

## Memorandum



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

**Date:** November 2, 2020

**File:** P1575-0059

**From:**  
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Dear Ms. Ward-Waller:

The Independent Office of Audits and Investigations (IOAI) performed an incurred cost audit of the City of Wasco (City) of five projects with costs totaling \$2,781,433 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. In addition, our audit included determining whether project deliverables/outputs and benefits/outcomes were consistent with the project scope. The final audit report, including the City's response, is enclosed.

Based on our audit we determined that project costs totaling \$224,699 were not in compliance with Caltrans agreement provisions and state and federal regulations. In addition, we determined a conflict of interest existed and identified deficiencies with labor charging practices, procurement, and contract management.

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

JEANIE WARD-WALLER  
November 2, 2020  
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If you have any questions contact MarSue Morrill, Audit Chief, at  
[marsue.morrill@dot.ca.gov](mailto:marsue.morrill@dot.ca.gov).

Sincerely,

RHONDA L. CRAFT  
INSPECTOR GENERAL

Enclosures  
Final Audit Report

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P1575-0059



# City of Wasco

## Incurred Cost Audit

AUDIT REPORT

P1575-0059

NOVEMBER, 2020



**PREPARED BY:**

Independent Office of Audits and Investigations – MS 2

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

### **Summary**

The Independent Office of Audits and Investigations (IOAI) performed an incurred cost audit of the City of Wasco's (City) five Active Transportation Program (ATP) projects with costs totaling \$2,781,433 reimbursed by the California Department of Transportation (Caltrans).

We determined that reimbursed costs totaling \$224,699 were not supported or were not in compliance with respective Caltrans agreement provisions, and state and federal regulations. See Attachment A for a summary of disallowed costs. The City also did not report project status timely and did not use a consistent methodology for calculating project outcomes.

In addition, we determined a conflict of interest existed when a former employee of the City participated in the contract award and management of an architecture and engineering firm where the former City employee's daughter-in-law worked. We also identified deficiencies with labor charging practices, procurement, and contract management.

### **Objectives**

We performed the audit to determine whether project costs claimed by and reimbursed to the City were allowable, reasonable, and adequately supported in accordance with Caltrans agreement provisions and state and federal regulations. In addition, our audit included determining whether project deliverables/outputs and benefits/outcomes were consistent with the project scope.

### **Scope**

We conducted the audit of the City's claimed costs from June 1, 2015, through February 28, 2018, on the projects listed below. We also tested procurements prior to

June 1, 2015 that related to costs billed during our audit period.

Project Number	Project Name	Audited Project Cost
ATPL-5287 (040)	Palm Avenue Elementary School Pedestrian Infrastructure Improvements	\$168,980
ATPL-5287 (041)	Teresa Burke Elementary School Bike and Pedestrian Infrastructure Improvements	\$1,610,195
ATPL-5287 (042)	Highway 43 Pedestrian Lighting	\$495,597
ATPL-5287 (043)	JL Prueitt Elementary School Bike and Pedestrian Infrastructure Improvements	\$369,722
ATPL-5287 (044)	Clemens & Jefferson Schools Bike and Pedestrian Infrastructure Improvements	\$136,939
-	Total Audited Project Costs:	\$2,781,433

The audit was limited to financial and compliance activities. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of the City. 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 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 to obtain an understanding of the City's financial management system, which includes the accounting and project costing systems and grant, labor, procurement, contract and construction management. In addition, the audit included, review of prior audit reports, an assessment of the City's internal controls as they related to our audit objectives, and examining, on a test basis, evidence supporting the project costs claimed.

Key internal controls evaluated focused on procurement processes, invoices reimbursed from Caltrans, review and approval processes of expenditures, and achievement of and reporting project deliverables and outcomes. Our assessment included conducting interviews with key personnel, observing processes, analyzing relevant documentation, and testing transactions related to costs billed and reimbursed, and documentation to support project deliverables and outcomes. Field work was completed on July 12, 2019. Transactions occurring after this date were not tested and, accordingly, our conclusions do not include costs or credits arising after this date.

### **Views of Responsible Officials**

Our findings and recommendations take into account the City's response dated October 15, 2020, to our September 2, 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. For brevity purposes, the City's attachments to their response were not included in this audit report.

The report is a matter of public record and will be placed on IAOI's webpage, which can be viewed at <<https://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 incurred cost audit of the City of Wasco's (City) five Active Transportation Program (ATP) projects with costs totaling \$2,781,433 reimbursed by the California Department of Transportation (Caltrans).

We determined that reimbursed costs totaling \$224,699 were not supported or were not in compliance with respective Caltrans agreement provisions, and state and federal regulations. See Attachment A for a summary of disallowed costs. The City also did not report project status timely and did not use a consistent methodology for calculating project outcomes.

In addition, we identified a conflict of interest existed when the City's Public Works Director during the audit period (no longer employed at the City) participated in the contract award and management of an architecture and engineering (A&E) firm where the Public Works Director's daughter-in-law worked. We also identified deficiencies with labor charging practices, procurement, and contract management.

We recommend DLA deem the City a higher risk agency and provide enhanced oversight of City projects. Title 2, Code of Federal Regulations (CFR) 200.207 (b) outlines specific conditions that may be imposed.

### FINDING 1 – Conflict of Interest

We determined a conflict of interest existed when the City's Public Works Director (Director) during the audit period participated in the award and management of an A&E firm, Palmetto Engineering and Land Surveying, Inc. (Palmetto Engineering) in 2014, 2017, and 2018. The Director is no longer employed by the City. Specifically, the Director participated in making procurement and contract management decisions related to Palmetto Engineering where the Director's daughter-in-law was employed, which is contrary to federal and state conflict of interest regulations. Consequently, costs totaling \$168,584 billed to Caltrans associated with Palmetto Engineering on the five projects audited are disallowed. Specifically:

#### Participation in Procurement Selection Committee and Recommendation to Award Contracts

- 2014 Procurement: The City was unable to provide procurement records that showed who the selection committee members were, the evaluation results, and ranking of consultants. The City's staff report dated January 6, 2015, however, stated that the City Manager and Director determined Palmetto Engineering provided the best overall

procurement package, and thus, the City awarded the contract to Palmetto Engineering. The Director's daughter-in-law was the project manager for Palmetto Engineering.

- 2017 Procurement: The Director participated in the selection process for a city engineering services procurement. The selection committee scored and ranked Palmetto Engineering the highest and recommended the firm for the city engineering services contract. The Director's daughter-in-law was still the project manager for Palmetto Engineering.
- 2018 Procurement: The Director again participated in the selection process for the on-call engineering – design and construction management services procurement. The selection committee recommended the City enter into agreements with four qualified firms, including Palmetto Engineering. The Director's daughter-in-law was still the project manager for Palmetto Engineering.

