

## Memorandum



November 10, 2020

JEANIE WARD-WALLER  
DEPUTY DIRECTOR  
Planning and Modal Programs  
California Department of Transportation

Dear Ms. Ward-Waller:

The Independent Office of Audits and Investigations (IOAI) performed an incurred cost audit of the City of Montebello (City) of three projects with costs totaling \$1,122,317 reimbursed by the California Department of Transportation (Caltrans). The audit was performed to determine whether project costs claimed by the City were allowable, and adequately supported in accordance with respective Caltrans agreement provisions and state and federal regulations. The final audit report, including the City's response, is enclosed.

Based on our audit we determined that project costs totaling \$479,139 were not in compliance with Caltrans agreement provisions and state and federal regulations. In addition, we identified deficiencies with City's procurement and project management structure included a potential conflict of interest that involved a City consultant.

Please provide our office with a corrective action plan addressing the recommendations in the enclosed report, including timelines, by January 29, 2021.

Ms. Jeanie Ward-Waller  
November 10, 2020  
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If you have any questions contact MarSue Morrill, Audit Chief, at  
marsue.morrill@dot.ca.gov.

Sincerely,

RHONDA L. CRAFT  
INSPECTOR GENERAL

Enclosures  
Final Audit Report

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P1560-0025



# City of Montebello

## Interim Incurred Cost Audit

AUDIT REPORT  
P1560-0025  
NOVEMBER 2020



**PREPARED BY:**

Independent Office of Audits and Investigations – MS 2

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- A. Summary of Disallowed Costs
- B. Summary of Consultant Procurement Deficiencies and Related Regulations
- C. Summary of City Procurement Guidelines & Policy Deficiencies
- D. The City of Montebello's Response to the Draft Report

## SUMMARY, OBJECTIVES, SCOPE, METHODOLOGY

### SUMMARY

The Independent Office of Audits and Investigations (IOAI) performed an interim incurred cost audit of the City of Montebello, Department of Public Works (City) on three projects with costs totaling \$1,122,317 reimbursed by the California Department of Transportation (Caltrans).

We determined that reimbursed costs totaling \$479,139 were not supported and/or were not in compliance with respective Caltrans agreement provisions, and state and federal regulations. See Attachment A for a summary of disallowed costs. Additionally, we identified deficiencies with the City's procurement and project management. Specifically, the City's project management structure at the time the project costs were incurred included a potential conflict of interest that involved a City consultant.

### OBJECTIVES

We performed the audit to determine whether the project costs claimed and reimbursed were allowable, adequately supported, and in compliance with respective Caltrans agreement provisions and state and federal regulations.

### SCOPE

The audit scope included costs claimed and reimbursed during the period May 1, 2016 and December 31, 2018 on the projects listed below. We also tested a March 2015 procurement for costs billed during our audit period.

Project Number	Project Description	Project costs
HSIPL-5247(020)	Upgrade Traffic Signal at Montebello Way from Mines Avenue to Olympic Boulevard	\$405,247
STPL-5247(023)	Road Rehabilitation at Washington Boulevard from East City Limit to West City Limit	\$666,554
HSIPL- 5247(024)	Preliminary Engineering for Upgrading Traffic Signal Hardware and Operation at Three Locations at Via Campo and Garfield Ave.	\$50,516
-	Total cost:	\$1,122,317

The audit was limited to financial and compliance activities. The audit was less in scope than an audit performed for expressing an opinion on the City's financial statements.

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

The City is responsible for the claimed costs and compliance with applicable Caltrans agreement provisions and state and federal regulations. In addition, the City is responsible for the adequacy of their financial management system. Considering the inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected.

## **METHODOLOGY**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit included interviews of City staff necessary to obtain an understanding of the City's financial management system which includes grant, labor, procurement, contract, and construction management. Additionally, we reviewed the City's financial records, reports, and transactions of reimbursed project costs for compliance with applicable state and federal regulations; and requirements stipulated in the Caltrans agreement provisions. Field work was completed on

July 17, 2019, and transactions after this date were not tested and, accordingly, our conclusion does not pertain to costs or credits arising after this date.

