



INSPECTOR GENERAL

California Department of Transportation

San Diego Metropolitan Transit System Project Compliance Audit



Independent Office of Audits and Investigations

Bryan Beyer, Inspector General
Matt Espenshade, Chief Deputy

April 2025
23A.PJCT08



For questions or assistance concerning the contents of this report, please contact (916) 323-7111 or email ioai.reports@dot.ca.gov. Alternative format reports available upon request.



Inspector General

California Department of Transportation

Bryan Beyer, Inspector General

Matt Espenshade, Chief Deputy

April 8, 2025

Tony Tavares
Director
California Department of Transportation
1120 N Street
Sacramento, CA 95814

Final Report — San Diego Metropolitan Transit System, Project Compliance Audit

Dear Director Tavares:

The Independent Office of Audits and Investigations (IOAI) completed its audit of San Diego Metropolitan Transit System (San Diego Metro). We audited two projects, one for reimbursed costs in the amount of \$34,143,138 and the other project for deliverables and benefits.

Enclosed is our final report, which includes the San Diego Metro's response to the draft report. Our evaluation of the response is incorporated into this final report. The final report is a matter of public record and will be posted on our website.

In accordance with Government Code section 14460(d)(2), IOAI reports the status of audit findings and recommendations on an annual basis to the Governor, the Legislature, and the California Transportation Commission. Therefore, IOAI will collaborate with the California Department of Transportation (Caltrans) to assess the corrective actions taken on audit recommendations.

If you have any questions regarding this report, please contact our office at (916) 323-7111.

Sincerely,

Matt Espenshade, CFE
Chief Deputy Inspector General

Gavin Newsom, Governor

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Tony Tavares
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Selected Terms Used in Report

Terms/Acronyms	Definition
A&E	Architectural and engineering
Benefits	Nonphysical improvements (e.g., congestion reduction, air quality improvement)
Blue Line Project	Blue Line Rail Corridor Transit Enhancements Project
CalSTA	California State Transportation Agency
Caltrans	California Department of Transportation
Commission	California Transportation Commission
Deliverables	Actual physical infrastructure improvements (e.g., light-rail vehicle purchases, construction of a terminal station)
ICE	Independent cost estimate
Notice of Completion	A document to signify final acceptance and completion of construction of the project.
San Diego Metro	San Diego Metropolitan Transit System
San Diego Metro Procurement Policy	San Diego Metropolitan Transit System Procurement Policy and Procedures Manual, effective January 1, 2018
TIRCP	Transit and Intercity Rail Capital Program
Trolley Project	Trolley Capacity Improvements Project

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Summary

The purpose of this audit was to determine whether the claimed and reimbursed costs for the Blue Line Rail Corridor Transit Enhancements Project (Blue Line Project) were allowable and adequately supported in accordance with Caltrans' agreement provisions and state regulations. In addition, we determined whether project deliverables and benefits for the Trolley Capacity Improvements Project (Trolley Project) were consistent with the project scope and schedule as described in executed agreements and were achieved and reported in accordance with applicable guidelines.

For the Blue Line Project, San Diego Metro did not adhere to state law when procuring architectural and engineering (A&E) services. These services included construction management and A&E design. Consequently, we are questioning \$4,045,810 in costs claimed by San Diego Metro and reimbursed by Caltrans for the Blue Line Project.

For the Trolley Project, San Diego Metro failed to provide us key documentation to support whether the project was completed as designed, within scope, and on schedule. Furthermore, San Diego Metro did not report to Caltrans the methodologies it used to quantify the benefits for the Trolley Project on the Final Delivery Report, as required by the Transit and Intercity Rail Capital Program (TIRCP) guidelines.

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Introduction

Background

Senate Bill 1 (chapter 5, Statutes of 2017), also known as the Road Repair and Accountability Act of 2017, provided the first significant, stable, and ongoing increase in state transportation funding in more than two decades.¹ The California Transportation Commission (Commission) and the California State Transportation Agency (CalSTA) are responsible for various programs that provide state funds to local public agencies— included among these programs is the TIRCP.

In 2014, the State Legislature amended section 75220 of the Public Resources Code (chapter 36, section 21, Statutes of 2014), creating TIRCP to fund transformative capital improvements. In 2017, Senate Bill 1 (SB 1) provided \$245 million annually for TIRCP.

CalSTA is responsible for the administration of TIRCP. However, in August 2015, the secretary of CalSTA delegated the agency's authority to Caltrans and directed Caltrans to administer the program pursuant to the TIRCP guidelines and Caltrans' policies and procedures for the administration of similar grant programs.

TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM

The Legislature created TIRCP to fund transformative capital improvements that would modernize California's intercity rail, bus (including feeder buses to intercity rail services), ferry, and rail transit systems to achieve the following policy objectives:

1. Reduce greenhouse gas emissions.
2. Expand and improve transit service to increase ridership.
3. Integrate the rail service of the state's various rail operations.
4. Improve transit safety.

Additionally, section 75221(c) of the Public Resources Code establishes a programmatic goal to provide at least 25 percent of available funding to projects that provide a direct, meaningful, and assured benefit to disadvantaged communities.²

CalSTA is responsible for preparing the program's guidelines and selecting projects for funding. The Commission's role is to allocate funding to the awarded projects and monitor their milestones after allocation.

¹Source: The Commission's SB 1 Accountability and Transparency Guidelines.

²Excerpt from [CalSTA webpage](#).

The TIRCP guidelines describe the project selection process, which requires an implementing agency, such as San Diego Metro, to submit an application that will be screened and evaluated by CalSTA in collaboration with other state entities. According to the project applications submitted to CalSTA, San Diego Metro would serve as the implementing agency.

For this audit, we selected two projects that had received funding from the state:

- **Trolley Project:** Design and construction of a new terminal station at the San Diego Superior Court building and the acquisition of eight light-rail vehicles to increase peak capacity and system performance.
- **Blue Line Project:** Enhancements to station and rail infrastructure, expanded bus service, and the acquisition of 11 electric buses.

Caltrans reimbursed San Diego Metro \$66,079,138 for the projects we audited. See Table 1 below for details regarding the two projects.

Table 1. Projects Overview

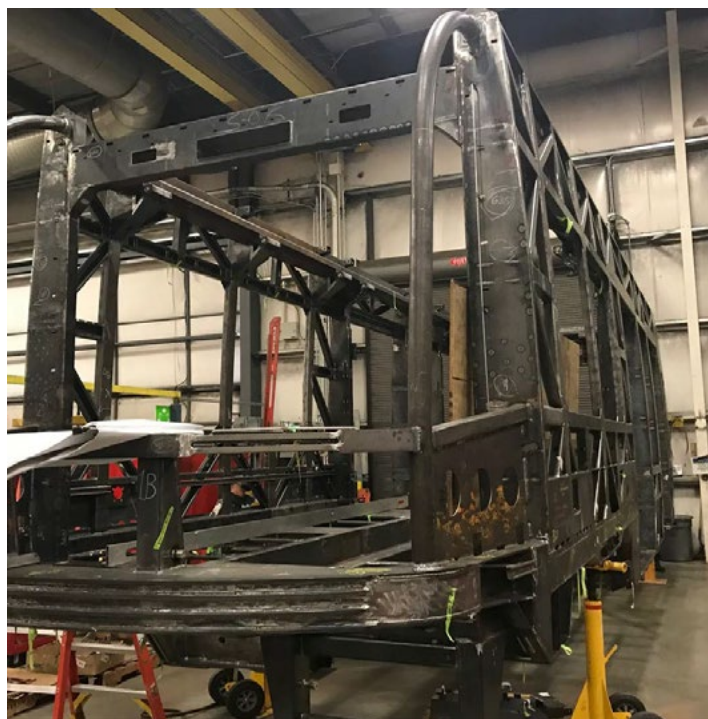
Project	Project Numbers	Funding Sources	Project Status ³	Reimbursed Amount
Trolley Project	0017000040 0017000174 0016000188	TIRCP and local funds	Undeterminable ⁴	\$31,936,000
Blue Line Project	0019000238 0019000237 0021000121 0021000133 0021000210 0021000365 0021000212 0022000114 0020000049 0020000078 0020000156 0022000113 0021000275 0021000211	TIRCP and local funds	In progress	\$34,143,138
Total Costs				\$66,079,138

Source: Analysis by IOAI based on review of Program Supplement, reimbursements submitted to Caltrans, and review of TIRCP guidelines.

