


Memorandum

*Making Conservation a
California way of life*

To: TIM GUBBINS
District 5
Director

Date: April 27, 2018

File: P2505-0087

From: ALICE M. LEE 
Chief
External Audits — Contracts
Independent Office of Audits and Investigations

Subject: **AUDIT OF SANTA CRUZ COUNTY REGIONAL TRANSPORTATION
COMMISSION, PROPOSITION 1B AUDIT**

Attached is the audit report pertaining to the audit performed on the following project:

<u>Project Name</u>	<u>Project number</u>	<u>P Number</u>	<u>Amount Audited</u>
Highway 1 Soquel to Morrissey Auxiliary Lanes	0500000048	P2505-0087	\$15,932,220

The project's implementing agency is the Santa Cruz County Regional Transportation Commission. The project was funded using Proposition 1B Corridor Mobility Improvement Account funds.

As required by the Governor's Executive Order S-02-07 and SB88, the expenditures of bond proceeds and outcomes are subject to audit. The audit was performed by the Department Finance on behalf of Caltrans. Deputy Directive 100-R1, "Departmental Responses to Audit of Reports" cites responsibilities of District Director relative to audits performed. The audit disclosed the following findings:

- Questioned Construction Expenditures
- Improvements Needed in Reporting Project Benefits/Outcomes
- Improvements Needed in Procurement Process
- Final Delivery Report Not Submitted Timely

Please provide the Independent Office of Audits and Investigations a Corrective Action Resolution (CAR) on the audit findings within 90 days of this memorandum's date and reference the project number above.

If you have any questions, please contact Elena Guerrero, Acting Audit Manager, at (916) 323-7954.

Attachment

cc: Stephen Maller, Deputy Director, California Transportation Commission
Rick Guevel, Associate Deputy Director, California Transportation Commission
Teri Anderson, Assistant Deputy Director, California Transportation Commission
Bruce De Terra, Division Chief, Transportation Programming, Caltrans
Doris M. Alkebulan, Prop 1B Specialist, Transportation Programming, Caltrans
Vasan Rudrapakiam, Prop 1B Coordinator, Division of Project Management, Caltrans
Elena Guerrero, Acting Audit Manager, Audits and Investigations, Caltrans



Santa Cruz County Regional Transportation Commission

Proposition 1B Bond Programs

Project Number 0500000048

Team Members

Jennifer Whitaker, Chief
Cheryl L. McCormick, CPA, Assistant Chief
Jon G. Chapple, CPA, Manager
Jeremy Jackson, CPA, Supervisor
Angie Williams, Supervisor
Jedediah Thompson, Lead
Stephen Franz

Final reports are available on our website at <http://www.dof.ca.gov>

You can contact our office at:

California Department of Finance
Office of State Audits and Evaluations
915 L Street, 6th Floor
Sacramento, CA 95814
(916) 322-2985



Transmitted via e-mail

April 17, 2018

Ms. Alice M. Lee, Chief
External Audits—Contracts, Audits and Investigations
California Department of Transportation
1304 O Street, Suite 200
Sacramento, CA 95814

Dear Ms. Lee:

Final Report—Santa Cruz County Regional Transportation Commission, Proposition 1B Audit

The California Department of Finance, Office of State Audits and Evaluations, has completed its audit of the Santa Cruz County Regional Transportation Commission's (RTC) Proposition 1B funded project listed below:

<u>Project Number</u>	<u>P Number</u>	<u>Project Name</u>
0500000048	P2505-0087	Highway 1 Soquel to Morrissey Auxiliary Lanes

The enclosed report is for your information and use. RTC's response to the report findings and our evaluation of the response are incorporated into this final report. This report will be placed on our website.

If you have any questions regarding this report, please contact Jon Chapple, Manager, or Jeremy Jackson, Supervisor, at (916) 322-2985.