#### **Lack of Exhibit 10-T, Panel Member Conflict of Interest and Confidentiality Statement**

- For the 2014 procurement of Palmetto Engineering, the City could not provide evidence that the selection committee members completed the Panel Member Conflict of Interest and Confidentiality statement (10-T statement) required by the Caltrans Local Assistance Procedures Manual (LAPM) Exhibit 10-T.
- For the December 2017 / January 2018 procurement of Palmetto Engineering, the City could not provide evidence of the completed 10-T statements by the selection committee that included the Director.
- For the March – May 2018 procurement that included Palmetto Engineering, the selection committee, including the Director, completed the 10-T statements. On the 10-T statement, the Director:
  - × Certified that he had no personal relationship which would be incompatible with his participation in the solicitation process and that he was fully able to give full, fair and impartial consideration to all proposals/bids as an appointee to the evaluation.
  - × Agreed not to participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.

- × Agreed to immediately disqualify himself as soon as he was aware of a conflict of interest that may compromise his fair and impartial consideration of the proposals or bids.
- × Did not check the box that required him to reveal he had a personal relationship regarding any firms that are the subject of his evaluation and provide a brief description of that relationship.

The City was aware of the 10-T requirements as the selection committee, which included the Director, for the April 2017 procurement for on-call materials testing and geotechnical services did complete the 10-T statement. Palmetto Engineering was not one of the competing firms in this procurement.

### **Contract Administration**

- The Director signed as approving authority all of Palmetto Engineering's invoices prior to the City billing the California Department of Transportation (Caltrans) for the five projects audited.
- Other consultant and contractor invoices were reviewed and approved by the Deputy Public Works Director (Deputy Director).

49 CFR 18.36 (b)(3) states, in part, "...No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (i) The employee, officer or agent, (ii) Any member of his immediate family...has a financial or other interest in the firm selected for award...."

23 CFR 172.7 (b)(4) states similar requirements.

23 CFR 1.33 states, in part, "No official or employee of a State or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract...."

23 CFR 172.7 (b)(4)(i), and the LAPM chapter 10.1 requires that compensating controls in the form of policies, procedures, practices, and other safeguards must be established to ensure a conflict of interest does not occur in the procurement, management, and administration of federal-funded contracts or subcontracts. Also, the City is responsible to ensure that public interest is maintained throughout the life of a project and that a conflict of interest, direct or indirect, does not occur or is sufficiently mitigated by appropriate public agency controls.

California Government Code (GC) 4526 states in part, "Notwithstanding

any other provision of law..., shall specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section which would subject those employees to the prohibition of Section 87100."

GC 4529.12 states, "All architectural and engineering services shall be procured pursuant to a fair, competitive selection process which prohibits governmental agency employees from participating in the selection process when they have a financial or business relationship with any private entity seeking the contract, and the procedure shall require compliance with all laws regarding political contributions, conflicts of interest or unlawful activities."

The City did not have policies and procedures addressing conflict of interest. In addition, the City stated they did not think there was a conflict of interest because the daughter-in-law was not a blood relative of the Director.

### **Recommendations**

- A. Reimburse Caltrans \$168,584 for the disallowed costs associated with the conflict of interest.
- B. Implement policies and procedures addressing conflict of interest including but not limited to, requirements of California GC 4526 and 4529.12, 23 CFR 172, and the LAPM chapter 10; and train staff accordingly.
- C. Attend the Caltrans Division of Local Assistance (DLA) training on procuring A&E contracts when offered.
- D. Establish compensating controls to avoid conflicts of interest by developing guidance, policies, procedures, and practices to meet the requirements of state and federal regulations and the LAPM.

### **Summary of City's Response**

The City disagrees with the finding in part where it relates to the reimbursement of disallowed costs as it would impose an undue hardship on the City. The City suggested using their own funds in lieu of reimbursing Caltrans for some of the identified disallowed costs. The City also indicated they are in the process of implementing process improvements.

### Analysis of City's Response

The City did not provide any additional documents to support the disallowed costs. The City will need to work with Caltrans on any corrective action. The finding remains unchanged.

### FINDING 2 – Deficiencies in Labor Charging Practices

We noted the following deficiencies with the City's labor charging practices.

#### Double- and Over-Billed Labor Costs

The City double-billed a total of 83 hours on two projects and over-billed two hours on another project, resulting in \$7,851 of disallowed labor costs as identified in Table 1 below.

**Table 1: Double- and Over-Billed Costs**

Project Name	Double-Billed Cost	Over-Billed Cost	Disallowed Cost
Palm Avenue	\$6,927	\$0	\$6,927
Highway 43	\$0	\$185	\$185
JL Prueitt	\$739	\$0	\$739
Total:	\$7,666	\$185	\$7,851

The City's Public Works Department uses two time sheets that track different information. One time sheet tracks hours worked on each project, which is used to bill Caltrans; and the other time sheet is used for payroll purposes. The timesheets were not reconciled for accuracy. The City did not have labor charging policies and procedures.

2 CFR 200.430 (i) states that salaries and wages must be based on records that accurately reflect the work performed and records must be supported by a system of internal controls that provides a reasonable assurance that the charges are accurate, allowable, and properly allocated and comply with established accounting policies and practices.

### Unsupported Fringe Benefits Costs

- The City billed Caltrans for unsupported fringe benefits costs. The City:
- Used the Director's fringe benefits costs (health, vision, life, and dental) to compute the Deputy Director's fringe benefits rate.
- Used incorrect retirement contributions to compute the fringe benefits rates.
- Could not provide the support documentation for some of the fringe benefits costs billed.
- Did not have policy and procedures addressing the allocation of reasonable and allowable costs of fringe benefits.

Unsupported fringe benefit costs totaling \$37,641 are disallowed as identified in Table 2 below.

**Table 2: Unsupported Fringe Benefits Costs**

Project Name	Disallowed Cost
Palm Avenue	\$4,654
Teresa Burke	\$17,629
Highway 43	\$5,028
JL Prueitt	\$6,200
Clemens & Jefferson	\$4,130
Total:	\$37,641

2 CFR 200.403 lists the factors affecting allowability of costs, including (g) that states costs must be adequately documented, and 2 CFR 200.404 states, in part, "A cost is reasonable if...it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost."

2 CFR 200.431 (a) states, in part, "...the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law...employee agreement or established policy...."

**Recommendations**

- A. Reimburse Caltrans \$45,492 for total disallowed labor costs.
- B. Develop policies and procedures to address labor charging practices according to state and federal laws and regulations, and train staff accordingly.
- C. Either use only one timesheet for all activities or develop policy and procedures to reconcile timesheets if they choose to continue to use two timesheets to ensure accuracy and compliance with federal regulations.
- D. Require project managers review and track all labor costs prior to billing Caltrans to avoid future problems with double- and over-billed labor costs.
- E. Only bill fully supported and allowable employees' fringe benefits costs.

**Summary of City's Response**

The City disagrees with the finding in part where it relates to the reimbursement of disallowed costs. The City suggested using their own funds in lieu of reimbursing Caltrans for some of the identified disallowed costs. The City also indicated they will be implementing process improvements.

**Analysis of City's Response**

The City did not provide any additional documents to support the disallowed cost. The City will need to work with Caltrans on any corrective action. The finding remains unchanged.

