State of California
DEPARTMENT OF TRANSPORTATION

California State Transportation Agency

Memorandum

Serious drought.
Help Save Water!

To: KOME AJISE
Deputy Director
Planning and Modal Programs

Date: April 3, 2014

File: P2535-0004

From: MARSUE MORRILL Marsue
External Audits - Contracts
Audits and Investigations

Subject: **AUDIT OF CITY OF WEST SACRAMENTO**

Attached is the audit report pertaining to the audit performed on the City of West Sacramento (City) relative to project No. SLPPCL10-5447(028) funded by the Caltrans using Proposition 1B (Prop 1B) State-Local Partnership Program funds. The project audited is "Tower Bridge Gateway – East Phase". The amount of the project was $5,189,000 of which $1,000,000 was Prop 1B. The audit was for the period of March 22, 2011 through August 6, 2012.

As required by the Governor's Executive Order S-02-07 and SB 88, the expenditures of bond proceeds and outcomes are subject to audit. Deputy Directive 100, "Departmental Responses to Audit Reports" cites responsibilities of deputy directors relative to audits performed to implement a corrective action plan and provide a status as necessary. Based on our audit, we determined that reimbursed project costs totaling $4,662,935 were in compliance with the executed project agreement, state and federal regulations, contract provisions, and Caltrans/California Transportation Commission (CTC) program guidelines and that project deliverables (outputs) and outcomes were consistent with the project scope, schedule, and benefits described in the executed project agreement or approved amendments thereof.

Reimbursed costs totaling $526,065 (see Attachment II of audit report) were not supported and were not in compliance with respective agreement provisions, state and federal regulations and Caltrans/CTC program guidelines. As a result of noted labor findings we expanded the audit scope to include labor costs charged to project CML-5447(032) and project SRTS-NI-5447-031, both funded with Congestion Mitigation and Air Quality Improvement Program funds, and found that all labor costs reimbursed to these two projects totaling $112,941 (see Attachment III of audit report) were not supported.

Please provide Audits and Investigations a corrective action plan related to the audit recommendations within 90 days of this memorandum. If you have any questions, please contact Luisa Ruvalcaba, Audit Manager, at (916) 323-7888.

Attachments
(1) Final Prop 1B audit report of City of West Sacramento

c: Phillip A. Wright, Director of Administrative Services, City of West Sacramento
Claire Connor, Supervising Accountant, City of West Sacramento
Janice Richard, Director of Financial Services, Federal Highway Administration, California Division
Rodney Whitfield, Financial Manager, Federal Highway Administration, California Division
Stephen Maller, Deputy Director, California Transportation Commission
Teresa Favila, Assistant Deputy Direct, California Transportation Commission
Rachel Falsetti, Division Chief, Transportation Programming
Rihui Zhang, Division Chief, Division of Local Assistance
Doris M. Alkebulan, Prop 1B Specialist, Transportation Programming
Stella Liao, District Local Assistance Engineer, District 3
Sharon Ropp, Sr. Transportation Engineer, Division of Local Assistance
Luisa Ruvalcaba, Audit Manager, Audits and Investigations

P2535-0004
City of West Sacramento **Proposition 1B Audit**
April 2014

MARSUE MORRILL, Chief
External Audits – Contracts
Audits and Investigations
California Department of Transportation

REPORT CONTENTS

AUDIT REPORT	Page
Summary, Objectives, and Methodology	1-2
Scope and Background	2-3
Conclusion	3-4

FINDINGS AND RECOMMENDATIONS

1. Deficient Job Cost System and Unallowable Labor Costs	5-6
2. Insufficient Purchasing Policy, Improper Procurement and Lack of Contract	6-10

ATTACHMENTS

1. Summary of Project Costs

II. Recap of Unallowable Project Costs

III. Recap of Unallowable Labor Costs – Other Projects

IV. City of West Sacramento's Response to Audit Report

AUDIT REPORT

Summary

The California Department of Transportation (Caltrans) Audits and Investigations (A&I) audited costs claimed and reimbursed totaling $5,189,000 for the City of West Sacramento's (City) Tower Bridge Gateway – East Phase Proposition 1B (Prop 1B) project SLPPCL10-5447(028). The audit period was from March 22, 2011 through August 6, 2012.

