



INSPECTOR GENERAL

California Department of Transportation

County of Solano

Project Audit



Independent Office of Audits and Investigations

Bryan Beyer, Inspector General
Diana Antony, Chief Deputy

February 2024
P1575-0072



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



Inspector General

California Department of Transportation

Bryan Beyer, Inspector General

Diana Antony, Chief Deputy

February 16, 2024

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

Final Report— County of Solano, Project Audit

Dear Director Tavares:

The Independent Office of Audits and Investigations (IOAI) has completed its audit of the County of Solano (County). We audited the costs that the County incurred related to three projects totaling \$2,398,255, which were reimbursed by the California Department of Transportation.

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

A Corrective Action Plan (CAP) addressing the recommendations is due from Caltrans 60 days from receipt of this letter. Thereafter, CAP updates will be required every 6 months and 1 year from the report issuance date, until all findings have been addressed. The CAP should be sent to ioai.reports@dot.ca.gov.

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

Sincerely,

Bryan Beyer, CIG
Inspector General

Gavin Newsom, Governor

Independent Office of Audits and Investigations
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Tony Tavares
February 16, 2024
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cc: Michael Keever, Chief Deputy Director, California Department of Transportation
Dina El-Tawansy, District Director, District 4, California Department of Transportation
Ephrem Meharena, District Local Assistance Engineer, District 4, California Department of Transportation
Ben Shelton, Audit Chief, Internal Audits Office, California Department of Transportation
Phyllis Taynton, Auditor-Controller, County of Solano
James Bezek, Director, Resource Management, County of Solano
Rodney Whitfield, Director of Finance, Federal Highway Administration
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Terms Used in Report

Terms/Acronyms	Definitions
CAAP	California Aid to Airport Program
Caltrans	California Department of Transportation
Procedures Manual	Caltrans' 2017 Local Assistance Procedures Manual
CFR	Code of Federal Regulations
County	County of Solano
ER	Emergency Relief Program
HSIP	Highway Safety Improvement Program
ICRP/ICAP	Indirect Cost Rate Proposal/Indirect Cost Allocation Plan
IOAI	Independent Office of Audits and Investigations
Project #1	"Storm Damage Repair" Project
Project #2	"HSIP 8 Traffic Safety Enhancements" Project
Project #3	"California Aid to Airports Program" Grant Agreement
Standard Specifications	2015 Caltrans' Standard Specifications

Summary

The purpose of this audit was to determine whether claimed and reimbursed costs for three projects were allowable and adequately supported in accordance with the California Department of Transportation's (Caltrans) agreement provisions, state law, and federal regulations. Those three projects were:

- "Storm Damage Repair" Project (Project #1)
- "HSIP 8 Traffic Safety Enhancements" Project (Project #2)
- "California Aid to Airports Program" Grant Agreement (Project #3)

For Project #1, we were unable to obtain reasonable assurance that \$354,046 claimed by the County of Solano (County) and reimbursed by Caltrans were allowable and adequately supported in accordance with Caltrans' agreement provisions and state and federal regulations because the County did not comply with Buy America requirements and claimed unallowable indirect costs. For Project #3, the County claimed and was reimbursed \$6,284 for unallowable consultant costs.

Table 1. Summary of Findings and Questioned Costs

Finding #	Description	Questioned Costs	
1	The County did Not Maintain Required Documentation to Demonstrate Compliance with Buy America Requirements for Project #1	\$346,574	\$354,046
2	The County claimed Indirect Costs without Obtaining Prior Approval from Caltrans for Project #1	\$7,472	
3	The County claimed Unallowable Consultant Costs for Project #3		\$6,284
Total Questioned Costs			\$360,330

Source: Analysis by the Independent Office of Audits and Investigations

Introduction

Background

Caltrans administers various programs that provide federal and state funds to local agencies. Included among these programs are the Federal Highway Administration's Emergency Relief Program (ER), Highway Safety Improvement Program (HSIP), and the Aeronautics Program.