## **VIEWS OF RESPONSIBLE OFFICIALS**

Our findings and recommendations take into account the City's response dated October 27, 2020 to our September 18, 2020, draft report. Our findings and recommendations, the City's response, and our analysis of the response are set forth in the Findings and Recommendations section of this report. A copy of the City's full written response is included as Attachment D.

The report is a matter of public record and will be placed on IAOI's webpage, which can be viewed at <<http://ig.dot.ca.gov>>.

If you have questions, please contact MarSue Morrill, Audit Chief, at (916) 202-7626, or at [marsue.morrill@dot.ca.gov](mailto:marsue.morrill@dot.ca.gov).

## **Findings and Recommendations**

### **CONCLUSION**

The Independent Office of Audits and Investigations (IOAI) performed an interim incurred cost audit of the City of Montebello, Department of Public Works (City) on three projects with costs totaling \$1,122,317 reimbursed by the California Department of Transportation (Caltrans).

We determined that reimbursed costs totaling \$479,139 were not supported and/or were not in compliance with respective Caltrans agreement provisions, and state and federal regulations. See Attachment A for a summary of disallowed costs.

Additionally, we identified deficiencies with the City's procurement and project management. Specifically, the City's project management structure includes a potential conflict of interest that involves a City consultant.

### **FINDING 1 – Deficiencies with A&E Procurement and Potential Conflict of Interest**

The City was not in compliance with state and federal regulations during the procurement of the A&E consulting firm, Advanced Applied Engineering, Inc, doing business as Infrastructure Engineers. In addition, we identified a potential conflict of interest related to the contract with Infrastructure Engineers.

In March 2015, the City contracted with Infrastructure Engineers to act as their City Engineer. As the City Engineer, Infrastructure Engineers performed engineering services including public works engineering management services; city engineering services; traffic engineering services; public works inspection services; development engineering services and capital improvement program and grant management services. The scope of work also included the option of on-demand project specific professional services including, preparation of plans, specifications and estimates (PS&E) and related services. Specific procurement and contracting deficiencies are outlined below.

#### **Procurement**

The City used price as an evaluation factor when procuring the A&E services which is not allowed by California Government Code 4526 and 23 Code of Federal Regulations (CFR) 172.7 (a) (1) (iii) (B). In addition, the City did not evaluate proposals received based on the evaluation criteria stated in the Request for Proposals (RFP) as required by 23 CFR 172 (a) (1) (iv). As a result, costs totaling \$77,075 reimbursed to the City for Infrastructure Engineers are disallowed.



### **Deficiencies with Issuing On-Demand Project Specific Work**

The City's on-demand project specific work was not in compliance with the City's contract or state and federal regulations. The contract stated that the City can issue RFP at any time for the preparation of Plans Specifications & Estimates and other related services necessary to carry out any project in the City's Capital Improvement Program. However, instead of issuing a project specific RFP as required by 23 CFR 172, the City used a Request for Services. The Request for Services was general in scope and did not contain the detail required by 23 CFR 172. In addition, the City's contract required proposals to include a listing of standard hourly rates for services by type of personnel and/or services. The Request for Services did not contain this information. We also found that the method of payment for the Request for Services was based on percentage of total estimated construction cost, an unallowable method.

23 CFR 172.7 (i) "...Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under a RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications."

23 CFR 172 requires that an RFP provide a clear, accurate and detailed description of the scope of work, technical requirements . . . for the services to be rendered; the submission of a cost proposal; the preparation of an independent cost estimate by the City; and negotiations.

23 CFR §172.9 Contracts and administration. "(b) Payment methods. (1) The method of payment to the consultant shall be set forth in the original solicitation, contract, and in any contract modification thereto. The methods of payment shall be: Lump sum, cost plus fixed fee, cost per unit of work, or specific rates of compensation."

The City stated they had been working with Infrastructures Engineers for many years and the contract administrator followed the City's past practices without knowing the actual state, federal and contract requirements.

For a list of additional procurement deficiencies and related regulations see Attachment B.