Based on our audit, we determined that reimbursed project costs totaling $4,662,935 were in compliance with the executed project agreement, state and federal regulations, contract provisions, and Caltrans/California Transportation Commission (CTC) program guidelines. Reimbursed costs totaling $526,065 (see Attachment II) were not supported and were not in compliance with respective agreement provisions, state and federal regulations, and CTC program guidelines.

As a result of noted labor findings we expanded the audit scope to include labor costs charged to project CML-5447(032) and project SRTS-NI-5447-031 and found that all labor costs reimbursed to these two projects totaling $112,941 (see Attachment III) were not supported.

Objectives

We performed our limited scope audit to specifically determine whether:

- The project costs incurred and reimbursed were in compliance with the executed project agreement, state and federal regulations, contract provisions, and Caltrans/CTC program guidelines.

- The project deliverables (outputs) and outcomes were consistent with the project scope, schedule, and benefits described in the executed project agreement or approved amendments thereof.

The City is responsible for the fair presentation of incurred costs, ensuring compliance with contract provisions, state and federal regulations, CTC program guidelines, and the adequacy of its job costs system to accumulate and segregate reasonable, allocable, and allowable costs. Our responsibility, based on our audit, is to express an opinion on the allowability of the reimbursed costs in accordance with the applicable agreements, contract provisions, state and federal regulations, and Caltrans/CTC guidelines.

Methodology

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

objectives. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of the City. Therefore, we did not audit, and are not expressing an opinion, on the City's financial statements.

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

Scope

The scope of the audit was limited to financial and compliance activities related to the above-referenced projects. To achieve our audit objectives, we performed the following audit procedures:

- Reviewed the City's prior audits and single audit reports;
- Reviewed the City's policies and procedures relating to the job cost system and procurement;
- Interviewed employees, completed a review of the internal control system, performed a system walk-through to gain an understanding of the City's internal controls, job cost system, timekeeping, accounts payable, and billing processes related to projects funded by Prop 1B.

For the projects under review, we performed the following audit procedures:

- Reviewed project billing invoices sent to the Caltrans accounting office to ensure that the City properly prepared and/or billed Caltrans for reimbursement of project expenditures;
- From the project billing invoices selected a sample of charges funded by Prop 1B, and obtained and reviewed supporting documentation to ensure that project expenditures were supported and in compliance with project agreement, state and federal laws and regulations, contract provisions and Caltrans/CTC Guidelines;
- Obtained procurement records to ensure that the City procured billed contracts in accordance with applicable state and federal procurement requirements;
- Reviewed significant contact change orders to ensure that they were properly approved and supported;

- Reviewed and compared project agreement and project final delivery report to ensure that project deliverables (outputs) and outcomes were met and that variances to the project's scope, schedule, costs and benefits were properly approved and supported.

Because of inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected. Also, projections of any evaluation of the financial management system to future periods are subject to the risk that the financial management system may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

Our findings and recommendations take into consideration the City's response dated March 24, 2014, to our March 10, 2014, draft report. Our findings and recommendations, the City's response, and our analysis of the response are set forth in the Findings and Recommendations section of this report. A copy of the City's response is included as Attachment IV.

Background

The project was funded with $1,000,000 in State-Local Partnership Program (SLPP) funds, $689,000 in Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds, and $3,500,000 in Regional Surface Transportation Program (RSTP) funds (see Attachment I for summary of project costs). The City converted the Tower Bridge Gateway – East Phase (formerly State Route 275) from a freeway to a city street, providing two new, at-grade, signalized intersections at 5th and 3rd Street along with new sidewalks, bike lanes, and streetscape.

Conclusion

Based on our audit, we determined that reimbursed project costs totaling $4,662,935 were in compliance with the executed project agreement, state and federal regulations, contract provisions, and Caltrans/CTC program guidelines; and the project deliverables (outputs) and outcomes were consistent with the project scope, schedule, and benefits described in the executed project agreement or approved amendments thereof. Reimbursed costs totaling $526,065 (see Attachment II) were not supported and were not in compliance with respective agreement provisions, state and federal regulations and Caltrans/CTC program guidelines.

