

## Memorandum

**To:**  
COCO BRISENO  
Deputy Director  
Planning and Modal Programs

**Date:** September 21, 2018

**File:** P1580-0022

**From:**  
WILLIAM E. LEWIS  
Assistant Director  
Independent Office of Audits and Investigations

**Subject: INCURRED COST AUDIT — SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**

We audited costs claimed by and reimbursed to the Southern California Association of Governments (SCAG) totaling \$12,485,538 for work performed under Master Agreements 53-6049R and 74A0822 between Caltrans and SCAG. The audit was performed to determine whether the costs were supported and in compliance with agreement provisions and state and federal regulations. The final audit report, which includes SCAG's response, is attached.

Based on our audit, we determined that project costs totaling \$7,015,036 were not supported and did not comply with respective agreement provisions and state and federal regulations. \$2,510,015 of these costs are disallowed. In addition, we found deficiencies in labor charges, consultant procurements, contract management, and billing and reporting.

Please provide our office with a corrective action plan addressing the recommendations in the report, including estimated timelines, by December 21, 2018.

This report is a matter of public record and will be placed on Caltrans Independent Office of Audits and Investigations' website. If you have questions or need additional information, please contact MarSue Morrill, Chief, External Audits - Local Governments, at (916) 323-7105.

Attachment

c: Hasan Ikhmeta, Executive Director, Southern California Association of Governments  
Darin Chidsey, Chief Operating Officer, Southern California Association of Governments  
Debbie Dillon, Deputy Executive Director, Administration, Southern California Association  
of Governments  
Basil Panas, Chief Financial Officer, Southern California Association of Governments  
Rodney Whitfield, Director of Financial Services, Federal Highway Administration  
Tashia Clemons, Director, Planning and Environment, Federal Highway Administration  
Veneshia Smith, Financial Manager, Federal Highway Administration  
John Bulinski, Director, District 7, Caltrans  
Steve Novotny, District Local Assistance Engineer, District 7, Caltrans  
Eraina Ortega, Inspector General, Independent Office of Audits and Investigations,  
Caltrans  
MarSue Morrill, Chief, External Audits-Local Governments, Independent Office of Audits  
and Investigations, Caltrans  
Chris Schmidt, Chief, Division of Transportation Planning, Caltrans  
Erin Thompson, Chief, Regional Planning, Division of Transportation Planning, Caltrans  
Rihui Zhang, Chief, Division of Local Assistance, Caltrans  
Kamal Sah, Acting Chief, Office of Guidance and Oversight, Division of Local Assistance,  
Caltrans  
Daniel Burke, Acting Audit Liaison, Division of Local Assistance, Caltrans  
Nancy Kataoka, Acting Chief, Division of Accounting

# Southern California Association of Governments Incurred Cost Audit



**FINAL AUDIT REPORT**

**SEPTEMBER 2018**

**PREPARED BY:**

Independent Office of Audits and Investigations – MS 2

Post Office Box 942874

Sacramento, California 94274-0001

<https://ig.dot.ca.gov/>

**AUDIT TEAM:**

MarSue Morrill, Chief, External Audits-Local Governments

Teresa Greisen, Audit Manager

Carvin Seals Jr., Auditor in Charge

Vincent Miranda, Auditor

Yung Jo Ryoo, Auditor

P1580-0022

**TABLE OF CONTENTS**

**SUMMARY .....2**

**OBJECTIVES .....2**

**SCOPE .....2**

**METHODOLOGY .....3**

**BACKGROUND .....3**

**CONCLUSION .....3**

**VIEWS OF RESPONSIBLE OFFICIALS .....3**

**FINDINGS AND RECOMMENDATIONS.....5**

**FINDING 1— Improper Procurement Practices .....5**

**FINDING 2 — Contract Management Deficiencies .....8**

**FINDING 3 — Labor and Fringe Benefit Deficiencies .....13**

**FINDING 4 — Billing and Reporting Deficiencies.....15**

**FINDING 5 — Possible Conflict of Interest with Sponsorship Program .....17**

**Attachments**

**Attachment 1 - Incurred Cost Audit of Southern California Association of Governments  
Listed of Audited Agreements/Procurements**

**Attachment 2 - Incurred Cost Audit of Southern California Association of Governments  
Disallowed Costs By Agreements Through 3/30/2018**

**Attachment 3 - Audit Criteria**

**Attachment 4 - Audit Response From SCAG**

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

## **SUMMARY**

The Independent Office of Audits and Investigations (IOAI), California Department of Transportation (Caltrans), audited reimbursed costs totaling \$12,458,538 to the Southern California Association of Governments (SCAG) and found costs totaling \$2,510,015 were not in compliance with Caltrans agreement provisions and state and federal regulations.

## **OBJECTIVES**

The audit was performed to determine whether costs claimed by and reimbursed to SCAG were allowable, adequately supported, and in compliance with the Caltrans agreement provisions and state and federal regulations.

The audit included testing costs incurred on two agreements, Master Agreement 53-6049R relating to the Value Pricing Pilot Program (VPPP-6049(010)), and Federal Overall Work Program Agreement number 74A0822 with Caltrans. Our audit period covered April 1, 2014, through June 30, 2015. Our audit also included testing of three consultant contracts procured prior to

April 1, 2014 with costs incurred through March 30, 2018. See Attachment I for the list of audited agreements.

## **SCOPE**

The scope of the audit was limited to financial and compliance activities related to the above-referenced agreements. Our audit of SCAG's claimed costs included interviews of SCAG staff necessary for obtaining an understanding of SCAG's financial management system and review of SCAG's financial statements for fiscal years 2014 and 2015. The audit consisted of transaction testing of claimed costs to evaluate compliance with Title 2 of the Code of Federal Regulations (CFR), Part 200; 48 CFR Chapter 1 Part 31; 49 CFR Part 18; 23 CFR Part 172; California Public Contract Code; Caltrans' Local Assistance Procedures Manual; and requirements stipulated in the agreements. Field work was completed on April 30, 2018, and transactions occurring subsequent to this date were not tested and, accordingly, our conclusion does not pertain to costs or credits arising after this date.

SCAG is responsible for the costs incurred and billed to Caltrans; compliance with applicable agreement provisions and state and federal regulations; and the adequacy of their financial management system to accumulate and segregate reasonable, allowable costs that can be allocated to projects. Because of inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected. Also, projections of any evaluation of the financial management system to future periods are subject to the risk that the financial management

system may become inadequate because of changes in conditions or that the degree of compliance with the policies and procedures may deteriorate.

## **METHODOLOGY**

IOAI conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that IOAI plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. IOAI believes that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of the SCAG. Therefore, IOAI did not audit and is not expressing an opinion on SCAG's financial statements.

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

## **BACKGROUND**

Caltrans has a legal and fiduciary responsibility to ensure that all state and federal funds are expended in compliance with state and federal laws, regulations, and agreements. IOAI performs audits to ensure Caltrans is meeting its legal and fiduciary responsibilities and that state and federal funds are properly expended by local government agencies.

## **CONCLUSION**

Based on our audit, of the total reimbursed costs of \$12,458,538, we determined \$5,443,502 were adequately supported and in compliance with agreement provisions, and state and federal regulations. Reimbursed costs totaling \$7,015,036, however, were not supported and/or were not in compliance with respective agreement provisions and state and federal regulations. Of this amount \$2,510,015 is disallowed. Specifically, we found deficiencies in labor charges, consultant procurements, contract management, billing and reporting, and agency-wide policies and procedures.

## **VIEWS OF RESPONSIBLE OFFICIALS**

Our findings and recommendations considered SCAG's response dated August 10, 2018 to our July 24, 2018 draft report. Our findings and recommendations, SCAG's response, and our analysis of the response are set forth in the Findings and Recommendations section of this report. A copy of the SCAG's full written response is included as Attachment IV.

This report is a matter of public record and will be placed on the Caltrans webpage, which can be viewed at <[www.dot.ca.gov/audits/INC.html](http://www.dot.ca.gov/audits/INC.html)>.

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

MARSUE MORRILL, CPA

Chief

External Audits — Local Government Agency

Independent Office of Audits and Investigations

September 21, 2018



# Findings and Recommendations

## **FINDING 1— Improper Procurement Practices**

Southern California Association of Governments (SCAG) did not ensure that fair and open competition was performed or that proper procurement procedures were followed as required by state and federal regulations and the California Department of Transportation's (Caltrans) agreement provisions. Additionally, SCAG's Procurement Policy and Procedures Manual that was in effect during the period of the procurements tested did not fully comply with state and federal procurement regulations and Caltrans agreement provisions. Specifically, we found the following procurement deficiencies:

### **1. Consultant Procurement Deficiencies**

#### **AECOM Technical Services, Inc. and Parsons Brinckerhoff, Inc.**

SCAG issued RFP 13-008 for the Value Pricing Pilot Project (VPPP) that resulted in two consultant contracts. The VPPP was federally funded and considered a "Project of Division Interest." SCAG executed two contracts from the RFP, one with AECOM Technical Services, Inc. (AECOM) and one with Parsons Brinckerhoff, Inc. (Parsons). SCAG used price as an evaluation factor in the selection of the consultants. We reviewed the related procurement documents for the two consultants and found the following:

- The scope of work of the RFP included two tasks and several sub-tasks that required professional engineering judgement, traffic engineering, environmental specialties, roadway design/infrastructure cost estimates, and system integration. The inclusion of tasks requiring specialized services and professional engineering judgement requires an Architectural & Engineering (A&E) firm to perform the work. Title 23 CFR Part 172, states, "price shall not be used as a factor in the evaluation, ranking and selection process" when procuring engineering services. SCAG's RFP included both non-A&E and A&E tasks which required management decisions be made to ensure compliance with state and federal regulations. SCAG should have separately procured the tasks requiring A&E services or treated the entire RFP as an A&E procurement.
- The REP did not include the identification of the requirements for any discussions (interviews) that may be conducted with three or more of the most highly qualified consultants following submission and evaluation of proposals. SCAG performed interviews of the consultants and included interview evaluations in the selection process.
- Notifications (Notice of Intent to Award) of the final ranking of the three most highly qualified consultants were not issued to all corresponding consultants.