### **Potential Conflict of Interest**

A potential conflict of interest occurred due to the contracting arrangements the City had with Infrastructure Engineers. Under the March 2015 contract, the City entered into various Requests for Services for Infrastructure Engineers to perform

design PS&E, project management, bidding, award of contract, construction management, inspection and other project specific services. The Infrastructure Engineers employees who were acting as the City Engineer subsequently reviewed and accepted the Requests for Services work performed by other Infrastructure Engineers employees. Several potential conflict of interest events occurred due to this arrangement:

- Infrastructure Engineers performed a management support role as City Engineer, a position that would allow them to exercise authority over the management of work performed by Infrastructure Engineers such as the review and acceptance of the work performed by Infrastructure Engineers under the Request for Services.
- In addition to preparing the PS&E, the City had Infrastructures Engineers performing all aspects of project delivery duties to include: acting as Resident Engineer, construction engineering, construction inspection, project management, and for one project, acting as the Person in Responsible Charge without having compensating controls to help ensure an adequate segregation of duties.

23 CFR 172.7 (b) (5) (iii) states, "A consultant serving in a management support role may be precluded from providing additional services on projects, activities, or contracts under its oversight due to potential conflict of interest."

Caltrans, Division of Local Assistance's (DLA) Local Assistance Procedure Manual (LAPM) Chapter 10.9 Miscellaneous Consideration, states that a consultant in a management role (i.e. City Engineer) shall not participate in, or exercise authority over management of work performed by the consultant's firm.

LAPM Chapter 10.1 Consultants Performing Work on Multiple Phases of Federal-aid Projects states in part, "...All consultants acting in a management support role must complete Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement..." The City did not submit the required Exhibit 10-U statement to notify Caltrans that they had Infrastructure Engineers acting in 'management support roles' as City Engineer and Project Manager.

### **Person in Responsible Charge**

The City had an Infrastructure Engineers staff acting as one of the City's Person in Responsible Charge for project HSIPL-5247(020), which is not in compliance with federal regulations, the Caltrans/City agreements, and the LAPM. The Infrastructure Engineers employee acting as the City Engineer signed the Requests for Reimbursements submitted to Caltrans along with completing and approving the Local Agency Invoice Review Checklist as the Person in Responsible Charge for the project. In addition,

as noted above, Infrastructures Engineers also performed all aspects of project development and management for this project. The LAPM Chapter 20.2 Unrecoverable Project Deficiencies states in part, "...When the local agency hires a consultant to provide construction-engineering services for a project, the local agency is still required to provide a full-time employee of the agency to be in responsible charge of the project. Failure to do so shall make the construction phase ineligible for reimbursement with federal funds..." Therefore, because the City had Infrastructure Engineers staff acting as the Person in Responsible Charge, the related construction contract HSIPL-5247(020) costs totaling \$402,064 are disallowed.

23 CFR 172.9 (d) (1) Responsible Charge states in part, "A full-time, public employee of the contracting agency qualified to ensure that the work delivered under contract is complete, accurate, and consistent with the terms, conditions, and specifications of the contract shall be in responsible charge of each contract or project. . . the contracting agency shall designate a public employee as being in responsible charge..."

Caltrans/City agreement 07-5247R, Article I, Paragraph 15 states, "ADMINISTERING AGENCY shall provide or arrange for adequate supervision and inspection of each project. While consultants may perform supervision and inspection work for project with a fully qualified and licensed engineer, ADMINISTERING AGENCY shall provide a full-time employee to be in responsible charge of each project."

For a summary of disallowed costs see Attachment A.

The City stated they were not familiar with state and federal procurement regulations, conflict of interest, or the Person in Responsible Charge requirements. Additionally, the City did not have procurement policies and procedures established when the City contracted with Infrastructure Engineers. However, both City staff and the Infrastructure Engineers employee acting as the Person in Responsible Charge, signed the Request for Reimbursement invoice review check list (LAPM Exhibit 5-J) submitted to Caltrans. All signatories of this form, "certify that the costs claimed follow pertinent program guidelines, and all Federal/State regulations. All consultant and contractor agreements have been reviewed and approved in accordance with the LAPM Chapter 10 "Consultant Selection" and Chapter 16 "Administer Construction Contracts"."

Because the City contracted with Infrastructure Engineers to perform all aspects of project development and oversight without having necessary compensating controls, the City runs the risk of Infrastructures Engineers not disclosing deficiencies in the work they perform. In addition, the City may not be able to ensure that the public's best interest is maintained throughout the life of a project.

