



Contract Management Audit

October 2020 – November 2021

August 2022

Prepared by the Audit Office

Report Number: 22-02

EXECUTIVE SUMMARY

The Audit Office of the California High-Speed Rail Authority (Authority) performed an audit to determine if the Right-of-Way and Project Construction Management contract managers are managing assigned contracts in compliance with agreement language, as well as applicable manuals and procedures.

The high-speed rail system has been built through a series of design-build contracts and three construction packages are currently in progress. The Authority contracted with three Project and Construction Management (PCM) teams to have engineering and construction oversight of the design-build contractors. The PCM teams are tasked with monitoring and tracking the performance of the design-build contractors and reporting this back to the Authority.

The Authority's Right-of-Way Section is responsible for the acquisition of the parcels needed for the three construction packages. The Authority has contracted with five teams to appraise, acquire, and turn-over needed parcels to the design-build contractors.

The scope of the audit included reviewing policies, procedures, consultant contracts, and any other relevant criteria. Additionally, any relevant personnel were interviewed, and testing was performed on a sample basis for the period of November 1, 2020, through October 31, 2021.

We found that the Right-of-Way and Project Construction Management contract managers are generally managing assigned contracts in compliance with Authority agreements. However, we found instances where the contract provisions are not being followed, documented for compliance, or formally communicated as no longer compatible with the Authority's current procedures. We concluded that the cause is that the Agreement provisions are managed at a high level. In addition, we found that documentation to support contract management activities was not easily located by the contract manager for one of the PCM contracts, due to inconsistent record keeping.

We recommend the Authority Contract Managers should validate the relevant provisions of the contract are being followed and document the contract management activities.

Paula Rivera , August 8, 2022
Paula Rivera

Audit Report

BACKGROUND

The California Legislature created the California High-Speed Rail Authority (Authority) as part of the California High-Speed Development Act of 1994. The Authority is responsible for planning, designing, building and operation of the first high-speed rail system in the nation. California high-speed rail will connect the mega-regions of the state, contribute to economic development and a cleaner environment, create jobs and preserve agricultural and protected lands. The Authority is responsible for overall management, oversight, and monitoring of state and federal awards received. This function requires accountability and transparency and must provide a means of tracking and monitoring program goals, accomplishments, and compliance with grant requirements.

The high-speed rail system has been built through a series of design-build contracts and three construction packages (CP) are in progress, CP1, CP2/3, and CP4 respectively. The Authority contracted with three Project and Construction Management (PCM) teams to have engineering and construction oversight of the design-build contractors. The PCM teams are tasked with monitoring and tracking the performance of the design-build contractor on behalf of the Authority.

The Authority's Right of Way Section is responsible for the acquisition of the parcels needed for the three construction packages. The Authority has contracted with five teams to appraise, acquire, and turn-over needed parcels to the design-build contractors.

The Contract Manager is the authorized representative of the State of California responsible for administering a contract and monitoring the contractor's performance. The Contract Manager serves as a liaison with the contractor and may perform administrative tasks ranging from the request of contract services through the performance and final payment for completed services.

The Audit Office has performed audits related to Contract Managers' compliance with Authority policies and procedures. This audit focused on the Contract Managers' compliance with specific Agreement provisions.

OBJECTIVES, SCOPE, and METHODOLOGY

Our audit objectives were to determine if the Right-of-Way and Project Construction Management contract managers are managing assigned contracts in compliance primarily with Authority Agreements, and additionally with manuals and procedures.

The scope of the engagement was limited to activities from November 1, 2020, through October 31, 2021. Our audit included reviewing policies, procedures, consultant contracts, and any other relevant criteria, interviewing personnel, and conducting tests necessary to complete the objectives. We selected two of ten Right-of-Way agreements effective during the audit period for our audit sample, as they all have the same contract language and were all managed by the same individual during the audit period. We selected all three Project Construction Management agreements because they have similar scopes of work and were managed by different individuals.

This audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing. The results of the audit were discussed with management on May 13, 2022. The Infrastructure Delivery and Real Property teams were given the opportunity to provide a response to the issues identified, which has been summarized and included in its entirety as an attachment in this final report.

CONCLUSION

Our audit found that the Right-of-Way and Project Construction Management contract managers are generally managing assigned contracts in compliance with Authority agreements. However, we found instances where the contract provisions are not being followed, documented for compliance, or formally communicated as no longer compatible with the Authority's current procedures.

The findings identified are detailed below.

