administering agency can only be released by State as reimbursement of actual allowable project costs already incurred and paid for by administering agency.*"

The Tribe's staff utilize timesheets that do not specify project hours. By not billing actual costs, the Tribe may be reimbursed by Caltrans for unallowable costs.

### RECOMMENDATION

We recommend that if the Tribe intends to claim staff labor costs for work on the project, the Tribe must implement a time reporting process to the project level and charge labor costs on timesheets based on staffs' actual activities.

### SUMMARY OF AUDITEE'S RESPONSE

The Tribe responded that they accept the recommendation and will develop and use a journal style time accounting method for Executive and Staff Management Personnel overseeing projects. Certified payrolls are already required for Contractors performing contracted work activities.

### FINDING 2 – Deficiency in Consultant Procurement Procedures

In reviewing the Tribe's consultant procurement procedures, Purchasing Control, it was noted that the procedures did not contain adequate detail to allow the staff to procure consultant contracts in accordance with state and federal requirements. Specifically, we noted the following deficiencies in procurement procedures:

- Are not stated in a manner ensuring full and open competition.
- Do not provide methods of procurements to be followed.
- Lack the necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are utilized when possible.
- Do not include requirements for cost and price analysis and price negotiations.

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."

2 CFR 200.320 states in part, "Non-Federal entity must use one of the following methods of procurement. "(a) Procurement by micro-purchase....(b) Procurement by small purchase procedures...(c) Procurement by sealed bids....(d) Procurement by competitive proposals....(f) Procurement by noncompetitive proposals...."

15 CFR 24.36. (d) states, "The methods of procurements to be followed. "(1) Procurement by small purchase procedures...(2) Procurement by sealed bids....(3) Procurement by competitive proposals....(4) Procurement by noncompetitive proposals..."

2 CFR 200.321.(a) states, "Non-federal entity (or grantee and subgrantee) must (or will) take all necessary affirmative steps to assure that minority business (or firms), women's business enterprises, and labor surplus area firms are used when possible."

2 CFR 200.323 (a) states in part, "Non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications."

The Purchasing Control was not developed to conform to the applicable federal law and used obsolete standards such as Office of Management and Budget A-87 Cost Principles for State, Local, and Indian Tribal Governments. Without adequate and current procurement procedures, the Tribe cannot ensure fair and open competition and that costs obtained are fair and reasonable.

## **RECOMMENDATION**

We recommend the Tribe adopt the California Department of Transportation's (Caltrans) Local Assistance Procedures Manual (LAPM) Chapter 10. In addition, we recommend the Tribe take Caltrans, Division of Local Assistance's (DLA) Procurement A&E Contracts training.

## **SUMMARY OF AUDITEE'S RESPONSE**

The Tribe responded that any project under Caltrans oversight will be treated in accordance with the appropriate regulations and reporting requirements as promulgated in the LAPM as well as Federal CFRs. The training opportunity offered to the Tribe will be coordinated through DLA for cognizant Tribal Managers.

## **FINDING 3 – Deficiency in Construction Procurement Transaction**

Non-compliance to federal procurement standards was found during testing of one of the Tribe's construction contracts entered into with Technology Construction Inc. (funded by the U.S. Department of Commerce Economic Development Administration). Specifically, we noted the following deficiencies:

- The Invitation for Bid (IFB) was not advertised.
- The Tribe did not maintain sufficient records to demonstrate that the contract was awarded to the lowest bidder.
- The Tribe did not document the result of the winning bidder's suspension/debarment information.

2 CFR 200. 320.(c) (2) (i) states, “Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised.”

2 CFR 200. 318. (i) states, “Non-Federal entity (or grantees and subgrantees) must (or will) maintain records sufficient to detail the history of 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.”

15 CFR 24.36(d)(2)(ii)(D) states in part, “A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder.”

2 CFR 200. 213 states in part, “These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.”

The Tribe did not fully understand the federal law and government procurement standards that are to be followed when procuring government construction contracts. By not following the required construction contract procedures, the Tribe may bill Caltrans for unallowable costs.