Sincerely,

Jennifer Whitaker, Chief
Office of State Audits and Evaluations

Enclosure

cc: Ms. Elena Guerrero, Acting Audit Manager, External Audits—Contracts, Audits and Investigations, California Department of Transportation
Mr. Zach Friend, Commission Chair, Santa Cruz County Regional Transportation Commission
Mr. George Dondero, Executive Director, Santa Cruz County Regional Transportation Commission
Mr. Luis Mendez, Deputy Director, Santa Cruz County Regional Transportation Commission
Mr. Daniel Nikuna, Fiscal Officer, Santa Cruz County Regional Transportation Commission

BACKGROUND, SCOPE AND METHODOLOGY

BACKGROUND

California voters approved the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) for \$19.925 billion. These bond proceeds finance a variety of transportation programs. Although the bond funds are made available to the California Transportation Commission (CTC) upon appropriation by the Legislature, CTC allocates these funds to the California Department of Transportation (Caltrans) to implement various programs.¹

CTC awarded \$13.783 million of Proposition 1B funds from the Corridor Mobility Improvement Account (CMIA) and \$2.15 million from the State Transportation Improvement Program (STIP) Augmentation to the Santa Cruz County Regional Transportation Commission (RTC) for the Highway 1 Soquel to Morrissey Auxiliary Lanes project (0500000048). The project consisted of the construction of north and southbound auxiliary lanes on Highway 1 between the Soquel Drive and Morrissey Boulevard interchanges, as well as the reconstruction of the La Fonda Avenue Overcrossing. The project was implemented by the RTC, which provides transportation services, planning, and funding for all travel modes within the County of Santa Cruz.² Construction for this project is complete.

PROGRAM DESCRIPTION¹

CMIA: \$4.5 billion of bond proceeds made available to CMIA to finance a variety of eligible transportation projects. CTC's general expectation is that each CMIA project will have a full funding commitment through construction, either from the CMIA alone or from a combination of CMIA and other state, local, or federal funds.

STIP AUGMENTATION: \$2 billion of bond proceeds made available to the STIP to augment funds otherwise available for STIP from other sources. The original STIP finances state highway improvements, intercity rail, and regional highway and transit improvements. These funds are available through the newly established Transportation Facilities Account.

SCOPE

As requested by Caltrans, the California Department of Finance, Office of State Audits and Evaluations, audited the project described in the Background section of this report. The audit period for the project is identified in Appendix A.

The audit objectives were to determine whether:

- Proposition 1B expenditures were incurred and reimbursed in compliance with the executed project agreements, Caltrans/CTC's program guidelines, and applicable state and federal regulations cited in the executed agreements.
- Deliverables/outputs were consistent with the project scope and schedule.
- Benefits/outcomes, as described in the executed project agreements or approved amendments, were achieved and adequately reported in the Final Delivery Report.

We did not assess the efficiency or effectiveness of program operations.

¹ Excerpts were obtained from the bond accountability website <https://bondaccountability.dot.ca.gov/>.

² Excerpts were obtained from RTC's website www.sccrtc.org.

RTC's management is responsible for ensuring accurate financial reporting; compliance with contract provisions, state and federal regulations, and applicable program guidelines; and the adequacy of its job cost system to accumulate and segregate reasonable, allocable, and allowable expenditures. CTC and Caltrans are responsible for the state-level administration of the programs.

METHODOLOGY

To achieve the audit objectives, we performed the following procedures:

- Examined the project files, project agreements, program guidelines, and applicable policies and procedures.
- Reviewed procurement records to ensure compliance with applicable local and state procurement requirements.
- Reviewed accounting records, progress payments, cancelled checks, and electronic fund transfer documents.
- Selected a sample of expenditures to determine if they were project-related, properly incurred, authorized, and supported.
- Reviewed a sample of contract change orders to ensure they were within the scope of the project, properly approved, and supported.
- Evaluated whether other revenue sources were used to reimburse expenditures already reimbursed with bond funds.
- Evaluated whether project deliverables/outputs were met by reviewing supporting documentation and conducting a site visit to verify project existence.
- Evaluated whether project deliverables/outputs were completed on schedule by reviewing project files, project agreements or amendments, and the Final Delivery Report.
- Determined whether project benefits/outcomes were achieved by comparing the actual project benefits/outcomes reported in the Final Delivery Report with the expected project benefits/outcomes described in the executed project agreements or amendments.
- Evaluated whether project benefits/outcomes were adequately reported in the Final Delivery Report by reviewing a sample of supporting documentation.