³TIRCP defines a project as operable once the contract has been accepted or the acquired equipment is received.

⁴San Diego Metro could not provide the Notice of Completion to signify the construction contract had been accepted and the project was operable. Due to the lack of crucial documentation, we were unable to determine the project status. See Finding 2 for more information.

Figure 1. This Image Shows the Trolley Prior to Assembly



Source: San Diego Metro's Final Delivery Report, dated February 15, 2022.

Figure 2. This Image Shows the Trolley After Assembly



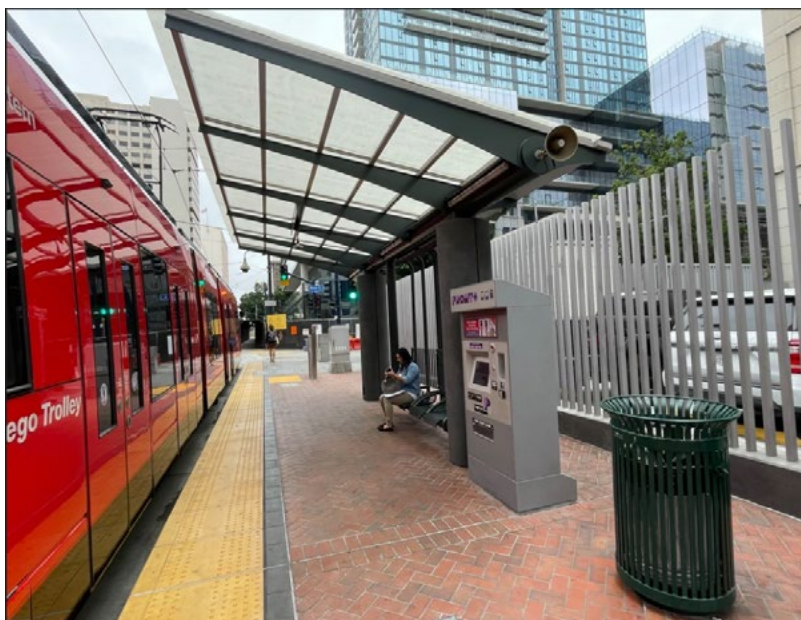
Source: San Diego Metro's Final Delivery Report, dated February 15, 2022.

Figure 3. This Image Shows the Courthouse Station at the Beginning of Construction



Source: San Diego Metro's Final Delivery Report, dated February 15, 2022.

Figure 4. This Image Shows the New Courthouse Station After Construction



Source: Photo taken by IOAI on October 25, 2023.

Audit Results

Finding 1. San Diego Metro Did Not Comply With State Law When It Awarded Construction Management and Engineering Design Work Order Agreements for the Blue Line Project

Condition

San Diego Metro failed to comply with state government code requirements in awarding 10 construction management and engineering design⁵ work order agreements (agreements) for the Blue Line Project.

San Diego Metro directly awarded five agreements to specific consultants without soliciting proposals from other qualified candidates. For the remaining five agreements, San Diego Metro selected specific consultants to solicit proposals without regard to their qualification order—excluding other qualified consultants from consideration—and awarded agreements to those not identified as the most qualified. These 10 work order agreements were for work on nine separate components for the Blue Line Project.

A **work order agreement** is a project-specific agreement between San Diego Metro and its consultant. The agreement includes project description, scope of work, period of performance, deliverables, schedule, and work order pricing sheet.

Source: San Diego Metro Master Agreement with its consultant.

These practices contradict California Government Code, chapter 10, section 4525, which mandates that such agreements be procured and awarded based on demonstrated qualifications and competence with the intent of selecting the most qualified firms. Although San Diego Metro maintained a ranked list of qualified candidates for both construction management and engineering design services, it failed to adhere to these established rankings. For the five agreements directly awarded, San Diego Metro also neglected to solicit proposals from a minimum of three firms as required by law, instead awarding the contract directly to a single consulting firm. As a result, we question \$1,185,636, which is the amount that Caltrans reimbursed San Diego Metro for consultant costs related to the five agreements that San Diego Metro directly awarded to consulting firms.

⁵Per California Government Code, chapter 10, section 4525, “Architectural, engineering, environmental, and land surveying services” includes those professional services of an architectural, landscape architectural, engineering, environment, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform. “Construction project management” means those services provided by a licensed architect, registered engineer, or licensed general contractor that meet the requirements of California Government Code, chapter 10, section 4529.5, for management and supervision of work performed on state construction projects.

In the case of the remaining five agreements, San Diego Metro failed to consistently select the most qualified firm from its established list. It selectively solicited proposals from only some qualified consultants, in all cases skipping other more qualified consultants. When asked to provide documentation supporting these deviations from the established ranking order, San Diego Metro was unable to do so. Table 2 below illustrates San Diego Metro's deviation from the required procurement procedures and inconsistent solicitation practices for the engineering design agreements. As a result, we question \$2,860,174, which is the amount Caltrans reimbursed San Diego Metro for consultant costs related to the five agreements San Diego Metro selectively issued proposals to consultants on the established list.

Table 2. Blue Line Project: Consultant Ranking and Project Components

Consultant	Ranking	Green Line IMT Double Tracking	America Plaza Pedestrian Enhancements	Blue Line Feeder Bus Service Stop Improvement	Blue Line Feeder Bus Service Charging Infrastructure	Network Integration
1	1	Solicited	Solicited	Solicited	Solicited	Solicited
2	2	Solicited	Solicited	Solicited	Solicited	Solicited
3	2	Not Solicited	Solicited	Solicited	Solicited	Awarded Contract
4	3	Not Solicited	Not Solicited	Not Solicited	Not Solicited	Not Solicited
5	3	Not Solicited	Solicited	Awarded Contract	Awarded Contract	Solicited
6	3	Solicited	Awarded Contract	Solicited	Solicited	Solicited
7	4	Awarded Contract	Solicited	Solicited	Solicited	Not Solicited
8	5	Solicited	Not Solicited	Not Solicited	Not Solicited	Not Solicited

Source: Ranking order provided by San Diego Metro; analysis by IOAI.

Furthermore, San Diego Metro failed to prepare a detailed independent cost estimate (ICE) for the procurement of engineering design services for

A **detailed ICE** shows various elements of costs such as labor type, item description, number of hours, hourly rate, and other expenses.

Source: San Diego Metro Procurement Policy, Appendix C, Form (C-2) Services Estimate Instructions.

the Green Line Imperial Terminal Double Tracking project component. Instead, the project manager used 10 percent of the total construction costs to determine the engineering design service's ICE. This approach falls short of the required standards per the San Diego Metro Procurement Policy. See text box for description of a San Diego Metro ICE.

As San Diego Metro directly awarded five agreements totaling \$1,185,636 and it cannot support that it chose the most qualified consultant for the five remaining agreements (one of which it did not complete a detailed ICE) totaling \$2,860,174, we question the \$4,045,810 in costs for the Blue Line Project that Caltrans reimbursed San Diego Metro.⁶

Criteria

San Diego Metro's procurement practices for these agreements are subject to specific state laws and regulations, as well as its own internal policies. The following criteria outline the requirements San Diego Metro did not meet.

California Government Code section 4526 states:

Notwithstanding any other provision of law, selection by a state or **local agency** head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms **shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.** *[Emphasis added.]*

This law mandates a qualifications-based selection process, which San Diego Metro failed to follow by using direct awards. The San Diego Metro Procurement Policy reinforces this requirement. Part A–Policy, section 6.7, Architectural and Engineering and Other Professional Services states:

6.7.1 San Diego Metro will use qualification-based competitive proposal procedures in accordance with the California Government Code Section 4525 et seq. or the Brooks Act.

⁶By the end of our audit period, we determined \$1.7 million of TIRCP funding remained available. We also determined these work order agreements have a remaining contract amount of at least \$1.55 million.

6.7.3 This “qualifications-based” procurement method can only be used for the procurement of A&E services where any amount of state or federal funds are utilized.

Despite these clear internal guidelines, San Diego Metro did not adhere to qualification-based competitive proposal procedures. California Government Code section 4527 further states:

The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him or her, no less than three of **the firms deemed to be the most highly qualified to provide the services required.** *[Emphasis added.]*

San Diego Metro’s failure to solicit proposals from all qualified consultants and its disregard for the established ranking order directly violates this requirement.