**FINDING 3 – Architectural and Engineering Procurement Deficiencies**

We found either no procurement process or found deficiencies in the City's A&E procurement practices as identified below.

**No Procurement Process**

The City was unable to provide any procurement documentation for the A&E consultant contract with BSK Associates. In 2016, the City contracted with BSK Associates to provide construction material testing for the five projects audited.

For four of the projects, the City initially informed the auditors that they followed the City's Municipal Code, chapter 2.60 – Purchasing Policy and Procedures – for small purchases under \$10,000. This policy, however, only applied to the purchase of materials and supplies and not to consulting contracts. The contract with BSK was for consulting services. When we

informed the City that the City Municipal Code did not apply the City then stated that they picked BSK Associates based on past work history. The City eventually signed four contracts with BSK Associates. The costs for the four projects totaled \$10,623 and are disallowed.

For the Teresa Burke project, the City circumvented the competitive procurement process. Instead of going through a competitive procurement process for a material testing firm, the City used BSK Associates to perform material testing services and instructed BSK Associates to invoice their costs to Palmetto Engineers who in turn would invoice the City. BSK Associates was not a part to the Palmetto Engineering contract and the scope of work for the Palmetto Engineering contract did not include construction material testing. During our fieldwork the City indicated they did not have the resources at that time to procure a new consultant to perform the required work. The procurement costs related to the BSK Associates contract totaled \$18,474 and are disallowed. Note: these costs are also included in the \$168,584 of disallowed conflict of interest costs identified in Finding 1.

23 CFR 172.7 (a)(1) states that contracting agencies must use the competitive negotiation method for the procurement of engineering and design related services when federal highway program funds are involved in the contract. Further, the solicitation, evaluation, ranking, selection, and negotiation must comply with the qualifications-based selection procurement procedures as codified under the Brooks Act.

### **Other Deficiencies in Procurement Practices**

Our review of procurement files found additional deficiencies in the City's procurement practices. See Attachment B for a detail of deficiencies identified.

The City's Municipal Code, chapter 2.60 – Purchasing Policy and Procedures, and internal control policy on purchasing do not adhere to all state and federal procurement requirements.

Without proper procurement practices, the City is not be able to ensure the award of contracts are the result of fair and open competition and that a reasonable cost is obtained.



**Recommendations**

- A. Reimburse Caltrans \$10,623 for disallowed procurement costs.
- B. Require that all procurements using state and federal funds are procured in accordance with applicable state and federal laws and regulations.
- C. Update current purchasing policy and procedures to conform with state and federal procurement requirements and train staff accordingly.
- D. Maintain procurement documentation as required by state and federal regulations and Caltrans agreements.

**Summary of City's Response**

The City disagrees with the finding in part as it relates to the reimbursement of disallowed costs. The City suggested using their own funds in lieu of reimbursing Caltrans for some of the identified disallowed costs. The City also indicated they are in the process of implementing process improvements.

**Analysis of City's Response**

The City did not provide any additional documents to support the disallowed costs. The City will need to work with Caltrans on any corrective action. The finding remains unchanged.

**FINDING 4 – Consultant Contract Management Needs Improvement**

The City did not manage their consultant contracts and contract provisions in accordance with state and federal regulations as identified below.

**Costs Incurred Prior to Approved Agreements**

In 2016, the City contracted with BSK Associates to perform materials testing and inspections services for four of the five ATP projects. The City billed Caltrans for costs incurred by the consultant before the agreements were approved. In addition, all task orders were issued before the agreements were executed, and one agreement did not include an execution date. Costs for these services totaling \$5,411 are disallowed and outlined in Table 3 below. Note: these costs are also included in the \$10,623 of disallowed procurement costs identified in Finding 3.

**Table 3: BSK Associates' Task Orders**

Project Name	Agreement Date	Task Order Number	Task Order Date	Period Costs Were Incurred	Disallowed Cost
Palm Avenue	Not Identified	CB16-13929	8/3/2016	7/1 – 8/2/2016	\$1,760
Highway 43	5/19/2016	CB16-13699	5/16/2016	5/12 – 5/13/2016	\$850
JL Prueitt	9/19/2016	CB16-14196	9/13/2016	8/30 – 9/6/2016	\$1,569
Clemens & Jefferson	5/5/2016	CB16-13621	4/29/2016	4/25 – 4/27/2016	\$1,232
-	-	-	-	Total:	\$5,411

LAPM Chapter 10.8, Completing the Project, states that fund may not be used to reimburse the agency for any work or costs incurred for consultant costs incurred prior to the execution of the consultant contract.

The City stated they were negotiating with the consultant for the required testing. In order not to delay construction, the City had the consultant perform testing with the understanding that payment would be paid to the consultant after the task orders were approved.

#### **Other Consultant Contract Management Deficiencies**

In addition to the deficiencies noted above, we also identified additional contract management deficiencies as follows:

- The City allowed Palmetto Engineering to mark-up their subcontracting costs and postage and delivery charges by five or ten percent.
- The City allowed Palmetto Engineering to charge 65 cents per mile for 3,109 miles instead of at the rate approved by the Department of Personnel Administration as required by the Master Agreements between the City and Caltrans.
- The City allowed Palmetto Engineering to charge higher rates for a Designer than the approved rates in the contract.

The costs identified above totaled \$1,822 are disallowed. Note: these costs are also included in the \$168,584 of disallowed procurement costs identified in Finding 1.

LAPM Exhibit 10-H states "Mark-ups are Not Allowed".

Article IV, paragraph 17, of the federal Master Agreements No. 06-5287R and No. 06-5287F15 states that payments to administering agency for project-related travel must not exceed rates authorized under current state DPA rules.

The City's agreement No. 2015-01 with Palmetto Engineering states, in part, "Engineer shall be compensated on an hourly basis for services rendered based on the compensation and reimbursement scheduled...."

### **Lack of Proper Consultant Contract Provisions**

The City's contracts did not include certain provisions required by applicable Master agreement provisions, state and federal laws and regulations, and the LAPM. Without adequate contract provisions, the City risks not being able to enforce contract requirements and risk billing Caltrans for unallowable costs. See Attachment C for a summary of the missing required contract provisions.

### **Lack of Key Personnel Information**

Palmetto Engineering's 2015 Rate Schedule did not identify key team members working on the five ATP projects. The 2014 RFP for city engineering services requested all firms identify key individuals in the engineering team and/or its consultants and their roles. Also, the LAPM Chapter 10.5 identifies key personnel names and classifications as one of the required items in a technical proposal. Failure to identify all key personnel puts Caltrans and the City at risk of paying for unqualified consultants.

The City did not have policy and procedures for contract management.

### **Recommendations**

- A. Develop contract management policies and procedures that comply with state and federal regulations and their agreements with Caltrans and train staff accordingly.
- B. Approve agreements prior to start of work and incurring costs.
- C. Include all required provisions for state and federally funded projects.
- D. Identify and document all key personnel names and classifications on all consultant contracts.

