



# INSPECTOR GENERAL

California Department of Transportation

## County of Orange, Public Works

Project Audit



**Independent Office of Audits and Investigations**

**Bryan Beyer**, Inspector General  
**Diana Antony**, Chief Deputy

February 2023  
P1575-0073



For questions concerning the contents of this report, please contact (916) 323-7111 or email [ioai.reports@dot.ca.gov](mailto:ioai.reports@dot.ca.gov).



# Inspector General

California Department of Transportation

Bryan Beyer, Inspector General

Diana Antony, Chief Deputy

February 8, 2023

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

## Final Report – County of Orange, Public Works Project Audit

Dear Director Tavares:

The Independent Office of Audits and Investigations has completed its audit of the County of Orange, Public Works (County). We audited the County's incurred costs related to four projects totaling \$2,689,033, which were reimbursed by the California Department of Transportation.

Enclosed is the final report, which includes the County's response to the draft report. The final audit report is a matter of public record and will be posted on IOAI's website.

A detailed Corrective Action Plan (CAP) addressing the findings and recommendations must be developed in accordance with the Local Assistance Procedures Manual, Chapter 20, Section 20.5. The CAP should be sent to [ioai.reports@dot.ca.gov](mailto:ioai.reports@dot.ca.gov).

If you have any questions, please contact Fabiola Torres, Audit Chief, at (916) 704-3628.

Sincerely,

Diana Antony, CPA, CIG  
Chief Deputy Inspector General

Gavin Newsom, Governor

Independent Office of Audits and Investigations  
P.O. Box 942874, MS-2 (916) 323-7111  
Sacramento, CA 94274-0001 <https://oig.dot.ca.gov>

Tony Tavares  
February 8, 2023  
Page 2

cc: Michael Keever, Chief Deputy Director, California Department of Transportation  
Ryan Chamberlain, District Director, District 12, California Department of Transportation  
Ben Shelton, Audit Chief, Internal Audits Office, California Department of  
Transportation  
James Treadway, Director, County of Orange Public Works  
Steven Hsia, Audit Coordinator, Administrative Services, County of Orange Public Works  
Rodney Whitfield, Director of Financial Services, Federal Highway Administration  
Grace Regidor, Transportation Finance Specialist, Financial Services, Federal Highway  
Administration

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## Terms Used in Report

Term/Acronym	Definition
ATP	Active Transportation Program
Caltrans	California Department of Transportation
CAPS+	Countywide Accounting and Personnel System
CMAQ	Congestion Mitigation and Air Quality Improvement Program
County	County of Orange, Public Works
HSIP	Highway Safety Improvement Program
HRRR	High Risk Rural Roads
IFB	Invitation for Bid
IOAI	Independent Office of Audits and Investigations
Procedures Manual	Local Assistance Procedures Manual

## SUMMARY

The purpose of this audit was to determine whether the claimed and reimbursed costs for project numbers ATPL-5955 (112), CML-5955 (108), HSIPL-5955 (101), and HRRRL-5955 (093) were allowable and adequately supported in accordance with California Department of Transportation's (Caltrans) agreement provisions and state and federal regulations.

We obtained reasonable assurance that the costs claimed by the County of Orange, Public Works (County) and reimbursed by Caltrans for the four projects were allowable and adequately supported in accordance with Caltrans' agreement provisions and state and federal regulations, except for procurement deficiencies identified in this report. Specifically, we determined that certain procurement transactions for three of the four projects we reviewed did not fully comply with established contract procurement policies and applicable state and federal regulations.

# INTRODUCTION

## Background

Caltrans administers various programs that provide federal and state funds to local agencies. Included among these programs are the Active Transportation Program (ATP), Congestion Mitigation and Air Quality Improvement Program (CMAQ), and Highway Safety Improvement Program (HSIP).