PROGRAM DESCRIPTIONS FROM CALTRANS' AND THE CALIFORNIA TRANSPORTATION COMMISSION'S WEBSITES

Emergency Relief Program

The Federal Highway Administration's ER Program is available to state and local agency transportation departments with roads suffering serious damage from natural disasters or catastrophic failures from external causes. The ER funding is intended to supplement resources from states, localities, and other Federal agencies to help in the repair of facilities damaged by eligible events.¹

Highway Safety Improvement Program

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 HSIP funds be expended on safety projects that can be designed and constructed expeditiously.²

Aeronautics Program

The Aeronautics Program is a fiscally constrained biennial three-year program of projects, which comes from a 10-year unconstrained Capital Improvement Plan for eligible airports. The Aeronautics Account, which receives revenues from state general aviation fuel taxes, combined with local funds, is used to match Federal Airport Improvement Program grants and capital outlay projects at public-use airports through the Acquisition and Development element of the California Aid to Airports Program (CAAP).³

¹Excerpt obtained from [Emergency Relief Program | Caltrans](#)

²Excerpt obtained from [Local Assistance Program Guidelines \(LAPG\) | Caltrans](#)

³Excerpt obtained from [Aeronautics Program | California Transportation Commission](#)

For this audit, we selected three projects that Caltrans awarded to the County. The purposes of these projects are described below.

1. “Storm Damage Repair” Project (Project #1): To perform storm damage repair on Shiloh Road in Solano County.
2. “HSIP 8 Traffic Safety Enhancements” Project (Project #2): To perform traffic safety enhancements at various locations within the unincorporated areas of Solano County.
3. “California Aid to Airports Program” Grant Agreement (Project #3): To develop an Airport Land Use Compatibility Plan for the Rio Vista Airport.

Caltrans reimbursed the County \$2,398,255 for these projects. Table 2 below provides additional project details.

Table 2. Project Details as of September 2021

Program	Project Number	Project Number	Funding Source	Allocated Amount	Reimbursed Amount
Emergency Relief Program	Project #1	ER-32L0 (441)	Federal Funds	\$394,046	\$354,046
Highway Safety Improvement Program	Project #2	HSIPL-5923 (119)	Federal Funds	\$2,029,800	\$1,920,339
Aeronautics Program	Project #3	CAAP Agreement Sol-5-14-1	State Funds	\$144,000	\$123,870
Totals				\$2,567,846	\$ 2,398,255

Source: Analysis by the Independent Office of Audits and Investigations

Scope and Methodology

Our objectives were to determine whether Caltrans reimbursed the County for costs that were allowable and adequately supported in accordance with Caltrans' agreement provisions, applicable state law, and federal regulations.

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

We performed a risk assessment, including identifying and evaluating whether the County properly designed and implemented internal controls significant to our audit objectives. Our evaluation of internal controls focused on the County's review and approval processes for costs, contract procurement, and contract change orders. As part of our audit work, we identified significant deficiencies related to the County's internal control environment and reported those deficiencies in the *Audit Results* section of this report.

In addition, we assessed the sufficiency and appropriateness of computer-processed information that we used to support our findings, conclusions, and recommendations. We identified computer-processed data and determined the data was not related to our audit objectives and to significant areas identified in our audit. As a result, we did not perform a data reliability assessment.

Based on our planning, we developed specific methods for gathering evidence to obtain reasonable assurance to address the audit objectives. Our methodology included conducting interviews with key personnel, analyzing relevant documentation, and testing transactions related to claimed and reimbursed costs. 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 based on our audit objectives.

Audit Results

Based on this audit, we obtained reasonable assurance that the costs claimed by the County and reimbursed by Caltrans were allowable and adequately supported in accordance with Caltrans's agreement provisions and state and federal regulations, except for \$360,330 as noted below.

Appendix B includes more information related to each project, including audit results.

Finding 1. The County Failed to Comply with the Buy America Requirement, Causing Us to Question the Amount Reimbursed by Caltrans for One Project.