**Summary of City's Response**

The City elects not to challenge the finding. The City indicated they have included information on contractor/consultant management in their Management Manual, and that they have coordinated with the City attorney to ensure all required provisions for state and federally funded projects are included in the executed agreements. The City also indicated they are in the process of implementing additional process improvements.

ANAYSIS OF CITY'S REPONSE

We appreciate the City's acknowledgement and any steps the City has taken to address the issue. Any processes implemented subsequent to our fieldwork have not been audited or reviewed.

**FINDING 5 – Construction Procurement and Contract Management Deficiencies**

The City did not procure and manage construction contracts in accordance with state and federal regulations.

Deficiencies in Construction Procurement Policies

We tested one construction procurement and identified the deficiencies outlined in the Table 4 below.

**Table 4: Deficiencies in Construction Procurement**

Deficiencies	Criteria
No protest or dispute procedures	2 CFR 200.318 (k)
No record that contractor's license was verified	LAPM (2016) Chapter 15.5
No record that debarment and suspension verifications were performed	Master Agreement No. 06-5287F15 Article VII, Paragraph 5 and 23 CFR 635.110 (e)

As reported in Finding 3, the City's Municipal Code, chapter 2.60 – Purchasing Policy and Procedures do not adhere to all state and federal procurement requirements. Without verifying the contractor's license or whether the contractor is suspended or

debarred the City could hire a contractor that is prohibited from working on federally or state funded projects.

#### Deficiencies in Construction Contract Management

In reviewing the construction management files of the five ATP projects we found that the City did not submit a contract change order (CCO) for the elimination of two contract line items of the JL Prueitt project, which represented 24 percent of the total contract amount. In addition, we identified the deficiencies outlined in Table 5 below.

**Table 5: Contract Change Order Deficiencies**

Project Name	CCO No.	Untimely Approval of CCOs CCO Approved Date	Untimely Approval of CCOs Contract End Date	Independent Cost Estimates Prepared	Engineer's Daily Reports Prepared / Maintained
Palm Avenue	3	10/17/2016	8/15/2016	No	No
Teresa Burke	4	3/13/2017	4/24/2017	No	Yes
Teresa Burke	6	6/2/2017	4/24/2017	N/A	Yes
Highway 43	6	11/17/2016	8/29/2016	N/A	Yes
JL Prueitt	3	5/24/2017	10/13/2016	N/A	Yes

LAPM chapter 16.13 requires any change of the approved plans or specifications or work required which was not included in the contract must be covered by a CCO and those CCOs are to be approved in advance of any work being done on the change. In addition, the Caltrans Construction Manual chapter 5-312C states that an independent cost analysis for comparison with the contractor's estimated cost should be prepared when preparing a CCO to substantiate and justify the amount paid.

LAPM chapter 16.7 states that the administering agency's resident engineer, assistant resident engineers, and construction inspectors must keep daily reports to record work in progress when there is an anticipated change in character of work.

The City stated they reviewed the contractor's estimated costs and determined the costs to be in line with what was expected despite the lack of an independent cost estimate. Without an independent cost estimate, however, the City may not be able to verify that the agreed price is reasonable.

Untimely approval of CCOs could result in work being performed outside of the contract terms. Without evidence of proper records, the City may not be able to justify costs billed to Caltrans and makes it difficult for Caltrans to ensure adequate work is completed timely and according to contract terms.

The City stated they have taken a proactive approach in getting CCOs processed timely.

### **Recommendations**

- A. Require all procurements using state and federal funds be procured in accordance with applicable state and federal laws and regulations.
- B. Execute all CCOs to meet the requirements of state and federal regulations and the LAPM.
- C. Maintain daily reports in the project files to allow for accountability and an audit trail.

### **Summary of City's Response**

The City concurs with the finding. The City also indicated they will incorporate process improvements.

### **FINDING 6 – Deficiencies in Project Reporting and Outcomes**

The City missed several reporting requirements and were not consistent with their beginning and ending user counts to establish project outcomes. Reporting and outcomes deficiencies are outlined in Table 6 below.

**Table 6: Project Reporting and Outcomes Requirements Deficiencies**

Reporting Requirement	Palm Avenue	Teresa Burke	Highway 43	JL Prueitt	Clemens & Jefferson
Final invoices for reimbursement submitted timely	Compliant	Not Compliant	Compliant	Compliant	Compliant
Final report of expenditures submitted timely	Compliant	Not Compliant	Compliant	Compliant	Compliant
Final delivery report submitted timely	Not Compliant	Compliant	Not Compliant	Compliant	Not Compliant
Before and after photos documenting the project	Missing before and after photos for some project site locations.	Missing before and after photos for some project site locations.	Compliant	Missing before and after photos for some project site locations.	Missing before and after photos for some project site locations.
Final costs compared to approved project budget	Not Compliant	Compliant	Compliant	Compliant	Compliant
Project milestones are met	Not Compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant

The 2017 Local Assistance Program Guidelines (LAPG) chapter 22.15 states that the implementing agency has six months after contract acceptance to prepare the final report of expenditures and submit the final invoice for reimbursement. Further, the implementing agency must submit a final delivery report to ensure that the project is executed in a timely fashion and is within the scope and budget identified when the decision was made to fund the project.

The City stated they were notified by the Department of Industrial Relations (DIR) not to submit any outstanding payments to the contractor, Cen-Cal Construction, for the Teresa Burke project because the DIR was investigating a subcontractor for prevailing wage compliance. Further review of the City's correspondence with Cen-Cal Construction disclosed that the DIR had no issues with the City releasing the retention payment.

#### **Inconsistent User Count Calculations**

The City used different methodologies to determine the beginning and ending user counts of pedestrian and bicyclists for four of the five ATP

projects audited. The beginning user counts included student usage based on surveys of parent and students; the ending user counts were accumulated using stationary cameras installed at various site locations that counted everyone that passed by, students and non-students.

We also noted that the beginning and ending counts for four out of five projects occurred during different seasons of the year. The beginning user counts occurred at a period of low usage, fall months; the ending user counts occurred in a period of high usage, spring months which could result in a misleading sense of success.

Failure to meet the project milestones, billings, and reporting requirements may not allow Caltrans to ensure projects are executed in a timely manner and within scope and budget. Further, when different methodologies are used for the beginning and ending user counts of pedestrian and bicyclists, the City and Caltrans will not be able to accurately compare the benefits or evaluate the effectiveness of the projects.

### **Recommendations**

- A. Review and follow the reporting requirements outlined in the Local Assistance Program Guidelines (LAPG).
- B. Use a consistent methodology to accurately reflect project outcomes.

### **Summary of City's Response**

The City elects not to challenge the finding. The City also indicated they will incorporate process improvements.

### **FINDING 7 – Required Utility Relocations Procedures Not Completed**

The City did not complete required utility relocation procedures for two projects tested. The City failed to complete a Report of Investigations to determine the City's liability, if any, for relocation costs, and did not complete a Notice to Owner to notify utility companies on potential impacted facilities, estimated completion date, and liabilities.

