

Memorandum

*Serious drought.
Help Save Water!*

To: DENNIS T. AGAR
Division Chief
Traffic Operations

Date: May 8, 2014

File: P2530-0011

From: MARSUE MORRILL *Marsue*
Chief
External Audits – Contracts
Audits and Investigations

Subject: **AUDIT OF CITY OF SAN RAMON**

Attached is the audit report pertaining to the audit performed on the City of San Ramon, relative to funding received from the California Department of Transportation (Caltrans) using Proposition 1B (Prop 1B) Traffic Light Synchronization Program (TLSP) Funds. The name of the project audited is "Bollinger Canyon Road Traffic Management System Upgrade". The Prop 1B programmed amount was \$475,000. The audit was for the period of October 28, 2008, through September 15, 2010.

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. The audit was performed by the State Controller's Office on behalf of Caltrans. Deputy Directive 100, "Departmental Responses to Audit Reports" cites responsibilities of Division Chiefs relative to audits performed.

The audit report disclosed that the implementing agency received an overpayment from Caltrans totaling \$9,405.06 on its final invoice. Please provide our office with an action plan within 90 days of report issuance.

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

Attachment

c: Stephen Maller, Deputy Director, California Transportation Commission
Teresa Favila, Assistant Deputy Director, California Transportation Commission
Rachel Falsetti, Division Chief, Transportation Programming
Doris M. Alkebulan, Prop 1B Specialist, Transportation Programming
Nick Compin, Prop 1B Coordination, Division of Traffic Operation
Sylvia Fung, District Local Assistance Engineer, District 04
Luisa Ruvalcaba, Audit Manager, Audits and Investigations

CITY OF SAN RAMON

Audit Report

**TRAFFIC LIGHT SYNCHRONIZATION PROGRAM
PROPOSITION 1B BOND-FUNDED PROJECT
EA No. 04-925806/P2530-0011**

October 28, 2008, through May 31, 2013



JOHN CHIANG
California State Controller

April 2014



JOHN CHIANG
California State Controller

April 22, 2014

MarSue Morrill, Chief
Audits and Investigations
California Department of Transportation
P.O. Box 942874
Sacramento, CA 94274-0001

Dear Ms. Morrill:

The State Controller's Office (SCO) audited the City of San Ramon's (implementing agency) financial management system relative to projects funded and reimbursed by Proposition 1B bond funds during the audit period of October 28, 2008, through May 31, 2013.

The SCO performed the audit in accordance with generally accepted government auditing standards and based on audit procedures performed, we determined that the implementing agency's accounting system and internal controls appear adequate to accumulate and segregate reasonable, allocable, and allowable project costs as required by Title 2, *Code of Federal Regulations*, Part 225, and California Department of Transportation (Caltrans) and Transportation Commission (Commission) program guidelines and agreements.

We audited the Proposition 1B bond-funded project Bollinger Canyon Road Traffic Management System Upgrade, Project No. TLSPL-5437 (020) and determined that:

- The implementing agency complied with applicable federal and state procurement requirements as required by Title 49, *Code of Federal Regulations*, Part 18 (49 CFR 18), and/or California Public Contract Code sections 10140–10141.
- The project costs incurred and reimbursed were in compliance with the executed project baseline agreements or approved amendments thereof, state and federal laws and regulations, contract provisions, and Commission guidelines.
- The project deliverables (outputs) and outcomes were consistent with the project scope, schedule, and benefits described in the executed project baseline agreements or approved amendments thereof.

Schedule 1 of this report is a summary of project costs programmed, approved, expended, and audited during the audit period.

During the review of construction contract costs for the project, the auditor observed that the City of San Ramon included a total of \$692,962.38 for direct costs on its final invoice submitted for reimbursement. Of that amount, \$14,047.89 was for claims administration costs incurred by city staff to avoid major claims and litigation related to construction defects. However, there were no actual contract claims made to the project. Therefore, the claim of \$14,047.89 is unallowable and should not be included on the final invoice as an eligible reimbursable construction contract cost. The City of San Ramon received an overpayment from Caltrans totaling \$9,405.06 on its final invoice.

If you have any questions, please contact Andrew Finlayson, Chief, State Agency Audits Bureau, at (916) 324-6310.