Condition

The Code of Federal Regulations (CFR) provides the primary legal authority and requirements for the Buy America requirements, which states that all manufacturing processes for all predominantly steel or iron products permanently incorporated into the project shall have occurred in the United States. To ensure compliance with these federal regulations, Caltrans requires local agencies administering federally-funded projects to retain adequate documentation in its project records, including a Certificate of Compliance and a Certified Mill Test Report.

Steel was used for Project #1; however, the County did not retain the required certifications, which must be prepared **prior** to incorporating the materials into the project. When we asked the County for the certifications, the County prepared a declaration which was signed by the contractor on September 21, 2021, well beyond the performance period of this project. The effective start date of this project was August 25, 2017.

While the declaration stated that the steel was "Made in America", it did not make reference to where the steel was melted and manufactured, as required. The declaration did state that the subcontractor supplied a Buy **American** certification, which is a different federal regulation. Nevertheless, we reviewed the certification and it did not include the required elements shown in Table 3 to comply with the Buy America requirements.

Table 3. Required Certifications To Meet Buy America Requirements

Certified Mill Test Report

This report must indicate where the steel and iron were melted and manufactured.

Certificate of Compliance

This certification must be:

1. Submitted **before** the material is incorporated into the work.
2. For each lot of the material, identify the lot on the certificate.
3. **Signed by the producer of the material** and stating the material complies with the contract.

Source: Caltrans Standard Specifications

As noted in the Criteria section below, federal regulations and Caltrans' guidelines categorize this type of deficiency as an "unrecoverable project deficiency," which could result in loss of all, or part of the federal reimbursement. Based on our review of the invoices, we could not determine the costs for the steel materials used in the project because the costs were not itemized. As a result, we question \$346,574, the amount claimed by the County and reimbursed by Caltrans.

Criteria

The CFRs describe the Buy America requirements. Specifically, 23 CFR 635.410 (b)(1)(ii) states, in part:

No Federal-aid highway construction project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met. The project either includes no permanently incorporated steel or iron materials, or if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States.

Since the contractor used steel materials for Project #1, all manufacturing processes must occur in the United States. As stated in the executed contract between the County and the contractor, the contractor is bound to Caltrans' Standard Specifications. Standard Specifications, Section 6-1.04C requires that:

Steel and iron materials must be melted and manufactured in the United States. Furnish steel and iron materials to be incorporated into the work with certificates of compliance and certified mill test reports. Mill test reports must indicate where the steel and iron were melted and manufactured.

Additionally, Standard Specifications, Section 6-2.03C specifies when a Certificate of Compliance is required. It further provides guidance on a Certificate of Compliance, which is presented in Table 3.

The Program Supplement requires the County to administer this project in accordance with Caltrans Local Assistance Procedures Manual (Procedures Manual). The 2017 Procedures Manual, Section 16.8 titled *Project Files* provides a list of required documents that local agencies must include in its project records when administering federally-funded projects. One of the required documents is the Certificate of Compliance.

Lastly, the 2017 Procedures Manual includes a section about unrecoverable project deficiencies:

An unrecoverable project deficiency is defined as a deficiency of such magnitude as to create doubt that the policies and objectives of Title 23 of the USC (or other applicable federal codes) will be accomplished by the project, (quote from PS&E Certification) and the project has proceeded to the point that the deficiency cannot be corrected. This level of deficiency shall result in the withdrawal of all or a portion of the federal and/or state funds from the project. Examples of some of the most common (found by Caltrans and FHWA) Unrecoverable Project Deficiencies (Federal) are:

- **Local agencies that do not enforce contract requirements, whether expressed or implied, relating to federal statutes and/or contract provisions pertaining to** nondiscrimination, non-segregated facilities, equal opportunity, health and safety and work site safety, Title VI, Davis-Bacon Act, Copeland Act, Clean Air Act as amended, Federal Water Pollution Control Act, Lobbying Certification, Noncollusion, False Statements, **Buy America**, On-the Job Training, or incorporating required contract provisions in subcontracts, etc., including reporting **shall result in loss of all, or part of the federal reimbursement.** (Emphasis added)

Cause

As stated in the County's declaration dated September 21, 2021, the contractor did not retain copies of the required certifications.