The City stated that the utility companies performed their own investigations and determined that the City was not liable for any costs. Therefore, the City did not think they needed to complete a Report of Investigations. In addition, the City stated that they notified the utility companies via emails instead of completing the Notice to Owner. The emails referenced, however, were requests to have utilities relocated, not to determine liability, and included an application for service for existing service-relocate or change service.



We also found that the City submitted a CCO to raise three buried manhole covers that were not shown on the project plan and specifications. The manhole covers were considered utility covers, and therefore, would require completion of utility relocation procedures. According to the City they did not complete the required utility relocation procedures because they were not aware the requirements applied to utility covers. Further Caltrans Division of Right of Way disclosed that the City was required to:

- Update the status of utility relocation on the Right-of-Way certification to include the item, "Utility involvement is limited to adjusting utility covers."
- Complete the Utility Cover Adjustment Summary form.
- Obtain the proper Federal Highway Administration specific authorization.
- Prepare a Notice to Owner to the City itself.

LAPM Chapter 14.2 requires the local agency to complete a Report of Investigation to determine the agency's liability for relocation costs. This chapter further requires notifying the owner(s) to clearly define the impacted facility, estimated completion date, and liabilities.

LAPM Exhibit 13-A, Short Form Right of Way Certification Local Assistance Project, is limited to utility cover adjustments (manhole covers, water valve cover, and box lids). When utility involvement is limited to adjusting utility covers, local agencies are required to complete the "Utility Cover Adjustment Summary" form and provide a copy of the Specific Authorization if federally participating.

By not following utility procedures the City may miss the opportunity to evaluate the project plan and make any adjustments to avoid or lessen the impact on existing utility facility and therefore, reduces utility costs, save time, and prevent conflicts during construction.

### **Recommendation**

- A. Implement utility relocation procedures outlined in the LAPM, including completing applicable documentation for any utility work performed.

### **Summary of City's Response**

The City elects not to challenge the finding. The City also indicated they will incorporate process improvements.

### **FINDING 8 – Invoices for Reimbursements Not Submitted Timely**

The City did not submit five invoices for reimbursement to Caltrans at a minimum of every six months as required for five projects audited as summarized in Table 7 below.

**Table 7: Untimely Submission of Invoices for Reimbursement**

<b>Project Name</b>	<b>Billing Number</b>	<b>Months Late</b>
Palm Avenue	2	9 months
Teresa Burke	2	8 months
Highway 43	2	8 months
JL Pruiett	2	11 months
Clemens & Jefferson	2	9 months

Article IV, paragraph 4, of the federal Master Agreement No. 06-5287F15 and chapter 5 of the LAPM require the administering agency to submit invoices for reimbursement at least once every six months to avoid the project from being classified as inactive.

The City's current internal control policy is silent on the submission of invoices at a minimum of every six months. By not billing every six months projects could be placed on the "inactive list" and be suspended. Late invoices for reimbursement could also impact the timeliness of Caltrans' oversight and increase the risk of billing for unallowable or unreasonable costs.

#### **Recommendations**

- A. Require billings to Caltrans be submitted at least once every six months per project.
- B. Update internal control policies to address the requirement that at a minimum the invoices for reimbursement be submitted to Caltrans every six months and train staff accordingly.

#### **Summary of City's Response**

The City elects not to challenge the finding. The City also indicated they will incorporate process improvements.

**ATTACHMENT A – Summary of Disallowed Costs**

<b>Findings</b>	<b>Palm Avenue</b>	<b>Teresa Burke</b>	<b>Highway 43</b>	<b>JL Prueitt</b>	<b>Clemens &amp; Jefferson</b>	<b>Total</b>
<b>Finding 1</b> Conflict of Interest	\$16,018	\$79,317	\$22,955	\$27,666	\$22,628	\$168,584
<b>Finding 2</b> Deficiencies in Labor Charging Practices	\$11,581	\$17,629	\$5,213	\$6,939	\$4,130	\$45,492
<b>Finding 3</b> A&E Procurement Deficiencies	\$1,999	\$0	\$1,516	\$4,726	\$2,382	\$10,623
Total Disallowed Cost:	\$29,598	\$96,946	\$29,684	\$39,331	\$27,140	\$224,699

**ATTACHMENT B – Deficiencies in Procurement Practices**

Deficiencies	2014 City Engineering	2017 City Engineering	2017 On-call Materials Testing	2018 On-call Engineering	Criteria
Proof of advertisement	No	Yes	Yes	Yes	23 CFR 172.7 (a)(1)(i)
Date-stamped envelopes of proposals and bid log	No	No	Yes	No	LAPM (2013) Ch. 10.5 & 10.6
Independent cost estimates	No	No	No	No	23 CFR 172.7 (a)(1)(v)(B)
Proof of price and profit negotiations	No	No	No	No	23 CFR 172.7 (a)(1)(v)(A)
Proof of cost analysis	No	No	No	No	23 CFR 172.7 (a)(1)(v)(E)
Exhibit 10-T, Panel Member Conflict of Interest & Confidentiality Statement	No	No	Yes	Yes	23 CFR 172.7 (b)(4)(ii)
Scoring sheets	No	Yes	Yes	Yes	23 CFR 172.7 (a)(1)(iv)
Proof of debarment and suspension verification	No	No	No	No	23 CFR 172.7 (b)(3)
Consistent SOW between the RFP/RFQ and contract	No	No	No	No	23 CFR 172.7 (a)(1)(ii)(A)
Record of price negotiations and therefore, unable to determine if profit is an allowable amount	No	No	Yes	No	23 CFR 172.11 (b)(2)(iii)(3)
Consultants proposed overhead rates verified	No	No	No	No	23 CFR 172.11 (b)(1)(ii) & (iii)
Consistent evaluation criteria btw the RFP/RFQ and scoring sheet	*	Yes	Yes	No	23 CFR 172.7 (a)(1)(iv)(A)
Consistent method of payment between the RFP/RFQ and contract	No	No	No	No	23 CFR 172.9 (b)(1)

\*Scoring sheets were not provided. Therefore, we were unable to verify if the scoring sheet criteria matched the evaluation criteria in the RFP.

**ATTACHMENT B – Deficiencies in Procurement Practices (cont'd.)**

Deficiencies	2014 City Engineering	2017 City Engineering	2017 On-call Materials Testing	2018 On-call Engineering	Criteria
Accurate information reported on Exhibit 10-C, Consultant Contract Review Checklist Statements	N/A	N/A	No	No	LAPM (2017) Chapter 10.8
Similar scope of work	N/A	*	N/A	*	23 CFR 172.7 (a)(1)(ii)(A) and (a)(2)(i) or PCC 10329
Followed RFP/ RFQ requirements, e.g., cost proposal format, number of consultants selected	N/A	N/A	N/A	No	23CFR 172.7 (a)(1)(ii)
Task order SOW well-defined	N/A	N/A	No	No	23 CFR 172.7 (a)(1)(ii)(A)
Task orders' supporting documentation were provided for completed projects	N/A	N/A	No	Yes	Master Agreement No. 06-5287F15 (V) (3)
Task orders contained calculation errors	N/A	N/A	No	Yes	23 CFR 172.9 (d)(1)(d)
Proof of competitive procurement	N/A	N/A	N/A	Yes	23 CFR 172.7 (a)(1)(iv)(D)

\*The scope of work for the 2017 City engineering services and the 2018 on-call engineering – design and construction management services are similar.