## 2. Procurement Policies and Procedures Manual Deficiencies

We reviewed SCAG's Procurement Policies and Procedures Manual and determined the following procedures were missing or misstated:

- Procedures for procuring Architectural and Engineering (A&E) consultants.
- Procedures for documenting the justification for non-competitive procurements, including preparation of a Public Interest Finding on the Division of Local Assistance (DLA) funded projects.
- Section 6.6.2 Formal Solicitation was unclear as it began with language related to an Invitation for Bids, however, the documented detailed procedures relate to a Request for Proposal process for non-A&E consultants.
- SCAG's threshold of \$25,000 for waiving competition for non A&E General Fund consultant procurements was higher than the requirements of the California Public Contract Code (PCC) of \$20,000.

SCAG staff stated they lacked training and guidance on proper procurement processes and applicable procurement regulations. Without proper procurement practices, and procurement policies and procedures, SCAG may not be able to support fair and open procurements at a reasonable price.

See Attachment 1 for a summary of audited agreements, and procurements tested with the associated costs.

See Attachment 3 finding 1 for detailed criteria.

### RECOMMENDATION

We recommend SCAG:

- Revise the Procurement Policies and Procedures Manual to ensure it is current and complies with all applicable Caltrans requirements and state and federal procurement regulations. Include revising Section 6.6.2 to describe the different competitive procurement processes available and when each should be used in compliance with state and federal regulations.
- Ensure proper management decisions are made when preparing RFPs that include tasks or sub-tasks that require an A&E consultant to perform the work for compliance with state and federal procurement regulations.
- Ensure management and staff receive proper training in procurement procedures.
- Ensure staff that are involved in the consultant procurement process perform all required actions and comply with SCAG policies and procedures, Caltrans requirements, and state and federal procurement regulations.
- Ensure all documentation is maintained to support that proper procurement procedures are followed in accordance with state and federal regulations.
- Take Caltrans, Division of Local Assistance (DLA) A&E consultant procurement training either in person or online at <http://www.dot.ca.gov/hq/LocalPrograms/training.html>.

In addition, we recommend Caltrans' Division of Transportation Planning (DOTP) and Division of Local Assistance (DLA) provide enhanced oversight over SCAG's future procurements.

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

SCAG disagrees the scope of work for RFP 13-008 was for the procurement of A&E services and indicated that IOAI staff during the exit conference said written guidance regarding A&E projects could have been clearer. Additionally, SCAG referenced Section 9.2 of the Caltrans Consultant Procurement Manual (CPM) issued by the DLA dated April 2017 that states ITS projects that are the "development of a concept of operations" are non-A&E. This project was a concept of operations and therefore, SCAG asserts it was not an A&E project.

SCAG also disagrees that a Public Interest Finding (PIF) was required for System Metrics Group (SMG) and makes note, per discussions with District 7 and staff within HQ's (Caltrans) that the PIF form does not apply to non-construction contracts.

SCAG is in the process of updating their procurement policies and procedures and will be providing training to staff.

See Attachment 4 for SCAG's full response.

### **ANALYSIS OF AUDITEE'S RESPONSE**

Based on our review of SCAG's response and further discussions with FHWA and DLA staff, IOAI re-worded the finding related to the procurements of the consultants AECOM and Parson's to provide clarity. The RFP for the procurement included one task and several sub-tasks in each category that included activities that would require engineering judgement to perform the work. The Caltrans agreement, E76, and the cooperative agreement (between SCAG, Caltrans and FHWA) included numerous references to criteria and guidance that required SCAG's compliance to Chapter 13 of the Caltrans Local Assistance Program Guidelines and 23 CFR Part 940 that provided detailed information relating to ITS projects. SCAG was responsible for maintaining proper policies and procedures and ensuring compliance with state and federal regulations when implementing projects and seeking reimbursement of costs. This includes maintaining proper documentation to support decisions made. Additionally, SCAG's response includes the Federal Transit Administration's Best Practices Procurement & Lessons Manual (October 2016) as support for its position. The VPPP was a DLA funded project and therefore, the Federal Transit Administration's Best Practices are not applicable to the finding.

SCAG also asserts that eliminating price would not have altered the outcome. SCAG cannot ensure that using price as a factor would not or did not affect the outcome of the procurement. The evaluators' scoring decisions were made throughout the evaluation and full pricing information was included within the consultant proposals (not segregated and provided in a separate sealed document).

With regard to the finding related to the consultant SMG, SCAG contends the Caltrans guidance on single proposer/sole source procurements has not been clear and remains unclear today. We concur that there is no clear guidance regarding sole source procurements relating to the Division of Transportation Planning (DOTP) projects and have removed the finding from the report. We will request DOTP update their Planning Handbook and include guidance regarding sole source procurements funded with planning funds.

Based on our analysis of the response, the finding has been revised as noted above.

## **FINDING 2 — Contract Management Deficiencies**

SCAG's contract management system did not comply with state and federal regulations and Caltrans agreement provisions. We found that SCAG billed Caltrans for unsupported and unallowable consultant costs. Furthermore, we found that SCAG improperly managed consultant contracts, did not properly close-out consultant contracts, executed amendments on expired contracts, and could not support all local match requirements were met. Additionally, SCAG lacked contract management policies and procedures detailing proper processes to manage consultant and sub-recipient contracts and detailed procedures for reviewing and approving invoices. SCAG billed and was reimbursed \$590,537 in unsupported consultant costs, and \$361,426 on an expired consultant contract. These costs are disallowed.

Specifically we found the following:

### **1. Consultant Invoice Deficiencies**

We tested 23 consultant invoices (from ten consultants) and found that SCAG lacked documented support for consultant costs charged to projects/work elements, and they approved and paid consultant costs lacking adequate support.

- Ten of 23 consultant invoices were arbitrarily split and allocated to more than one project/work element with no source documentation to support the actual costs applicable to each project/work element. The unsupported consultant costs total \$590,538 and are disallowed.
- Seven of 23 consultant progress reports submitted with the invoices did not include the percentage of work completed as required in the consultant contracts.
- One of 23 consultant invoices was approved without a required progress report.

SCAG's review and approval process of consultant and sub-recipient invoices was performed by project managers, section managers, accountants, contract administrators (for consultants) and budgets and grants staff (for sub-recipients). SCAG's review and approval process was not documented, and staff were unclear as to the roles and responsibilities of each area in the process. SCAG's accounting staff stated that based on the lack of detailed information included on the consultant invoices, there was no way to determine to which project(s) the consultant costs related. The practice of accepting and arbitrarily splitting consultant invoices that lack appropriate information detailing what tasks/activities the consultant performed increases the risk of unallowable costs being charged to Caltrans.

SCAG's Budgets and Grants Management Policies and Procedures were not clear and did not define the roles and responsibilities of project managers. Furthermore, SCAG did not have written policies and procedures for project managers and other staff reviewing and approving invoices of sub-recipients and consultants. SCAG staff acknowledged they had inadequate Project Management and Grant Management Policies and Procedures in place to provide staff guidance. SCAG stated that they are in the process of developing policies and procedures for staff that define staff roles and responsibilities and provide guidance to the project managers. The lack of policies and procedures and weak invoice approval processes increase the risk of unallowable costs being billed to Caltrans.

## **2. Consultant and Sub-recipient Contract Deficiencies**

We tested three consultant contracts and found that SCAG billed costs incurred on an expired contract and did not perform and/or document required actions related to properly managing consultant contracts. We also tested three sub-recipient agreements and found all three lacked required language to comply with Caltrans agreement provisions. Specifically we found the following:

- SCAG executed an amendment on an expired contract for the consultant contract with Parsons and billed costs to Caltrans that were incurred after the contract expiration date. Additionally, work was amended into the contract for the LA County Express Lane Strategic Plan on behalf of another agency that was outside of the original scope of work. Parsons original contract of \$1,859,803 was amended 12 times to add \$195,500 to total \$2,058,303. Amendment 5 was executed after the contract expiration date. Therefore, amendments 5 through 12 are invalid and subsequent costs billed to Caltrans totaling \$361,426 are disallowed.
- The scope of work for the RFP and the AECOM consultant contract were not clearly defined as evidenced by the contract being amended 15 times. Nine amendments changed the scope of work and six amendments added additional funds. The original contract amount was \$2,065,599. Amendments totaling \$2,306,337 were added for a total contract amount of \$4,371,936, an increase of 112 percent. In addition, the contract was executed even though the Terms and Conditions did not appear to be finalized. One proposed sub-consultant was deleted from task seven on the executed contract with no documented justification. Additionally, five amendments included changes to the scope, and additions of sub-consultants and dollars to task seven.
- The scope of work on the RFP for the SMG consultant procurement was not clearly defined as evidenced by the contract being amended 14 times. Three amendments added additional funds. The original contract amount was \$1,839,422. Amendments totaling \$622,900 were added for a total contract amount of \$2,463,322, an increase of 34 percent.
- The project manager and contract administrator did not always perform an independent cost estimate, an analysis of the cost proposal, and cost negotiation when they amended the AECOM and SMG consultant contracts. In addition, not all cost estimates that were prepared for the AECOM, Parsons and SMG contracts were signed and dated to support they were prepared prior to cost negotiation and execution.
- SCAG extended the contract terms for the SMG consultant contract over 36 months without re-solicitation in violation of SCAG's Procurement Policies and Procedures.

- Three sub-recipient Memorandums of Understanding (MOU) agreements tested lacked required language below:
  - ▶ Project related travel and subsistence expense of contractors should be in accordance with California Department of Personnel Administration rates.
  - ▶ Sub-contractor and third party compliance for applicable cost principles should reference 48 CFR Ch. 1 Part 31.
  - ▶ Requirement to specify the type of contract as required by the Caltrans Local Assistance Procedures Manual (LAPM), Chapter 10.

The MOUs also included inaccurate regulations. The MOUs cited that sub-recipients were to comply with 48 CFR Chapter 1 Part 31 instead of 49 CFR Part 18.