Regarding the preparation of an ICE, the San Diego Metro Procurement Policy, Part B–Procedures, section 5.6, Independent Cost Estimate states:

The ICE must include detailed information as to its development and/or source, detailing how it was derived and the basis of the estimate, and **must include supporting documentation of the detailed costs.** The ICE must be dated and maintained in the official solicitation file. *[Emphasis added.]*

The lack of a detailed ICE for the Green Line Imperial Terminal Double Tracking project component violates this internal policy requirement.

In addition, San Diego Metro Procurement Policy’s Appendix C–Forms includes an example of an Independent Cost Estimate Form and instructions on completing the form. The San Diego Metro Procurement Policy, Part B–Procedures, section 11.2, Independent Cost Estimate states:

Any cost or price analysis must be based on an independent cost estimate, which should be developed before a solicitation is issued, but in no event after the receipt of bids or proposals.

Furthermore, the San Diego Metro Procurement Policy, Part B—Procedures, section 16.2, Solicitation File Documentation states:

The procurement department maintains the official solicitation file, including all official documents relating to the administration of the solicitation process, evaluation of bids and proposals, as well as appropriate internal documentation and analyses supporting the formal correspondence and official documents.
[Emphasis added.]

San Diego Metro's inability to produce documentation supporting its procurement decisions and cost estimates indicates a failure to comply with this recordkeeping requirement.

Cause

San Diego Metro's procurement practices fell short of ensuring the selection of the most qualified firms. The agency believed its methods—direct award, rotation, or issuance of a request for proposal—were appropriate for selecting competent and qualified firms. However, California Government Code section 4526 states the selection shall be made upon demonstrated competence and professional qualifications alone. San Diego Metro has a ranked list of qualified consultants for procuring these contracts, which establishes a contact order. By directly awarding contracts, rotating through consultants, or issuing proposals to only some of the consultants from the established list, San Diego Metro may bypass the most qualified consultants for contract awards. We believe this practice contradicts California Government Code section 4526, which requires only the most qualified consultants should be awarded the contract. Further, by directly awarding to one consultant, San Diego Metro did not comply with California Government Code section 4527 by contacting at least three firms.

Furthermore, San Diego Metro lacked documentation justifying its decision not to solicit proposals from all qualified consultants. It claimed selectively requesting proposals based on consultants' expertise, availability, and capacity is permissible. However, we believe this practice is contradictory to state law, which requires the most qualified consultant to be awarded the contract. By limiting the pool of candidates, San Diego Metro prevented potentially more qualified firms from being awarded these contracts.

Finally, San Diego Metro failed to produce a detailed ICE for the Green Line IMT Double Tracking component of the project, stating the Program Manager appeared to utilize a percentage estimate of the total construction cost.

Effect

By not awarding construction management and engineering design agreements through the fair qualifications-based selection process, San Diego Metro cannot demonstrate all the qualified consultants were given the same opportunity to compete for each project component.

The ICE serves as the basis for price negotiations between San Diego Metro and the consultant and ensures that the services obtained are at a fair and reasonable price. Without a detailed ICE, San Diego Metro cannot ensure a fair and reasonable price was obtained during negotiations with the awarded consultant.

Recommendations

- 1.1 Caltrans should coordinate with San Diego Metro to develop a corrective action plan to appropriately resolve this finding. This includes recovering \$4,045,810 in questioned costs identified in this audit. Caltrans should also recover any related reimbursed costs that occurred after our audit period and prevent any future reimbursements to these agreements.
- 1.2 San Diego Metro should follow the ranking order and solicit proposals from three or more of the top qualified consultants for each work order. In cases where multiple consultants share the same ranking, all those consultants should receive the same solicitation for proposals, ensuring each has an opportunity to compete for that work order. For future qualification listings, San Diego Metro should consider selection criteria and tiebreaking mechanisms to identify a single firm per ranking.
- 1.3 San Diego Metro should revise its Master Agreements with consultants to allow for only qualification-based competitive proposal methods when soliciting or procuring for A&E services.
- 1.4 San Diego Metro should maintain all procurement records.
- 1.5 San Diego Metro should prepare a detailed ICE for each of the future agreements to be used as a basis for cost negotiations.

Finding 2. San Diego Metro Lacked a Key Document Needed to Verify That Its Trolley Project Was Completed as Designed and Show Compliance With Required Deadlines

Condition

San Diego Metro was unable to provide us with crucial documentation, specifically the Notice of Completion, to verify the completion of the Courthouse Station for the Trolley Project. This project encompassed the design and construction of a new terminal station at San Diego's Superior Court building and the acquisition of eight new light-rail vehicles for the Blue and Orange Lines. While San Diego Metro provided documentation for the completion and acceptance of the light-rail vehicles within scope and on schedule, it could not produce similar evidence for the Courthouse Station's completion.

The Notice of Completion serves as an official acknowledgment of the final acceptance and successful completion of construction work. According to the contract between San Diego Metro and the contractor, this document signifies that the work has been delivered in accordance with the terms and conditions outlined in the executed agreement.

San Diego Metro submitted a Final Delivery Report to Caltrans stating that the Trolley Project was complete and that the as-built plans were approved. However, when asked to provide these as-built plans, San Diego Metro could not produce them. Caltrans' 2018 Local Assistance Procedures Manual defines as-built plans as a set of original record drawings of all structure work with "as-built" corrections made by the engineer responsible for structure work, and all plan sheets must be clearly identified with an as-built stamp and have (at a minimum) the name of the resident engineer, the construction contract acceptance date, and the contract number. While the audit team verified the physical existence of the new station during a site visit, the absence of a Notice of Completion means San Diego Metro cannot definitively support when it accepted the contract or confirm construction was completed within the approved scope of work and contract documents.

When questioned about its methods for confirming project completion and ensuring contractor compliance with scope and schedule, San Diego Metro presented the final settlement and release agreement with the contractor. This document detailed unfinished tasks, referred to as "Punch List Items," requiring completion or correction. However, San Diego Metro's contract with the contractor specifically states that San Diego Metro will accept the work as complete only when the contractor completes all corrections and delivers work in accordance with the contract agreement.

Without the Notice of Completion, San Diego Metro cannot verify the contractor's successful fulfillment of all contractual obligations or San

Diego Metro's acceptance of the delivered outcome. Furthermore, it impedes San Diego Metro's ability to confirm timely completion of construction and submission of key reports. TIRCP guidelines require construction completion and contract acceptance up to 36 months from the contract award date following contract acceptance, submission of a final invoice within six months, and a Final Delivery Report within one year of the project becoming operable. The project becomes operable when the construction contract is accepted. Without the Notice of Completion, San Diego Metro cannot support these critical dates.

Criteria

In section 4.33 Final Acceptance and Payment of the executed construction contract, the pertinent language states:

After contractor has, in opinion of MTS [Metropolitan Transit System], satisfactorily completed all corrections identified during final inspection and has delivered, in accordance with the Contract Documents ... **MTS shall execute and file with the County in which the project is located a Notice of Completion, constituting final acceptance and completion of the project.**
[Emphasis added.]

Without the Notice of Completion, the audit team cannot confirm all outstanding items were completed; for example, the unfinished tasks on the Punch List Items document.

The 2015 Edition of San Diego Metro's the Whitebook Standard Specifications for Public Works Construction further describes the Notice of Completion as:

A document recorded with the County of San Diego to signify that the work had been completed and accepted by the City.

The Notice of Completion is also essential to determining critical dates. These dates are used to show the project was completed timely and to determine when required reports should be filed. The TIRCP guidelines specify timelines to which San Diego Metro must adhere. Specifically, the 2015 TIRCP guidelines, Section 12 Allocations and Project Delivery states:

After the award of a contract, the implementing agency has up to 36 months to complete (accept) the contract. Following contract acceptance, the implementing agency has six months to ... submit the final invoice to Caltrans for reimbursement.

Additionally, the guidelines outline requirements for the Final Delivery Report, specifically, Section 13 Project Reporting states:

Within one year of the project becoming operable, the implementing agency must provide a final delivery report to Caltrans For the purpose of this section, a project becomes operable when the construction contract is accepted.

Cause

San Diego Metro's failure to produce the Notice of Completion stems from poor recordkeeping practices. It stated that it could not locate the Notice of Completion and that the project manager responsible for this project is no longer employed at San Diego Metro. Furthermore, San Diego Metro admitted that when preparing the Final Delivery Report, it relied on estimated dates based on documentation stored in its financial system, rather than on official project completion records.