**ATTACHMENT C – Missing Required Consultant Contract Provisions**

Missing Provisions	Contracts	Criteria
Start and end dates <sup>1</sup>	BSK Associates <sup>2</sup>	23 CFR 172.9 (a)(3)(i) and LAPM Chapter 10, Table 10-2: Small Purchase Procedures
Basis of payment	Palmetto Engineering	23 CFR 172.9 (b)(1)
Total dollar amount	Palmetto Engineering	23 CFR 172.9 (a)(3)(ii)
Contract scope not well-defined	Palmetto Engineering, BSK Associates <sup>3</sup>	23 CFR 172.9 (a)(3)(iii)
Allowable costs	Palmetto Engineering	23 CFR 172.9 (c)(1)(ix)
Cost principles	Palmetto Engineering	23 CFR 172.9 (c)(1)(ix)
Retention of records/audits	Palmetto Engineering	23 CFR 172.9 (c)(1)(v)
Audit review procedures	Palmetto Engineering	23 CFR 172.9 (c)(1)(iv) LAPM Chapter 10, Exhibit 10R
Subcontracting	Palmetto Engineering	Master Agreement No. 06-5287R, Article V, Paragraph 7
Equipment purchases	Palmetto Engineering, BSK Associates <sup>3</sup>	LAPM Chapter 10, Exhibit 10R
State prevailing wage rates	Palmetto Engineering	2 CFR 200 Appendix II(D)
Conflict of Interest	Palmetto Engineering	23 CFR 172.9 (c)(xi)
Rebates, kickbacks, and other unlawful consideration	Palmetto Engineering	LAPM Chapter 10, Exhibit 10R
Prohibition of expending local agency, state or federal funds for lobbying	Palmetto Engineering, BSK Associates <sup>3</sup>	23 CFR 172.9 (c)(2)
Debarment and suspension certification	Palmetto Engineering	2 CFR 200 Appendix II (H), 23 CFR 172.5 (c)(4), 49 CFR 18.35
Travel rates in accordance to DPA regulations	Palmetto Engineering, BSK Associates <sup>3</sup>	Master Agreements No. 06-5287R and No. 06-5287F15, Article IV, Paragraph 17

**ATTACHMENT C – Missing Required Consultant Contract Provisions (cont'd.)**

Missing Provisions	Contracts	Criteria
Maintain an accounting system that accumulates and segregates project costs	Palmetto Engineering, BSK Associates <sup>3</sup>	Master Agreements No. 06-5287R and No. 06-5287F15, Article V, Paragraph 2
Accounting system that conforms to GAAP	Palmetto Engineering, BSK Associates <sup>3</sup>	Master Agreements No. 06-5287R and No. 06-5287F15, Article V, Paragraph 2
Non-discrimination clause and statement of compliance (Article XVI)	BSK Associates <sup>2</sup>	49 CFR 26.13 and LAPM Chapter 10, Exhibit 10-R
Disadvantaged business enterprises (DBE) participation (Article XX)	BSK Associates <sup>2</sup>	23 CFR 172.9 (c)(1)(vii) and LAPM Chapter 10, Exhibit 10-R
Prevailing wage language	BSK Associates <sup>2</sup>	LAPM Chapter 10, Exhibit 10-R
Termination clause is incomplete, missing language for convenience	BSK Associates <sup>3</sup>	23 CFR 172.9 (c)(1)(xii)

1. The Palm Avenue project was missing the start and end dates. The JL Prueitt, Highway 43, and Clemens & Jefferson projects were missing the end dates.
2. 2016 Construction Materials Engineering and Testing Services
3. 2017 On-call Materials Testing and Geotechnical Services

**ATTACHMENT D – The City of Wasco’s Response to the Draft Report**





October 15, 2020

Attn: MarSue Morrill  
California Department of Transportation  
Independent Office of Audits & Investigations  
Post Office Box 942874  
Sacramento, CA 94274-0001

RE: City of Wasco Response to Incurred Cost Audit

Dear Audit Team:

The City of Wasco (City) has reviewed the Draft Incurred Cost Audit Report issued by the Independent Office of Audits and Investigations on August 25, 2020. Based on our conversation on September 2, 2020 and the report, the City has prepared a formal response to the eight preliminary findings identified in the draft incurred cost audit report. The City's response is included as an attachment to this letter. The City provides a response that addresses each finding. The response includes exact language found in the audit report as it pertains to the findings and recommendations.

The City looks forward to hearing from you. Should you have any questions regarding the City's response or attachments, please contact me at [bishop@cityofwasco.org](mailto:bishop@cityofwasco.org).

Respectfully,

Biridiana Bishop  
Public Works Director  
City of Wasco  
(661) 758-7271

Attachments: City of Wasco Response to Audit Findings  
Draft – Public Works Projects Management Manual  
Letter of Support – Wasco Union Elementary School District  
Staff Training Records



## CITY OF WASCO RESPONSE TO AUDIT FINDINGS

### CALTRANS AUDITOR'S FINDING 1 – Conflict of Interest

We determined a conflict of interest existed when the City's Public Works Director (Director) during the audit period participated in the award and management of an A&E firm, Palmetto Engineering and Land Surveying, Inc. (Palmetto Engineering) in 2014, 2017, and 2018. The Director no longer employed by the City. Specifically, the Director participated in making procurement and contract management decisions related to Palmetto Engineering where the Director's daughter-in-law was employed, which is contrary to federal and state conflict of interest regulations. Consequently, costs totaling \$168,584 billed to Caltrans associated with Palmetto Engineering on the five projects audited are disallowed. Specifically:

- Participation in Procurement Selection Committee and Recommendation to Award Contracts
- Lack of Exhibit 10-T, Panel Member Conflict of Interest and Confidentiality Statement
- Contract Administration

### CALTRANS AUDITOR'S RECOMMENDATIONS

- Reimburse Caltrans \$168,584 for the disallowed costs associated with the conflict of interest.
- Implement policies and procedures addressing conflict of interest including but not limited to, requirements of California GC 4526 and 4529.12, 23 CFR 172, and the LAPM chapter 10; and train staff accordingly.
- Attend the Caltrans Division of Local Assistance (DLA) training on procuring A&E contracts when offered.
- Establish compensating controls to avoid conflicts of interest by developing guidance, policies, procedures, and practices to meet the requirements of state and federal regulations and the LAPM.

**City Response:** The City concurs with the audit finding in part and disagrees with the finding in part, as set forth below.