Effect

By not complying with federal regulations, the County could be subject to the loss of federal funding for the project or denial of federal assistance for future projects.

Recommendations

- 1.1 Caltrans should coordinate with the Federal Highway Administration and the County to develop a corrective action plan to appropriately resolve this finding. This includes recovering up to \$346,574 in questioned costs.
- 1.2 The County should design and implement a process to ensure its project records for all federally-funded projects include the required documentation, including, but not limited to, the Certificates of Compliance and Certified Mill Test Reports.

Finding 2. The County Claimed Indirect Costs Without Obtaining Prior Approval from Caltrans for One Project.

Condition

For Project #1, Caltrans reimbursed the County for indirect costs even though the County did not obtain the required approval or an acceptance letter from Caltrans before seeking reimbursement. Caltrans also requires the County to separately report direct and indirect labor costs on the invoices.

Based on our review of the County's labor reports and invoices it submitted to Caltrans, the County claimed direct labor costs without separately reporting overhead charges (also known as indirect costs) as required. Specifically, the County reported the combined amount on the invoice to Caltrans as direct costs only and left the indirect cost section blank. Since the County did not have an accepted indirect cost rate and did not separately report indirect costs as required, Caltrans reimbursed the County \$7,472 in indirect costs that we determined were unallowable.

Criteria

The Program Supplement, which is the project funding agreement between the County (considered the administering agency) and Caltrans, specifically states:

Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval **prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred** within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE. (Emphasis added)

Additionally, the 2017 Procedures Manual, Section 5.3 states that any department, division, or other organization unit within the local agency that seeks reimbursement of their indirect costs must receive an Approval/Acceptance Letter of the local agency's Indirect Cost Rate Proposal/ Indirect Cost Allocation Plan for the fiscal year(s) involved from Caltrans prior to billing any indirect costs.

Cause

The County stated that Project #1 was coded incorrectly in its cost accounting management system and as a result, it did not identify this error during its review of the billings. For this project, the County did not intend to claim indirect costs from Caltrans.

Effect

The County erroneously charged Caltrans for indirect costs, resulting in unallowable costs.

Recommendations

- 2.1 Caltrans should coordinate with the County to recover \$7,472 of unallowable indirect costs.
- 2.2 The County should design and implement a process to ensure that it charges only allowable costs to each project.

Finding 3. The County Claimed and Was Later Reimbursed for Consultant Costs that Did Not Comply with the Executed Agreement.

Caltrans reimbursed the County for \$6,284 in consultant costs that we determined were unallowable. For the “California Aid to Airports Program” Grant Agreement (Project #3), the County claimed costs that occurred outside of the authorized performance period. The contract between the County and the consultant expired on March 31, 2018; however, the County invoiced Caltrans for consultant costs incurred for the performance period of April 1, 2018, through May 31, 2018.

Criteria

The County entered into a contract with a consultant and the term of the contract was from January 26, 2016, through March 31, 2017. The contract was later amended on March 31, 2017, to extend the effective end date to March 31, 2018.

Cause

The County stated that it lacked procedures to monitor and track contracts; however, the County stated it has since developed a process to track contract expiration dates. We did not review the updated procedures.

Effect

Lack of adequate contract oversight increased the risk that the County claimed unallowable costs.

Recommendations

- 3.1 Caltrans should coordinate with the County to recover \$6,284 of unallowable consultant costs.
- 3.2 The County should develop formal procedures to monitor and track contracts and provide training to its staff on its contract tracking process.