Sincerely,

Original Signed By

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: Jan Goto, Audit Manager
Division of Audits – Bond Unit
State Controller’s Office
Sofia Lopez-Guerrero, Auditor-in-Charge
Division of Audits – Bond Unit
State Controller’s Office

Contents

Audit Report

Summary	1
Background	2
Objectives, Scope, and Methodology	2
Conclusion	4
Views of Responsible Official	4
Restricted Use	5
Schedule 1—Summary of Project Costs Approved, Expended, and Audited	6
Finding and Recommendation	7
Attachment—City’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office (SCO) audited the City of San Ramon's (implementing agency) financial management system relative to projects funded and reimbursed by Proposition 1B bond funds during the audit period of October 28, 2008, through May 31, 2013.

The SCO performed the audit in accordance with generally accepted government auditing standards and based on audit procedures performed, we determined that the implementing agency's accounting system and internal controls appear adequate to accumulate and segregate reasonable, allocable, and allowable project costs as required by Title 2, *Code of Federal Regulations*, Part 225 (2 CFR 225), and California Department of Transportation (Caltrans) and Transportation Commission (Commission) program guidelines, procedures, agreements, or approved amendments.

We audited the Proposition 1B bond-funded project Bollinger Canyon Road Traffic Management System Upgrade, Project No. TLSPL-5437 (020) and determined that:

- The implementing agency complied with applicable federal and state procurement requirements as required by Title 49, *Code of Federal Regulations*, Part 18 (49 CFR 18), and/or California Public Contract Code sections 10140–10141.
- The project costs incurred and reimbursed were in compliance with the executed project baseline agreements or approved amendments thereof, state and federal laws and regulations, contract provisions, and Commission guidelines.
- The project deliverables (outputs) and outcomes were consistent with the project scope, schedule, and benefits described in the executed project baseline agreements or approved amendments thereof.

During the review of construction contract costs for the project, the auditor observed that the City of San Ramon included a total of \$692,962.38 for direct costs on its final invoice submitted for reimbursement. Of that amount, \$14,047.89 was for claims administration costs incurred by city staff to avoid major claims and litigation related to construction defects. However, there were no actual contract claims made to the project. Therefore, the claim of \$14,047.89 is unallowable and should not be included on the final invoice as an eligible reimbursable construction contract cost. The City of San Ramon received an overpayment from Caltrans totaling \$9,405.06 on its final invoice.

Background

In accordance with California Department of Transportation (Caltrans) and Transportation Commission (Commission) executed project agreement(s) or approved amendments, the project Bollinger Canyon Road Traffic Management System Upgrade, Project No. TLSPL-5437 (020), was programmed and approved to receive \$475,000 in Proposition 1B bond funds, for one or more phases of work, under the Traffic Light Synchronization program.

The implementing agency is responsible for implementation and successful completion of each project component and activities as defined in the project's baseline agreement. The project's completion date was September 15, 2010.

Objectives, Scope, and Methodology

The SCO audited the implementing agency's financial management system relative to projects funded and reimbursed by the Proposition 1B Bond Fund during the audit period of October 28, 2008, through May 31, 2013.

The objectives of our audit were to determine whether:

- The implementing agency's accounting system and internal controls were adequate to accumulate and segregate reasonable, allocable, and allowable project costs as required by 2 CFR 225, and Caltrans and Commission program guidelines, procedures, project agreements, or approved amendments.
- The implementing agency complied with applicable federal and state procurement requirements as required by 49 CFR 18, California Public Contract Code sections 10140–10141, and/or provisions stated in the contract.
- The project costs incurred and reimbursed were in compliance with the executed project baseline agreements or approved amendments thereof, state and federal laws and regulations, contract provisions, and Commission guidelines.
- The project deliverables (outputs) and outcomes were consistent with the project scope, schedule, and benefits described in the executed project baseline agreements or approved amendments thereof.

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

- Reviewed the implementing agency's prior audits and single audit reports;
- Reviewed the implementing agency's written policies and procedures relating to accounting systems, construction project management, and contract management; and

- Interviewed employees, completed the internal control questionnaire, and performed a system walk-through in order to gain an understanding of the implementing agency's internal controls, accounting systems, timekeeping and payroll systems, and billing processes related to transportation projects; specifically, projects funded by Proposition 1B.

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

- Obtained project files and reviewed preliminary information to ensure that the implementing agency complied with applicable state and federal procurement requirements;
- Obtained project expenditure reports, selected a sample of activities that were funded by Proposition 1B, and obtained and reviewed supporting documentation to ensure that project expenditures were reasonable, allocable, and allowable in accordance with Caltrans and Commission program guidelines, procedures, agreements, and applicable state and federal requirements;
- Reviewed significant contract change orders to ensure that they were properly approved and supported;
- Reviewed project final reports, close-out documents, finance letters, and baseline agreements to ensure that variances or changes to the project's scope, schedule, costs, and benefits were properly approved and supported; and
- Reviewed the project payment history file and/or invoices sent to the Caltrans accounting office to ensure that the implementing agency properly prepared and/or billed Caltrans for reimbursement of project expenditures as required by Caltrans' local assistance procedures.