As a result of noted labor findings we expanded the audit scope to include labor costs charged to project CML-5447(032) and project SRTS-NI-5447-031, both funded with CMAQ funds, and found that all labor costs reimbursed to these two projects totaling $112,941 (see

Attachment III) were not supported.

This report is intended for the information of Caltrans management, the Federal Highway Administration, the CTC, and the City. This report is a matter of public record, however, and its distribution is not limited. In addition, this report will be placed on Caltrans website.

If you have any questions, please contact Luisa Ruvalcaba, Audit Manager, at (916) 323-7888.

MarSue Morrill

MARSUE MORRILL, Chief
External Audits – Contracts
Audits and Investigations

April 3, 2014

FINDINGS AND RECOMMENDATIONS

Finding 1 - *Deficient Job Cost System and Unallowable Labor Costs*

The audit found the City of West Sacramento's (City) job cost system to be deficient. Specifically, actual direct labor rates are not recorded in the job cost system. The City's job cost system records direct labor costs with billable rates instead of actual direct labor that include direct labor, fringe benefits, and indirect costs. The City does not segregate direct and indirect labor and labor costs are not reconciled to its payroll system.

The master agreement between the California Department of Transportation (Caltrans) and the City states *"Administering agency ...shall establish and maintain an accounting systems and records that properly accumulate and segregate incurred project costs and matching funds by line item for the project. The accounting system of Administering agency...shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by State."*

As a result of the deficiencies, labor costs billed to Caltrans are not based on actual direct labor costs. The City billed and was reimbursed unallowable labor costs totaling $338,237 on project SLPPCL10-5447(028) (see Attachment II for details). As a result of the finding, the audit scope was expanded to include other Caltrans' projects on which the City had billed labor costs, projects CML-5447(032) and SRTS-NI-5447-031. We found all labor costs billed and reimbursed totaling $112,941 were not supported (see Attachment III for details). As the labor costs are not actual costs the billed labor is unallowable.

2 Code of Federal Regulations (CFR), Part 225, Appendix B, (8)(a) states that *"Compensation for personnel services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits."* In addition, the master agreement between Caltrans and the City states *"Payments to Administering Agency can only be released by State as reimbursement of actual allowable project costs already incurred and paid for by Administering Agency."*

Recommendation

The City should:

- Discontinue billing Caltrans for any labor costs until the job cost system deficiencies are corrected.
- Implement a job cost system that properly records direct labor costs (that includes direct labor, fringe benefits and indirect costs), segregates direct and indirect labor, and reconciles to the payroll system.

Recommendation (Continued)

- Reimburse Caltrans unallowable labor costs totaling $451,178, or, work with the Caltrans Division of Local Assistance (DLA) to allow for a timeline for the City to prepare an analysis between the actual labor cost components (direct labor, fringe benefits, indirect costs) and the unallowable labor detailed in Attachments II and III. The analysis would be used to substantiate and offset the unallowable labor amounts.

The DLA should work with the CTC to:

- Determine if the City is allowed to submit the analysis of actual direct labor to substantiate the billed amounts in Attachment II or reimburse the unallowable costs.
  - If so, determine a timeline for the submission.
  - Review the analysis to determine if it substantiates and offsets the reimbursed amounts.
- If amount is not offset or should the City fail to submit the analysis within the established timeframe then DLA should work with the Division of Accounting to set up an accounts payable to recover the unallowable labor.

City's Response

The City realized the deficiencies in its system and is taking action to correct the issue. For the City's full response to this finding see Attachment IV.

Finding 2 - *Insufficient Purchasing Policy, Improper Procurement and Lack of Contract*

The City's purchasing policy is insufficient, the procurement of the consultant contract was improper, and billed costs for the consultant contract were incurred after the contract had expired.