### **3. Consultant Contract Close-out Deficiencies**

SCAG's contract close-out process was not in compliance with Caltrans agreement provisions and state requirements on both consultant contracts tested. The project managers for these contracts did not perform a contract performance evaluation or a post evaluation of the consultants as required by DLA's Local Assistance Procedures Manual (LAPM) Chapter 10.8 and the PCC section 10369. Additionally, both contracts were closed out with no support to indicate all deliverables had been met or completed as required by the contract. Specifically, the first contract close-out lacked documentation of required summary memos for a workshop and whether five meetings and presentations were held or given. The second lacked documentation of five meetings held, two presentations, a summary report, a catalog of public comment, and a project completion plan.

The contract close-out procedures in SCAG's Procurement Policy and Procedures Manual were not developed in compliance with Caltrans LAPM and state regulations. One project manager was not aware of SCAG's contract close-out process and the departments involved. Lack of proper contract close-out processes impacts the ability of staff to understand and ensure compliance of the contracted work or services as specified in the contract.

### **4. Local Match Deficiencies**

During our testing of the AECOM consultant contract we found that SCAG inappropriately used two inconsistent federal funding sources to fund a consultant contract. One source of federal funds provided through DLA had a 20 percent local match and the second source provided through DOTP had an 11.47 percent local match. The AECOM contract did not segregate the tasks/activities by funding source to track work associated to the separate federal funding sources. We tested five AECOM consultant invoices and determined that SCAG arbitrarily allocated the costs between two separate work elements (one funded by DLA and one by DOTP) with no consultant documentation to support the allocation or split. Due to the lack of support for the allocation/split of costs, the local match cannot be supported and verified as accurate.

Additionally, we noted that SCAG included a term in a Funding Agreement amendment that allowed for the contract completion date to be subject to the completion of a separate consultant agreement as opposed to a required specific end date in the Funding Agreement amendment.

Several SCAG staff stated that they did not think it was the consultant's responsibility to identify work performed on each task and project on their invoices. SCAG accounting staff stated they were instructed by management to record local match costs to projects/work elements that were not supported by the consultant invoices. If SCAG is unable to support they are paying consultants for actual work performed on specific tasks separately from other funded work, they run the risk of billing Caltrans for unallowable costs.

See Attachment III finding 2 for detailed criteria.

## **RECOMMENDATION**

We recommend SCAG reimburse Caltrans a total of \$951,963 for the unallowable costs identified above (\$590,538 of consultant costs + \$361,426 on expired contract).

We also recommend SCAG:

- Ensure consultants provide adequate invoice detail to support costs claimed in compliance with consultant contract terms and 2 CFR Part 200 (which superseded 49 CFR Part 18, and 2 CFR Part 225). Additionally, ensure consultants are required to submit invoices that identify the work performed by task/activity and work element so proper documentation is maintained to support consultant billings and local match.
- Establish procedures that identify and define each staff's roles and responsibilities regarding consultant invoice reviews.
- Revise the Grants Management Policies and Procedures and develop a Project Management Policies and Procedures Manual to ensure compliance with all applicable state and federal regulations, and provide staff with detailed processes to follow.
- Ensure consultant contracts identify the funding sources and/or work elements of each task/activity when there are multiple funding sources and/or work elements.
- Ensure compliance with all state and federal regulations over the administration of consultant contracts and that the contracts contain language as required in the Caltrans' agreements.
- Ensure compliance with all state and federal regulations over the administration of sub-recipient (MOU) agreements, that agreements contain language as required in the Caltrans' agreements, and include specific contract end dates.
- Ensure staff are properly trained on the administration and management of consultant and sub-recipient pass through funds.

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

SCAG concurs with the finding and recommendations except for two issues they requested be removed or revised. In Section I, SCAG disagrees with the bullet relating to "SCAG approved payment of a sub-recipient invoice with no supporting documentation to determine the reasonableness, allowability, and eligibility of the costs billed." SCAG contends the MOU included a clause that both parties agree to the value of the project as \$158,000 and that the MOU takes precedence over the cost estimate.

In Section II (a), SCAG states, "Notwithstanding the requirements, SCAG relied on the retroactive language in Amendment No. 5 of the Parsons contract to keep the contract active despite it being executed after the contract's expiration date. Such language is an acceptable method for maintaining contracts, is legally binding, and is commonly used in expired commercial contracts." SCAG requests that IOAI eliminate the disallowance of the costs incurred after the Parsons contract expired.

Also in Section II (b), SCAG states, "The number of amendments to the AECOM contract are explained by the administrative needs of that contract and the fact that the outreach portion of the contract was put in abeyance and later restored when needed."

Furthermore in Section II(c), SCAG states, "Twelve of the SMG contract amendments were for administrative purposes, e.g., annual fiscal year funding, term and schedule changes, and line-item budget revisions. Three amendments were the result of the additional work added to the underlying AECOM contracts resulted to the new grant of \$916,000 mentioned above."

SCAG indicated they received concurrence from United States Department of Transportation (USDOT) to proceed with the AECOM, Parsons, and SMG contracts without rebidding after 36 months.

See Attachment 4 for SCAG's full response.

#### **ANALYSIS OF AUDITEE'S RESPONSE**

Based on IOAI's analysis of the response, we determined it was the sub-recipient's responsibility to receive proper documentation from its consultants, therefore, this bullet was removed from the report.

With regard to SCAG's position on amendments executed on expired contracts, we disagree. Per Chapter 10 of the LAPM, it states, "All contract amendments must be fully executed before the ending date of the contract." The disallowance of these costs will remain in the finding and recommendation.

With regard to the AECOM amendments and the proposed sub-consultant that was dropped from the executed contract, IOAI disagrees with SCAG's position that it is acceptable to execute a contract that substantially differs from the RFP task requirements that were solicited (Task 7 was the third largest task proposed and covered outreach that would be critical to the outcome of the project). Additionally, SCAG's procurement files lacked documentation to support and justify the management decisions made.

With regard to the SMG amendments, IOAI agrees some of the amendments were for administrative purposes, however three of the 14 amendments resulted in a change in the scope of work of the contract. Additionally, SCAG makes reference that the results of the dollar amendments to the SMG contract was the result of the AECOM contract. IOAI disagrees with SCAG's statement. The SMG contract relates to specific work associated to RTP (Planning



Project) whereas as the AECOM contract related to the Value Pricing Pilot Program (Local Assistance Project).

SCAG also makes note that they received concurrence from USDOT o to proceed with the AECOM, Parsons and SMG contracts without rebidding after 36 months. The information SCAG provided USDOT, however, did not disclose that the Parson's contract had already expired and that the 36 months had already lapsed on all the contracts involved. Furthermore, in SCAG's response they referred to SMG, however, SMG was not part of the Value Pricing Project.

Based on analysis of the response, the finding has been revised to remove of the one bullet noted above. In addition, AECOM and Parsons were removed from the finding relating to SCAG extending the contract terms over 36 months without re-solicitation.

### **FINDING 3 — Labor and Fringe Benefit Deficiencies**

SCAG's labor and fringe benefit charging practices do not comply with Caltrans Agreement requirements, and state and federal regulations as noted below.

#### Labor Charges and Quarterly Reporting

Indirect and ineligible costs were charged to Work Element 120 which was established for direct costs related to Development and Administration of the Overall Work Program (OWP). Eligible tasks included the development of the OWP, preparation of the annual budget and amendments to the budget, and preparation of Quarterly Progress Reports.

Specifically we noted the following labor charging and reporting deficiencies:

- Accountants and contract administrators charged time for the review and approval of consultant invoices which were ineligible and indirect in nature.
- Thirteen project and section managers charged time for the review and approval of consultant invoices related to projects budgeted under work elements other than 120.
- Some project and section managers charged time related to managing other projects and activities to Work Element 120 when their budgets were depleted or underfunded.
- Ineligible labor for legal staff was charged to work element 120.
- Quarterly Progress Reports did not accurately represent the work that was actually performed and charged to Work Element 120.

SCAG staff acknowledged they mis-charged labor costs to work element 120 that were related to other projects and work elements when budgets were depleted or underfunded.

We determined SCAG billed and was reimbursed a total of \$1,558,051 in ineligible direct labor charges to work element 120. These costs are disallowed. For a detail of the disallowed costs, see Attachment 2.

In addition to the ineligible charges identified above, we noted instances where SCAG staff inconsistently charged time for staff meetings and an office holiday party.

### **Retroactive Pay and Merit Increases**

SCAG's accounting for retroactive pay and merit increases occurred months after the increase was given, and the methodology used to allocate the increase did not accurately or equitably allocate to the month(s) and work element(s) worked by the employees. We found instances where accountants prepared or changed employee timesheets by adding hours (sometimes in excess of 20 hours in one day for a single employee) to adjust the ending pay to equal the total pay period. Additionally, there was no clear audit trail for charging and recording the pay increases.

### **Fringe Benefits**

SCAG's methodology for billing fringe benefit costs was inaccurate and inconsistent with their Indirect Cost Allocation Plan (ICAP) calculation methodology which resulted in an inaccurate allocation of costs. SCAG did not allocate fringe benefit costs to intern and student assistant salaries. SCAG inappropriately allocated the intern and student assistant fringe benefit costs to all regular staff salaries (excluded intern and student assistant salaries). In addition, the ICAP calculation allocated the intern and student assistant fringe benefits to all staff salaries (included the interns and student assistants). The interns and student assistants have limited fringe benefit costs associated with their positions and require a separate fringe benefit allocation methodology to equitably allocate their costs.

SCAG does not have adequate policies and procedures related to labor charging practices, no documented procedures to account for time sheet corrections or retroactive pay and merit increases. In addition to billing ineligible costs identified, the inappropriate charging practices result in SCAG lacking accurate historical information related to actual costs for future budget purposes and overhead rate calculations.

See Attachment III finding 3 for detailed criteria.

### **RECOMMENDATION**

We recommend SCAG:

- Reimburse Caltrans \$1,558,051 for the disallowed costs identified above.
- Ensure billings to Caltrans are based on actual labor costs incurred,
- Ensure the accounting methodology for retroactive pay and merit increases provides for an audit trail for changes made to the employee time sheets and costs are allocated to the appropriate pay periods.
- Develop and implement written policies and procedures for proper and consistent labor charging practices. Ensure procedures define appropriate charging practices for staff meetings and other non-project or work element activities.

- Update the Accounting Manual to include procedures for time sheet corrections and retroactive pay and merit increases and train staff accordingly.
- Develop separate fringe benefit allocation methodologies for regular staff, interns and student assistants.