#### **Corrective Action:**

Although the City understands the basis for the determination that its former Public Works Director (who's last month with the City was March 2018, and officially retired January 2019) should have disclosed the relationship at issue, the City believes that a requirement



for the funds to be repaid is excessive. Moreover, such a requirement would impose an undue hardship on the City and its residents. The City is classified as a disadvantaged community and serves a low-income community with a median household income of \$36,681 and a minority population of that make up approximately 81% of the community. The former Public Works Director retired, a new executive leadership team of department directors and mid-level managers are in place, and the City has procured a new City Engineer. Moving forward, the City will not utilize the procured consultant City Engineer to assist with Federally funded projects. In 2018, the City requested proposals for on-call engineering – design and construction management services and entered into an agreement with four consultants. The auditors identified inconsistencies with the method in which the four consultants were procured. The City will no longer utilize the four selected consultants or the mini-RFP method to procure consultants for design and engineering services associated with federal and state projects. Moving forward, the City will procure Architectural and Engineering Contracts on a per project basis in accordance with LAPM Chapter 10 guidelines. City staff will be preparing a request for proposal on a per project basis and request review from District 6 – Local Assistance representatives prior to advertisement.

The Active Transportation Program grants previously awarded to the City provided the opportunity to increase active modes of transportation for non-motorized users. Some of these opportunities aligned or were part of paths and connected neighborhoods to schools in the community. The City intends to continue moving forward with the implementation of pedestrian and bicycle transportation projects to increase the safety of its residents. The City and the elementary school district are also exploring opportunities for joint ventures on safe routes to school projects and the development of recreation facilities adjacent or on school district property. This is especially important given the new elementary school (James Forrest Elementary) the district constructed in the northern section of the City. The new elementary school district was set to welcome students this current year and will draw students from up to  $\frac{3}{4}$  of a mile away to the west. Elementary age students will have to navigate local and collector roads to attend James Forest Elementary. Additionally, because of new residential development, students will have to navigate new paths to attend either the existing middle school (Thomas Jefferson Middle School) or the new middle school (Palm Avenue Middle School), and Wasco Union High School. The City is currently conducting an update to its Safe Routes to School Plan to incorporate the new additions and changes to the community and identify potential projects.

Currently, the City of Wasco is challenged to meet the expected increased cost for direct public safety expenses. Barring any reprieve, the City will see a 195% increase, in its annual cost for fire protection from the Kern County Fire Department. That equals to an additional \$540,193 per year. The City is expecting to see an increase in law enforcement



protection as well from the Kern County Sheriff's Office of at least 5%, or \$205,901 in the next fiscal year. The combined effect of increased public safety costs (\$746,094), the fiscal impact the COVID-19 pandemic is having on the community, and reimbursement of \$168,584 to Caltrans for the disallowed costs associated with the conflict of interest will be financially detrimental to the City of Wasco.

The City respectfully requests approval to proceed with utilizing \$168,584 of its general fund to finance an active transportation project in the community in lieu of a reimbursement to Caltrans. This alternative aligns with and maximizes the purpose of the Active Transportation Program in a disadvantaged community whom desperately needs such resources the most in order to enhance public health, reduce childhood obesity, increase safety and mobility for residents, increase the proportion of trips accomplished by biking and walking, and achieve greenhouse reduction goals in a community reliant on automobile for regional travel. Doing so would ensure that residents fully share in the benefits of the Active Transportation Program.

The City will develop policies and procedures addressing conflict of interest including but not limited to, requirements of California GC 4526 and 4529.12, 23 CFR 172, and the LAPM Chapter 10. Staff is in the process of reviewing existing policies and developing language that meets federal and state funding requirements.

The City has proceeded with additional staff training for the City Projects Manager, Deputy Public Works Director and Public Works Director. The current Public Works Director has attended Federal Aid Series courses including Federal Rules for Contract Administration and Project Completion and the Resident Engineers Academy. The current City Projects Manager has also attended Resident Engineers Academy. The current Public Works Director and City Projects Manager attended the August 29, 2019 A&E Contract Procurement webinar. The current Finance Manager and Projects Manager attended a Local Assistance Invoice Form training on August 27, 2019. The City has made significant investments in training and professional development under its new city management and executive leadership team. The City Council has also committed to investing in staff training and development and budget necessary funding accordingly. Staff plans to attend any future trainings offered by the Division of Local Assistance.

### **CALTRANS AUDITOR'S FINDING 2 – Deficiencies in Labor Charging Practices**

The City double-billed a total of 83 hours on two projects and over-billed two hours on another project, resulting in \$7,851 of disallowed labor costs.



The City's Public Works Department uses two-time sheets that track different information. One-time sheet tracks hours worked on each project, which is used to bill Caltrans; and the other time sheet is used for payroll purposes. The timesheets were not reconciled for accuracy. The City did not have labor charging policies and procedures.

The City billed Caltrans for unsupported fringe benefits costs. The City:

- Used the Director's fringe benefits costs (health, vision, life, and dental) to compute the Deputy Director's fringe benefits rate.
- Used incorrect retirement contributions to compute the fringe benefits rates.
- Could not provide the support documentation for some of the fringe benefits costs billed.
- Did not have policy and procedures addressing the allocation of reasonable and allowable costs of fringe benefits.

Unsupported fringe benefit costs totaling \$37,641 are disallowed.

#### **CALTRANS AUDITOR'S RECOMMENDATIONS**

- Reimburse Caltrans \$45,492 for total disallowed labor costs.
- Develop policies and procedures to address labor charging practices according to state and federal laws and regulations, and train staff accordingly.
- Either use only one timesheet for all activities or develop policy and procedures to reconcile timesheets if they choose to continue to use two timesheets to ensure accuracy and compliance with federal regulations.
- Require project managers review and track all labor costs prior to billing Caltrans to avoid future problems with double- and over-billed labor costs.
- Only bill fully supported and allowable employees' fringe benefits costs.

**City Response:** The City concurs with the audit finding in part and disagrees with the finding in part, as set forth below.

#### **Corrective Action:**

The City understands the time keeping system in place is at risk of human error. In lieu of reimbursing the disallowed costs, the City is respectfully requesting approval to utilize \$45,492 of its general fund to finance an active transportation project in the community in lieu of a reimbursement to Caltrans or to identify and purchase a sophisticated time keeping system to minimize and avoid future billing errors. The City also requests approval to use these funds to further invest and expand in staff training.



If permitted to utilize funds to invest in time keeping software, the City will have the opportunity to move away from two timesheets and proceed with one timesheet. In addition to the project manager reviewing and tracking all labor costs prior to billing, the Deputy Director of Public Works or Public Works Director will also review tracked labor costs prior to billing.

In order to ensure the City is billing only for fully supported and allowable employee fringe benefit costs, the Finance Department will be updating employee salaries on a quarterly basis.

### **CALTRANS AUDITOR'S FINDING 3 – Architectural and Engineering**

#### **Procurement Deficiencies**

We found either no procurement process or found deficiencies in the City's A&E procurement practices.

The City's Municipal Code, chapter 2.60 – Purchasing Policy and Procedures, and internal control policy on purchasing do not adhere to all state and federal procurement requirements.