Insufficient Purchasing Policy

The purchasing policy is not sufficiently detailed for the City's staff to properly follow the procurement process. For example:

- There is no requirement that all processes be fully documented.
- There is no indication of when to use what method of payment and who is responsible to ensure procurement files are maintained.
- There is lack of coverage of on-call contracts, bid evaluations, protest procedures and change order process.
- The conflict of interest is not as restrictive as 49 CFR, part 18.

In November 2013 the City added language to the purchasing policy. In the revision it states that for projects involving state and federal grant funds that project must be compliant with at least California Local Assistance Procedures Manual (LAPM) (*should be Caltrans*), California Labor Code, Federal Grant Management Office of Management and

Finding 2 (Continued)

Budget (OMB) Circulars, and 48 and 49 Code of Federal Regulations (CFR). By broadly including requirements in the purchasing guidelines the City is not helping their staff get a clear understanding of the actual requirements that must be followed. For example, the LAPM is a Caltrans document. There are many OMB Circulars. 48 and 49 CFR covers many areas.

The City will run the risk that staff charged with procuring contracts may be overloaded with information. The current purchasing guidelines may not be properly followed if the procurement requirements are not more specific. In addition, the requirements are only for projects using state and federal grant funds. The City runs the risk of entering into contracts that are not fair and reasonable or that later may be funded by state and federal funds that if not initially procured properly would be questioned.

The master agreement between Caltrans and City states "*Administering Agency agrees to comply with Office and Management and Budget (OMB) Circular A-87, Cost Principles for State and Local Governments (*the circular has been replaced with 2 Code of Federal Regulations, Part 225*), and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.*" In addition, the program supplement between Caltrans and City states "*The Administering Agency will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.*"

Improper Procurement

During our audit one Invitation for Bid (IFB) procurement and one Request for Qualifications (RFQ) procurement were tested. No issue was noted with the IFB contract but the RFQ contract was improperly procured. The City procured the services of 4Leaf consultant for on-call construction management and inspection consultant services through the RFQ process. The supporting documentation for the procurement of the contract was reviewed and the procurement records were incomplete, unclear, and did not provide a clear trail of being procured in accordance to 49 CFR, Part 18.36. The source documents used by the evaluators to rank the proposals were missing and there was no documentation that a cost/price analysis was performed. 49 CFR, Part 18.36(b)(9), states "*Grantees and subgrantees will maintain sufficient records to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.*"

Finding 2 (Continued)

Per the RFQ, evaluation scoring included 10 points for the fee schedule which indicates price was a factor for awarding of contracts. The master agreement between Caltrans and City states "*Administering Agency shall conform to ...all Title 23 federal requirements...*". Title 23 part 172.5(a)(1) states "*Contracting agencies shall use competitive negotiation for the procurement of engineering and design related services when Federal-aid highway funds are involved in the contract....Price shall not be used as a factor in the analysis and selection phase...*".

Per the City, however, price was not a factor. To corroborate, the City provided a ranking sheet that had the same ranking criteria as in the RFQ but with no points assigned to the fee schedule (one ranking criteria was raised from 10 points to 20 points to account for the 10 points originally assigned to the fee schedule). In an effort to corroborate the assertion that price was not a factor the City provided an electronic version of the spreadsheet that summarized the ranking sheets and did match the ranking sheet but auditors were unable to determine the validity of the ranking sheet or that it was the form used to evaluate the RFQs.

In an additional effort to substantiate that the City had not considered the fee as a factor, the City submitted a letter received from Consulting Engineers and Land Surveyors of California (CELSOC) dated February 11, 2008. The letter informed the City that fee could not be a factor. The RFQs were due February 14, 2008. The City responded to CELSOC in a letter dated February 27, 2008 stating it was "a misinterpretation that the fee schedule would be considered in the selection process for the RFP". The City moved forward with the procurement although per RFQ section 2.18.1 it states "*The City reserves the right, at its sole discretion, to reject any and all Statement of Qualifications or to cancel RFQ in its entirety.*"