The ATP consolidates existing federal and state transportation programs into a single program with a focus to make California a national leader in active transportation. The purpose of the ATP is to encourage an increased use of active modes of transportation, such as biking and walking by achieving goals such as, increase the proportion of trips accomplished by walking and biking, increase the safety and mobility of non-motorized users, advance efforts of regional agencies to achieve greenhouse gas reduction goals, enhance public health, and providing a broad spectrum of projects to benefit many types of users including disadvantaged communities.<sup>1</sup>

The CMAQ directs funds toward transportation projects in Clean Air Act non-attainment areas for ozone and carbon monoxide. Projects using CMAQ funds contribute to meeting the attainment of national ambient area air quality standards. CMAQ funds may not be used for projects which will increase capacity for single occupant vehicles.<sup>2</sup>

The HSIP is one of the core federal-aid programs. The purpose of the HSIP program is to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land. HSIP funds are eligible for work on any public road or publicly owned bicycle or pedestrian pathway or trail, or on tribal lands for general use of tribal members, that improves the safety for its users. It is the intent of the HSIP that the HSIP funds be expended on safety projects that can be designed and constructed expeditiously. A HSIP Project on High Risk Rural Roads (HRRR) is defined as any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks. HRRR is one of 28 project categories identified as eligible projects in the HSIP. HSIP projects on HRRRs need to be identified and tracked separately.<sup>3</sup>

For this audit, we selected four projects that Caltrans awarded to the County. Caltrans reimbursed the County a total of \$2,689,033 for the costs it incurred.

<sup>1</sup> Excerpt obtained from [Active Transportation Program \(ATP\) | Caltrans](#)

<sup>2</sup> Excerpt obtained from [Highway Design Manual \(HDM\) | Caltrans](#)

<sup>3</sup> Excerpt obtained from [Local Assistance Program Guidelines \(LAPG\) | Caltrans](#)



**Table 1. Project Details**

Program	Project Number	Funding Source(s)	Project Description	Project Status <sup>4</sup>	Reimbursed Amount
Active Transportation Program	ATPL-5955 (112)	State Funds	Class I Bikeway along Coyote Creek Flood Channel spanning approximately 2.7 miles, closing a major gap in the 66-mile Orange County Loop.	In Progress	\$542,217
Congestion Mitigation and Air Quality Improvement Program	CML-5955 (108)	Federal Funds	Orange County Loop El Cajon (Segment H) Gap Closure – Pedestrian bike path from Fairlynn Boulevard and Oakvale Drive intersection to Santa Ana River Trail at Yorba Regional Park.	In Progress	\$429,796
Highway Safety Improvement Program	HSIPL-5955 (101)	Federal Funds	Santiago Canyon Road Improvements – High friction surface treatment, flashing beacons, delineators, bike lanes, rumble strips, and signage.	In Progress	\$217,020
Highway Safety Improvement Program	HRRRL-5955 (093)	Federal Funds	Live Oak Canyon Road and Trabuco Canyon Road Highway Improvements – Install guard rail, upgrade shoulders and signage, overlay with high-friction riding surface.	Complete and Operational	\$1,500,000
Total Reimbursed Amount:					\$2,689,033

Source: Analysis by the Independent Office of Audits and Investigations.

<sup>4</sup> Project status definitions obtained from the [SB1 Accountability and Transparency Guidelines](#).

## SCOPE AND METHODOLOGY

The purpose of the audit was to determine whether project costs claimed by the County and reimbursed by Caltrans were allowable and adequately supported in accordance with Caltrans agreement provisions and state and federal regulations. Our audit included costs claimed and reimbursed during the period of July 1, 2017, through March 31, 2021.

We gained an understanding of the projects and relevant criteria by reviewing the executed project agreements, Caltrans' guidelines, applicable state and federal regulations, County policies and procedures, and by interviewing County personnel.

We performed a risk assessment, including identifying and evaluating whether key internal controls relevant to our audit objectives were properly designed and implemented. Our evaluation of internal controls focused on the County's review and approval processes of expenditures, contract procurement, and record processing and retention processes. Our methodology included conducting interviews with key personnel, analyzing relevant documentation, and testing transactions related to costs the County billed for reimbursement. As part of our audit work, we identified significant deficiencies related to the County's internal control environment.

We assessed the reliability of project expenditure and labor data obtained from the County's financial management system, the Countywide Accounting and Personnel System (CAPS+). Our assessment included reviewing information process flows, testing transactions for completeness and accuracy, and determining if selected costs were supported by source documentation. We determined that the project expenditure and labor data obtained from CAPS+ was sufficiently reliable to meet our audit objectives.