Without proper procurement practices, the City is not be able to ensure the award of contracts are the result of fair and open competition and that a reasonable cost is obtained.

#### **CALTRANS AUDITOR'S RECOMMENDATIONS**

- Reimburse Caltrans \$10,623 for disallowed procurement costs.
- Require that all procurements using state and federal funds are procured in accordance with applicable state and federal laws and regulations.
- Update current purchasing policy and procedures to conform with state and federal procurement requirements and train staff accordingly.
- Maintain procurement documentation as required by state and federal regulations and Caltrans agreements.

**City Response:** The City concurs with the audit finding in part and disagrees with the finding in part, as set forth below.

#### **Corrective Action:**

In lieu of reimbursing Caltrans, the City respectfully requests approval to utilize \$10,623 of its general fund to finance an active transportation project in the community in lieu of a reimbursement to Caltrans or to invest in staff training in order to develop their knowledge



of appropriate procurement practices. The City is currently in the process of updating Chapter 2.60 Purchasing Policy and Procedures of the City Municipal Code to incorporate the procurement of consultant contracts and professional services. As part of this update, the City will include policy and procedures that conform with state and federal procurement requirements.

The Public Works Department is in the process of finalizing a Public Works Projects Management Manual which includes a standard procedure for maintaining records as required by state and federal regulations and Caltrans agreements.

#### **CALTRANS AUDITOR'S FINDING 4 – Consultant Contract Management Needs Improvement**

The City did not manage their consultant contracts and contract provisions in accordance with state and federal regulations.

The City's contracts did not include certain provisions required by applicable Master agreement provisions, state and federal laws and regulations, and the LAPM. Palmetto Engineering's 2015 Rate Schedule did not identify key team members working on the five ATP projects. The 2014 RFP for city engineering services requested all firms identify key individuals in the engineering team and/or its consultants and their roles. Also, the LAPM Chapter 10.5 identifies key personnel names and classifications as one of the required items in a technical proposal. Failure to identify all key personnel puts Caltrans and the City at risk of paying for unqualified consultants.

The City did not have policy and procedures for contract management.

#### **CALTRANS AUDITOR'S RECOMMENDATIONS**

- Develop contract management policies and procedures that comply with state and federal regulations and their agreements with Caltrans and train staff accordingly.
- Approve agreements prior to start of work and incurring costs.
- Include all required provisions for state and federally funded projects.
- Identify and document all key personnel names and classifications on all consultant contracts.

**City Response:** The City elects not to challenge the audit finding.



**Corrective Action:**

The City will develop contract management policies and procedures that comply with state and federal regulations. The City will send staff to contract management training as they become available.

City staff currently approves agreements prior to start of work and incurring costs. The Public Works Director has included information on contractor/consultant management in the Public Works Projects Management Manual identifying expectations when managing contractors and consultants performing work for the City.

The City has coordinated with the City attorney to ensure that all required provisions for state and federally funded projects are included in executed agreements.

The City will move forward with ensuring that all key personnel names and classifications are included in consultant contracts.

**CALTRANS AUDITOR'S FINDING 5 – Construction Procurement and Contract Management Deficiencies**

The City did not procure and manage construction contracts in accordance with state and federal regulations.

In reviewing the construction management files of the five ATP projects we found that the City did not submit a contract change order (CCO) for the elimination of two contract line items of the JL Prueitt project, which represented 24 percent of the total contract amount.

**CALTRANS AUDITOR'S RECOMMENDATIONS**

- Require all procurements using state and federal funds be procured in accordance with applicable state and federal laws and regulations.
- Execute all CCOs to meet the requirements of state and federal regulations and the LAPM.
- Maintain daily reports in the project files to allow for accountability and an audit trail.

**City Response:** The City concurs with the audit finding.

**Corrective Action:**

The City will incorporate state and federal regulations into its procurement code. The City currently executes contract change orders prior to the start of any modified work.





The City currently keeps daily reports on the City server by scanning daily and weekly reports into project files.

### **CALTRANS AUDITOR'S FINDING 6 – Deficiencies in Project Reporting and Outcomes**

The City missed several reporting requirements and were not consistent with their beginning and ending user counts to establish project outcomes.

The City used different methodologies to determine the beginning and ending user counts of pedestrian and bicyclists for four of the five ATP projects audited.

### **CALTRANS AUDITOR'S RECOMMENDATIONS**

- Review and follow the reporting requirements outlined in the Local Assistance Program Guidelines.
- Use a consistent methodology to accurately reflect project outcomes.

**City Response:** The City elects not to challenge the audit finding.

### **Corrective Action:**

The Public Works Department and the Finance Department will be meeting on a monthly basis to review project status and ensure that required deadlines are being met. During meetings, staff will discuss required reporting and ensure that responsible staff members are submitting reports in accordance with requirements outlined in the Local Assistance Program Guidelines.

The City will use consistent methodology to accurately reflect project outcomes. In order to ensure this, the Projects Manager has established a standard procedure for obtaining pedestrian counts.

### **CALTRANS AUDITOR'S FINDING 7 – Required Utility Relocations Procedures Not Completed**

The City did not complete required utility relocation procedures for two projects tested. The City failed to complete a Report of Investigations to determine the City's liability, if any, for relocation costs, and did not complete a Notice to Owner to notify utility companies on potential impacted facilities, estimated completion date, and liabilities.



### **CALTRANS AUDITOR'S RECOMMENDATION**

- Implement utility relocation procedures outlined in the LAPM, including completing applicable documentation for any utility work performed.

**City Response:** The City elects not to challenge the audit finding.

#### **Corrective Action:**

The City will complete a Report of Investigation to determine the agency's liability for utility relocation and notify the owner to define the impacted facility when needed.

The Public Works Director is in the process of finalizing a Public Works Project Management Manual to ensure LAPM procedures for utility relocations are being followed.

### **CALTRANS AUDITOR'S FINDING 8 – Invoices for Reimbursements Not Submitted Timely**

The City did not submit five invoices for reimbursement to Caltrans at a minimum of every six months as required for five projects audited.

The City's current internal control policy is silent on the submission of invoices at a minimum of every six months. By not billing every six months projects could be placed on the "inactive list" and be suspended. Late invoices for reimbursement could also impact the timeliness of Caltrans' oversight and increase the risk of billing for unallowable or unreasonable costs.

### **CALTRANS AUDITOR'S RECOMMENDATIONS**

- Require billings to Caltrans be submitted at least once every six months per project.
- Update internal control policies to address the requirement that at a minimum the invoices for reimbursement be submitted to Caltrans every six months and train staff accordingly.

**City Response:** The City elects not to challenge the audit finding.

#### **Corrective Action:**

Public Works and Finance will be meeting on a monthly basis to review project status and billing deadlines for each project.



---

Public Works (661) 758-7271 Fax (661) 1728  
764 E. Street, Wasco, CA. 93280

The Finance Department will update internal control policies to require that, at a minimum, invoices for reimbursement be submitted to Caltrans every six months.

The Finance Department will require staff responsible for billing to attend Department of Local Assistance training when it becomes available.