## **RECOMMENDATIONS**

- A. Reimburse Caltrans \$77,075 in disallowed costs due to the procurement deficiencies identified.
- B. Update procurement guidelines and policies to conform with the requirements stipulated in the Caltrans agreements and state and federal procurement regulations.
- C. Reimburse Caltrans \$402,064 in disallowed construction costs due to issues with the Person in Responsible Charge.
- D. Implement the requirements of California Government Code 4526, 23 CFR 172, and the LAPM to include Chapter 10 that deals with procuring consultant contract, consultant conflict of interest requirements, and the City's responsibilities to mitigate conflicts of interest and train staff accordingly.
- E. Implement the requirements of LAPM Chapter 20, 23 CFR 172, and the Caltrans/City agreement to ensure a full-time City employee(s) acts as a Person in Responsible Charge and train staff accordingly.
- F. Take DLA's Architecture and Engineering consultant procurement training.

We recommend Caltrans deem the City a higher risk agency and provide enhanced oversight of City projects. Title 2, Code of Federal Regulations 200.207 outlines specific conditions that may be imposed including, but not limited to, requiring more detailed financial reports, and project monitoring, requiring the City to obtain technical or management assistance and establishing additional prior approvals.

## **CITY'S RESPONSE**

The City will work with Caltrans on reimbursement of the \$77,075 in disallowed costs due to procurement deficiencies and \$402,064 in disallowed construction costs due to issues with the Person in Responsible Charge. The City will await instructions for the appropriate office to initiate and make payment.

Over the past two years, Staff has worked to update all procurement policies and procedures. Citywide training was conducted in December 2019 for all staff involved in monitoring and managing contracts to ensure Municipal Code and related procedures are being followed. This training arose from an audit by the State Auditor, published in December, 2018.

The next step in improving procurement practices and policies will be ensuring conformance with Caltrans agreements and State and Federal regulations. The City has changed its method of procuring consultant services, and has established methods to ensure no conflict of interest exists and there is proper separation of duties between consultants and City Staff.

In addition, the City has implemented requirements to ensure a full-time City employee acts as Person in Responsible Charge (i.e., Director of Public Works/City Engineer).

### **ANALYSIS OF CITY'S RESPONSE**

We appreciate the City's acknowledgment and steps taken to address the issues identified. Any processes, and policies and procedures implemented subsequent to our fieldwork have not been audited or reviewed.

### **FINDING 2 - A&E Contract Management Deficiencies**

The City's A&E consultant contract with Infrastructures Engineers was not administered in accordance with state and federal regulations and contract terms. Specific deficiencies in managing the Infrastructures Engineers' consultant contract are outlined below.

#### **Deficiencies in Consultant Procurement Guidelines and Policy**

The City established Procurement Guidelines in 2017; however, the guidelines and the City's Municipal Code policies were incomplete and did not include several requirements for procurements using state and federal funds.

For a summary of specific deficiencies see Attachment C.

The City stated they were not aware of the federal and LAPM requirements. Without adequate procurement guidelines and policies, the City may not be able to support that consultant contracts are procured in a competitive manner and that a fair and reasonable price is obtained.

#### **Missing Required Contract Provisions**

The City did not ensure all the required provisions were included in the contract as follows:

Missing Provisions	Criteria
Allowable Costs and Method of Payments	23 CFR 172.9 (c) (ix); 23 CFR 172.9 (b) (1).
Cost Principles and Administrative Requirements	23 CFR 172.9 (c) (1) (ix)
Audit Review Procedures	LAPM Chapter 10 Exhibit 10R
Prohibition of Expending State or Federal Funds for Lobbying	23 CFR 172.9 (c) (2)
Subcontracting	Caltrans/City agreement, Exhibit A (2) (3)
Debarment and Suspension	2 CFR 200 Appendix II (H)
State Prevailing Wage Rates	2 CFR 200 Appendix II
Rebates, Kickbacks and Other Unlawful Consideration	2 CFR 200 Appendix II
Equipment Purchase	LAPM Chapter 10 Exhibit 10R

The City did not submit a required LAPM Exhibit 10-C, Consultant Contract Reviewers Checklist to the Division of Local Assistance Engineer (DLAE). According to LAPM Chapter 10.5, the Exhibit 10-C is required for local agencies to complete before executing the consultant contract to help ensure that all federal and state requirements have been met.