In conducting our audit, we obtained an understanding of internal control, including any information systems controls that we considered significant within the context of our audit objectives. We assessed whether those controls were properly designed, implemented, and operating effectively. Deficiencies in internal control that were identified during our audit and determined to be significant within the context of our audit objectives are included in this report.

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

Except as noted in Finding 1, Proposition 1B expenditures were incurred and reimbursed in compliance with the executed project agreements, Caltrans/CTC's program guidelines, and applicable state and federal regulations cited in the executed agreements. In addition, except as noted in Finding 4, project deliverables/outputs were consistent with the project scope. Although the project was behind schedule, RTC appropriately informed Caltrans and CTC of the delay.

Also, as noted in Finding 2, project benefits/outcomes were not adequately reported in the Final Delivery Report, and RTC did not achieve the expected benefits/outcomes as described in the project agreements or approved amendments. The *Summary of Projects Reviewed* is presented in Appendix A.

Finding 1: Questioned Construction Expenditures

RTC claimed \$170,479 of freeway service patrol (FSP) costs that were not eligible for Proposition 1B funding. According to the project's Transportation Management Plan (the "Plan") prepared by Caltrans in April 2009, 8 hours per day of FSP services were to be paid from the FSP program. Section 3.3.1 of the Plan provides temporary lane shifts caused by the project will result in extended hours for FSP services, from 8 hours per day to 15 hours per day. However, RTC was unable to provide documentation showing the claimed FSP hours were for extended services beyond the normal 8 hours per day. According to RTC, FSP services were claimed for reimbursement due to increased traffic delays caused by project construction.

Recommendations:

- A. Remit \$170,479 to Caltrans.
- B. Develop and maintain an adequate review process to ensure claimed expenditures are allowable prior to submitting reimbursement invoices to Caltrans.

Finding 2: Improvements Needed in Reporting Project Benefits/Outcomes

The project benefits/outcomes approved by Caltrans/CTC were not adequately reported in the Final Delivery Report. Specifically:

- RTC reported daily travel time savings (hours) and daily peak duration person-minutes saved in the Final Delivery Report. However, RTC was unable to provide documentation supporting the reported figures, and therefore could not demonstrate the expected benefits were achieved.
- The expected benefit to cost ratio of 2.4 was not reported in the Final Delivery Report.

RTC stated it relied upon Caltrans District 5 to determine the project benefits and did not maintain documentation to support the reported benefits.

CMIA Accountability Implementation Plan, section IV C.1, states that within six months of the project becoming operable, the implementing agency will provide a Final Delivery Report to CTC on the scope of the completed project, including performance outcomes as compared to those described in the project baseline agreement. Without an accurate assessment of projected and actual project outcomes, CTC cannot determine whether project benefits were met.

Recommendations:

- A. Read and review program guidelines to ensure a clear understanding of the requirements.
- B. Maintain documentation to support project benefits/outcomes reported in the Final Delivery Report.
- C. Submit a Supplemental Final Delivery Report that addresses all expected project benefits/outcomes, including pre and post comparable metrics. Additionally, ensure future Final Delivery Reports address all expected project benefits/outcomes and have comparable pre and post metrics.

Finding 3: Improvements Needed in Procurement Process

RTC did not adhere to Caltrans requirements relating to the procurement of a consultant contract. Specifically, RTC awarded a \$268,300 sole source contract for construction design support services without proper written justification. Additionally, RTC did not prepare a cost estimate or conduct cost negotiations prior to executing the sole source contract. Lacking a cost estimate and cost negotiations, RTC is unable to substantiate if it received the best price for the work performed. RTC stated it does not have policies and procedures relating to the award of sole source contracts, and did not think policies and procedures were needed for this situation. Caltrans' Local Assistance Procedures Manual (LAPM), section 10.9, requires local agencies to obtain approval from Caltrans and follow an internal process for sole source contracts. In addition, the LAPM requires agencies to develop an adequate scope of work, consider evaluation factors and obtain a cost estimate prior to the solicitation, and conduct negotiations to ensure a fair and reasonable cost.

Recommendation:

- A. Adhere to Caltrans' procurement requirements relating to sole source contracts, and develop sole source policies and procedures to ensure cost estimates, evaluation factors, and cost negotiations are documented.