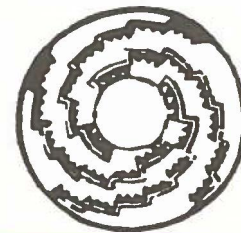
## **RECOMMENDATION**

We recommend the Tribe ensure procurement procedures are in place to comply with Caltrans, state, and federal procurement requirements and train staff accordingly for Caltrans funded projects.

## **SUMMARY OF AUDITEE’S RESPONSE**

The Tribe responded that they accept the recommendation.





## *Chemehuevi Indian Tribe*

P. O. Box 1976 HAVASU LAKE, CA 92363 • (760) 858-4219 FAX: (760) 858-5400

April 2, 2019

California Department of Transportation  
Independent Office of Audits and Investigations – MS 2  
Post Office Box 942874  
Sacramento, CA 94274-0001

Attention: Ms. Luisa Ruvalcaba

Subject: Audit Report Response from Chemehuevi Indian Tribe

Reference: California Department of Transportation (Caltrans) Pre-award Audit Report (Draft) of the Chemehuevi Transit Authority dated March 2019.

Dear Ms. Ruvalcaba:

This letter is in response to the draft Pre-award Audit Report reviewed on March 28, 2019 via a phone conversation between the Caltrans Independent Office of Audits and Investigations (IOAI) and the Executive and Administrative Staff of the Chemehuevi Indian Tribe. The following response is to specifically address three findings and recommendations presented by the IOAI in regards to any project undertaken by the Chemehuevi Transit Authority with oversight by Caltrans.

**Finding #1:** Salary Costs are distributed to the projects based on budget instead of actual Activities.

**Recommendation:** If Tribe intends to claim labor costs for work on the project, the Tribe must implement a time reporting process to the project level and charge labor costs on timesheets based on staff's actual activities.

**Tribal Comment:** Recommendation accepted. The Tribe will develop and use a journal style time accounting method for Executive and Staff Management. Personnel overseeing projects. Certified payrolls are already required for Contractors performing contracted work activities.

**Finding #2:** Consultant Procurement Procedures did not contain adequate detail to allow the staff to procure consultant contracts in accordance with state and federal requirements. Purchasing Control was not developed to reflect the applicable federal law and used obsolete standards.

**Recommendation:** That the Tribe adopt the Caltrans Division of Local Assistance (DLA) Local Assistance Procedures Manual, (LAPM) Chapter 10 Consultant Selection, as consultant procurement guidance. Further that the Tribe take Caltrans, DLA Procurement A&E Contracts training.

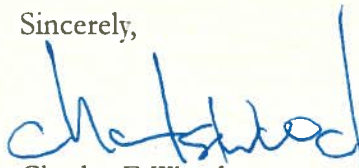
**Tribal Comment:** With regards to our Tribal Procurement Manual, a review of pertinent sections showed some obsolete references which will be corrected immediately to conform to current standards within the Federal CFR requirements. Review of the Caltrans LAPM provided additional information and procedural guidance which will be incorporated where appropriate. It should be noted that the Tribe has many years of experience with Federal Agencies including FHWA and FTA. It has been our experience that while CFR requirements are spelled out for contracting, the various agencies are prone to customize the procedures to better fit their own requirements. This often results in differing forms, reporting procedures and administrative requirements. Nevertheless, any project under Caltrans oversight will be treated in accordance with the appropriate regulations and reporting requirements as promulgated in the LAPM as well as Federal CFRs. The training opportunity offered to the Tribe will be coordinated through DLA for cognizant Tribal Managers.

**Finding #3:** Deficiency in Construction Procurement Transaction was found during testing of one of the Tribe's contracts. The Tribe did not maintain sufficient records to demonstrate the contract was awarded to lowest bidder.

**Recommendation:** We recommend the Tribe ensure procurement procedures are in place to comply with Caltrans, state and federal procurement requirements, and train staff accordingly for Caltrans funded projects.

**Tribal Comment:** Recommendation accepted.

Sincerely,



Charles F. Wood

Chairman, Chemehuevi Indian Tribe