The City stated they were not aware of contract and Caltrans/City agreement language, state and federal regulations, and the LAPM, and thought that the City Attorney's review ensured all the contract language met federal and LAPM requirements. Without the required state and federal contract provisions, the City risks not being able to enforce contract requirements and risks billing Caltrans for unallowable costs.

**RECOMMENDATIONS**

- A. Include state and federal regulations, Caltrans/City agreements, and LAPM required language in all third-party contracts.
- B. Require staff to submit and comply with the LAPM Exhibit 10-C requirements before executing a consultant contract.
- C. Require Contract Administer and City employees involved with contract administration to attend DLA's Federal Aid Series training, specifically on Federal Rules for Contract Administration and Project Completion.

## **CITY'S RESPONSE**

Finance Staff will work with the City Attorney to ensure all relevant State and Federal regulation language, as well as Caltrans and LAPM required language, is included in the standard contract template used between the City and third-party vendors.

LAPM Exhibit 10-C will be submitted as required when executing consultant contracts.

Staff will look for upcoming opportunities to attend DLA's Federal Aid Series training, focusing on Federal Rules for Contract Administration and Contract Completion.

## **FINDING 3 – Construction Contract Procurement and Management Deficiencies**

The City did not maintain adequate procedures for managing their construction contract procurement and contract management to meet state and federal regulations. We tested one construction project with costs totaling \$639,995 during our audit period. Specific deficiencies identified are outlined below.

### **Did Not Verify Construction Contractor Eligibility**

Based on our testing of the construction contractor procurement, we found that the City did not have documentation to verify the construction contractor was not suspended or debarred. The City did not have established procurement policies and procedures at the time the construction contract was awarded. Without verifying whether the contractor is suspended or debarred, the City did not comply with federal regulation and increases the risk of contracting with contractors that are prohibited from working on federally funded projects.

The audit team was able to determine that the contractor was not suspended or debarred during the time of our audit.

23 CFR 635.110 (e) states, "Contractors who are currently suspended, debarred or voluntarily excluded under 49 CFR part 29 or otherwise determined to be ineligible, shall be prohibited from participating in the Federal-aid highway program."

### **Inaccurate Construction Contract Language**

We identified two contract provisions that did not adhere to federal and LAPM requirements. Article XI of the contract stated that the project and financial records must be retained for five years from the expiration of the contract unless given permission by the City to destroy the records rather than the required three years from submission of the final expenditure

report. In addition, the contract language under Article XII stated that the State of California shall exercise general supervision and shall have the right to assume full and direct control of the contract. It is the City's responsibility to provide or arrange adequate supervision over the projects of local streets and roads.

2 CFR 200.333 states, in part, "Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report..."

LAPM, Chapter 2 (2013), Roles and Responsibilities, states, in part, "The responsibility for implementing individual projects on the local streets, roads, and other transportation systems resides with the local agencies, principally the cities and counties."

The City stated they thought the City Attorney's review ensured all the construction contract language met federal and LAPM requirements before it was executed. If the City expects Caltrans to exercise general supervision on projects the City may not fulfill their contract oversight responsibilities. If the City permits the contractor to discard project records prior to three years from the date of the final expenditure report, they may not be able to support contract costs.

#### Requirement Missing from the City's Municipal Code Policy

The City's Municipal Code Policy did not include the requirement to advertise Invitations for Bid for a minimum of three weeks as required when using federal funds.

23 CFR 635.12 (b) states, in part, "The advertisement and approved plans and specifications shall be available to bidders a minimum of 3 weeks prior to opening of bid..."

### **RECOMMENDATIONS**

- A. Prior to contract award, verify and document that the construction contractor is not suspended or debarred.
- B. Revise Article XI of the contract to require that all records be maintained for a minimum period of three years from the date of submission of the final expenditure report to Caltrans.
- C. Remove Article XII from the contract or modify the language to ensure that project responsibility resides with the City and remove language that the state has the right to assume full and direct control of the contract.



- D. Update the Municipal Code Policy to include advertising for a minimum of three weeks.

**CITY'S RESPONSE**

Staff in Public Works currently verify and document the status of the construction contractor to ensure they are not suspended or debarred.

Finance Staff will follow up with the City Attorney to assist in amending the contract template currently in use to Revise Article XI and remove Article XII.