Finding 4: Final Delivery Report Not Submitted Timely

The Final Delivery Report was not submitted to Caltrans within six months of the project becoming operable (construction contract acceptance date). The Final Delivery Report was due August 2015 and was not submitted to Caltrans until October 2016. According to RTC, the Final Delivery Report was delayed due to litigation with the construction contractor. Late submission of reports decreases transparency of the project status and prevents Caltrans/CTC's ability to timely review the completed project's scope, final costs, project schedule, and performance outcomes.

CMIA Accountability Implementation Plan, section IV C.1, requires a Final Delivery Report within six months after projects become operable. CMIA guidelines state a project becomes operable at the end of the construction phase when the construction contract is accepted. The construction contract for this project was accepted in February 2015.

Recommendations:

- A. Read and review program guidelines to ensure a clear understanding of the requirements.
- B. Submit Final Delivery Reports for future state funded projects as required.

APPENDIX A

The following acronyms are used throughout Appendix A.

- California Department of Transportation: Caltrans
- California Transportation Commission: CTC
- Santa Cruz County Regional Transportation Commission: RTC
- Corridor Mobility Improvement Account: CMIA
- State Transportation Improvement Program Augmentation: STIP Augmentation
- Expected benefit to cost ratio: B/C Ratio

Summary of Projects Reviewed

Project Number	Expenditures Reimbursed	Project Status	Expenditures In Compliance	Deliverables/ Outputs Consistent	Benefits/ Outcomes Achieved	Benefits/ Outcomes Adequately Reported	Page
0500000048	\$15,932,220	C	P	Y	N	N	A-1

Legend

C = Complete

Y = Yes

N = No

P = Partial

Project Number: 0500000048

Project Name: Highway 1 Soquel to Morrissey Auxiliary Lanes

Program Name: CMIA and STIP Augmentation

Project Description: The project consisted of adding auxiliary lanes to both the north and southbound direction of Highway 1 between the Soquel Avenue and Morrissey Boulevard interchanges. In addition, the project included the reconstruction of the La Fonda Avenue Overcrossing.

Audit Period: June 4, 2007 through April 30, 2015¹

Project Status: Construction is complete.

Schedule of Proposition 1B Expenditures

Proposition 1B Expenditures	Reimbursed	Questioned Costs
Construction	\$15,932,220	\$170,479
Total Proposition 1B Expenditures	\$15,932,220	\$170,479

Audit Results:

Compliance–Proposition 1B Expenditures

Proposition 1B expenditures were incurred and reimbursed in compliance with the executed project agreements, Caltrans/CTC's program guidelines, and applicable state and federal regulations cited in the executed agreements except for \$170,479 in ineligible construction costs.

Deliverables/Outputs

The construction phase of the project was completed in February 2015. At the time of our site visit in July 2017, project deliverables/outputs were consistent with the project scope. However, the project was behind schedule and completed 15 months late. RTC appropriately updated Caltrans and CTC of the delay. Additionally, the project Final Delivery Report was due in August 2015 but was submitted to Caltrans in October 2016.

Benefits/Outcomes

RTC did not adequately report actual project benefits/outcomes. Specifically, benefits/outcomes for daily travel time savings (hours) and daily peak duration person-minutes saved were reported in the Final Delivery Report; however, RTC was unable to provide documentation supporting the reported amounts. In addition, the expected B/C Ratio of 2.4 was not reported in the Final Delivery Report.

Expected Benefits/Outcomes	Actual Benefits/Outcomes	Benefits/Outcomes Achieved
Daily Travel Time Savings (Hours): 796 hours	Not adequately reported	No
Daily Peak Duration Person-Minutes Saved: 53,893 minutes	Not adequately reported	No
B/C Ratio of 2.4	Not reported	No

¹ The audit period end date reflects the billing period end date of the last reimbursement claim submitted to Caltrans.



SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION

1523 Pacific Ave., Santa Cruz, CA 95060-3911 • (831) 460-3200 FAX (831) 460-3215 EMAIL info@sccrtc.org

Transmitted via e-mail

March 14, 2018

Jennifer Whitaker, Chief
Office of State Audits and Evaluations
California Department of Finance
915 L Street
Sacramento, CA 95814-3706

RE: Draft Report – Santa Cruz County Regional Transportation Commission, Proposition 1B Audit

Dear Ms. Whitaker,

The SCCRTC appreciates the opportunity to review its practices with your audit team regarding the construction of the Highway 1 Soquel Avenue to Morrissey Boulevard Auxiliary Lanes project funded with Proposition 1B Corridor Mobility Improvement Account (CMIA) and State Transportation Improvement Program (STIP) funds.

The SCCRTC is pleased to submit the enclosed responses on the draft audit report. Although the SCCRTC may not fully agree with all of the findings in the draft audit report, the audit process has been very helpful to the SCCRTC, and the SCCRTC welcomes the opportunity to make improvements.

As requested in the cover letter to the audit report, two electronic PDF copies of this response will be provided by email to OSAERelports@dot.ca.gov. If you have additional questions or would like additional information, please contact Daniel Nikuna, Fiscal Officer, at 831-460-3217 or dnikuna@sccrtc.org, or Luis Mendez, Deputy Director, at 831-460-3212 or lmendez@sccrtc.org.

Sincerely,

George Dondero
Executive Director

Enclosures

Cc: Alice M. Lee, Chief, External Audits-Contracts, Audits and Investigations, California Department of Transportation
Elena Guerrero, Acting Audit Manager, External Audits-Contracts, Audits and Investigations, California Department of Transportation
John Leopold, Commission Chair, Santa Cruz County Regional Transportation Commission

I:\FISCAL\AUDIT\CaltransICAP\FY2015\Audit Response\CovLetICAPAudit2015.docx

**Santa Cruz County Regional Transportation Commission
Responses to the Proposition 1B Audit Draft Report
Highway 1 Soquel Drive to Morrissey Boulevard Auxiliary Lanes**

The SCCRTC response is noted below in bold after each finding and recommendations.

The RTC appreciates review of its implementation of the Highway 1 Soquel Drive to Morrissey Avenue Auxiliary Lanes construction project.

Finding 1: Questioned Construction Expenditures

RTC claimed \$170,479 of freeway service patrol (FSP) costs that were not eligible for Proposition 1B funding. According to the project's Transportation Management Plan (the "Plan") prepared by Caltrans in April 2009, 8 hours per day of FSP services were to be paid from the FSP program. Section 3.3.1 of the Plan provides temporary lane shifts caused by the project will result in extended hours for FSP services, from 8 hours per day to 15 hours per day. However, RTC was unable to provide documentation showing the claimed FSP hours were for extended services beyond the normal 8 hours per day. According to RTC, FSP services were claimed for reimbursement due to increased traffic delays caused by project construction.

Recommendations:

- A. Remit \$170,479 to Caltrans.
- B. Develop and maintain an adequate review process to ensure claimed expenditures are allowable prior to submitting reimbursement invoices to Caltrans.

When the Transportation Management Plan (the "Plan") for this project was produced in 2008, the Freeway Service Patrol (FSP) was in regular operation on Highway 1 during the morning and afternoon commute periods and funding for that regular operation was available. The regular operation for the FSP program included 3 hours during the morning commute and 3 hours during the afternoon commute with overtime as necessary depending on events on the highway. As sometimes happens, the funding outlook for transportation projects and programs can change significantly. Such was the case for the FSP service on Highway 1.

When construction of the Highway 1 auxiliary lanes began in February 2012 regular FSP service on Highway 1 was in operation. Unfortunately, the funding for the regular operation of FSP on Highway 1 was exhausted by the end of May 2012 and new funding could not be secured to keep the regular FSP service operating. Therefore, in March 2012, RTC suspended regular FSP service on Highway 1 (Attachment 1.)

In conversations with Caltrans staff working on the Highway 1 construction project, it was determined that the regular FSP service had already demonstrated benefits to the Highway 1 construction project during the initial months of construction work and would be even more beneficial as more significant construction work got underway. It was also determined that using Highway 1 construction funds to provide up to 8 hours of FSP service per day was allowed because the RTC regular service had become zero hours per day due to the unavailability of funding to continue the previous regular FSP service. As a result, the RTC reinstated FSP service on Highway 1 for the purpose of assisting with the Highway 1 construction project (Attachment 2.)