The above items are included to substantiate that fee was not considered in awarding the contract, however, that would then indicate that the evaluation criteria was different than advertised and there is no documentation that RFQ respondents were informed of the change to the evaluation criteria. 49 CFR, Part 18.36(d)(3) states "*Procurement by competitive proposals....If this method is used, the following requirements apply: (i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance...*"

The contract was awarded to three different consultants (one being 4Leaf consultant) but the RFQ and the contract did not state how work would be awarded to each consultant. LAPM, Chapter 10, page 10.9

Finding 2 (Continued)

states "*Specify procedures in the contracts the local agency will use to award/execute task orders among the consultants: Either through an additional qualification-based selection process, OR On 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 4Leaf contract was not procured in accordance to state and federal regulations. Since the City is unable to substantiate that it procured the 4Leaf contract in accordance to 49 CFR, Part 18.36 the reimbursed costs totaling $187,828 are questioned (see Attachment II for details).

Lack of Contract

4Leaf consultant performed contract work after the contract between City and 4Leaf had expired.

- March 12, 2010 – Contract with 4Leaf expired.
- March 29, 2010 - 4Leaf contract amended for one year.
- November 5, 2010 - Task order issued to 4Leaf and per task order was to last approximately 10 months.
- November 2010 through May 31, 2012 – 4Leaf performed work on contract.

There was no contract between City and 4Leaf after March 12, 2010 but contract was amended two weeks later for an additional year. Therefore the charges billed and reimbursed to 4Leaf are further questionable.

Recommendation

The City should:

- Amend the purchasing policy making it comprehensive in order to provide more detailed instructions.

The DLA should:

- Consult with FHWA to determine if Caltrans should seek reimbursement from the City for the $98,536 of CMAQ funding in questioned costs (see Attachment II).
- Consult with CTC to determine if Caltrans should seek reimbursement from the City for the $89,292 in SLPP funding in questioned costs (see Attachment II).

City's Response

Insufficient Purchasing Policy – There is a task team to gather all the internal procurement manuals and procedures from each department. The team will be assembling a comprehensive purchasing policy on a level that best suits all of the City's procurement circumstances. For the City's full response see Attachment IV.

FINDINGS AND RECOMMENDATIONS

City's Response (Continued)

Improper Procurement – The City indicated its rationale for its procedures. For the City's full response see Attachment IV.

Lack of Contract – The City indicated work was performed within the terms of the task order. For the City's full response see Attachment IV.

Auditor's Analysis to City Response

Improper Procurement - Original scoring sheets need to be maintained to substantiate each ranker's individual score and notes and serve as the source documents. In addition, a cost/price analysis must be prepared even for on-call contracts, RFQ respondents must be informed of the change to the evaluation criteria and the RFQ and contract did not state how work would be awarded to each consultant as required in the criteria mentioned above in the finding. The finding stands as is stated.

Lack of Contract – A task order is not sufficient to extend the contract terms beyond the contract end date. Since the original contract ended on March 12, 2010 the City no longer had a contract in place on March 29, 2010 when it amended the contract to provide for a one-year extension. The finding stands as is stated.

Audit Team

MarSue Morrill, Chief, External Audits
Luisa Ruvalcaba, Audit Manager
Eugene Ezimora, Auditor

ATTACHMENT 1

Summary of Project Costs

Approved, Expended, and Audited

March 22, 2011, through August 6, 2012

Project No.: SLLPCL10-5447(028)
Project EA No.: 03-0L2314

Project Name: City of West Sacramento Tower Bridge Gateway East Phase

Project Financial Information:

Phases Reimbursed By:	Programmed and Approved	Expended	Audited
SLPP - Construction	1,000,000	1,000,000	1,000,000
CMAQ - Construction	689,000	689,000	689,000
RSTP - Construction	3,500,000	3,500,000	3,500,000
Total	5,189,000	5,189,000	5,189,000

Project Delivery Schedule:

Project Phase(s):	Adopted and Approved	Actual	Difference (months)
Beginning Construction	3/31/2010	9/30/2010	6
End Construction	4/30/2010	1/27/2012	19
Beginning Closeout	10/31/2010	1/27/2012	15
End Closeout	11/30/2010	8/6/2012	20