Appendix A. Table of Methodologies

Audit Objectives	Methods
<p>Objective 1</p> <p>To determine whether project costs were claimed and reimbursed in compliance with the executed project agreements, Caltrans program guidelines, and applicable state law and federal regulations cited in the executed project agreements.</p>	<p>Selected significant and high-risk areas to verify compliance with the Caltrans' Procedures Manual, Local Highway Safety Improvement Program, Emergency Relief Program, and the Aeronautics Program. Those areas were:</p> <ul style="list-style-type: none"> • Project costs • Procurement • Contract change orders <p>Project Costs</p> <p>Selected 5 bid line items out of 31 total bid items (1 out of 3 billings) for Project #1 and 5 bid line items out of 25 total bid items (2 out of 6 billings) for Project #2. Determined costs were allowable, authorized, project related, incurred within the allowable time frame, and supported by reviewing project files, progress payments, daily reports, weight tickets, and comparing to relevant criteria.</p> <p>Tested direct labor and indirect costs by testing 36 out of 235 total transactions that were billed to Caltrans. Reviewed labor hours and rates for both Projects #1 and #2, and indirect costs for Project #1. Compared hours charged to time keeping and payroll records to determine the hours charged were supported and properly paid.</p> <p>For Project #3, we did not test labor costs or indirect costs since those costs were not charged to the project.</p> <p>Procurement</p> <p>Reviewed one consultant contract for all three projects. Determined whether the invitation for bid process complied with agreement provisions and Caltrans' Procedures Manual.</p> <p>Contract Change Orders</p> <p>Selected the largest contract change order for Project #2. Determined if the contract change order was within the scope of work, not a contract duplication, completed, and supported by reviewing the contract change order, daily extra work reports, progress payments, and accounting records.</p>

Appendix B. Summary of the Project Details, Including Audit Results

PROJECT DETAILS

Project Name

“Storm Damage Repair” Project (Project #1)

Project Number

ER-32LO(441)

Program

Emergency Relief Program (administered by Caltrans Division of Local Assistance)

Funding Source

Federal funds

Project Description

Perform storm damage repair on Shiloh Road in Solano County.

Audit Period

August 2017 through November 2020 for objective 1⁴

AUDIT RESULTS

Project Costs

Project costs claimed by the County and reimbursed by Caltrans were not allowable and adequately supported in accordance with Caltrans’ agreement provisions, state law, and federal regulations for a total of \$354,046, as noted in Findings 1 and 2 (\$346,574 for Finding 1 and \$7,472 for Finding 2).

⁴The audit period end date reflects the billing period end date of the last reimbursement claim submitted to Caltrans.

Table 4. Schedule of Allocated, Reimbursed, and Questioned Costs

Category	Allocated Amounts	Reimbursed Costs	Questioned Costs
Preliminary Engineering	\$55,331	\$ 55,331	\$55,331
Construction Engineering	\$43,738	\$ 43,738	\$43,738 ⁵
Construction	\$294,977	\$ 254,977	\$254,977
Total Costs	\$394,046	\$354,046	\$354,046

Source: Analysis by the Independent Office of Audits and Investigations

⁵The \$7,472 questioned costs for Finding 2 were related to the construction engineering category.

PROJECT DETAILS

Project Name

“HSIP 8 Traffic Safety Enhancements” Project (Project #2)

Project Number

HSIPL-5923(119)

Program

Highway Safety Improvement Program (administered by Caltrans Division of Local Assistance)

Funding Source

Federal funds

Project Description

Perform traffic safety enhancements at various locations within the unincorporated areas of Solano County.

Audit Period

April 2017 through July 2020 for objective 1⁶

AUDIT RESULTS

Project Costs

Project costs claimed by the County and reimbursed by Caltrans were allowable and adequately supported in accordance with Caltrans’ agreement provisions, state law, and federal regulations.

Table 5. Schedule of Allocated, Reimbursed, and Questioned Costs

Category	Allocated Amounts	Reimbursed Costs	Questioned Costs
Preliminary Engineering	\$175,000	\$156,029	\$0
Construction Engineering	\$5,000	\$5,000	\$0
Construction	\$1,849,800	\$1,759,310	\$0
Total Costs	\$2,029,800	\$1,920,339	\$0

Source: Analysis by the Independent Office of Audits and Investigations

⁶The audit period end date reflects the billing period end date of the last reimbursement claim submitted to Caltrans.