Therefore, RTC does not believe that it should remit \$170,479 to Caltrans. RTC sought reimbursement for FSP service only beyond the time that the regular funding for the FSP service had become exhausted and only after discussion with Caltrans staff involved in the project.

In addition, the construction contractor filed a differing site condition lawsuit against the RTC. By the time that the lawsuit was settled the CMIA and STIP funds for the project had been exhausted. Therefore, the RTC added nearly \$999,825 of funds to the project from other sources to settle the lawsuit and pay for associated legal costs. The settlement payment to the construction contractor was for \$875,000. Costs for settlement of construction claims and lawsuits are allowable costs for reimbursement. If the RTC had been able to secure funding to continue regular FSP service in 2012 and not used CMIA and STIP funds for that service, the \$170,479 would have been available to help pay for the settlement and the RTC would have added less money from other sources.

The RTC does review project expenditures before submitting for reimbursement from funding sources secured for the project. When RTC is unsure whether project expenditures are eligible for funding sources administered by Caltrans, RTC asks Caltrans.

Finding 2: Improvements Needed in Reporting Project Benefits/Outcomes

The project benefits/outcomes approved by Caltrans/CTC were not adequately reported in the Final Delivery Report. Specifically:

RTC reported daily travel time savings (hours) and daily peak duration person minutes saved in the Final Delivery Report. However, RTC was unable to provide documentation supporting the reported figures, and therefore could not demonstrate the expected benefits were achieved.

The expected benefit to cost ratio of 2.4 was not reported in the Final Delivery Report.

RTC stated it relied upon Caltrans District 5 to determine the project benefits and did not maintain documentation to support the reported benefits.

CMIA Accountability Implementation Plan, section IV C.1, states that within six months of the project becoming operable, the implementing agency will provide a Final Delivery Report to CTC on the scope of the completed project, including performance outcomes as compared to those described in the project baseline agreement. Without an accurate assessment of projected and actual project outcomes, CTC cannot determine whether project benefits were met.

Recommendations:

- A. Read and review program guidelines to ensure a clear understanding of the requirements.
- B. Maintain documentation to support project benefits/outcomes reported in the Final Delivery Report.
- C. Submit a Supplemental Final Delivery Report that addresses all expected project benefits/outcomes, including pre and post comparable metrics. Additionally, ensure future Final Delivery Reports address all expected project benefits/outcomes and have comparable pre and post metrics.

Because Highway 1 in Santa Cruz County is a facility owned, operated and maintained by the state, the RTC and Caltrans worked in partnership to develop, fund and deliver the project. In that partnership each entity had its appropriate roles. Caltrans stipulated responsibility for calculation

levels of congestion relief, improved operational safety and overall cost benefits ratios to ensure that a consistent methodology was applied and that certified data were used in the production of the analysis. Caltrans did not provide any documentation for the analysis calculations but included the results of the analysis in the project funding application and the final report. The analysis performed by Caltrans and included in the final project report showed significant improvement benefits and outcomes achieved, contrary to the findings of this audit report.

For the future, RTC will take greater efforts to ensure that all of the involved partners are fully aware of their responsibilities. The RTC will also work with the various partners to make sure everyone's responsibilities are being adequately addressed and where they are not, RTC may have to take on those responsibilities and request reimbursement for its work.

Finding 3: Improvements Needed in Procurement Process

RTC did not adhere to Caltrans requirements relating to the procurement of a consultant contract. Specifically, RTC awarded a \$268,300 sole source contract for construction design support services without proper written justification. Additionally, RTC did not prepare a cost estimate or conduct cost negotiations prior to executing the sole source contract. Lacking a cost estimate and cost negotiations, RTC is unable to substantiate if it received the best price for the work performed. RTC stated it does not have policies and procedures relating to the award of sole source contracts, and did not think policies and procedures were needed for this situation. Caltrans' Local Assistance Procedures Manual (LAPM), section 10.9, requires local agencies to obtain approval from Caltrans and follow an internal process for sole source contracts. In addition, the LAPM requires agencies to develop an adequate scope of work, consider evaluation factors and obtain a cost estimate prior to the solicitation, and conduct negotiations to ensure a fair and reasonable cost.