ATTACHMENT II

Recap of Unallowable Project Costs for
Caltrans Project: SLPPCL10-5447(028)
City of West Sacramento Project: 15291

Recap of Unallowable Labor Costs

Billing No.	Labor Billed	Reim Ratio	Charged to CMAQ	Labor Billed	Reim Ratio	Charged to SLPP	Unsupported Labor
			A			**B**	**A + B = C**
1				126,307.74	50%	63,153.87	
2	193,595.15	88.53%	171,389.79				
3				131,820.97	50%	65,910.49	
4				75,565.22	50%	37,782.61	
	193,595		171,390	333,694		166,847	338,237

Recap of Payments made for 4Leaf Consultant

Billing No.	Procurement Billed	Reim Ratio	Charged to CMAQ	Procurement Billed	Reim Ratio	Charged to SLPP	Unsupported Procurement
			D			**E**	**D + E = F**
1				90,378.22	50%	45,189.11	
2	93,056.78	88.53%	82,383.17		0%		
3	18,245.96	88.53%	16,153.15	42,010.04	50%	21,005.02	
4				46,195.00	50%	23,097.50	
	111,303		98,536	178,583		89,292	187,828

Total Unsupported Pmts
C + F
526,065

ATTACHMENT III

Recap of Unallowable Labor Costs - Other Projects

Caltrans Project: CML-5447(032)
City of West Sacramento Project: 14009

Billing No.	Labor Billed	Reim Ratio	Subtotal	Total Charged to CMAQ Funds
1	67,512.30	88.53%	59,768.64	
2	51,210.05	88.53%	45,336.26	
	118,722			105,105

Caltrans Project: SRTS-NI-5447-031
City of West Sacramento Project: 14011

Billing No.	Labor Billed	Reim Ratio	Subtotal
1	7,835.78	100.00%	7,835.78

7,836
112,941

ATTACHMENT IV

CITY OF WEST SACRAMENTO

CITY HALL
1110 West Capitol Avenue
West Sacramento, CA 95691

City Council
(916) 617-4500

City Manager's Office
City Clerk
Early Learning Services
Information Technology
(916) 617-4500
Economic Development
(916) 617-4535

Community Development
Planning/Development Engineering
(916) 617-4645
Housing/Community Investment
(916) 617-4555
Building
(916) 617-4683
Code Enforcement
(916) 617-4925

Public Works
Administration
Transportation
Engineering
Flood Protection
(916) 617-4850
Environmental Services
(916) 617-4590
Utility Billing
(916) 617-4589

Administrative Services
Finance
(916) 617-4575
Human Resources
(916) 617-4567

Parks & Recreation
Administration
(916) 617-4620
Recreation Center
2801 Jefferson Blvd.
West Sacramento, CA 95691
(916) 617-4770
Community Center
1075 West Capitol Ave.
West Sacramento, CA 95691
(916) 617-5320

FIRE
2040 Lake Washington Blvd.
West Sacramento, CA 95691
(916) 617-4600

POLICE
550 Jefferson Boulevard
West Sacramento, CA 95605
(916) 617-4900

PUBLIC WORKS
Operations
1951 South River Road
West Sacramento, CA 95691
(916) 617-4850

March 24, 2014

MarSue Morrill
Audit Chief
Audits and Investigations
California Department of Transportation
Marsue.morrill@dot.ca.gov

Re: P2535-0004 / SLPPCL10-5447(028) Proposition 1B Audit
Response to Audit Findings

Dear Ms. Morrill:

This letter is in response to the audit report dated in March 2014, regarding the City of West Sacramento's ("City") Tower Bridge Gateway – East Phase Proposition 1B funded project. Pursuant to your report, and the findings and recommendations identified therein, the City is providing the following corrective actions.