Based on our planning, we developed specific methods for gathering evidence to obtain reasonable assurance to address the audit objectives. Appendix A details our methods.

We conducted this audit according to 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 findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions.

## AUDIT RESULTS

Based on our audit procedures, we obtained reasonable assurance that the costs claimed by the County and reimbursed by Caltrans for the four projects were allowable and adequately supported in accordance with Caltrans' agreement provisions and state and federal regulations, except for procurement deficiencies detailed in findings 1 and 2.

### Finding 1. The County Did Not Document Its Rationale for Selecting a Particular Consultant Needed for Completing a Task Order.

For project number CML-5955 (108), the County did not adhere to all procurement requirements when it awarded a \$43,956 task order. Specifically, while the County established a Qualified Vendors List, it could not provide evidence to support its rationale for awarding the task order to a particular consultant on the vendor list.

The 2019 Local Assistance Procedures Manual<sup>5</sup> (procedures manual) defines an on-call contract as a contract that may be utilized for a number of projects, under which task orders are issued on an as-needed basis, for an established contract period. Additionally, Section 10.1.2 of the procedures manual requires a local agency to specify procurement procedures to be used to award task orders among the consultants on the Qualified Vendor List. The two methods allowed are: 1) through an additional qualifications-based selection process or 2) on a regional basis (whereby the region is divided into areas identified in the solicitation and consultants are selected to provide on-call services for assigned areas only).

The County procured on-call contracts using the request for qualifications process and established a Qualified Vendors List for road, bridge, and traffic engineering services. The County needed project design augmentation work (i.e., a task order for consultant engineering services) and awarded the task order directly to a consultant who was on the Qualified Vendor List. However, the County could not provide evidence to support whether an additional qualifications-based selection process was conducted prior to awarding the task order. The County stated it is not their practice to document the process (i.e., maintain documentation to support the rationale for selecting a particular

#### DEFINITIONS

**On-Call Contract.** Services are provided for several projects or a defined area/region through issuance of task orders that are issued on an as-needed basis.

**Task Order.** Task Orders are mini-contracts that define a specific project's scope, cost, and schedule; they explain exactly how the money is to be spent. As a component of a contract, the Task Order's scope, cost, and schedule must conform to terms of the master contract.

Source: Caltrans Division of Procurement and Contracts Website

<sup>5</sup> Under Title 23 of the United States Code, Caltrans is responsible for the administration of federal-aid transportation projects in California and as such, developed the Local Assistance Procedures Manual. The manual is a summary of several authoritative sources including federal and state laws, regulations, and guidelines and is intended to assist local public agencies in administering projects that receive state and/or federal funding.

consultant). This practice does not comply with Caltrans' documentation requirements. Specifically, Section 10.1.8 of the procedures manual requires project records and documentation to be kept for three years after payment of the final federal or state voucher. Among the records to be retained are the evaluation and ranking records, such as original score sheets from all panel members, short list questions, and other documentation.

It is the County's responsibility to ensure that proper procurement procedures are followed, including the retention of documentation to support that it properly awarded task orders to qualified consultants. Absent evaluation and ranking records for qualified consultants, the County is unable to demonstrate that it received the best price for the work performed. It also increases the risk that state and federal funds may not have been expended in the most prudent and economical manner.

### **Recommendations**

1. The County should revise its procedures to ensure consistency and full alignment with the procedures manual. Specifically, the County should clearly specify the procedures to be used to award/execute task orders among the consultants, which is either through an additional qualifications-based selection process or on a regional basis.
2. The County should coordinate with Caltrans to ensure updates to the County's procedures address the deficiencies noted in this finding.
3. The County should ensure a clear audit trail is established and documentation is maintained to support the task order award process.

### **Finding 2. The County Inappropriately Included Predetermined Amounts and Supplemental Work in the Invitations for Bid.**

For project numbers HSIPL-5955 (101), CML-5955 (108), and HRRRL-5955 (093), the County did not properly execute an Invitation for Bid (IFB) process. Specifically, the County inappropriately included predetermined contract item amounts, including supplemental work, in the bid schedules as part of its IFB. Not only did the County predetermine an amount for supplemental work, but it also included it as a contract item instead of the correct line item, labeled contingency funds. These practices are not consistent with the procedures manual.