Effect

The absence of a Notice of Completion has various impacts for the project. San Diego Metro cannot conclusively demonstrate that the contractor completed all construction work according to the approved scope and on schedule, as per the executed contract agreement. This lack of documentation also prevents San Diego Metro from confirming whether it submitted key reports in a timely manner as required by the TIRCP Guidelines. Ultimately, this situation undermines the transparency and accountability of the project.

Recommendations

- 2.1 San Diego Metro should implement a document management system to ensure critical project documents, such as Notices of Completion, are properly created, filed, and easily retrievable.
- 2.2 For all future projects, San Diego Metro should require project managers to complete and file a Notice of Completion for each project.

Finding 3. San Diego Metro Did Not Include Benefit Methodologies in the Final Delivery Report for the Trolley Project

Condition

San Diego Metro failed to include project benefit methodologies in its Trolley Capacity Improvements Final Delivery Report, as required by TIRCP guidelines. The report contained three key benefits: increased ridership, enhanced capacity in disadvantaged communities, and reduced greenhouse gas emissions. Although San Diego Metro had developed methodologies to support both planned and actual benefit counts, it neglected to include them in the Final Delivery Report.

Criteria

The Commission's TIRCP guidelines require San Diego Metro to include benefit methodologies in its Final Delivery Report. Specifically in 2015 TIRCP guidelines, Section 13 Project Reporting, states:

Within one year of the project becoming operable, the implementing agency must provide a final delivery report to Caltrans which includes ... 2. Performance outcomes derived from the project as compared to those described in the project application. This should include before and after measurements and estimates ... and **an explanation of the methodology used to quantify the benefits.** *[Emphasis added.]*

Cause

San Diego Metro did not include the required explanation of the methodology used to quantify the benefits in its Final Delivery Report because it misunderstood the TIRCP project reporting requirements. Before completing the project, San Diego Metro submitted its proposed methods for measuring benefits, as required by the Program Supplement,⁷ believing this was sufficient. However, this early submission did not satisfy TIRCP guidelines, which required San Diego Metro to include the methodology used to quantify the benefits within the Final Delivery Report. Although San Diego Metro reported the actual benefits achieved, it did not explain the methods it used to calculate those benefits.

Effect

San Diego Metro's failure to include project benefit methodologies in its Final Delivery Report undermines the transparency and reliability of its

⁷Caltrans' TIRCP glossary of terms define the Program Supplement as a project-specific subcontract to the Master Agreement executed following a Commission-approved action. It includes all project-specific information needed to encumber funding and expected outcomes and deliverables.

reported outcomes. This omission prevents Caltrans and other stakeholders from verifying if the reported benefits align with those initially planned in the application. Without consistent methodology and data, we cannot assess the true impact and success of the Trolley Project.

Recommendations

- 3.1 San Diego Metro should submit a revised Final Delivery Report with methodologies for the Trolley Project to Caltrans.
- 3.2 For future projects, San Diego Metro should ensure its Final Delivery Report includes methodologies used to quantify both before and after (planned and actual) project benefits.

Appendix A. Scope and Methodology

Audit Objectives

We conducted this audit to determine whether Caltrans reimbursed San Diego Metro for costs that were allowable and adequately supported in accordance with Caltrans' agreement provisions and state regulations. We only reviewed costs related to the Blue Line Project. For the Trolley Project, we reviewed deliverables to determine if they were consistent with the project scope and schedule outlined in the executed agreements, and we reviewed benefits to ensure they were achieved and reported in accordance with applicable guidelines.

Audit Period

Our audit period was from January 21, 2016,⁸ through October 31, 2023.⁹

Criteria

We gained an understanding of the projects and identified relevant criteria by reviewing the executed project agreements, the Commission's guidelines, applicable state regulations, and San Diego Metro's policies and procedures, and by interviewing San Diego Metro personnel.

Risk Assessment and Internal Control

We performed a risk assessment, including identifying and evaluating whether San Diego Metro properly designed and implemented internal controls significant to our audit objectives. Our evaluation of internal controls focused San Diego Metro's review and approval processes for costs and contract procurement. We also assessed San Diego Metro's processes for submitting reimbursement requests and required project reports to Caltrans and San Diego Metro's processes for completing and achieving project deliverables and benefits.

Assessment of Data Reliability

Generally accepted government auditing standards require we assess the sufficiency and appropriateness of computer-processed information that we used to support our findings, conclusions, and recommendations. We identified computer-processed data and determined the data was not related to our audit objectives and to significant areas identified in our audit. As a result, we did not perform a data reliability assessment.

Compliance Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that

⁸The audit period start date reflects the date San Diego Metro was allocated for funding for the Trolley Project.

⁹The audit period end date reflects the billing period end date of the last reimbursement claim submitted to Caltrans.

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.

Methodology

Based on our planning, we developed specific methods for gathering evidence to obtain reasonable assurance to address the audit objectives, as detailed in Table 3.

Table 3. Objectives and Methods in the Audit Process

Audit Objective	Methods
<p>Objective 1</p> <p>To determine whether project costs incurred were allowable and adequately supported in accordance with Caltrans' agreement provisions and state regulations for the Blue Line Project.</p>	<p>Procurement</p> <p>Reviewed 10 consultant work order agreements and one out of the six construction contracts related to the Blue Line Project.</p> <p>Determined whether the work order agreements were appropriately advertised, evaluated, and awarded to the most qualified consultant by reviewing procurement records such as the requests for proposals, consultant proposals, ICEs, scoring and evaluation documents, executed work order agreements, emails, and/or solicitation documentation, and comparing to relevant criteria.</p> <p>Determined whether the construction contract agreement was appropriately advertised, evaluated, and awarded to the lowest responsible bidder by reviewing procurement records such as the invitation for bid, project advertisements, bid proposal, ICE, evaluation documents, and contract agreement, and by comparing to relevant criteria.</p> <p>Project Costs</p> <p>Determined whether selected costs were allowable, supported, authorized, project-related, and incurred within the allowable time frame by reviewing project files, consultant invoices, progress payments, daily reports, approved rate sheet, and by comparing to relevant criteria.</p> <p>Selected 3 of 20 consultant invoices from one consultant based on the dollar amount billed. Determined whether selected costs were allowable, supported, authorized, project-related, and incurred within the allowable time frame by reviewing consultant contracts and invoices and comparing to relevant criteria. We also compared billing rates on the consultant invoices to the approved rate sheet. Reviewed three construction progress payment invoices to determine matching costs were calculated correctly, approved, and supported with source documentation.</p>

Audit Objective	Methods
<p>Objective 2</p> <p>To determine whether project deliverables were consistent with the project scope and schedule as described in the executed project agreements for the Trolley Project.</p>	<p>Determined whether the project deliverables were consistent with the project scope and schedule by interviewing key staff; reviewing before-and-after photos, project application, the Final Delivery Report, conditional acceptance certificate and other contract documents, and TIRCP guidelines; and by conducting an in-person site visit to verify the existence of project deliverables. Determined whether the additional deliverables stated on the Program Supplement were prepared and reported on schedule by reviewing progress reports and comparing to relevant criteria.</p>
<p>Objective 3</p> <p>To determine whether project benefits were consistent with the project scope as described in the executed project agreements for the Trolley Project.</p>	<p>Determined whether project benefits were consistent with the project scope by comparing benefits identified in the Final Delivery Report to the expected project benefits identified in the project application, and by reviewing the methodology for calculating the actual and expected benefits. Also determined whether benefits reporting was in accordance with the TIRCP guidelines.</p>

Auditee's Response



March 14, 2025

Via Email at ioai.reports@dot.ca.gov

Mr. Bryan Beyer, CIG
Inspector General
Independent Office of Audits and Investigations
P.O. Box 942874, MS-2
Sacramento, CA 94274-0001

Response to Confidential Draft Report – San Diego Metropolitan Transit System, Project Compliance Audit

Dear Mr. Beyer:

San Diego Metropolitan Transit System (MTS) appreciates the opportunity to respond to the State of California Department of Transportation (Caltrans') Independent Office of Audits and Investigations Draft Report for the Transit and Intercity Rail Capital Program (TIRCP) dated February 28, 2025.