Finding 1 – Deficient Job Cost System and Unallowable Labor Costs

The City has been billing all public- and private-funded capital improvement projects using billing rates from the City's Book of Fees for labor costs. The Book of Fees rates as described are billable rates which have the overhead and administrative costs component added to the actual labor and benefits costs. The process to establish the City's Book of Fees has been a standard practice for the City. The analysis of the additional cost components and industry survey are part of the methods that the City used to establish the billable rates. As the result of this audit, the methodology that the City was using did not agree with Caltrans' agreement, standards and policies. The City realized the deficiencies, and actions are needed to be taken in order to correct this issue

Corrective Action Taken

As recommended, in response to issues of the City's billing method deficiencies under Finding 1, Supervising Accountant Claire Connor and Information Technology Manager Robert Miller, and his team, are currently redesigning the City's work order billing system (including Capital Improvement Project) to bill actual labor costs, which are comprised of direct labor costs and fringe benefits. Because this is a major system reconstruction, we would request to be allowed four months from the date of this letter, which will be July 24, 2014, to complete the system change.

The second action that the City has already started the process to rectify is to submit the City's first Indirect Cost Allocation Plan (ICAP) in order to establish Caltrans-approved indirect cost rates to recalculate the questioned labor costs. The City's first Fiscal Year 2011 ICAP was delivered to Caltrans ICAP Unit on March 21, 2014. We have begun the approval process with the ICAP auditor. Once the FY 2011 ICAP is approved by Caltrans, the subsequent year's plan will be prepared for submittal immediately. Currently, in order to entirely remedy the deficient labor costs for this finding, the City also needs an approved fiscal year 2012 ICAP on file.

The City would like to request to delay reimbursing Caltrans the questioned labor costs until the City's FY 2011 and FY 2012 ICAPs are approved by Caltrans. If this is allowed, we would work with the Caltrans Division of Local Assistance (DLA) to establish a reasonable timeline for the final reconciliation of the questioned labor costs. The City will ensure that the future years' ICAPs are submitted in a timely manner.

Finding 2a – Insufficient Purchasing Policy

Currently, the City's purchasing process is not centralized in one department; each department is responsible for its own procuring of goods and services, using the City's purchasing policy as a guideline. As the result of this audit, certain weaknesses in the City's procurement policy were identified by the auditors. There are several steps being taken by the City to correct this finding and more are in the process of being developed.

Finding 2b – Improper Procurement

"Per the RFQ, evaluation scoring included 10 points for the Fee Schedule which indicates price was a factor for awarding of contracts."

The auditor is correct that the RFQ as issued requested a Standard Rate Schedule. The Rate Schedule was submitted in a separately sealed envelope. In the RFQ, the City inadvertently included the wrong evaluation and ranking score sheet (the one used for locally funded projects) which did include a point value for the Fee Schedule; however, Section 6.2.1 of the RFQ Statement of Qualifications Evaluation Process states, "The evaluation process is designed to award the procurement not necessarily to the Responding Firm of least cost, but rather to the Responding Firm with the best combination of attributes based upon the evaluation criteria."

Upon receipt of the letter from CELSOC that pointed out that the Rate Schedule not be used as a factor in the selection process, the City used the correct scoring sheets which had no points for the Rate Schedule and 10 additional points to the ranking criteria of demonstrated ability to meet schedule, manage project, maintain budget, etc.

The original handwritten scoring sheets from the three individual raters could not be located. Two of the three raters are still employed with the City and recall filling out the sheets and are willing to supply written confirmation to that fact if requested. As is the case with most agencies, the handwritten scoring/rating forms were transferred to electronic spreadsheets for comparison between the scores for each of the listed rating criteria from each rater for all 12 firms. The spreadsheets did not include the Fee Schedule as a criterion for scoring the consultants. The "Properties" tab from these spreadsheets indicates that they were created on March 5, 2008, which matches the timing of the review/rating process. The Properties tabs from the spreadsheets were captured by the City's IT Department and provided to the auditor.

"There was no documentation that a cost/price analysis was performed."

There were no "cost proposals" as there were no projects to propose on. The City was establishing a list of qualified firms to have available on-call in the event a project came forward that required these particular services.

"The above items are included to substantiate that fee was not considered in awarding the contract, however, that would then indicate that the evaluation criteria was different than advertised and there is no documentation that RFQ respondents were informed of the change to the evaluation criteria."