**The County Inappropriately Pre-Filled Contract Bid Item Prices and Total Amounts in the Invitations For Bid**

The County inappropriately pre-filled amounts in the IFBs used to solicit bids from contractors for certain contract items, which does not foster a truly competitive process. The responsibility to include bid item prices and amounts falls on the contractors submitting a bid and not on the soliciting entity. As described in Section 15.4 of the procedures manual, one of the most basic tenets of federal aid contracting is that construction contracts are to be awarded competitively to the contractor who submits the lowest responsive bid. Project advertisement is the process used in soliciting such competitive bids from contractors and the local agency shall ensure free and open competition. Additionally, Section 15.5 of the procedures manual indicates that it is the bidder’s responsibility to include a unit bid price for each item and a total amount for the bid. Failure to do so is considered a bidding irregularity. Refer to Table 2 for a summary of the specific contract items.

**Table 2. IFB’s Contract Items that Included Pre-Filled Dollar Amounts.**

Contract Items with Pre-Filled Dollar Amounts						
Project Number	IFB Number	Mobilization	Dispute Resolution Advisor	Clearing & Grubbing	Supplemental Work	Partnering
HSIPL-5955 (101)	080-C019268-CR	X	X	-	X	-
CML-5955 (108)	080-C026707-AA	X	-	-	X	X
HRRRL-5955 (093)	080-C018026-KW	X	X	X	X	-

Source: IFB’s Bid Schedules prepared by the County.

The County indicated that it pre-filled amounts in the bid schedules (which were based on the County’s estimate) so bidding contractors would not underbid to increase their chances of winning the contract or bid over the reasonable amount. However, the County’s cost estimates should not be included or pre-filled into bid solicitation schedules. As we noted above, it is the bidder’s responsibility to include unit bid prices for each item.

**Supplemental Work Inappropriately Used in Bid Schedule**

As shown in Table 2, the County included supplemental work as a contract item in the bid schedules with pre-determined dollar amounts, which does not comply with the intended use of supplemental work as described in Chapter 12 of the procedures manual. Specifically, Section

12.12 of the procedures manual defines supplemental work as work that is anticipated and required but cannot be described and quantified for delivery on a unit-price or lump sum basis. Furthermore, Section 12.12 of the procedures manual states supplemental work “must be included in the project estimates and should follow the Subtotal Contract Items” (as depicted in Appendix B). That is, supplemental work should be listed after the subtotal of all the contract items and be included in the contingencies line item of the detail estimate<sup>6</sup>. Instead, the County inappropriately moved supplemental work into its bid schedule as a contract item which could have potentially impeded or restricted free and open competition in the procurement process.

We also found that project numbers HSIPL-5955 (101), CML-5955 (108), and HRRRL-5955 (093) included Maintain Traffic, Partnering, and/or Dispute Resolution Advisor as contract items in the bid schedules; however, the Caltrans’ 2019 Construction Contract Development Guide (construction contract guide) stated the Federal Highway Administration pre-approved these contract items as supplemental work. As a result, these contract items should not be listed individually in the bid schedule. Section 7.7.1 of the construction contract guide states supplemental funds are used for either work that may or may not be required to complete the project, or work that is not bid on. This section of the guide also states supplemental items are not to be used to:

- Cover an incomplete design or lack of quantities.
- Add more contingency funds.
- Pay for work that should be paid by maintenance funds. Maintenance work is not eligible for federal funding.
- Pay for work not performed by the Contractor such as the inspection work by the railroad.