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.

We did not audit the implementing agency's financial statements. We limited our audit scope to planning and performing audit procedures necessary to achieve our audit objectives.

Conclusion

We determined that the implementing agency's accounting system and internal controls appear adequate to accumulate and segregate reasonable, allocable, and allowable project costs as required by 2 CFR 225, and Caltrans and Commission program guidelines and agreements.

We audited the Proposition 1B bond-funded project Bollinger Canyon Road Traffic Management System Upgrade, Project No. TLSPL-5437 (020) and determined that:

- The implementing agency complied with applicable federal and state procurement requirements required by 49 CFR 18, California Public Contract Code sections 10140–10141, and/or provisions stated in the contract.
- The project costs incurred and reimbursed were in compliance with the executed project baseline agreements or approved amendments thereof, state and federal laws and regulations, contract provisions, and Commission guidelines.
- The project deliverables (outputs) and outcomes were consistent with the project scope, schedule, and benefits described in the executed project baseline agreements or approved amendments thereof.

During the review of construction contract costs for the project, the auditor observed that the City of San Ramon included a total of \$692,962.38 for direct costs on its final invoice submitted for reimbursement. Of that amount, \$14,047.89 was for claims administration costs incurred by city staff to avoid major claims and litigation related to construction defects. However, there were no actual contract claims made to the project. Therefore, the claim of \$14,047.89 is unallowable and should not be included on the final invoice as an eligible reimbursable construction contract cost. The City of San Ramon received an overpayment from Caltrans totaling \$9,405.06 on its final invoice.

Views of Responsible Official

We issued a draft audit report on January 29, 2014. Mike Talley, P.E., Project Manager, responded by letter dated February 21, 2014 (Attachment) explaining the city's current position regarding the audit findings. This final audit report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of San Ramon, Caltrans, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original Signed By

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

April 22, 2014

**Schedule 1—
Summary of Project Costs
Approved, Expended, and Audited
October 28, 2008, through May 31, 2013**

Project No./EA No.: TLSPL-5437 (020)/04-925806

Project Information: Bollinger Canyon Road Traffic Management System Upgrade

Project Financial Information:

<u>Phases Reimbursed by Prop 1B Bond Fund</u>	<u>Programmed and Approved</u>	<u>Expended</u>	<u>Audited</u>	<u>Variance</u>	<u>Finding(s)¹</u>
Construction	\$ 475,000	\$ 463,938.31	\$ 454,533.25	\$ 9,405.06	\$ 9,405.06
Total	\$ 475,000	\$ 463,938.31	\$ 454,533.25	\$ 9,405.06	\$ 9,405.06

Project Delivery Baseline:

<u>Project Phase(s):</u>	<u>Baseline</u>	<u>Approved</u>	<u>Actual</u>
Beginning construction	5/26/2009	3/15/2010	1/26/2010
End construction	11/10/2009	9/15/2010	9/15/2010
Beginning closeout	11/30/2009	12/15/2010	12/15/2010
End closeout	1/31/2010	6/15/2012	11/9/2012

¹ See the Finding and Recommendation section.

Finding and Recommendation

**FINDING—
Unallowable
construction
contract costs**

During the review of construction contract costs for the project, the auditor observed that the City of San Ramon included a total of \$692,962.38 for direct costs on its final invoice submitted for reimbursement. Of that amount, \$14,047.89 was for claims administration costs incurred by city staff to avoid major claims and litigation related to construction defects. However, there were no actual contract claims made to the project. Therefore, the claim of \$14,047.89 is unallowable and should not be included on the final invoice as an eligible reimbursable construction contract cost. The City of San Ramon received an overpayment from Caltrans totaling \$9,405.06 on its final invoice.

Recommendation

The overpayment amount totaling \$9,405.06 should be refunded to Caltrans.

City's Response

Following notification of the findings of the audit, we conducted a third review of our expenses and noticed that a significant proportion of our design costs had been converted to construction expenses through our Contract Change Order #4. Accordingly, we prepared a revised final invoice for the project. This invoice was submitted to our District Local Assistance Engineer on February 21, 2014. A copy is attached. Documentation is included that includes justification for reclassifying a portion of design costs.