The auditor suggested that the City could have/should have rejected all Statements of Qualifications or canceled the RFQ in its entirety and reissued. The letter from CELSOC was dated February 11, 2008. It is not known when it was received by the City. Statements of Qualifications were due on February 14, 2008. If the letter was received a day or two before the Statement of Qualifications due date, or even after, there would not have been sufficient time to cancel the RFQ and reissue before the due date. Also, as noted above, the RFQ stated in Section 6.2.1 that award is not necessarily awarded on basis of least cost, but rather on the best combination of attributes based upon the evaluation criteria. These were the criteria used to rank the consultants.

"The contract was awarded to three different consultants (one being 4Leaf consultant) but the RFQ and the contract did not state how work would be awarded to each consultant."

Section 5.1.3 of the RFQ states, "It is the City's intent to negotiate a fixed fee 'not to exceed' contract for mutually agreed upon services. The City of West Sacramento intends to negotiate each project agreement separately, based on the project's scope of work and availability of consultant resources. Each firm will bill on a time and materials basis not to exceed the negotiated fee for each specific project agreement." That is how the City proceeded. Psomas is inherently familiar with pump stations and electrical/mechanical projects and was selected as the most qualified consultant to negotiate a fee proposal for the Main Drain Pump Station Project. This selection was based on the scope of work required for the large and complex pump station project and Psomas' qualifications to perform this type of work. 4-Leaf's area of expertise lies more in line with road work, rail work, and civil projects. They were selected as the best qualified firm on the on-call list to negotiate a fee proposal for the Tower Bridge Gateway Modification Project as it aligned well with their qualifications and the scope of work required for this particular project.

Finding 2c – Lack of Contract

"4Leaf consultant performed contract work after the contract between implementing agency and 4Leaf had expired."

As noted by the auditor, 4-Leaf was issued a contract on March 12, 2008 for On-call Inspection and Construction Management Services. The term of the contract was for two years (March 12, 2008 – March 12, 2010) with a provision for a one-year extension. The one-year extension was executed on March 29, 2010, extending the contract to March 12, 2011. Section 5 of the executed contract states; "Amendments, changes or modification in the terms of this Contract may be made at any time by mutual written agreement between the parties hereto...." On November 5, 2010 (well within the term of the contract), the terms of the contract were modified through a mutually agreed to Task Order identifying a Scope of Work, time line, and fee proposal. All work performed

by 4-Leaf was performed well within the terms of the original contract as modified by the Task Order issued on November 5, 2010.

Corrective Action Taken

In November 2013, the City added language to its existing purchasing policy to broadly cover all the requirements that were indicated in all federal and state funding sources by listing all the policy names and numbers that may possibly apply to the specific condition. We understand that by citing all the regulations that this may not be the most efficient way to direct staff for proper procedures in details, but at each department level, there are manuals and references that outline the procurement requirement in specific detail. For example, for all capital improvement projects, the City's Engineering Division is using the City's purchasing policy combined with Caltrans' Local Assistance Procedures Manual (LAPM) for procuring contractual and construction services.

In order to further revise the City's purchasing policy most satisfactorily, there is a task team assigned by the Director of Administrative Services to gather all the internal procurement manuals and procedures from each department. The team will be assembling a comprehensive purchasing policy on a level that best suits all of the City's procurement circumstances. In going forward, City staff is making a concerted and diligent effort to follow the LAPM and all related policies.

We have sent staff from the Engineering and Finance divisions to Caltrans training on procurement and will continue to do so.

CONCLUSION

This audit process has not only provided City staff with the most in-depth knowledge of the importance of the rules and regulations but also to stay on top of constant updates and changes. We respectfully request that the California Department of Transportation accepts and agrees with our responses to the findings. City staff will continue to assess its policies and procedures to ensure compliance and implementation of all Caltrans requirements.

Please do not hesitate to contact Claire Connor at (916) 617-4582 if you have any questions regarding this response.

Sincerely,

Phil Wright

Philip A Wright
Director of Administrative Services

cc: Denix Anbiah, City of West Sacramento, Director of Public Works