TIRCP:

California State Transportation Agency (CalSTA) is responsible for the administration of TIRCP, who then delegated authority to administer the TIRCP to Caltrans. The TIRCP was created to fund transformative capital improvements that modernize California's intercity, commuter, and urban rail systems, and bus and ferry transit systems to achieve the following policy objectives:

1. Reduce emissions of greenhouse gases;
2. Expand and improve transit service to increase ridership;
3. Integrate the rail service of the state's various rail operations; and
4. Improve transit safety

Additionally, there is a programmatic goal to provide at least 25 percent of available funding to projects that provide a direct, meaningful, and assured benefit to disadvantaged communities.

MTS received TIRCP funds in the 2015 grant cycle of \$31,936,000 for the Trolley Capacity Improvement Project (Trolley Project) and in the 2018 grant cycle of \$34,143,138 for the Blue Line Rail Corridor Transit Enhancement Project (Blue Line Project). MTS applied these funds to various contracts that met TIRCP guidelines.

For the **Trolley Project**, this award consisted of two (2) subcomponents that met the TIRCP guidelines, which included the following procurements:

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San Diego Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc. and San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations). MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, San Marcos, and the County of San Diego. MTS is also the For Hire Vehicle administrator for multiple cities in San Diego County.



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Purchase of Light Rail Vehicles (LRVs) (Project ID 0017000040) – Funding was used to purchase eight (8) Siemens LRVs, along with a ninth (9) Siemens LRV purchased with matching funds by MTS, to expand service on the Blue and Orange Trolley Lines.

Courthouse Station Design (Project ID 0016000188) and Construction (Project ID 0017000174) – Funding was used to build a new western terminus for the Orange Line Trolley. The new Courthouse Station is located on the south side of C Street, between State and Union streets in downtown San Diego. It provides convenient Trolley access for over 45,000 jobs within a half mile walk and is adjacent to the State Superior Court Building. The Courthouse Station has various passenger amenities, including next-train arrival displays, ticket vending machines, shelters, benches, accessible sidewalks and ramps, security cameras and personnel, and enhanced lighting.

For the **Blue Line Project**, this award consisted of various of subcomponents that met the TIRCP guidelines, which included the following architectural and engineering (A&E) and construction management (CM) procurements:

Network Integration (Project ID 0019000238) – Funding for a planning study that supports network integration and community benefits for the proposed Route 925 (now known as Rapid 227).¹

Charger Infrastructure for Rapid 227 (Blue Line Charging Infrastructure) Design (Project ID 0020000156) and Construction (Project ID 0022000113) – Funding for design and construction for the Blue Line Feeder Bus Service for Rapid 227 of a Zero Emission bus charging infrastructure.

Purchase of 11 Zero-Emissions Buses for Rapid 227 (Project ID 0021000275) – Funding to purchase 11 zero-emission articulated buses to operate service on the new Rapid 227 route. Rapid 227 is 25.3 miles round trip between the Otay Mesa Transit Center and Imperial Beach, providing a direct connection to the UC San Diego Blue Line.

Stop Improvements for Rapid 227 (Blue Line Feeder Bus Stop Improvement) Design (Project ID 0021000212) and Construction (Project ID 0022000114) – Funding towards improving the existing stops along the new Rapid 227 to the standard of stops in the existing MTS Rapid network. Improvements include lighted shelters with seating, electronic signage with real-time arrival information, as well as curb pop-outs to provide more room for waiting and boarding passengers at some locations.

America Plaza Pedestrian Enhancements Design (Project ID 0021000210 / 0021000365) and Construction (Project ID 0025000037) – With Amtrak, COASTER, Trolley, and Rapid buses all providing service at the west end of Broadway in downtown San Diego, there's a growing need for pedestrian enhancements at this junction. Funding for concept, design and construction of new pedestrian enhancements between Santa Fe Depot and America Plaza on Kettner Blvd.

¹ In the TIRCP application, MTS identified the name of this route as Route 925. However, after the TIRCP application was submitted, staff re-numbered the route as Rapid 227. For purposes of this Response, all references to Route 925 used in original application to describe this project have been changed to the current name of the route, Rapid 227.

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Old Town Transit Center West Enhancements Construction (Project ID 0020000078)
 – Funding to reconstruct the Old Town Transit Center to better accommodate the growing demand of bus service. This includes four additional bus bays, a new bus island and a new curbside location along Pacific Highway.

Green Line Imperial Transit Center (Green Line IMT) Double Tracking Design (Project ID 002100211) and Construction (Project ID 0021000133) – Funding to double-track the Green Line at the 12th & Imperial Transit Center. The construction of a new track segment and double crossover at this transit center provides greater operational flexibility, better connections, and allows for more trains to operate during special events such as Comic-Con.

Beech Street Double Crossover Design (Project ID 0019000237) and Construction (Project ID 0021000121) – Funding for upgrading the rail infrastructure, such as switches, signaling and fiber networks along the Green Line in downtown San Diego. The improvements increase operating flexibility, reduce service disruptions, and increase work windows for ongoing maintenance.

Middletown Double Crossover Construction (Project ID 0020000049) – Funding improved the track alignments and overhead catenary wire between Santa Fe Depot and the Old Town Transit Center.

PROJECT COMPLIANCE AUDIT REPORT:

The Inspector General audit selected two (2) projects that had received TIRCP funding, the Blue Line Project and the Trolley Project. The audit period was from January 21, 2016, through October 31, 2023. The Project Compliance Audit began in 2023 and concluded in 2024. A Draft Report on the Project Compliance Audit was issued on February 28, 2025.

Per the Inspector General's Report, the purpose of this audit was to determine whether the claimed and reimbursed costs for the Blue Line Project of \$34,143,138 were allowable and adequately supported in accordance with Caltrans' agreement provisions and state regulations. In addition, whether project deliverables and benefits for the Trolley Project were consistent with the project scope and schedule as described in executed agreements and were achieved and reported in accordance with applicable guidelines.

The Inspector General's Report made three (3) findings and for each finding, recommendations for next steps. For each finding, MTS has providing additional background and context to these findings, as well as MTS's response to the Inspector General's recommendations.

INSPECTOR GENERAL'S FINDING NO. 1:

The Inspector General found² that certain A&E and CM procurements relating to the Blue Line Project were not conducted in compliance with the following:

² MTS provides a summary of the Inspector General's findings in order to provide context to the MTS response. For complete text of the findings, please refer to the Draft Inspector General Report dated February 28, 2025.

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- a. Government Code Sections 4526 which states that: (i) firms selected shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required;
- b. Government Code Section 4527 which states the implementing agency select therefrom, in order of preference, based upon criteria established and published by him or her, no less than three of the firms deemed to be the most highly qualified to provide the services required;
- c. MTS's 2018 Procurement Policy Manual, Sections 6.7.1 and 6.7.3, which states that MTS follows the California Government Code Section 4525 et seq. or the Federal Brooks Act and uses qualification-based competitive proposal procedures for the procurement of A&E and CM services when any amount of state or federal funds are utilized; and
- d. MTS's 2018 Procurement Policy Manual, Sections 5.6, 11.2 and 16.2, and Form C-2 which states that MTS will prepare a detailed independent cost estimate (ICE), include supporting documentation of the detailed costs, maintain the ICE in the project file, and that any cost or price analysis must be based on an ICE that is prepared before solicitation is issued.

Specifically, the following was found by the Inspector General:

- a. Instead of soliciting proposals from a minimum of three firms, and thus excluding from consideration other qualified firms, direct awards were made on the following design and CM work orders on the Blue Line Project, funding totaling \$1,185,636:
 - a. Green Line IMT for CM;
 - b. Beech Street Double Crossover for CM;
 - c. Middletown Double Crossover for CM;
 - d. Beech Street for Design; and
 - e. Middletown Double Crossover for Design
- b. Selected specific firms to request proposals from the bench, without regard to their order of qualifications and without documenting justification for such a decision, thus excluding other qualified firms from consideration, on the following design work orders on the Blue Line Project, funding totaling \$2,860,174:
 - a. Blue Line Feeder Bus Service Stop Improvement;
 - b. Blue Line Charging Infrastructure;
 - c. America Plaza Pedestrian Enhancements;
 - d. Network Integration; and
 - e. Green Line IMT
- c. No detailed ICE completed on the Green Line IMT design work order for the Blue Line Project

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MTS'S RESPONSE TO FINDING NO. 1:

A&E and CM Statutes:

Sections 4525 through 4529.5 of the Government Code govern contracts between public entities and private architectural, landscape architectural, engineering, environmental, land surveying, and construction project management firms (A&E and CM). These statutes establish a qualifications-based selection (QBS) method that public agencies in California use to contract for A&E and CM. This method requires that public agencies select A&E and CM firms based on their demonstrated competence and qualifications to perform the types of services at a fair and reasonable price. Section 4528 provides some guidance on negotiating A&E and CM contracts, but the statutes do not set forth a specific solicitation process that must be used. Nor do the statutes provide any direction on how to procure services from a bench of consultants, each of which was chosen on the basis of demonstrated competence and qualifications.