## **AUDITEE'S RESPONSE**

### **Labor Charges and Quarterly Reporting**

The practice of charging time to Work Element 120 other than that of Budget & Grants staff was begun many years ago after consultation with District 7. Since the practice is no longer permissible, SCAG's fiscal year (FY) 18 actuals and FY19 budget will charge those hours to the Indirect Cost budget. SCAG requests that the costs disallowed from Work Element 120 in FY15 be charged to the Indirect Cost budget in that year.

### **Retroactive Pay and Merit increases**

SCAG has implemented new practices and is actively documenting new policies and procedures to more accurately account for retroactive pay rate changes.

### **Fringe Benefits**

SCAG has implemented new practices and is actively developing new policies and procedures to

more accurately allocate fringe benefit charges.

## **ANALYSIS OF AUDITEE'S RESPONSE**

As SCAG was already reimbursed directly for the finding amount, SCAG would need to repay Caltrans the full \$1,558,051 as indicated in the finding to avoid a double billing. Once SCAG repays the disallowed costs, they can make a request to DOTP to include the disallowed costs in the FY 2014/15 indirect cost pool. If the request is approved by DOTP, SCAG will then be required to submit a revised FY 2016/17 ICAP to IOAI that includes the adjustments to the carry forward year for review and approval prior to seeking reimbursement for any variance in the rate.

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

### **FINDING 4 — Billing and Reporting Deficiencies**

SCAG did not submit required documentation with their requests for reimbursement to support costs billed and did not submit Quarterly Progress Reports in accordance with the DOTP Master Fund Transfer Agreement and the DLA Master Agreement.

Specifically, we noted the following deficiencies:

- Three SCAG Consolidated Planning Grant billings did not include the CPG IT Reports, or comparable information, which would allow the Caltrans's district staff to reconcile and trace billed costs to supporting documentation. The Consolidated Planning Grant IT Reports provide a breakdown of the costs and funding sources by task associated to each respective work element, which provides a tie to the billings and SCAG's financial management system. By not providing all relevant information, Caltrans is not able to determine if costs are allowable and that costs are charged to the appropriate work elements.
- Two SCAG billings to DLA included a Funding Schedule with a column titled "Other Project" with no explanation. It was determined the "Other Project" column are costs related to consultant costs that are billed to another funding source. SCAG's billings should include schedules and support documentation that provide for transparency, full disclosure, and sufficient detail to support all activities performed that tie to SCAG's financial management system. The lack of adequate and relevant information included on schedules to support SCAG's billed costs increases the risk Caltrans will pay for unallowable costs.

The Master Fund Transfer Agreement requires Metropolitan Planning Organizations to prepare and submit requests for reimbursement of actual allowable costs incurred consistent with work elements described in their Overall Work Plan.

See Attachment 3 finding 4 for detailed criteria.

## **RECOMMENDATION**

We recommend SCAG take the following actions:

- Ensure all billings to Caltrans include all applicable information and supporting documentation that trace to the billed costs and SCAG's financial management system. This includes ensuring the Consolidated Planning Grant IT Reports (or equivalent information) are provided and totaled by task associated to the respective work elements.
- Ensure supporting schedules provided with the billings include appropriate descriptions detailing where costs are being charged.

## **AUDITEE'S FULL RESPONSE**

SCAG will be sure to include all applicable back up documentation in the future including items such as the CPG IT reports. Since the invoices were approved and reimbursed by CALTRANS, and SCAG commits to provide all applicable information in the future, SCAG requests that this finding be removed from the report.

SCAG provided documentation after the exit interview for the Quarterly Progress reports and in return were informed that this item would be removed from the final report.

Regarding the column titled "Other Billing", SCAG will more fully describe its columns on the CPG invoice documentation.

**Analysis of Auditee's Response**

SCAG states that "since the invoices were approved and reimbursed by Caltrans, and SCAG commits to provide all applicable information in the future" that this finding be removed from the report. We disagree because during our interviews with District 7 staff and the review of their billing files, not all applicable documents such as the Consolidated Planning Grants (CPG) IT Reports were submitted and available to be included in the files. Additionally, per interviews with SCAG's accounting staff, it was indicated the CPG IT Reports were not provided. It is SCAG's responsibility to provide all necessary documents that support each billing when submitting invoices to the District for reimbursement.

SCAG provided emails on July 24, 2018, related to submitting the FY 2014/15 Quarterly Progress Reports to District 7. The documentation provided supports that Quarterly Progress Reports were prepared and sent to the district, so this portion of the finding was removed as requested by SCAG. However, the content of the Quarterly Progress Reports supports the finding that SCAG submitted reports to Caltrans that did not accurately represent the work that was actually performed and charged to work element 120 as noted in finding 3.

Based on the analysis of the response, the finding remains as written except for the removal of the portion of the finding relating to the Quarterly Progress Reports.

**FINDING 5 — Possible Conflict of Interest with Sponsorship Program**

SCAG's Sponsorship Program gives the appearance of a possible conflict of interest. SCAG created a Sponsorship Program to solicit donations from individuals, entities, and organizations with an interest in accessing participants of SCAG's General Assembly for networking, relationship building, business opportunities, and information sharing. We noted that SCAG solicits and receives donations from consultants for its Sponsorship Program with whom they also enter into consultant contracts to perform work. SCAG lacks a documented process over the Sponsorship Program to ensure a conflict of interest does not occur. Additionally, SCAG does not have documented policies and procedures over the administration and management of the Sponsorship Program.

See Attachment 3 finding 5 for detailed criteria.

**RECOMMENDATION**

We recommend SCAG perform the following:

- Establish procedures over the Sponsorship program to ensure there is no real or appearance of a conflict of interest with consultants that provided donations to the Sponsorship Program and are awarded consultant contracts.
- Develop policies and procedures over the administration and management of the Sponsorship Program to ensure compliance with all state and federal regulations.

**AUDITEE'S FULL RESPONSE**

SCAG is in the process of developing written policies and procedures for its sponsorships, in compliance with all requirements, to ensure there are no real or apparent conflicts of interest.

**Attachment 1  
Incurred Cost Audit of Southern California Association of Governments Listed of Audited  
Agreements/Procurements**

<b>Federal/ State Project Number</b>	<b>Caltrans Program</b>	<b>Caltrans Agreement Number</b>	<b>Project Name/ Description</b>	<b>Caltrans Agreement Amount</b>	<b>SCAG Work Element</b>	<b>SCAG Consultant</b>	<b>Consultant Contract Amount</b>
VPPP- 6049(010)	-	53-6049R	Value Prime Pilot Project	\$4,116,802	-	-	-
Parsons Brinckerhoff, Inc.	DLA	-	Express Lane Project Component	-	265	Parsons Brinckerhoff, Inc.	\$2,058,303
AECOM Technical Services, Inc.	DLA	-	Cordon Project Component	-	265	AECOM Technical Services, Inc	\$ 4,071,936 (1)
OWP FY 2014/15	-	74A0822	Federal Overall Work Program	\$35,00,022	-	-	-
AECOM Technical Services. Inc.	DOTP	-	Cordon Project Component	-	15	AECOM Technical Services, Inc	\$ 4,071,936 (1)

<b>SCAG Invoice Number</b>	<b>SCAG Invoice Amount</b>	<b>Federal/State Reimbursement Rate</b>	<b>Paid by Caltrans Within Original Audit Period</b>	<b>Paid by Caltrans Outside Original Audit Period</b>	<b>Total Paid by Caltrans</b>	<b>Consultant Costs Reimbursed to SCAG</b>
5 and 6	\$1,617,887	80%	\$1,294,310	\$2,967,371	\$4,261,681	-
-	-	-	-	-	-	\$1,517,802
-	-	-	-	-	-	\$ 2,743,879
10 and 12	\$8,679,186	88.53%/80%	\$7,828,453	\$368,404	\$8,196,857	-
-	-	-	-	-	-	\$243,340
<b>Total Federal and State</b>	<b>\$10,297,073</b>	<b>-</b>	<b>\$9,122,763</b>	<b>\$3,335,775</b>	<b>\$12,458,538</b>	<b>\$4,505,021</b>

Note:

\*DOLA - Division of Local Assistance, DOTP - Division of Transportation Planning  
(1) SCAG entered into one consultant with AECOM for \$4,071,936 that was used for multiple activities/tasks funded by two separate federal funding sources.

**Attachment 2**

**Incurred Cost Audit of Southern California Association of Governments Disallowed Costs By Agreements Through 3/30/2018**

<b>Federal/ State Project Number</b>	<b>Funded By DOTP/ DOLA*</b>	<b>Caltrans Agreement Number</b>	<b>Project Name/ Description</b>	<b>Work Element(s)</b>	<b>Consultant Name /SCAG Staff</b>	<b>Consultant Contract Amount</b>
VPPP- 6049(010) 6049 (015)	DOLA	53-6049R	Value Prime Pilot Project	265	Parsons Brinkerhoff, Inc.	\$2,058,303
VPPP- 6049(010) 6049 (015)	DOLA	53-6049R	Value Prime Pilot Project	265	AECOM Technical Services, Inc	\$4,071,936
Overall Work Program FY 14/15	DOTP	74A0822	Federal Overall Work Program	015	AECOM Technical Services, Inc	\$4,071,936
-	-	-	Federal Overall Work Program	010/015/130	Systems Metrics Groups, INC	\$2,462,322
-	-	-	Federal Overall Work Program	130	Cambridge Systematics, Inc.	\$420,404
-	-	-	Federal Overall Work Program	120	Accountants / Contract Administrators and legal Staff	N/A
<b>Total Consultant Contracts</b>						<b>\$9,012,965</b>

Continued on Next Page



**Attachment 2**

**Incurred Cost Audit of Southern California Association of Governments Disallowed Costs By Agreements Through 3/30/2018**

<b>Period Costs Incurred</b>	<b>Finding 2 Contract Management</b>	<b>Finding 3 Labor</b>	<b>Total Disallowed Costs Paid by Caltrans</b>	<b>Note</b>
3/29/13 - 3/30/18	\$361,426	-	\$361,426	1
4/25/13 - 3/30/18	\$338,986	-	\$338,986	1
4/25/13 - 3/30/18	\$103,971	-	\$103,971	1,2
4/23/13 - 3/30/18	\$134,083	-	\$134,083	-
4/30/14 - 3/30/18	\$13,498	-	\$13,498	-
7/1/14 - 6/30/15	-	\$1,558,051	\$1,558,051	-
<b>Total Disallowed Costs</b>			<b>\$2,510,015</b>	

Note:

\*DOLA - Division of Local Assistance, DOTP - Division of Transportation Planning

1 - The amounts are included within the total per Attachment 1 (Consultant Cost Reimbursement to SCAG)

2 - The AECOM Contract related to DLA and DOTP. The contract amount was only include once in the total to avoid duplication.