**FINDING 4 – Untimely Requests for Reimbursement**

The City did not submit Requests for Reimbursement (RFR) to Caltrans at minimum every six months as required. For five of the seven RFRs tested, two were not submitted timely as follows:

- Project HSIPL-5247 (020) RFR No 2 was received July 26, 2016 and RFR No. 3 was received July 6, 2017, six months late.
- Project STPL-5247(023) RFR No.1 was received February 24, 2017 and RFR No. 2 was received January 19, 2018, five months late.

Caltrans/City agreement 07-5247R and 07-5247F15, Article IV, Paragraph 4 states, in part, "ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six (6) months commencing after the funds are encumbered. . ."

The City stated they were not aware of the Caltrans/City agreement requirements. Failure to invoice timely could result in the loss of funding because project(s) may be placed on the "inactive list" or suspended due to no reported project activity. Also, late invoices can also impact the timeliness of Caltrans oversight and increase risk of billing for unallowable or unreasonable costs.

**RECOMMENDATION**

- A. Submit invoices to Caltrans at least every six months.

**CITY'S RESPONSE**

In the past two years, Finance staff has developed and implemented procedures that require quarterly reporting on all capital projects and grant funded projects. This quarterly reporting includes quarter to date expense and revenue tracking. The quarterly reports, prepared by a City of Montebello Accountant (full-time employee) are reviewed by the responsible department (i.e. Public Works for street and road projects) and Finance management.

The quarterly reporting ensures timely invoice submittal to CalTrans (and other agencies involved in the projects). Whether the invoices are submitted quarterly or every six months, procedures currently exist and are practiced to ensure regular claiming occurs.

## ATTACHMENT A

### Summary of Disallowed Costs

Findings:	HSIPL-5247(020)	STPL-5247(023)	HSIPL-5247(024)	Total
Finding 1: A&E Procurement and Contracting Issues	X	\$26,559	\$50,516	\$77,075
Finding 1: Person in Responsible Charge	\$402,064	X	X	\$402,064
Total Disallowed Costs:	\$402,064	\$26,559	\$50,516	\$479,139

## ATTACHMENT B

### Summary of Consultant Procurement Deficiencies and Related Regulations

#### City Engineering Service A&E Contract with Infrastructure Engineers

Deficiencies	Criteria
Criteria weights were not identified in the RFP	23 CFR 172.7 (a) (1) (ii) (C)
Price was used as an evaluation criterion	23 CFR 172.7 (a) (1) (iii) (B)
Proposals were not evaluated based on the criteria established in the RFP	23 CFR 172.7 (a) (1) (iv) (A)
Independent cost estimates were not prepared	23 CFR 172.7 (a) (1) (v) (B)
Conflict of interest requirement for evaluation panel members was not met (Exhibit 10-T was not submitted)	LAPM 2013, Chapter 10.9
An acceptable method of payment was not specified in the RFP	23 CFR 172.9 (b) (1)
A maximum contract amount was not specified in the RFP	23 CFR 172.9 (a) (3) (ii)
Debarment and suspension verifications were not performed	23 CFR 172.7 (b) (3)
Inaccurate on-demand service procedure	23 CFR 172.9 (a) (3) (iv) (B)
Price negotiations were not performed	23 CFR 172.7 (a) (1) (v) (A)

## ATTACHMENT C

### Summary of City Procurement Guidelines & Policy Deficiencies

#### Requirements Not Included in the City's Procurement Guidelines

Deficiencies	Criteria
Identification of selection committee members	23 CFR 172.7 (a) (1) (iv) (F)
Record of receiving proposals, statement of qualifications	23 CFR 172.7 (a) (1) (iv) (F)
Evaluation and ranking records such as original score sheets from all panel members, short list questions and other documentation	23 CFR 172.7 (a) (1) (iv) (F)
Record of negotiations (to include a separate negotiation of profit in accordance with federal guidelines)	23 CFR 172.7 (a) (1) (v) (E)
A&E Consultant Audit Request Letter and Checklist (Exhibit 10-A)	LAPM Chapter 10
Consultant contract checklists (Exhibit 10-C)	LAPM Chapter 10
Consultant Certification of Costs and Financial Management (Exhibit 10-K)	LAPM Chapter 10
Contract oversight and progress meeting documents	LAPM Chapter 10
Executed consultant contracts, cost proposals and amendments (Exhibit 10-R)	LAPM Chapter 10
Performance evaluation (Exhibit 10-S)	LAPM Chapter 10
Certifications and Conflict of Interest forms (Exhibit 10-T, Exhibit 10-U)	LAPM Chapter 10
Documentation of DBE participation	LAPM Chapter 10

Continued...