In accordance with Sections 4525 through 4529.5 of the Government Code, MTS conducted a competitive Request for Statement of Qualifications (RFSQ) using a QBS method for developing its on-call A&E and CM benches.

MTS has historically been assigned master services contracts procured through the San Diego Association of Governments (SANDAG) to improve efficiency and to ensure consistency within the region's transit infrastructure projects. As set forth below, the MTS procurements in question here were procured jointly with SANDAG and MTS or through SANDAG.

A&E Bench

On January 12, 2016, SANDAG and MTS issued a joint RFSQ, which included a QBS method for A&E services to support the development of various infrastructure projects for bus operations, rail operations, planning, and real estate. MTS and SANDAG intended to award a series of master contracts to a bench of qualified firms that would potentially be selected to provide A&E services on individual projects on an as-needed basis.

In accordance with the RFSQ, MTS and SANDAG anticipated awarding approximately 2-4 large contracts, 2-4 medium contracts, and 3-7 small contracts. Whether a contract was large, medium, or small depended on the categories of services the firms were qualified to perform. Total capacity for all contracts to be awarded was \$315 million combined, for both SANDAG and MTS contracts. The contract term for each of the various categories was 5 years.

Per the RFSQ, MTS and SANDAG determined which firm was the most qualified for a particular project at the Work Order level. A Work Order would then be issued to the most qualified firm for the project. The Work Order would set forth the Scope of Work, any contractual terms and conditions specific to the Work Order Scope of Work, Schedule, and establish or confirm the hourly rates and costs or firm fixed price applicable to the assigned project.

Pursuant to the joint procurement, MTS awarded nine (9) master agreements for A&E services at its Board of Directors Meeting on December 8, 2016. Below is the contract award list, including the ranking. Rankings were used to evaluate proposers' qualifications compared to other firms within each size category.

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Large Contracts:

HDR Engineering on April 14, 2017, MTS Agreement No. G1947.0-17 [Overall Rank 1];

Kimley Horn & Associates on June 13, 2018, MTS Agreement No. G1950.0-17 [Overall Rank 2];

HNTB on May 25, 2017, MTS Agreement No. G1948.0-17 [Overall Ranking 3 - Tied]; and

Jacobs Engineering on April 27, 2017, MTS Agreement No. G1949.0-17 [Overall Rank 3 - Tied]

Medium Contracts:

Hatch Mott McDonald on June 4, 2018, MTS Agreement No. G1951.0-17 [Overall Rank 1]; and

Dokken Engineering on December 1, 2017, MTS Agreement No. G2075.0-18 [Overall Rank 2]

Small Contracts:

Pacific Railway Enterprises on April 24, 2017, MTS Agreement No. G1953.0-17 [Overall Rank 1];

Nasland (Contractor declined to continue with contract execution) [Overall Rank 2]; and

Global Signals Group on May 1, 2017, MTS Agreement No. G1946.0-17 [Overall Rank 3]

MTS executed eight (8) of the nine (9) MTS A&E On-Call Master Agreements, as Nasland did not execute an agreement. This resulted in the execution of eight (8) MTS A&E On-Call Master Agreements (i.e., MTS's A&E Prequalified Bench). Each Master Agreement with each firm included the following sections: a high-level summary for how Work Orders would be issued by MTS; Fee and Payment Schedule; and MTS's standard terms and conditions.

CM Bench

On October 17, 2014, SANDAG issued a RFSQ, which included a QBS method for CM services to support the development and construction of various construction projects. SANDAG intended to award a series of master contracts to a bench of qualified firms that would potentially be selected to provide CM services on individual projects on an as-needed basis.

In accordance with the RFSQ, SANDAG anticipated awarding up to five (5) large contracts and up to three (3) small contracts. Whether a contract was large or small depended on the categories of services the firms were qualified to perform. The contract value for the large contracts was \$10 million to \$60 million. The contract value for small contracts was \$500,000 to \$5 million. The contract term for each of the various categories was five (5) years.

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Per the RFSQ, SANDAG determined which firm was the most qualified for a particular project at the Work Order level. A Work Order would then be issued to the most qualified firm for the project. The Work Order would set forth the Scope of Work, any contractual terms and conditions specific to the Work Order Scope of Work, Schedule, and establish or confirm the hourly rates and costs or firm fixed price applicable to the assigned project.

The SANDAG Board of Directors approved its staff's recommendation to award eight (8) master agreements for CM services at its Meeting on September 25, 2015. Below is the contract award list, including the ranking. Rankings were used to evaluate proposers' qualifications compared to other firms within each size category.

Large Contracts:

Kleinfelder (previously known as Simon Wong Engineering) on April 6, 2016, SANDAG Agreement No. 5007804 [Overall Rank of 1];

AECOM Technical Services on April 29, 2016, SANDAG Agreement No. 5007800 [Overall Rank of 2];

Caltrop Corporation on April 26, 2016, SANDAG Agreement No. 5007801 [Overall Rank of 3];

CH2M Hill, Inc on April 29, 2016, SANDAG Agreement No. 5007802 [Overall Rank of 4]; and

PGH Wong Engineering, Inc on August 5, 2016, SANDAG Agreement No. 5007803 [Overall Rank of 5]

Small Contracts:

DHS Consulting Inc. on April 12, 2016, SANDAG Agreement No. 5007806 [Overall Rank of 1];

TranSystems Corporations (previously known as Athalye), SANDAG Agreement No. 5007805 [Overall Rank of 2]; and

EPC Consultants on June 17, 2016, SANDAG Agreement No. 5007807 [Overall Rank of 3]

Pursuant to a June 7, 2017 assignment agreement, SANDAG assigned MTS the right to utilize seven (7) of these eight (8) master agreements. The master agreement with TranSystems was not assigned to MTS because it was not executed by SANDAG at the time the other master agreements were assigned to MTS. This resulted in the execution of seven (7) MTS CM On-Call Master Agreements (i.e., MTS's CM Prequalified Bench). Each Master Agreement included the following sections: terms of the Assignment between MTS and SANDAG; a high-level summary for how Work Orders would be issued by MTS; Fee and Payment Schedule; and SANDAG's standard terms and conditions.

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A&E and CM Work Order Issuance Process

Once the bench was established, MTS issued Work Orders to the most qualified firm from these benches based on the specific needs of each project using one of the following three (3) methods:

1. **Rotation** through the prequalified bench for projects where all selected firms were deemed equally qualified to perform the work.
2. **Issuance of a request for proposal (RFP) for a specific project.** MTS evaluated proposers based on the project's needs and issued a Work Order to the firm with the highest ranked proposal.
3. **Direct award** to the firm that was deemed most qualified by MTS based on its Statement of Qualifications in response to the RFSQ and previous work with MTS.

A&E and CM Work Orders that utilized a Direct Award

The Inspector General's audit found that MTS, instead of soliciting proposals from a minimum of three firms, made direct awards, thus excluding from consideration other qualified firms.

As one of the three methods for issuing work orders, MTS did utilize direct awards to qualified firms on the bench. In the Report, the following TIRCP funded projects were identified as a direct award:

Middletown Double Crossover Design: MTS staff awarded to Pacific Railway Enterprise for design (MTS Doc No. G1953.0-17 WOA1953-AE-11), as Pacific Railway Enterprise was a qualified firm on MTS's prequalified bench to perform the scope of work based on their railroad signaling expertise and experience. MTS did not have documentation explaining why Pacific Railway Enterprise was chosen for direct award.

Middletown Double Crossover CM: MTS staff awarded to CH2M Hill for CM services (MTS Doc No. G2017.0-17 WOA2017-CM-05), as CH2M Hill was a qualified firm on MTS's prequalified bench to perform the scope of work based on their firm's rail and track inspectors. MTS did not have documentation explaining why CH2M Hill was chosen for direct award.