## **Attachment 3 Audit Criteria**

### **Finding 1 (Improper Procurement Practices)**

1a. 23 CFR Part 172.7 (a) (1) (ii) states that Request for proposal (RFP) shall provide all information and requirements necessary for interested consultants to provide a response to the RFP and compete for the solicited services. The RFP shall:

(B) Identify the requirements for any discussions that may be conducted with three or more of the most highly qualified consultants following submission and evaluation of proposals;  
(F) require that submission of any requested cost proposals or elements of cost be in a concealed format and separate from technical/qualifications proposals, since these shall not be considered in the evaluation, ranking, and selection phase.

1b. 49 CFR Part 18.36 (d) (3) (v) states that "Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort."

1c. 23 CFR Part 172.7 (a) (1) (iii) (B) states that "Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria."

1d. 23 CFR Part 172.7(a) (1) (iv) (E) states that "Notification must be provided to responding consultants of the final ranking of the three most highly qualified consultants."

e. LAPM Chapter 10.5 Develop Final Ranking and Notify Consultants of Results states, in part, that "the selection committee discusses and documents the strengths and weaknesses of each proposal; interviews the three or more highest ranked consultants; and develop a final rankings of the highest ranked consultants. All consultants that submitted proposals must be informed about the final ranking of consultants."

1f. 49 CFR Part 18.36 (c) (1) states in part, "All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 18.36..."

1g. 49 CFR Part 18.36 (c) (3) states in part, "Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations: (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured...and (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals."

1h. 49 CFR Part 18.36 (b) (9) states, "Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following rationale: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price."

li. 49 CFR Part 18, Section 36 (b) states that “Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.”

1j. LAPM Chapter 10.9 states, in part, “Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals (23 CFR 1 72.7(a)(3)). FHWA considers these types of contracts as Sole Source contracts and should be used only in very limited circumstances. A Public Interest Finding prepared by the local agency and approved by Caltrans is required before establishing these services.

1k. California Public Contract Code § 10348 states that “the department shall prescribe the conditions under which some or all of the provisions of this article may be waived in order to assist agencies in obtaining services and consultant services in an efficient and timely manner for contracts of less than twenty thousand dollars (\$20,000).”

## **Finding 2 (Contract Management Deficiencies)**

2a. Public Contract Code Part 2, Chapter 2, Article 4, Section 10348.5 states, “Each state agency shall designate at least one currently existing person or position within the state agency as a contract manager. Every contract manager shall have knowledge of legal contractual arrangements.”

2b. 2 CFR Part 200.302 (b) (4) states, “Internal Control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets.”

2c. 2 CFR Part 200.400 states, (a) “The non-federal entity is responsible for the efficient and effective administration of Federal awards through the application of sound management practices, and (b) ...assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.”

2d. SCAG’s Master Fund Transfer Agreement No. 74A0822, Article III, Section 3.A states MPO shall establish and maintain and shall require that its subrecipients, contractors and subcontractors shall establish and maintain, an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Requests for Reimbursement which segregate and accumulate the costs of work elements by line item (i.e. direct labor, other direct costs, subrecipients/subcontractor, etc.) and enable the determination of expenditures at interim points of completion, and provide support for reimbursement payment vouchers or invoices.” Article II, (1) states, “Reimbursements under this MFTA will be allowed if based upon actual costs expended and supported by MPO’s accounting system.”

Section (6) (a), “All costs associated with the Project shall be identified on the invoice with proper backup, along with documentation of the match paid by the Sub-Recipient....”

2e. 2 CFR Part 200.318 (b) states, "Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders."

2f. 23 CFR Part 172.9 (a) (1) states, in part, that contracting agency use project-specific contract for the performance of services and defined scope of work related to a specific project or projects.

2g. SCAG's Procurement Policy and Procedures Manual 7.6 states that "if SCAG is unable to negotiate final contract terms and conditions that are acceptable to SCAG, SCAG reserves the right to award the contract to another proposer."

2h. Caltrans LAPM Chapter 10.8 states, in part, "the Contractor Administrator request a revised cost proposal from the consultant after: (1) negotiations have been completed" and "proposed contracts for consultant services including those for subcontracted work exceeding \$150,000, must be reviewed by the local agency to verify that work activities and schedules are consistent with the nature and scope of the project."

2i. SCAG's Procurement Policy and Procedures Manual 8.3.2 states, in part, "the SCAG PM will prepare a Specification or Scope of Work (including the items added and or deleted) and a Cost Estimate for the amended work and forward both to Contracts. The cost estimate is an internal document that the PM and CA will use to perform a cost analysis of the consultant's amendment offer" and "after receiving the consultant's amendment offer, the SCAG PM and the CA will conduct a cost analysis and negotiate (as necessary) a fair and reasonable price for the amended work."

2j. 2 CFR Part 200.323 and 49 CFR Part 18.36 (f) (1) states, in part, "Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates BEFORE receiving bids or proposals.".... "A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation."

2k. (LAPM), Chapter 10, Section 10.2 states in part "... An independent cost estimate is needed to ensure that consultant services are obtained at a fair and reasonable price. ... The estimate must include a break-down of (1) Direct labor costs, (2) Indirect costs, (3) General and administrative cost, (4) Other direct costs, (5) Sub-consultant costs and (6) Net fee ..."

2l. SCAG's Procurement Policy and Procedures Manual 8.3.1 A. states, in part, "amendments must be within the original scope of work (i.e., no new scope should be added)."

2m. SCAG's Procurement Policy and Procedures Manual 7.11 states that Consistent with the State of California Contract Manual, Section 7.8, each consultant agreement should be re-solicited after a total of thirty-six (36) months consecutive with the same consultant (including any amendment to extend the contract's term), unless Caltrans or the Federal government gives SCAG statutory authority or a written exemption.

2n. SCAG's Procurement Policy and Procedures Manual 8.3.1 K. states that "Once the term of the contract has expired, no further amendments can be made (i.e., an amendment must be fully executed before the ending date of the contract)"

2o. Caltrans LAPM Chapter 10.8 states, in part, "a consultant contract may be amended at any time. The most common amendment is to extend the ending date of the contract. All contract amendments must be fully executed before the ending date of the contract."

2p. Caltrans LAPM Chapter 10.2 states, in part, "the scope of work, which the contract must include, is a detailed description of the products or services the consultant is to provide. From a detailed scope of work, consultants respond to a project advertisement; determine personnel and time requirements; and develop a technical proposal. Therefore, the scope of work must be clear, concise, complete, and describe the deliverables and deadlines."

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

2r. 2 CFR Part 200.302 (b) (2) states, "Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements.... "

2s. SCAG's Master Agreement 53-6049R states in part, "Any subcontract entered into by Administering Agency as a result of this Agreement shall contain all the provisions of Article IV, Fiscal Provisions, and this Article V, Audits, Third Party Contracting Records Retention and Reports, ..."

2t. Caltrans Local Assistance Procedures Manual (LAPM) Chapter 10.8 states that "agencies are required to prepare an evaluation of the consultant when the project has been completed. The Contract Administrator evaluates the consultant's performance after the consultant's final report has been submitted, and the Contract Administrator has conducted a detailed evaluation with the consultant's project manager."

2u. California Public Contract Code (PCC) §10369 states that (a) each state agency shall conduct a post-evaluation, by completing the post-evaluation form, of each consulting services contract totaling five thousand dollars (\$5,000) or more that it executes and (b) the agency shall evaluate the performance of the contractor in doing the work or delivering the services for which the contract was awarded. PCC §10369 also states that (d) the post-evaluation be prepared within 60 days of the completion of the contract.

2v. SCAG's Master Fund Transfer Agreement No. 74A0822, Article I, Section 1 L states, "MPO shall use non-federal funds to finance the local share of eligible cost to ensure compliance with all applicable matching requirements for federal funds described in this MFTA and actually encumbered against the annual OWPA. Credit for local match will be allowed only for work performed during the approved term of each annual OWPA.

2w. Chapter 10.2 of the LAPM states in part, The Contract Administrator is responsible for ensuring the quality of consultant contract products or services. The Contract Administrator is appointed as soon as the need for consultant services is identified. The Contract Administrator is involved throughout the development of the selection process and the contract provisions, and in the administration of the consultant's work. The Contract Administrator must be a qualified local agency employee, or have staff that is qualified to ensure the consultant's work is complete, accurate, and consistent with the terms and conditions of the consultant contract.

### **Finding 3 (Labor and Fringe Benefit Deficiencies)**

3a. SCAG's Master Fund Transfer Agreement No. 74A0822,

- Article III, Section 1.A states, "MPO agrees to comply with Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- Article III, Section 3.A states MPO shall establish and maintain and shall require that its subrecipients, contractors and subcontractors shall establish and maintain, an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Requests for Reimbursement which segregate and accumulate the costs of work elements by line item (i.e. direct labor, other direct costs, subrecipients/subcontractor, etc.) and enable the determination of expenditures at interim points of completion, and provide support for reimbursement payment vouchers or invoices." Article II, (1) states, "Reimbursements under this MFTA will be allowed if based upon actual costs expended and supported by MPO's accounting system."

3b. 2 CFR Part 200.404 (c), states, "Any costs allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons."

3c. 2 CFR Part 200.302 (b) (2) states, "Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements..... "

3d. 2 CFR Part 200.431 (a) (b) states in part, (1) "Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and

wages... (2) the cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job... are allowable if: they are provided under established written leave policies; the costs are equitably allocated to all related activities, including Federal awards; and, the accounting basis selected for cost each type of leave is consistently followed by the non-Federal entity."