PROJECT DETAILS

Project Name

“California Aid to Airports Program” Grant Agreement (Project #3)

Project Number

CAAP No. Sol-5-14-1

Program

Aeronautics Program (administered by Caltrans Division of Aeronautics)

Funding Source

State funds

Project Description

Develop an Airport Land Use Compatibility Plan for the Rio Vista Airport.

Audit Period

March 2015 through June 2018 for objective 1⁷

AUDIT RESULTS

Project Costs

Costs claimed by the County and reimbursed by Caltrans were allowable and adequately supported in accordance with Caltrans’ agreement provisions, state law, and federal regulations, except for questioned costs referenced in Finding 3.

Table 6. Schedule of Allocated, Reimbursed and Questioned Costs

Category	Allocated Amounts	Reimbursed Costs	Questioned Costs
Consultant Costs	\$144,000	\$123,870	\$6,284
Total Costs	\$144,000	\$123,870	\$6,284

Source: Analysis by the Independent Office of Audits and Investigations

⁷The audit period end date reflects the billing period end date of the last reimbursement claim submitted to Caltrans.

Auditee's Response

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DEPARTMENT OF RESOURCE MANAGEMENT



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February 5, 2024

Bryan Beyer, CIG
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Confidential Draft Report – County of Solano, Project Audit County Response

Dear Mr. Beyer,

We are in receipt of the Office of Inspector General Confidential Draft Report for three projects administered by Solano County:

1. "Storm Damage Repair" Project (Project #1): To perform storm damage repair on Shiloh Road in Solano County.
2. "HSIP 8 Traffic Safety Enhancements" Project (Project #2): To perform traffic safety enhancements at various locations within the unincorporated areas of Solano County.
3. "California Aid to Airports Program" Grant Agreement (Project #3): To develop an Airport Land Use Compatibility Plan for the Rio Vista Airport.

The Confidential Draft Report (Report) was submitted to Phyllis Taynton, Auditor-Controller of Solano County, for review and response. The Auditor-Controller asked the Solano County Department of Resource Management to respond to the Report findings. The Report noted two findings for Project #1 related to the "Buy America" requirement and indirect cost charges without approval. The County's response to the Report findings are provided below.

Project #1: Storm Damage Repair Project, ER-32LO(441)

Regarding the "Buy America" requirement in Finding #1, Solano County administrated the Storm Damage Repair Project to replace a collapsed cross culvert and reopen Shiloh Road. The damage to Shiloh Road was caused by the severe storms, throughout California in 2017, which resulted in Federal, State, and Local disaster declarations. The Project work, authorized as Federal Aid emergency work by Caltrans, was expedited and completed in 2017 to restore critical public road access to residents, farmers, and businesses in the Montezuma Hills area. In early 2021, the State Office of Inspector General (OIG) initiated the Incurred Costs Audit of the three projects, which exhaustively reviewed all aspects of Project #1.

①

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Water & Natural
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Manager

At issue are the three “bar reinforcing steel” bid items, totaling \$7,400 in the \$441,590 contract for emergency repairs. Although the County agrees that the Buy America requirement applied to the Project and admits to experiencing an internal procedural error resulting in Public Works staff not collecting and maintaining all of the required documents, the County does not agree with the Report recommendations for Finding #1 for reasons discussed below.

The County does not have a history of similar errors. Public Works takes steps to ensure compliance with all State and Federal requirements, as noted in the contract. Here, where there was an urgency to open the road as quickly as possible, compounded with the turnover of the Resident Engineer on the Project, an accidental lapse occurred. The significance of the 2017 disaster declarations, and the emergency opening work on a route of regional significance, should not be lost in this consideration. Emergency responses to maintain public access creates schedule and staffing constraints that impacts the ability of smaller agencies to deliver work through a normal process routine. Our delivery of Federal Aid projects is regularly examined in various project and systems related audits that have shown a record of good compliance.