Beech Street Double Crossover Design: MTS staff awarded to Pacific Railway Enterprise for design services (MTS Doc No. G1953.0-17 WOA1953-AE-30), as Pacific Railway Enterprise was the most qualified firm on MTS's prequalified bench to perform the scope of work based on their firm's railroad signaling expertise and experience, and design work on the Middletown Double Crossover project, a project of similar scope to be implemented during the same timeframe.

Beech Street Double Crossover CM: MTS staff awarded to CH2M Hill for CM services (MTS Doc No. G2017.0-17 WOA2017-CM-06), as CH2M Hill was the most qualified firm on MTS's prequalified bench to perform the scope of work based on their firm / team's rail and electrical inspectors, and their experience on the Middletown Double Crossover CM, a project of similar scope in the same rail corridor, with construction activities at both projects during the same all work weekend (AWW) in which train service is shutdown.

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Green Line IMT CM: MTS staff awarded to Kleinfelder for CM services (MTS Doc No. G2019.0-17 WOA2019-CM-07), as Kleinfelder was the most qualified firm on MTS's prequalified bench to perform the scope of work based on their firm's experience with MTS platform reconstruction projects and railroad electrical and signaling upgrade projects.

Issuing RFPs to A&E Bench

The Inspector General's audit found that MTS selected specific firms to request proposals from on the bench, without regard to their order of qualifications and without documenting justification for such a decision, thus excluding other qualified firms from consideration.

Sections 4525 through 4529.5 of the Government Code do not require public agencies to issue a RFP to all consultants on an on-call A&E bench established using a competitively solicited RFSQ where each firm was selected on the basis of demonstrated competence and qualifications. For each of the projects listed below, MTS staff ensured that at least three (3) firms on the on-call bench received an RFP. In addition, when deciding which firms to request a proposal from, MTS also took into consideration what types of services those firms specialized in, compared to the type of work being solicited.

The following TIRCP funded projects were identified as those where MTS issued an RFP to only some, and not all, of the consultants on MTS's A&E Bench:

Blue Line Feeder Bus Service Stop Improvement Design: MTS sent the RFP to the following consultants on MTS's A&E Bench: Dokken, HDR, HNTB, Jacobs, Kimley Horn, and Mott McDonald. After evaluation of submitted proposals, MTS staff awarded to Dokken (MTS Doc No. G2075.0-18 WOA2075-AE-54), as Dokken was found to be the most qualified firm to perform the scope of work.

Blue Line Charging Infrastructure Design: MTS sent the RFP to the following consultants on MTS's A&E Bench: Dokken, HDR, HNTB, Jacobs, Kimley Horn, and Mott McDonald. After evaluation of submitted proposals, MTS staff awarded to Dokken (MTS Doc No. G2075.0-18 WOA2075-AE-50), as Dokken was found to be the most qualified firm to perform the scope of work.

America Plaza Pedestrian Enhancements Design: MTS sent the RFP to the following consultants on MTS's A&E Bench: Dokken, HDR, HNTB, Jacobs, Kimley Horn, and Mott McDonald. After evaluation of submitted proposals, MTS staff awarded to Mott McDonald (MTS Doc No. G1951.0-17 WOA1951-AE-29), as Mott McDonald was found to be the most qualified firm to perform the scope of work.

Network Integration Design: MTS sent the RFP to the following consultants on MTS's A&E Bench: Dokken, HDR, HNTB, Kimley Horn, and Mott McDonald. After evaluation of submitted proposals, MTS staff awarded to Kimley Horn (MTS Doc No. G1950.0-17 WOA1950-AE-38), as Kimley Horn was found to be the most qualified firm to perform the scope of work; and

Green Line IMT Design: MTS sent the RFP to the following consultants on MTS's A&E Bench: Global Signals, HDR, Jacobs, and Mott McDonald. After evaluation of submitted

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proposals, MTS staff awarded to Jacobs (MTS Doc No. G1949.0-17 WOA1949-AE-31) as Jacobs was found to be the most qualified firm to perform the scope of work.

No Detailed ICE on one (1) Design Work Order

It is MTS policy and practice to prepare an ICE prior to the negotiation of Work Orders. The ICE is staff's estimate of the price for services to be procured. For A&E work orders, staff is trained to develop an ICE based on estimated number of hours and rates anticipated. MTS reviews a firm's cost proposal for a project to confirm it is consistent with the ICE, in order to support an MTS determination that the hours and rates proposed by a firm are fair and reasonable. For the Green Line IMT Design project, an ICE was completed by multiplying 10% of the estimated construction costs. The ICE that was completed was a simple budgetary estimate based off the estimated construction cost, instead of determining the estimated number of hours and rates anticipated. Nonetheless, the ICE was used to compare the cost proposal for the Green Line IMT Design, and it was found to be a fair and reasonable price.

INSPECTOR GENERAL'S RECOMMENDATIONS FOR FINDING NO. 1

1.1: Caltrans should coordinate with MTS to develop a corrective action plan to appropriately resolve this finding. This includes recovering \$4,045,810 in questioned costs identified in this audit. Caltrans should also recover any related reimbursed costs that occurred after our audit period and prevent any future reimbursements to these agreements.

1.2: MTS should follow the ranking order and solicit proposals from three (3) or more of the top qualified consultants for each work order. In cases where multiple consultants share the same ranking, all those consultants should receive the same solicitation for proposals, ensuring each has an opportunity to compete for that work order. For future qualification listing, MTS should consider selection criteria and tiebreaking mechanisms to identify a single firm per ranking.

1.3: MTS should revise its Master Agreements with consultants to allow for qualification-based competitive proposal methods when soliciting or procuring for A&E services.

1.4: MTS should maintain all procurement records.

1.5: MTS should prepare a detailed ICE for each of the future agreements to be used as basis for cost negotiations.

MTS'S RESPONSE TO RECOMMENDATIONS FOR FINDING NO. 1:

1.1: In regard to the \$4,045,810 TIRCP funds requested by MTS for A&E and CM services, MTS has been working with its staff contact at Caltrans, Ruben Hoyos and Ezequiel Castro, regarding the potential action plans.

1.2, 1.3, and 1.4: The Inspector General's Audit provided an opportunity for MTS to review its policies and documentation related to its award of Work Orders and issuance of RFPs for A&E and CM procurements. MTS noted that its documentation of staff actions and maintained file documentation could be improved. While this was not determined to be a systemic issue, staff is working to ensure that all its files related to A&E and CM procurement are organized and complete. MTS is actively working with its outside legal counsel to review and re-evaluate its selection process for A&E and CM services. This includes development of new provisions for the RFSQ solicitation, evaluation, ranking and tie-breaking process, the issuance of Work Orders

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utilizing a qualifications-based process, maintaining supporting documentation and justifications to support staff's decisions, and other contract management and administration items (e.g., development of standard operating procedures and checklists).

1.5: It is MTS's current policy and practice that project managers complete an ICE before requesting proposals. To improve this process, MTS will be updating its project managers standard operating procedures to provide additional guidance on how to appropriately complete an ICE. Further, MTS will be developing a checklist to ensure procurement staff confirms an ICE has been completed by project managers prior to a solicitation, and that it is done using the required ICE template form that provides guidance on how to appropriately complete an ICE, or on a form that is substantially similar.

INSPECTOR GENERAL'S FINDING NO. 2:

MTS was missing the Notice of Completion for the Trolley Project, which did not comply with:

- a. Courthouse Station Construction Contract with West Coast General/HMS, a Joint Venture (WCG/HMS), Section 4.33 (MTS Doc No.PWL222.0-17 and related amendments), which states that "Final Acceptance. After Contractor has, in the opinion of MTS, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as-builts), and other documents required by the Contract Documents, MTS shall execute and file with the County in which the Project is located a Notice of Completion, constituting final acceptance and completion of the Project, except as may be expressly noted"; and
- b. 2015 TIRCP Guidelines, Section 12 Allocations and Project Delivery and Section 13 Project Reporting, which states that: after the award of a contract, the implementing agency has up to 36 months to complete (accept) the contract and following contract acceptance, the implementing agency has six (6) months to submit the final invoice to Caltrans for reimbursement; and one (1) year of the project becoming operable (i.e. contract is accepted), the implementing agency must provide a final delivery report to Caltrans.