The County explained that the supplemental work line item was included in the IFBs as a mechanism to pay for overruns/increases in contract items quantities (i.e., to pay for bid items that exceed the original estimate). However, during a July 2021 meeting between the County and Caltrans, Caltrans notified the County that the use of supplemental work funds is an improper method to pay for contract item quantity overruns (quantities that exceed the original quantity estimate). Additionally, Caltrans informed the County that these payment adjustments are typically taken and transferred from the contingency balance and are covered by a contract change order. During this audit, we determined that the County used supplemental work funds to pay for bid item overruns which exceeded the original estimate for project HRRRL-5955 (093). The County explained that project HRRRL-5955 (093) began about two years before the CML-5955 (108) and HSIPL-5955 (101) projects and that they

<sup>6</sup> As defined in the procedures manual, a detail estimate is prepared by the local agency, which upgrades the preliminary estimate by using actual bid amounts rather than estimates. It outlines all project costs by Improvement Type Code.

had been using supplemental work line item to pay for bid item overruns. Per the County, this practice was discontinued after Caltrans informed them it was an improper use of supplemental work funds. We verified that the County took corrective action after Caltrans brought this issue to their attention by implementing the use of contract change orders to pay for bid items that exceeded the original estimate for projects CML-5955 (108) and HSIPL-5955 (101).

The County is responsible for ensuring free and open competition and that construction contracts are competitively awarded to contractors that submit the lowest responsive bid. In the absence of proper advertising practices, the County increases the risk of bidding irregularities and may not evaluate bids adequately to ensure a fair and unbiased construction contract procurement process.

### **Recommendations**

1. To ensure free and open competition, the County should discontinue its practice of 1) predetermining contract item amounts in its IFBs and 2) improperly using supplemental work as a contract item in its bid schedule to add more contingency funds.
2. The County should develop and implement procedures to align with the procedures manual and construction contract guide to ensure proper use of contract items and supplemental work in its construction projects.

## APPENDIX A. TABLE OF METHODOLOGIES

Audit Objective	Methods
<p><b>Objective 1</b></p> <p>To determine whether project costs were claimed and reimbursed in compliance with the executed project agreements, Caltrans program guidelines, and applicable state and federal regulations cited in the executed project agreements.</p>	<p>Selected significant and high-risk areas to verify compliance with the Local Assistance Procedures Manual (procedures manual) requirements, and the guidelines for the Active Transportation Program, Congestion Mitigation and Air Quality Improvement Program, and Highway Safety Improvement Program. Significant and high-risk areas included:</p> <ul style="list-style-type: none"> <li>• Project costs</li> <li>• Procurement</li> <li>• Contract change orders</li> </ul> <p><b>Project Costs</b></p> <p>Selected three [one of each project number ATPL-5955(112), CML-5955(108), and HRRRL-5955(093)] reimbursement claims from the construction contractor and engineering consultant and reviewed five construction progress payments, totaling 10 bid items and three consultant invoices. Determined if selected reimbursed construction and consultant costs were allowable, authorized, project-related, incurred within the allowable time frame, and supported, by reviewing accounting records, consultant invoices, consultant fee schedules, progress payments, quantity calculation sheets, engineer daily reports, and relevant criteria.</p> <p><b>Procurement</b></p> <p>Selected the project number HSIPL-5955(101) for the construction contract billed to the project based on Caltrans’ request. Selected two consultant contracts billed to projects ATPL-5955(112) and CML-5955(108). Determined whether the IFBs, request for qualification and request for proposal were appropriately advertised, evaluated, and awarded by reviewing construction contractor and consultant engineering procurement records, such as project advertisements, contractor bid proposal, consultant proposals, and scoring sheets bidding documents; and contract agreements; and Implementing Agency’s policies and procedures and the Caltrans’ procedures manual.</p> <p><b>Contract Change Orders</b></p> <p>Selected two contract change orders (CCO) for the project number HRRRL-5955(093). Determined if selected CCOs were within the scope of work, not a contract duplication, completed, and supported, by reviewing the CCOs, project scope of work, CCOs descriptions, cost estimates, engineer daily reports, progress payments, quantity calculation sheets and accounting records.</p>





Subtotal Contract Items (11)	
Agency/State Furnished Materials (12)	
Force Account (Day Labor) – striping, etc.	
<i>Subtotal</i>	\$ 0.00
Contingencies (including supplemental work) (13)	
<i>Subtotal + Contingencies = Contract Total</i>	\$ 0.00
Construction Engineering (14)	
<i>Contract Total + Construction Engineering = TOTAL COST</i>	\$ 0.00

DETAIL ESTIMATE SUMMARY (15)