The contractor was made aware of the Buy America requirements and ensured that they complied; however, staff neglected to follow up with the contractor to obtain the required documents. Moreover, this error was noticed years after project completion when staff contacted the contractor who had not retained all the documents. The contractor provided a Buy American certification which contained some but not all the required information. The contractor also provided a declaration, under penalty of perjury, that confirmed they had complied with the requirements. Minimally, the County made efforts to demonstrate partial compliance and that this was an unintentional administrative error.

The Report also notes that OIG staff, based on review of the invoices, could not determine the costs for the steel materials used in the project because the costs were not itemized. In the records provided to OIG staff, the contract bid quantities, pay quantities, semi-final estimate, and final pay estimate show bid item #'s 23-25 for various types of bar reinforcing steel paid at \$800, \$3,800, and \$2,800, respectively.

Under these circumstances, the recommendation of clawing back funding for the entire Project, \$346,574, over the Buy America requirement is not supported. The use of the steel material in question, at \$7,400, was only slightly over the reporting threshold. The County understands that due to Public Works' internal auditing error, this amount may require recovery through Caltrans. However, losing funding for an entire emergency project that was of urgent need to the public appears to be a draconian punishment.

Corrective actions for Finding #1 have been instituted by the Department of Resource Management as follows:

1. Public Works has incorporated “Buy America” requirement training into our annual inspector/engineer training to ensure that a deficiency does not occur in the future.
2. Public Works has incorporated the “Buy America” requirement in all Federal pre-construction meetings with contractors to highlight the requirement in the Federal-Aid contract provisions.

Regarding the indirect costs claim in Finding #2, Solano County does not have an accepted Indirect Cost Rate, and therefore the \$7,472 was unallowable. Per the Report recommendation, we plan to coordinate with Caltrans on the recovery of the unallowable costs.

Corrective actions for Finding #2 have been instituted by the Department of Resource Management as follows:

1. Accounting staff have incorporated a digitized activity code into staff Daily Activity Reports which limits the labor costs to only direct costs for Federal Aid projects.
2. Accounting staff have been trained that no current indirect costs may be charged to Federal Aid projects.

The County agrees with Finding #3. Corrective actions the Department of Resource Management has instituted include improved contract tracking, a consistent contract process followed by all Divisions within the Department, and assigning oversight of compliance with contract policies to the Fiscal Division.

In summary, Solano County has a long history of successfully completing Federal Aid work while meeting all State and Federal requirements. We do not believe that these two findings arise to the level of requiring a corrective action plan, but we commit to working with Caltrans and any Federal agencies to ensure that these errors do not recur.

Solano County thanks OIG for the opportunity to comment on this draft Report. Please feel free to contact me or my staff if you have any questions.

Respectfully Submitted,



James Bezek
Director of Resource Management

Comments Concerning the Response Received from the County of Solano

To provide clarity and perspective, we are commenting on the County's response to our report. The number below corresponds to the number we have placed in the margin of the response.

1. In its response, the County agreed that the Buy America requirement applied to the project and admits that it did not collect and maintain all the required documentation due to an internal procedural error. However, the County believes the amount Caltrans should recover should be limited to \$7,400, which it claims is the total costs attributable to steel material. As stated in our audit report, the 2017 Procedures Manual states that when local agencies do not enforce requirements, whether expressed or implied, relating to federal statutes, including Buy America, it shall result in loss of all, or part of the federal reimbursement. Specifically, the 2017 Procedures Manual states:

An unrecoverable project deficiency is defined as a deficiency of such magnitude as to create doubt that the policies and objectives of Title 23 of the USC (or other applicable federal codes) will be accomplished by the project, (quote from PS&E Certification) and the project has proceeded to the point that the deficiency cannot be corrected. This level of deficiency shall result in the withdrawal of all or a portion of the federal and/or state funds from the project.

Therefore, our audit recommendation, which remains unchanged, is that Caltrans should coordinate with the Federal Highway Administration and the County to develop a corrective action plan to appropriately resolve this finding. This includes recovering up to \$346,574 in questioned costs.



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