Deficiencies	Criteria
Conflict of Interest (No requirement for Exhibit 10-T)	LAPM Chapter 10.9; 23 CFR 172.7 (b) (4)
Advertisement for Request for Proposals is not a minimum of 14 days	23 CFR 172.7 (a) (1) (ii) (G)
Does not conform to the 23 CFR 172, 23 CFR 635, LAPM Chapter 10	Caltrans/City agreement No.07-5247F15 Article I (9)

## **ATTACHMENT D**

### **The City of Montebello's Response to the Draft Report**



*City of Montebello*

October 22, 2020

California State Transportation Agency  
Independent Office of Audits and Investigations  
MarSue Morrill, Audit Chief  
P.O. Box 942874, MS-2  
Sacramento, CA 94274-0001

Dear Ms. Morrill:

This letter represents the City of Montebello's response to the "Incurred Cost Audit" issued September, 2020. The City appreciates the opportunity your office provided to fully review the audit, as well as the background information provided by your staff that allowed myself and James Enriquez, Director of Public Works to be fully informed on the process of this audit.

After our September 22, 2020 exit conference, the City is prepared to provide a full response to the recommendations contained in it. Below are the responses to each finding and recommendation, providing an action plan where necessary or detailing efforts already undertaken to respond to the finding.

**FINDING 1: Deficiencies with A&E Procurement and Potential Conflict of Interest**

The City will work with Caltrans on reimbursement of the \$77,075 in disallowed costs due to procurement deficiencies and \$402,064 in disallowed construction costs due to issues with the Person in Responsible Charge. The City will await instructions from the appropriate office to initiate and make payment.

Over the past two years, Staff has worked to update all procurement policies and procedures. Citywide training was conducted in December 2019 for all staff involved in monitoring and managing contracts to ensure Municipal Code and related procedures are being followed. This training arose from an audit by the State Auditor, published in December, 2018.

The next step in improving procurement practices and policies will be ensuring conformance with Caltrans agreements and State and Federal regulations. The City has changed its method of procuring consultant services, and has established methods to ensure no conflict of interest exists and there is proper separation of duties between consultants and City Staff.



In addition, the City has implemented requirements to ensure a full-time City employee acts as Person in Responsible Charge (i.e., Director of Public Works/City Engineer).

**FINDING 2: A&E Contract Management Deficiencies**

Finance Staff will work with the City Attorney to ensure all relevant State and Federal regulation language, as well as Caltrans and LAPM required language, is included in the standard contract template used between the City and third-party vendors.

LAPM Exhibit 10-C will be submitted as required when executing consultant contracts.

Staff will look for upcoming opportunities to attend DLA's Federal Aid Series training, focusing on Federal Rules for Contract Administration and Contract Completion.

**FINDING 3: Construction Contract Procurement and Management Deficiencies**

Staff in Public Works currently verify and document the status of the construction contractor to ensure they are not suspended or debarred.

Finance Staff will follow up with the City Attorney to assist in amending the contract template currently in use to Revise Article XI and remove Article XII.

**FINDING 4: Untimely Request for Reimbursement**

In the past two years, Finance staff has developed and implemented procedures that require quarterly reporting on all capital projects and grant funded projects. This quarterly reporting includes quarter to date expense and revenue tracking. The quarterly reports, prepared by a City of Montebello Accountant (full-time employee) are reviewed by the responsible department (i.e., Public Works for street and road projects) and Finance management.

The quarterly reporting ensures timely invoice submittal to CalTrans (and other agencies involved in the projects). Whether the invoices are submitted quarterly or every six months, procedures currently exist and are practiced to ensure regular claiming occurs.

The City thanks you and your staff with providing guidance and information related to this "Incurred Cost Audit." Thank you and please contact me should you have any questions or require follow-up.

Sincerely,

Michael Solorza  
Director of Finance

Cc: James Enriquez, Director of Public Works