MTS'S RESPONSE TO FINDING NO. 2:

The purpose of a Notice of Completion is to shorten the time window within which contractors, subcontractors, and materials suppliers can file a stop payment notice against the property for unpaid work or materials. Under California Civil Code section 9200, completion of a public work of improvement occurs at the earliest of (a) acceptance of the work of improvement by the public entity; or (b) cessation of labor on the work of improvement for a continuous period of 60 days. Under California Civil Code section 9356, a Notice of Completion is recorded, contractors and suppliers 30 days to file a stop payment notice. If no Notice of Completion is recorded, the time to file a stop payment notice is 90 days after project completion. Similarly, recording of a Notice of Completion shortens the time for a contractor or supplier to serve notice of a payment bond claim from 75 days to 15 days.

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Currently, it is MTS's policy and practice to record a Notice of Completion with the County of San Diego Clerk, request as-built plans³ and maintain the plans in our files for construction projects. If the project is funded with TIRCP grant funds, MTS will also submit the Notice of Completion or as-built plans to Caltrans as part of its general grant administration responsibilities.

The Courthouse Station was opened for passenger revenue service starting April 29, 2018. It appears neither the Notice of Completion nor as-built plans were submitted as part of the Final Delivery Report to Caltrans. Instead, staff stated as part of the Final Delivery Report that October 26, 2018 was the date of when the contract for construction of the Courthouse Station was completed.

During the audit investigation, it was found that the Notice of Completion and the as-builts were not maintained in MTS's files. MTS has since located as-built plans for this project, which are included as Attachment A. MTS will revise its internal processes to confirm the Notice of Completion is recorded and submitted with its Final Delivery Reports for future grants. Alternatives to a formal "Notice of Completion" will also be identified where contractual and other disputes may require MTS to withhold or delay the issuance of a Notice of Completion until all disputes are resolved. As noted below, it appears a pending contractual dispute with the construction contractor, West Coast General/HMS, was partially responsible for the failure to timely issue a Notice of Completion.

①

Mitigating Factor in MTS Failure to Issue a Notice of Completion

As noted above, a mitigating factor in MTS's failure to timely issue a Notice of Completion for the West Coast General / HMS construction contract was because of a contract dispute that ultimately ended in a claim settlement (MTS Doc No. PWL222.7-17, executed 10/26/2018). Part of the claim settlement required the Contractor to complete various punch list items within a reasonable amount of time. However, in the months following the settlement, staff lost confidence that the punch list items would be completed in accordance with MTS's requirements and timelines. Therefore, on September 19, 2019, staff contracted with job order contractor ABC Construction (MTS Doc No. PWG275.0-19, JOC275-02) to complete remaining punch list items for the construction of Courthouse Station. In addition, after the punch list items were completed, on November 19, 2020, MTS contracted with HDR Engineering (MTS Doc No. G1947.0-17, WOA 1947-AE-10.03) to complete the as-built plans for the Courthouse Station. MTS did not seek Caltrans/TIRCP reimbursement for these later contracts with ABC Construction and HDR.

These unique circumstances likely played a part in why MTS's procedures for recording a Notice of Completion were missed, as the construction contract that MTS requested TIRCP reimbursement from was not the same construction contract that successfully completed the construction of the Courthouse Station. Further, since it is MTS's practice to only complete a Notice of Completion when the construction contractor satisfactorily completed all work in

³ Funding for the Trolley Project was awarded in 2015, which included contract award for construction of the Courthouse Station. The Inspector General's Report cites a Caltrans' 2018 Local Assistance Procedures Manual for the applicable requirements of as-built plans, even though the funding award was in 2015. A 2015 or earlier version of the Caltrans' Local Assistance Procedures Manual should be the more appropriate source authority for requirements of as-built plans.

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accordance with the Contract Documents, MTS likely would not have found it appropriate to issue a Notice of Completion with several punch list items that remained uncompleted.

No stop payment notices or payment bond claims were filed for the Courthouse Station Project.

INSPECTOR GENERAL'S RECOMMENDATIONS FOR FINDING NO. 2:

2.1: MTS should implement a document management system to ensure critical project documents, such as Notices of Completion, are properly created, filed, and easily retrievable.

2.2: For all future projects, MTS should require project managers to complete and file a Notice of Completion for each project.

MTS RESPONSE TO RECOMMENDATIONS FOR FINDING NO. 2:

2.1 and 2.2: MTS's current standard operating procedures require project managers on a construction project to record a Notice of Completion with the County of San Diego Clerk after project completion, request as-built plans from the contractor, and maintain such documents in the project file. To improve this process, MTS is developing a TIRCP standard operating procedure for grant staff to request a copy of Notice of Completions on construction projects, as well as to ensure these documents are appropriately sent to Caltrans. Further, MTS will include a requirement in procurement staff's checklist and standard operating procedures for procurement staff to confirm that a Notice of Completion has been recorded with the County of San Diego Clerk at project close out.

INSPECTOR GENERAL'S FINDING NO. 3:

MTS did not include benefit methodologies in the Final Delivery Report for the Trolley Project, which did not comply with 2015 TIRCP Guidelines, Section 13 Project Reporting, which states that the Final Delivery Report must include an explanation of the methodology used to quantify the benefits.

MTS'S RESPONSE TO FINDING NO. 3:

Benefit methodologies describe the data MTS used to forecast anticipated benefits and to confirm whether the benefits were realized. MTS submitted benefit methodologies, including numerical data and narrative explanations, to Caltrans staff during the administration of the grant for the Trolley Project. At the end of the project, a Final Delivery Report was submitted to Caltrans to show whether the project achieved the goals of the program and whether the project was executed timely and within scope and budget. The actual benefit data (after project completion) was included, but the benefit methodologies were mistakenly omitted from the submitted Final Delivery Report.

INSPECTOR GENERAL'S RECOMMENDATIONS FOR FINDING NO. 3:

3.1 MTS should submit a revised Final Delivery Report with methodologies for the Trolley Project to Caltrans.

3.2 For future projects, MTS should ensure their Final Delivery Reports included methodologies used to quantify both before and after (planned and actual) project benefits.

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MTS'S RESPONSE TO RECOMMENDATIONS FOR FINDING NO. 3:

3.1: The revised Final Delivery Report that includes the benefit methodologies for the Trolley Project is included as Attachment B.

3.2: MTS is in the process of creating a TIRCP standard operating procedure for grant staff to administer projects. This new TIRCP standard operating procedure will include guidance to ensure Final Delivery Reports are completed accurately and that benefit methodologies are included.

MTS will continue to improve its procedures and strive toward excellence on behalf of the public we serve. MTS looks forward to the continued partnership with Caltrans to address the next steps around the findings.

If you have any questions, I may be reached at Sharon.Cooney@sdmts.com.

Sincerely,



Sharon Cooney
Chief Executive Officer

Attachments: A. As-Built Plans for Courthouse Station
B. Revised Final Delivery Report for Trolley Project

Comments Concerning the Response Received From San Diego Metropolitan Transit System

To provide clarity and perspective, we are commenting on San Diego Metro's response to our report. The number below corresponds to the numbers we have placed in the margins of the response.

1. San Diego Metro provided as-built plans as an attachment to its response (for brevity, we omitted the attachments noted in San Diego Metro's response from this report). As we discussed on page 13 of our report, San Diego Metro submitted a Final Delivery Report to Caltrans stating that as-built plans were approved. Also as indicated on page 13 of the report, we requested the as-built plans during this audit as additional documentation to support the construction contract acceptance date. However, San Diego Metro did not provide us with the plans until after we had already drafted and sent our report for San Diego Metro's review. Additionally, although San Diego Metro did provide the as-built plans with its response to our draft report, the plans are still insufficient to support the completion of the Courthouse Station for the Trolley Project. Specifically, the as-built plans did not include a construction contract acceptance date for the Trolley Project. That date is essential to determine whether the project was completed timely and to determine the dates by which San Diego Metro must submit reports required by TIRCP guidelines.

Additionally, San Diego Metro indicates its belief that the 2015 or an earlier version of Caltrans' Local Assistance Procedures Manual (Procedures Manual) is the most suitable source for as-built plan requirements. The Procedures Manual assists California local public agencies with activities related to federally and state-funded transportation projects. Caltrans updates this document yearly. We used the Procedures Manual to help define as-built plans and their contents. As indicated above, the as-built plans San Diego Metro included with its response to our draft report were still insufficient for us to determine when it accepted the contract or confirm construction was completed within the approved scope of work and contract documents. Therefore, our position remains unchanged.

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