Issue 1: Agreement Provisions Not Being Followed

After reviewing Contract Manager responsibilities within two Right-of-Way Agreements, we discussed the provision responsibilities with the Contract Manager and tested related provision documentation. We concluded that there were instances where the Contract Manager was not ensuring the Contractor was following the Agreement provisions. Below are two examples of agreement provisions that were not being followed:

- Exhibit D, Section 2.3 - Contract Manager does not review subcontracts to ensure proper provisions are included.
- Exhibit D, Section 2.4 - Lack of Tracking of Timely Subcontractor Payment

Recommendation

The Contract Manager should validate that the relevant provision of the contract are being followed. Increase Contract Manager supervision to ensure the Contract Manager is enforcing relevant provisions.

Response

The Staff Services Manager II recently hired by Real Property will ensure that relevant provisions of the contract are being followed. In addition, the Contractors will be providing documentation that ensures that subcontractors are paid within seven (7) working days after the receipt of payment made to the Contractor by the Authority.

Analysis:

We agree with the corrective action identified.

Issue 2: Compliance with Provisions Lacking Proper Documentation

After reviewing Contract Manager responsibilities within three Project Construction

Management Agreements, we discussed the provision responsibilities with the Contract Manager and tested related provision documentation. We initially were unable to locate, and the Contract Manager was unable to provide, documentation for Contract HSR 15-01 to ensure compliance with the following agreement provisions:

- Exhibit A, Section 2.5.2 - Contract Manager was unable to provide a risk register for the audit period.
- Exhibit E, Section 9.6.1 - Contract Manager was unable to provide insurance certificates covering the audit period.

The Contract Manager's supervisor was eventually able to provide links to the requested information; however, due to the timing of receiving the information, we were not able to review the documentation for compliance.

Recommendation

The Contract Manager should develop a filing system and naming conventions to consistently maintain documentation to support contract management activities.

Response

Historically for contract 14-32, some of the required information included in the Uniform Filing System (UFS) on the I Drive was duplicated in SharePoint and a "File Location Memo with a link to SharePoint" was included in the appropriate file on the UFS. All "File Location Memos" previously saved to the UFS have been replaced with the required information that had been stored on SharePoint.

Analysis

We agree with the corrective action identified.

Issue 3: Agreement Provisions Not Documented as No Longer Applicable

After reviewing Contract Manager responsibilities within the two Right-of-Way Agreements, we discussed the provision responsibilities with the Contract Manager. We determined that the Contract Manager does not properly communicate Agreement provisions changes to Contractors; nor do they communicate delegated contract management duties. Specifically, these agreements are managed using task orders for specific parcels and elements of work. Each task order has an Authority staff member assigned to manage the work, but there is no clear delegation of responsibility for ensuring compliance with the contract provisions related to the work performed. In addition, below are examples of the Agreement changes

that were not communicated to the Contractors in writing that were found during the audit:

- Exhibit A, Section 2, Task 1.2 - Required Weekly Progress Reports are now done verbally during weekly meetings, instead of the Contractor submitting a hard copy as stated in the Agreement.
- Exhibit B, Section 2.1.3 - Invoices are now submitted and accepted as PDF files, instead of the CSV (comma separated value) format as stated in the Agreement.

Recommendation

The Contract Manager should provide written, traceable, communication to Contractors and staff to ensure they each know what duties, tasks, and documentation they are responsible for.

Response

The Real Property Branch will ensure that written, traceable, communication to the Contractors and staff are clear and concise. Real Property will be implementing a new process that will detail the process of submitting, reviewing, and approving Progress Reports. Furthermore, meetings and communications will be clearly documented to ensure that the Contractors are aware of the Agreement provisions.

Analysis

We agree with the corrective action identified.



DATE: July 25, 2022

TO: Paula Rivera, Chief Auditor

FROM: Kristine DeYoung, Assistant Chief Operating Officer

SUBJECT: Response to Contract Management Audit Report Number: 22-02

The California High-Speed Rail Authority Program Delivery Branch appreciates the opportunity to provide a response to the Authority's Contract Management Audit Report (22-02). The audit noted three areas for improvement.

Program Delivery concurs with the recommendation and provides the following responses:

Issue 1: Agreement Provisions Not Being Followed

Recommendation

The Contract Manager should validate that the relevant provision of the contract are being followed. Increase Contract Manager supervision to ensure the Contract Manager is enforcing relevant provisions.

Response

The Real Property Branch hired a Staff Services Manager II (SSM II) in November 2021, to oversee the contract management requirements within Real Property. The SSM II will ensure that relevant provisions of the contract are being followed. As an example, the SSM II will be reviewing the subcontracts to ensure that the proper provisions are included. In addition, the Contractors will be providing documentation that ensures that subcontractors are paid within seven (7) working days after the receipt of payment made to the Contractor by the Authority.

Issue 2: Compliance with Provisions Lacking Proper Documentation

Recommendation

The Contract Manager should develop a filing system and naming conventions to consistently maintain documentation to support contract management activities.

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Kristine DeYoung

Kristine DeYoung, Assistant Chief Operating Officer