3e. 2 CFR Part 200.302 (b) (4) states, "Internal Control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets."

#### **Finding 4 (Billing and Reporting Deficiencies)**

4a Article II, Section 2.A states in part, "MPO shall prepare and submit to state, one signed Requests for Reimbursements of actual allowable costs incurred by MPO consistent with work elements described in the OWP...Reimbursements under this MFTA will be allowed if based upon actual costs incurred and supported by MPO's accounting system ... (1) Comparison of actual performances with work element-level goals and deliverables..."

4b Article I, Section 2.A states, MPO agrees to submit to State, no later than 30 calendar days after the close of each quarter, Quarterly Progress Reports that include all work elements for transportation planning tasks, projects, and products funded wholly or in part by any of the fund sources listed in the "Recitals" section of this MFTA."

4c Article I, Section 2.B states, State reserves the right to deem incomplete any Quarterly Progress Report that does not sufficiently document the above-required information and may withhold payment of Request for Reimbursement submitted pending the submission of required documentation.

4d 2 CFR Part 200.302 (b) (4) states, "Internal Control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets."

4e SCAG's Master Agreement 53-6049R, Article IV, Section 5 states, "Invoices must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by Administering Agency. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of project costs."

#### **Finding 5 (Possible Conflict of Interest with Sponsorship Program)**

5a. 49 CFR Part 18.36 (b) (3) and 2 CFR Part 200.318 (C) (1), states in part, "Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in 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, (iii) His or her partner, or (iv) An organization which

employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award...”

5b Public Contract Code Part 2, Chapter 2, Article 8, Section 10410 (a) states, “No officer or employee in the state civil service or other appointed state official shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or in which the officer or employee has a financial interest and which is sponsored or funded, or sponsored and funded, by any state agency or department through or by a state contract unless the employment, activity, or enterprise is required as a condition of the officer’s or employee’s regular state employment. No officer or employee in the state civil service shall contract on his or her own individual behalf as an independent contractor with any state agency to provide services or goods.”

5c Government Code, Title 9, Chapter 7, Article 1, Section 87100, states, No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

5d Government Code, Section 87103, states, “A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following: (e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.....”



## **Attachment 4**

### **Audit Response From SCAG**

#### **FINDING 1 — Improper Procurement Practices**

Southern California Association of Governments' (SCAG) did not ensure that fair and open competition was performed, or that proper procurement procedures were followed, as required by state and federal regulations, and the California Department of Transportation's (Caltrans) agreement provisions. Additionally, SCAG's Procurement Policy and Procedures Manual that was in effect during the period of the procurements tested, did not fully comply with state and federal procurement regulations, and Caltrans agreement provisions. Specifically, we found the following procurement deficiencies:

##### **1. Consultant Procurement Deficiencies**

AECOM Technical Services, Inc. and Parsons Brinckerhoff, Inc.

SCAG issued RFP 13-008 for the Value Pricing Project that resulted in two consultant contracts. We determined that the RFP was for an Architectural & Engineering (A&E) consultant(s) as the scope of work as written was specialized and required professional engineering judgement, traffic engineering, environmental specialties, roadway design/ infrastructure cost estimates, and system integration. SCAG executed two contracts from the RFP, one with AECOM Technical Services, Inc. (AECOM), and one with Parsons Brinckerhoff, Inc. (Parsons). We reviewed the related procurement documents for the two consultants and found the following:

- The scope of work for RFP 13-008 was for the procurement of A&E services and price was used as an evaluation factor in the selection of the two A&E consultants. Title 23 CFR Part 172, states, "price shall not be used as a factor in the evaluation, ranking and selection process" when procuring engineering services.
- The RFP did not include the following:
  - ▶ A requirement to submit the cost proposals in a concealed format, separate from technical/qualification proposals.
  - ▶ Identification of the requirements for any discussions (interviews) that may be conducted with three or more of the most highly qualified consultants following submission and evaluation of proposals. SCAG performed interviews of the consultants and included interview evaluations in the selection process.
- Notifications (Notice of Intent to Award) of the final ranking of the three most highly qualified consultants were not issued to all corresponding consultants.

## System Metrics Group

SCAG issued RFP 13-023 for the Regional Transportation Plan Implementation and Project Management Assistance Services that resulted in a non-competitive (sole source) procurement with System Metrics Group (SMG). We found that SCAG did not prepare a Public Interest Finding for Caltrans approval prior to executing the contract with SMG as required by Caltrans agreement provisions.

### 2. Procurement Policies and Procedures Manual Deficiencies

We reviewed SCAG's Procurement Policies and Procedures Manual and determined the following procedures were missing or misstated:

- Procedures for procuring Architectural and Engineering (A&E) consultants.
- Procedures for documenting a Public Interest Finding on non-competitive procurements.
- Section 6.6.2 Formal Solicitation was unclear as it began with language related to an Invitation for Bids, however, the documented detailed procedures relate to a Request for Proposal process for non-A&E consultants.
- SCAG's threshold of \$25,000 for waiving competition for non A&E General Fund consultant procurements was higher than the requirements of the California Public Contract Code (PCC) of \$20,000.

SCAG staff stated they lacked training and guidance on proper procurement processes and applicable procurement regulations. Without proper procurement practices, and procurement policies and procedures, SCAG may not be able to support fair and open procurements at a reasonable price.

See Attachment 1 for a summary of audited agreements, and procurements tested with the associated costs.

See Attachment 3 finding 1 for detailed criteria.

### RECOMMENDATION

We recommend SCAG:

- Review and revise their Procurement Policies and Procedures Manual to ensure it is current and complies with all applicable Caltrans requirements, and state and federal procurement regulations. Include revising section 6.6.2 to describe the different competitive procurement processes available and when each should be used in compliance with state and federal regulations.
- Ensure management and staff receive proper training in procurement procedures.
- Ensure staff that are involved in the consultant procurement process perform all required actions and comply with SCAG policies and procedures, Caltrans requirements, and state and federal procurement regulations.

- Ensure all documentation is maintained to support that proper procurement procedures are followed in accordance with state and federal regulations.
- Take Caltrans, Division of Local Assistance (DLA) A&E consultant procurement training either in person or online at <http://www.dot.ca.gov/hq/LocalPrograms/training.html>

In addition, we recommend Caltrans, Division of Transportation Planning (DOTP) and Division of Local Assistance (DLA) provide enhanced oversight over SCAG's future procurements.

## **AUDITEE'S RESPONSE**

### **1. Consultant Procurement Deficiencies**

AECOM Technical Services, Inc. and Parsons Brinckerhoff,

SCAG requests that this finding be removed from the report.

In the Exit Conference for this audit, IOAI staff stated that the written guidance regarding Architectural & Engineering projects could have been more clear for the years that relate to these findings. It was shared that IOAI had audited other funding recipients and made similar findings and that they learned that the guidance could have been more clear. This is supported by the publication of FTA's Best Practices Procurement & Lessons Learned Manual (October 2016), which had it been in existence at the time of this contract's inception, would have clarified that RFP 13-008 was not A&E in nature. Sec. 3.4.9 of the Manual (Attachment 1) states that:

Thus if services, such as program management, feasibility studies, or mapping, are not directly in support of, or directly connected to, or directly related to, or lead to construction, alteration, alteration, or repair of real property, then the recipient may not use qualifications-based procurement procedures to select the contractor that will perform those services.

[Page 59]

Additionally, SCAG asserts that the related Cooperative Agreement among Caltrans, SCAG and FHWA which in Sec. 6.a (Attachment 2) refers to the work as Intelligent Transportation Systems work:

All pricing requirements must conform to 23 CFR 940 which requires a systems engineering analysis. Refer to CALTRANS Local Assistance Program Guide, Chapter 13 "Intelligent Transportation Systems (ITS) Program".

Sec. 9.2 of the Caltrans Consultant Procurement Manual issued by the Division of Local assistance dated April 2017 states that ITS projects that are the "development of a concept of operations" are non-A&E [page 59 (Attachment 3)]. This project was a concept of operations and therefore, SCAG asserts it was not an A&E project.

SCAG also asserts that eliminating price would not have altered the consultant selection and that John Yang of Caltrans District 7 staff participated in the procurement process and did not raise any objections to SCAG's procurement process at any time.

## System Metrics Group

SCAG requests that this finding be removed from the report.

This procurement included Mr. Elhami Nasr from CALTRANS District 7 on the evaluation team. He was aware that there was only one proposer, yet did not cite any further steps required to complete the selection. CALTRANS guidance on single proposer/sole source procurements has not been clear and remains unclear today.

During the course of this audit, the IA/OI staff advised SCAG to obtain approval from Caltrans of a Public Interest Finding (PIF) for single proposer/sole source procurements. However, SCAG has since been advised by Mr. Vijay Kopparam of District 7 and Ms. Erin Thompson of Caltrans Headquarters that the PIF form does not apply to non-construction contracts. This is supported by the language in the guidance for the Public Interest Finding form itself (Attachment 4) which states on page 1 that "A Public Interest Finding is required for Federal-aid highway construction projects (emphasis added) for..." SCAG was advised by FHWA in a July 5, 2018 email (Attachment 5), in which Caltrans was copied, to seek approval of sole source procurements via an email request not the PIF form. Three requests have been approved in this manner since that time and this procedure will be incorporated into SCAG's policies and procedures.

SCAG cites FTA Procurement Circular 4220.1F at Ch.VI, Section 3.i.(l)(b)2 (Rev. 4, March 18, 2013) (Attachment 6) which states that if a competitive solicitation results in one bid, the recipient should review the specifications used to determine if they were overly restrictive. If the recipient determines the specifications were not overly restrictive and that other companies could have met the specification but chose not to bid for other reasons, the procurement qualifies as a valid competitive award. SCAG conducted a survey of the firms solicited to determine why the response yielded only one bidder. A summary of their responses is in Attachment 7 and this information was reported to the RC on April 4, 2013 (Attachment 8, page 40). The main reason cited for not responding was that they were unable to team up with a prime consultant or were too busy with other work. This supports the idea that the scope of work was not too restrictive.

In light of the above, SCAG requests that this finding be removed.