Based on our revised invoice and documentation of changes in the scope of work that reduced ineligible design expenses and increased eligible construction costs, we respectfully request that either your findings with respect to this matter be removed, or that the findings be modified to eliminate any reference of overpayment to the City.

SCO's Comment

Although additional documentation was provided by the city on February 21, 2014, the finding and recommendation remain unchanged. The overpayment amount totaling \$9,405.06 should be refunded to Caltrans. Caltrans will review the revised final invoice dated February 21, 2014, submitted by the city, determining eligibility regarding the justification for reclassifying a portion of the project design costs.

**Attachment—
Auditee's Response to
Draft Audit Report**



CITY OF SAN RAMON

2226 CAMINO RAMON
SAN RAMON, CALIFORNIA 94583
PHONE: (925) 973-2500
WEB SITE: WWW.SANRAMON.CA.GOV

February 21, 2014

Mr. Andrew Finlayson, Chief
State Agency Audits Bureau
State Controller's Office
PO Box 942850
Sacramento, CA 94250-5874

RE: Response to Audit Findings for TLSPL-5437(020) Bollinger Canyon Traffic Management System Upgrade Project

Dear Mr. Finlayson:

Thank you for your recent letter dated January 29, 2014, notifying us of the results of the audit for the Bollinger Canyon Traffic Management System Upgrade Project TLSPL-5437(020). We appreciate the time and effort your staff put into this audit and especially the professionalism and attention to detail demonstrated by your auditor, Ms. Sofia Lopez-Guerrero.

Purpose

We are concerned about the impact to the City of the findings in your audit report. Our purpose in preparing this letter is to request a deletion of the findings, or modifications that concur with the City's position that there was no overpayment. We have provided background information to support our request for changes to the findings. It is important to note that we have never requested any changes to our baseline agreement, nor made any effort to invoice the State for more than our TLSP grant allocation for this project.

Change in Reimbursement Ratio Creates Funding Shortfall for City

After we submitted our final invoice for the full amount of the available grant funding, we were informed that the reimbursement ratio we used was incorrect, and were directed to revise the invoice using the new correct (but smaller) ratio. This new ratio effectively reduced our reimbursable costs and created a funding shortfall between our eligible costs and our available grant reimbursement. Our invoicing plan had relied somewhat on the first reimbursement ratio that was subsequently declared incorrect.

City Council 973-2530	City Clerk 973-2539	Parks & Community Services 973-3200	Planning Department 973-2560
City Manager 973-2530	Employee Services 973-2503	Police Services 973-2700	Public Services 973-2800
City Attorney 973-2549	Finance Department 973-2609	Economic Development 973-2554	Engineering Services 973-2670

City Efforts to Fill Funding Shortfall by Reclassifying Claims Administration Costs

We began reviewing our expenses to determine if any could be reclassified to make up for the funding shortfall. Following review of Chapter 16 of the Local Procedures Manual, we concluded that significant administrative expenses we incurred in an effort to settle major disputes between the City and the contractor for this project should be eligible for reimbursement pursuant to Chapter 16 of the Local Procedures Manual.

City Invoice for Reimbursement Costs Rejected

On April 22, 2013, we submitted a third revision of our final invoice that included the claims administration costs described above. These costs were the basis of the finding by your auditor that the City was overpaid. The reason for the rejection was that no formal claim was ever filed by the contractor. Although we contended that proactive efforts to settle claims should be eligible, and that no requirement for actually filing a claim exists in the LAPM, we accepted the auditor's verdict and sought another alternative for filling our funding gap.

Current City Position

Following notification of the findings of the audit, we conducted a third review of our expenses and noticed that a significant proportion of our design costs had been converted to construction expenses through our Contract Change Order #4. Accordingly, we prepared a revised final invoice for the project. This invoice was submitted to our District Local Assistance Engineer on February 21, 2014. A copy is attached. Documentation is included that includes justification for reclassifying a portion of the design costs.

Request for Changes to Final Audit Report

Based on our revised invoice and documentation of changes in the scope of work that reduced ineligible design expenses and increased eligible construction costs, we respectfully request that either your audit findings with respect to this matter be removed, or that the findings be modified to eliminate any reference of overpayment to the City.

Thank you for the opportunity to provide comments on your audit findings. If the findings are modified, we would very much appreciate an opportunity to comment on them prior to finalization. Please call me at (925) 973-2654, if you have any questions.

Sincerely,



Mike Talley, P.E., T.E.

Senior Engineer

Emailto: mtalley@sanramon.ca.gov

Cc: Amy Amiri, Senior Analyst, City of San Ramon

Attachments

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>