Recommendation:

- A. Adhere to Caltrans' procurement requirements relating to sole source contracts, and develop sole source policies and procedures to ensure cost estimates, evaluation factors, and cost negotiations are documented.

This contract was for design support during construction. In discussing this with Caltrans and engineers at local public works departments, RTC was informed that the design engineers are retained to provide the design support during construction. This ensures design consistency throughout the project and prevents any potential conflicts due to differing design interpretations or differing design philosophies. Therefore, this was considered not only approval from Caltrans but a recommendation that the construction design support work be awarded to Nolte who produced the project designs to minimize or prevent any potential problems.

The Caltrans designation of roles and responsibilities during construction (page 3 of Attachment 3) states, "During the construction phase of the project, the Design Consultant (including sub-design consultant such as electrical, mechanical, geotechnical, structural, etc.) must be retained..."

In the future, RTC staff will obtain verification from Caltrans on whether a sole source process is required to engage design consultants for construction support services. If Caltrans requires it, the RTC will abide.

Finding 4: Final Delivery Report Not Submitted Timely

The Final Delivery Report was not submitted to Caltrans within six months of the project becoming operable (construction contract acceptance date). The Final Delivery Report was due August 2015 and was not submitted to Caltrans until October 2016. According to RTC, the Final Delivery Report was delayed due to litigation with the construction contractor. Late submission of reports decreases transparency of the project status and prevents Caltrans/CTC's ability to timely review the completed project's scope, final costs, project schedule, and performance outcomes.

CMIA Accountability Implementation Plan, section IV C.1, requires a Final Delivery Report within six months after projects become operable. CMIA guidelines state a project becomes operable at the end of the construction phase when the construction contract is accepted. The construction contract for this project was accepted in February 2015.

Recommendations:

- A. Read and review program guidelines to ensure a clear understanding of the requirements.
- B. Submit Final Delivery Reports for future state funded projects as required.

Due to an outstanding claim that resulted in a lawsuit, RTC could not produce a final delivery report until the lawsuit was settled. The lawsuit was completed significantly after the deadline to submit the final delivery report. The RTC produced and submitted the report after the lawsuit was settled. RTC staff kept Caltrans informed of the progress of the lawsuit and the fact that the final delivery report would be late.

RTC's response to the draft audit report has been reviewed and incorporated into the final report. RTC provided additional documentation in response to Finding 1 and Finding 3. In the interest of brevity, attachments to the response are omitted. In evaluating RTC's response, we provide the following comments:

Finding 1: Questioned Construction Expenditures

RTC disagrees that the \$170,479 of FSP expenditures claimed were ineligible, asserting it sought reimbursement for FSP service only beyond the time regular funding was exhausted and after discussion with Caltrans staff. However, RTC was unable to provide documentation showing the claimed FSP hours were for extended services, or documentation showing Caltrans approved the FSP expenditures. As such, the finding and recommendations remain unchanged.

Finding 2: Improvements Needed in Reporting Project Benefits/Outcomes

RTC disagrees with this audit finding and states Caltrans stipulated responsibility for the calculation of project benefits but provided no documentation to support its calculations. However, CMIA guidelines require the implementing agency to report project benefits. Since RTC did not report the expected benefit to cost ratio and was unable to provide documentation supporting the other reported benefits, our audit finding and recommendations remain unchanged.

Finding 3: Improvements Needed in Procurement Process

RTC disagrees with this audit finding. RTC contends it received approval from Caltrans for the sole-sourcing of design work in the construction phase and cited language from "Caltrans Office of Special Funded Projects, Information and Procedures Guidelines." However, RTC did not provide documentation showing evidence of Caltrans' approval. Additionally, the cited guidelines address retaining the design consultant during the construction phase of the project. RTC still must comply with the requirements of the LAPM when awarding the original design contract; including evidence of an internal process for awarding the contract, description of scope of work, evaluation factors considered, analysis of cost estimates, and substantiation of contract negotiations. As such, the audit finding and recommendation remain unchanged.

Finding 4: Final Delivery Report Not Submitted Timely

RTC concurs with this audit finding and recommendations.