## 2. Procurement Policies and Procedures Manuals Deficiencies.

SCAG is updating its policies and procedures to comply with all applicable requirements and will provide training to staff.

### ANALYSIS OF AUDITEE'S RESPONSE

#### FINDING 2 — Contract Management Deficiencies

SCAG's contract management system did not comply with state and federal regulations and Caltrans agreement provisions. We found that SCAG billed Caltrans for unsupported and unallowable consultant and sub-recipient costs. Furthermore, we found that SCAG improperly managed consultant and sub-recipient contracts, did not properly close-out consultant contracts, executed amendments on expired contracts, and could not support all local match requirements

were met. Additionally, SCAG lacked contract management policies and procedures detailing proper processes to manage consultant and sub-recipient contracts and detailed procedures for reviewing and approving invoices. SCAG billed and was reimbursed \$590,537 in unsupported consultant costs, and \$361,426 on an expired consultant contract. These costs are disallowed.

Specifically we found the following:

### **1. Consultant and Sub-recipient Invoice Deficiencies**

We tested twenty-three consultant invoices (from ten consultants) and found that SCAG lacked documented support for consultant costs charged to projects/work elements, and they approved and paid consultant costs lacking adequate support. We tested three sub-recipient invoices and found that SCAG lacked documentation to support invoiced costs on one of the sub-recipient invoices tested.

- 10 of 23 consultant invoices were arbitrarily split and allocated to more than one project/work element with no source documentation to support the actual costs applicable to each project/work element. The unsupported consultant costs total \$590,538 and are disallowed.
- 7 of 23 consultant progress reports submitted with the invoices did not include the percentage of work completed as required in the consultant contracts.
- 1 of 23 consultant invoices was approved without a required progress report.
- SCAG approved payment of a sub-recipient invoice with no supporting documentation to determine the reasonableness, allowability, and eligibility of the costs billed.

SCAG's review and approval process of consultant and sub-recipient invoices was performed by project managers, section managers, accountants, contract administrators (for consultants) and budgets and grants staff (for sub-recipients). SCAG's review and approval process was not documented and staff were unclear as to the roles and responsibilities of each area in the process. SCAG's accounting staff stated that based on the lack of detailed information included on the consultant invoices, there was no way to determine which project(s) the consultant costs related to. The practice of accepting and arbitrarily splitting consultant invoices that lack appropriate information detailing what tasks/activities the consultant performed work increases the risk of unallowable costs being charged to Caltrans.

SCAG's Budgets and Grants Management Policies and Procedures, were not clear and did not define the roles and responsibilities of project managers. Furthermore, SCAG did not have written policies and procedures for project managers and other staff reviewing and approving invoices of sub-recipients and consultants. SCAG staff acknowledged they had inadequate Project Management and Grant Management Policies and Procedures in place to provide staff guidance. SCAG stated that they are in the process of developing policies and procedures for staff that define staff roles and responsibilities and provide guidance to the project managers. The lack of policies and procedures and weak invoice approval processes increase the risk of unallowable costs being billed to Caltrans.

### **2. Consultant and Sub-recipient Contract Deficiencies**

We tested three consultant contracts and found that SCAG billed costs incurred on an expired contract and did not perform and/or document required actions related to properly managing consultant contracts. We also tested three sub-recipient agreements and found all three lacked required language to comply with Caltrans agreement provisions. Specifically we found the following:

- SCAG executed an amendment on an expired contract for the consultant contract with Parsons and billed costs to Caltrans that were incurred after the contract expiration date. Additionally, work was amended into the contract for the LA County Express Lane Strategic Plan on behalf of another agency that was outside of the original scope of work. Parsons original contract of \$1,859,803 was amended 12 times to add \$195,500 to total \$2,058,303. Amendment 5 was executed after the contract expiration date. Therefore, amendments 5 through 12 are invalid and subsequent costs billed to Caltrans totaling \$361,426 are disallowed,
- The scope of work for the RFP and the AECOM consultant contract were not clearly defined as evidenced by the contract being amended 15 times. Nine amendments changed the scope of work and six amendments added additional funds. The original contract amount was \$2,065,599. Amendments totaling \$2,306,337 were added for a total contract amount of \$4,371,936, an increase of 112 percent. In addition, the contract was executed even though the final contract Terms and Conditions did not appear to be finalized. One proposed sub-consultant was deleted from task 7 on the executed contract with no documented justification. Additionally, 5 amendments included changes to the scope, and additions of sub-consultants and dollars to task 7.
- The scope of work on the RFP for the SMG consultant procurement was not clearly defined as evidenced by the contract being amended 14 times. Three amendments added additional funds. The original contract amount was \$1,839,422. Amendments totaling \$622,900 were added for a total contract amount of \$2,463,322, an increase of 34 percent.
- The project manager and contract administrator did not always perform an independent cost estimate, an analysis of the cost proposal, and cost negotiation when they amended the AECOM and SMG consultant contracts. In addition, not all cost estimates that were prepared for the AECOM, Parson's and SMG contracts were signed and dated to support they were prepared prior to cost negotiation and execution.
- SCAG extended the contract terms for the AECOM, Parson's, and SMG consultant contracts over thirty-six (36) months without re-solicitation in violation of SCAG's Procurement Policies and Procedures.
- Three sub-recipient Memorandums of Understanding (MOU) agreements tested lacked required language below:
  - ▶ Project related travel and subsistence expense of contractors should be in accordance with California Department of Personnel Administration rates.
  - ▶ Sub-contractor and third party compliance for applicable cost principles should be with 48 CFR Ch. 1 Part 31.
  - ▶ Requirement to specify the type of contract as required by the Caltrans Local Assistance Procedures Manual (LAPM), Chapter 10.

The MOUs also included inaccurate regulations. The MOUs cited sub-recipients were to comply with 48 CFR Chapter 1 Part 31 instead of 49 CFR Part 18 which was superseded by 2 CFR 200.

### 3. Consultant Contract Close-out Deficiencies

SCAG's contract close-out process was not in compliance with Caltrans agreement provisions and state requirements on both consultant contracts tested. The project managers for these contracts did not perform a contract performance evaluation or a post evaluation of the consultants as required by DLA's Local Assistance Procedures Manual (LAPM) Chapter 10.8 and the PCC §10369. Additionally, both contracts were closed out with no support to indicate all deliverables had been met or completed as required by the contract. Specifically, the first contract close-out lacked documentation of required summary memos for a workshop, and whether five meetings and presentations were held/given. The second lacked documentation of five meetings held, two presentations, a summary report, a catalog of public comment and a project completion plan.

The contract close-out procedures in SCAG's Procurement Policy and Procedures Manual were not developed in compliance with Caltrans LAPM and state regulations. One project manager was not aware of SCAG's contract close-out process and the departments involved. Lack of proper contract close-out processes impacts the ability of staff to understand and ensure compliance of the contracted work or services as specified in the contract.

### 4. Local Match Deficiencies

During our testing of the AECOM consultant contract we found that SCAG inappropriately used two inconsistent federal funding sources to fund a consultant contract. One source of federal funds provided through DLA had a 20 percent local match and the second source provided through DOTP had an 11.47 percent local match. The AECOM contract did not segregate the tasks/activities by funding source to track work associated to the separate federal funding sources. We tested five AECOM consultant invoices and determined that SCAG arbitrarily allocated the costs between two separate work elements (one funded by DLA and one by DOTP) with no consultant documentation to support the allocation or split. Due to the lack of support for the allocation/split of costs the local match cannot be supported and verified as accurate.

Additionally, we noted that SCAG included a term in a Funding Agreement amendment that allowed for the contract completion date to be subject to the completion of a separate consultant agreement as opposed to a required specific end date in the Funding Agreement amendment.

Several SCAG staff stated that they did not think it was the consultant's responsibility to identify work they performed on each task and project on the consultant's invoices. SCAG accounting staff stated they were instructed by management to record local match costs to projects/work elements that were not supported by the consultant invoices. If SCAG is unable to support they are paying consultants for actual work performed on specific tasks separately from other funded work they run the risk of billing Caltrans for unallowable costs.

See Attachment 3 finding 2 for detailed criteria.

### RECOMMENDATION

We recommend SCAG reimburse Caltrans a total of \$951,963 for the unallowable costs identified above (\$590,538 of consultant costs + \$361,426 on expired contract).

We also recommend SCAG:

- Ensure consultants provide adequate invoice detail to support costs claimed in compliance with consultant contract terms and 2 CFR Part 200 (which superseded 49 CFR Part 18, and 2 CFR Part 225). Additionally, ensure consultants are required to submit invoices that identify the work performed by task/activity and work element so proper documentation is maintained to support consultant billings and local match.
- Ensure sub-recipients provide adequate invoice detail and/or support that dollars claimed are actually incurred and in compliance with 2 CFR Part 200.
- Withhold payment of invoices from sub-recipients who fail to provide adequate invoice detail and/or supporting documentation.
- Establish procedures that identify and define each staff's roles and responsibilities regarding consultant invoice reviews.
- Revise the Grants Management Policies and Procedures and develop a Project Management Policies and Procedures Manual to ensure compliance with all applicable state and federal regulations, and provide staff with detailed processes to follow.
- Ensure consultant contracts identify the funding sources and/or work elements of each task/activity when there are multiple funding sources and/or work elements.
- Ensure compliance with all state and federal regulations over the administration of consultant contracts and that the contracts contain language as required in the Caltrans' agreements.
- Ensure compliance with all state and federal regulations over the administration of sub-recipient (MOU) agreements, that agreements contain language as required in the Caltrans' agreements and include specific contract end dates.
- Ensure staff are properly trained on the administration and management of consultant and sub-recipient pass through funds.

## **AUDITEE'S RESPONSE**

### 1. Consultant and Sub-recipient Invoice Deficiencies

SCAG concurs with the findings with the exception of: "SCAG approved payment of a sub-recipient invoice with no supporting documentation to determine the reasonableness, allowability, and eligibility of the costs billed." This is a reference to SCAG's files lacking the final cost estimate from the sub-recipient. However, the payment packet includes the MOU (Attachment 9) in which on page 4, both parties "agree and acknowledge that the total value of the project is \$158,000..." This takes precedence over the cost estimate and SCAG requests that this finding be removed.