	Improvement Type Code	Total Cost	Participating Cost	Federal Funds	Other Funds
Preliminary Engineering		\$ 0.00			
Right of Way		\$ 0.00			
Construction		\$ 0.00			
Force Account		\$ 0.00			
Construction Engineering		\$ 0.00			
<b>TOTAL COST</b>		<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>

Contract Items Participating (16)		0.00%
Contract Items Nonparticipating		0.00%
<b>TOTAL</b>	<b>\$ 0.00</b>	<b>100%</b>

\*Reimbursement Ratio (17): \_\_\_\_\_ 0.00%

Program Code(s) (18): \_\_\_\_\_

Name/Date Prepared: \_\_\_\_\_

\*Reimbursement ratios may vary within each phase of work such as Emergency Relief PE for Emergency Repair (100%) and Preliminary Engineering for restoration (88.53%). In these cases, the detailed estimate shall include two separate lines of Preliminary Engineering.

Distribution: All Projects (1) Original & 1 copy to Caltrans DLAE  
(2) Copy to Local Agency Project File

# AUDITEE’S RESPONSE



County Administration South  
 601 North Ross Street  
 Santa Ana, CA 92701  
  
 P.O. Box 4048  
 Santa Ana, CA 92702  
  
 (714) 667-8800  
 info@ocpw.ocgov.com  
 OCPublicWorks.com

-  Administrative Services
-  OC Development Services
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-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey



February 3, 2023

Mr. Bryan Beyer  
 Independent Office of Audits and Investigations  
 P.O. Box 942874, MS-2  
 Sacramento, California 95814

Subject: Management Response to Confidential Draft Report - County of Orange, Project Audit

Dear Mr. Beyer:

This document provides responses to the findings for the County of Orange Public Works (County) prepared by the Independent Office of Audits and Investigations (IOAI). The County’s incurred costs were related to four projects totaling \$2,689,033, which were reimbursed by the California Department of Transportation (Caltrans).

The following summarizes the County’s responses to the items noted on the confidential draft audit report.

**Finding 1. The County Did Not Document Its Rationale for Selecting a Particular Consultant Needed for Completing a Task Order**

For project number CML-5955 (108), the County did not adhere to all procurement requirements when it awarded a \$43,956 task order. Specifically, while the County established a Qualified Vendors List, it could not provide evidence to support its rationale for awarding the task order to a particular consultant on the vendor list.

**Recommendations**

1. The County should revise its procedures to ensure consistency and full alignment with the procedures manual. Specifically, the County should clearly specify the procedures to be used to award/execute task orders among the consultants, which is either through an additional qualifications-based selection process or on a regional basis.
2. The County should coordinate with Caltrans to ensure updates to the County’s procedures address the deficiencies noted in this finding.
3. The County should ensure a clear audit trail is established and documentation is maintained to support the task order award process.

**County’s Response**

The County agrees with the Finding and Recommendations.

**Finding 2. The County Inappropriately Included Predetermined Amounts and Supplemental Work in the Invitations for Bids.**

**Management Response to Confidential Draft Report - County of Orange, Project Audit**

February 3, 2023

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For project numbers HSIPL-5955 (101), CML-5955 (108), and HRRRL-5955 (093), the County did not properly execute an Invitation for Bid (IFB) process. Specifically, the County inappropriately included predetermined contract item amounts, including supplemental work, in the bid schedules as part of its IFB. Not only did the County predetermine an amount for supplemental work, but it also included it as a contract item instead of the correct line item, labeled contingency funds.

**Recommendations**

1. To ensure free and open competition, the County should discontinue its practice of 1) predetermining contract item amounts in its IFBs and 2) improperly using supplemental work as a contract item in its bid schedule to add more contingency funds.
2. The County should develop and implement procedures to align with the procedures manual and construction contract guide to ensure proper use of contract items and supplemental work in its construction projects.

**County's Response**

The County agrees with the Finding and Recommendations.

Sincerely,



James Treadaway  
Director of OC Public Works

cc: Ben Shelton, Audit Chief, Internal Audits Office, California Department of Transportation







## Independent Office of Audits and Investigations

P.O. Box 942874, MS-2  
Sacramento, CA 94274-0001  
(916) 323-7111 | [oig.dot.ca.gov](http://oig.dot.ca.gov)