### 2. Consultant and Sub-recipient Contract Deficiencies

SCAG requests that the finding for the Parson's Contract and associated disallowed costs note the following information and also eliminate the disallowed costs of \$361,246.



- a. Notwithstanding the requirements, SCAG relied on the retroactive language in Amendment No. 5 of the Parsons contract to keep the contract active despite it being executed after the contract's expiration date. Such language is an acceptable method for maintaining contracts, is legally binding, and is commonly used in expired commercial contracts.
- b. The number of amendments to the AECOM contract are explained by the administrative needs of that contract and the fact that the outreach portion of the contract was put in abeyance and later restored when needed. Also, SCAG received a new grant in the amount of \$916,000 to perform additional work and this was amended into the AECOM contract.
- c. Twelve of the SMG contract amendments were for administrative purposes, e.g., annual fiscal year funding, term and schedule changes, and line-item budget revisions. Three amendments were the result of the additional work added to the underlying AECOM contracts related to the new grant of \$916,000 mentioned above.
- d. SCAG agrees that it could not produce all required records of independent cost estimates, analyses of cost proposals, and cost negotiations and is putting in place policies and procedures to ensure required procedures are followed and documentation kept.
- e. SCAG received concurrence from Angela Jacobs, USDOT on September 14, 2015 (Attachment 10) to proceed with the AECOM, Parson's and SMG contracts without rebidding after 36 months.
- f. SCAG will update the language in its MOUs to comply with all applicable requirements.

### **3. Consultant Contract Closeout Deficiencies**

SCAG has updated its contract closeout procedures to comply with all applicable requirements.

### **4. Local Match deficiencies**

SCAG agrees that the consultant should indicate on the invoices which project/WE is being billed. This will ensure that the associated match is recorded correctly.

Regarding the Funding Agreement amendment that allowed for the contract completion date to be subject to the completion of a separate consultant agreement, this was done to allow the Funding Agreement to terminate without an amendment when the related consultant services were completed. This provided evidence of commitment to the project until completed and avoided an amendment to an agreement that had five parties, which can prove inefficient, slow, cumbersome and impact project delivery.

## **ANALYSIS OF AUDITEE'S RESPONSE**

### **FINDING 3 — Labor and Fringe Benefit Deficiencies**

SCAG's labor and fringe benefit charging practices do not comply with Caltrans Agreement requirements, and state and federal regulations as noted below.

#### **Labor Charges and Quarterly Reporting**

Indirect and ineligible costs were charged to work element 120 which was established for direct costs related to Development and Administration of the Overall Work Program (OWP). Eligible tasks included the development of the OWP; preparation of the annual budget and amendments to the budget; and preparation of Quarterly Progress Reports.

Specifically we noted the following labor charging and reporting deficiencies:

- Accountants and contract administrators charged time for the review and approval of consultant invoices which were ineligible and indirect in nature.
- Thirteen project and section managers charged time for the review and approval of consultant invoices related to projects budgeted under work elements other than 120.
- Some project and section managers charged time related to managing other projects and activities to work element 120 when their budgets were depleted or underfunded.
- Ineligible labor for legal staff was charged to work element 120.
- Quarterly Progress Reports did not accurately represent the work that was actually performed and charged to work element 120.

SCAG staff acknowledged they miss-charged labor costs to work element 120 that were related to other projects and work elements when budgets were depleted or underfunded.

We determined SCAG billed and was reimbursed a total of \$1,558,051 in ineligible direct labor charges to work element 120. These costs are disallowed. For a detail of the disallowed costs, see Attachment II,

In addition to the ineligible charges identified above, we noted instances where SCAG staff inconsistently charged time for staff meetings and an office holiday party.

#### **Retroactive Pay and Merit Increases**

SCAG's accounting for retroactive pay and merit increases occurred months after the increase was given, and the methodology used to allocate the increase did not accurately or equitably allocate to the month(s) and work element(s) worked by the employees. We found instances where accountants prepared or changed employee timesheets by adding hours (sometimes in excess of 20 hours in one day for a single employee) to adjust the ending pay to equal the total pay period. Additionally, there was no clear audit trail for charging and recording the pay increases.

## **Fringe Benefits**

SCAG's methodology for billing fringe benefit costs was inaccurate and inconsistent with their Indirect Cost Allocation Plan (ICAP) calculation methodology which resulted in an inaccurate allocation of costs. SCAG did not allocate fringe benefit costs to intern and student assistant salaries. SCAG inappropriately allocated the intern and student assistant fringe benefit costs to all regular staff salaries (excluded intern and student assistant salaries). In addition, the ICAP calculation allocated the intern and student assistant fringe benefits to all staff salaries (included the interns and student assistants). The interns and student assistants have limited fringe benefit costs associated with their positions and require a separate fringe benefit allocation methodology to equitably allocate their costs.

SCAG does not have adequate policies and procedures related to labor charging practices, and no documented procedures to account for time sheet corrections or retroactive pay and merit increases. In addition to billing ineligible costs identified, the inappropriate charging practices result in SCAG lacking accurate historical information related to actual costs for future budget purposes, and overhead rate calculations.

See Attachment 3 finding 3 for detailed criteria.

## **RECOMMENDATION**

We recommend SCAG:

- Reimburse Caltrans \$1,558,051 for the disallowed costs identified above.
- Ensure billings to Caltrans are based on actual labor costs incurred.
- Ensure the accounting methodology for retroactive pay and merit increases provides for an audit trail for changes made to the employee time sheets and costs are allocated to the appropriate pay periods.
- Develop and implement written policies and procedures for proper and consistent labor charging practices. Ensure procedures define appropriate charging practices for staff meetings and other non-project or work element activities.
- Update the Accounting Manual to include procedures for time sheet corrections and retroactive pay and merit increases and train staff accordingly.
- Develop separate fringe benefit allocation methodologies for regular staff, and interns and student assistants.

## **AUDITEE'S RESPONSE**

### **Labor Charges and Quarterly Reporting**

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

### **Retroactive Pay and Merit increases**

SCAG has implemented new practices and is actively documenting new policies and procedures to more accurately account for retroactive pay rate changes.

### **Fringe Benefits**

SCAG has implemented new practices and is actively developing new policies and procedures to more accurately allocate fringe benefit charges.

## **ANALYSIS OF AUDITEE'S RESPONSE**

### **FINDING 4 — Billing and Reporting Deficiencies**

SCAG did not submit required documentation with their requests for reimbursement to support costs billed, and did not submit Quarterly Progress Reports in accordance with the DOTP Master Fund Transfer Agreement (MFTA) and the DLA Master Agreement.

Specifically, we noted the following deficiencies:

- Three SCAG Consolidated Planning Grant billings did not include the CPG IT Reports, or comparable information, which would allow the Caltrans's district staff to reconcile and trace billed costs to supporting documentation. The Consolidated Planning Grant IT Reports provide a breakdown of the costs and funding sources by task associated to each respective work element, which provides a tie to the billings and SCAG's financial management system. By not providing all relevant information, Caltrans is not able to determine if costs are allowable, and that costs are charged to the appropriate work elements.
- SCAG did not submit the Quarterly Progress Reports to the district as required per the MFTA. Without the Quarterly Progress Reports, Caltrans is not able to determine if the costs billed are in line with the progress of the project, or that they relate to the appropriate work element.
- Two SCAG billings to DLA included a Funding Schedule with a column titled "Other Project" with no explanation. It was determined the "Other Project" column are costs related to consultant costs that are billed to another funding source. SCAG's billings should include schedules and support documentation that provide for transparency, full disclosure, and sufficient detail to support all activities performed that tie to SCAG's financial management system. The lack of adequate and relevant information included on schedules to support SCAG's billed costs increases the risk Caltrans will pay for unallowable costs.

The MFTA requires Metropolitan Planning Organizations to prepare and submit requests for reimbursement of actual allowable costs incurred consistent with work elements described in their Overall Work Plan.

See Attachment 3 finding 4 for detailed criteria.

### **RECOMMENDATION**

We recommend SCAG take the following actions:

- Ensure all billings to Caltrans' include all applicable information and supporting documentation that trace to the billed costs and SCAGs financial management system. This includes ensuring the Consolidated Planning Grant IT Reports (or equivalent information) are provided and totaled by task associated to the respective work elements.
- Submit Quarterly Progress Reports to Caltrans in compliance with the MTF.
- Ensure supporting schedules provided with the billings include appropriate descriptions detailing where costs are being charged.

### **AUDITEE'S RESPONSE**

SCAG will be sure to include all applicable back up documentation in the future including items such as the CPG IT reports. Since the invoices were approved and reimbursed by CALTRANS, and SCAG commits to provide all applicable information in the future, SCAG requests that this finding be removed from the report.

SCAG provided documentation after the exit interview for the Quarterly Progress reports and in return were informed that this item would be removed from the final report.

Regarding the column titled "Other Billing", SCAG will more fully describe its columns on the CPG invoice documentation.

### **ANALYSIS OF AUDITEE'S RESPONSE**

#### **FINDING 5 — Possible Conflict of Interest with Sponsorship Program**

SCAG's Sponsorship Program gives the appearance of a possible conflict of interest. SCAG created a Sponsorship Program to solicit donations from individuals, entities, and organizations with an interest in accessing participants of SCAG's General Assembly for networking, relationship building, business opportunities, and information sharing. We noted that SCAG solicits and receives donations from consultants for its Sponsorship Program that they also enter into consultant contracts with to perform work. SCAG lacks a documented process over the Sponsorship Program to ensure a conflict of interest does not occur. Additionally, SCAG does not have documented policies and procedures over the administration and management of the Sponsorship Program.

See Attachment 3 finding 5 for detailed criteria.

### **RECOMMENDATION**

We recommend SCAG perform the following:

- Establish procedures over the Sponsorship program to ensure there is no real or appearance of a conflict of interest with consultants that provided donations to the Sponsorship Program and are awarded consultant contracts.
- Develop policies and procedures over the administration and management of the Sponsorship Program to ensure compliance with all state and federal regulations.

**AUDITEE'S RESPONSE**

SCAG is in the process of developing written policies and procedures for its sponsorships, in compliance with all requirements, to ensure there are no real or apparent conflicts of interest.

**ANALYSIS OF AUDITEE'S RESPONSE**