



CATS BLE Professional Services Follow-Up



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CATS BLE Professional Services Follow-Up Audit

Executive Summary

Objective

This audit was conducted to determine whether recommendations from the March 2019 CATS Blue Line Extension Professional Services audit report were implemented and to determine whether HNTB North Carolina, PC substantially complied with contract terms in other City agreements.

Background

There were eight recommendations in the prior audit report. Two recommendations required CATS to seek reimbursement for questioned payroll costs and obtain supporting documentation for negotiated vehicle rates.

As of March 2020, eighteen HNTB contracts with the City were worth \$92 million. Aviation, CATS, CDOT and General Services have contracted with HNTB for services. The previous audit covered \$67 million in expenditures for the CATS BLE professional services contract with HNTB.

Conclusion

CATS satisfactorily implemented prior audit recommendations. City staff's commitment to more aggressively administer construction contracts will reduce unnecessary expenses.

Highlights

CATS has implemented prior recommended actions and is seeking arbitration with HNTB to resolve disputed payroll and vehicle costs.

CATS has revised policies and procedures for the:

- Documentation of cost analyses
- Review and authorization of payroll rate changes

CATS is in the process of scheduling the arbitration process with HNTB to resolve the disputed charges. Resolution is expected by the end of 2020.

HNTB billed for employees not explicitly authorized in contract documents.

- HNTB complied with contract billing rates when specified but also billed for employees/positions not listed in contract documents.
- Contracts did not address salary escalation; project manager did not review and approve mid-year salary increases, resulting in an impact of \$15,197 to the Lakeview Road project.

HNTB submitted and Aviation approved (without documenting rationale) unreasonable salary rates for positions added during the Elevated Roadway contract.

- City guidance does not exist for the negotiation of professional services agreements.
- Aviation noted that standardization of overhead rates may be difficult, given the variance in federal guidelines by program.

Actions Planned

CATS will continue to pursue resolution of disputed payroll and vehicle costs with HNTB.

City departments will document cost analyses for initial contract awards and future amendments. Templates will be utilized for approving personnel and rate changes during the life of the contract.

Contents

| | |
|---|----|
| Highlights..... | 1 |
| Background..... | 3 |
| Objective..... | 4 |
| Scope, Methodology, and Compliance..... | 4 |
| Findings and Recommendations..... | 5 |
| 1. <i>CATS has implemented prior recommended actions and is seeking arbitration with HNTB to resolve disputed payroll and vehicle costs.</i> | 5 |
| 2. <i>HNTB billed for employees not explicitly authorized in contract documents.</i> | 6 |
| 3. <i>Aviation approved HNTB salary rates about 9% - 25% higher than those charged CATS for three positions without considering lower overhead rates.</i> | 10 |
| Conclusion | 12 |
| Distribution of Report | 12 |
| Appendix..... | 13 |

Background

The City contracts with architectural and engineering (A&E) firms to develop projects that focus on the community's infrastructure needs. The professional services provided by these A&E firms include design, construction management and material testing services.

City contracts with HNTB include design and construction administration projects with the Airport, CATS, CDOT and General Services/E&PM. Eighteen HNTB contracts with the City were executed between 2009 and 2020 worth a total of \$92 million, as summarized in the following table.

| HNTB Contracts – March 2020 | | | | | |
|-----------------------------|---|----------------|--------------------------|----------------|---------------------|
| Department | Descriptions | # of Contracts | Total Value of Contracts | Total Expended | Remaining Available |
| Aviation | Design & construction administration services including land use, parking deck and elevated roadway | 6 | \$9,070,750 | \$9,009,671 | \$61,079 |
| CATS | Blue Line Extension construction management | 1 | \$78,464,506 | \$76,301,148 | \$2,163,358 |
| CDOT | Design & construction services; traffic analyses; software application development | 4 | \$1,475,000 | \$654,613 | \$420,387 |
| General Services | Planning, design and construction administration services | 6 | \$3,107,873 | \$2,064,307 | \$693,566 |
| Totals | | 18 | \$92,118,129 | \$88,029,739 | \$3,338,390 |

The CATS BLE contract, making up 85% of the activity with HNTB during the audit period, was previously reviewed as part of the March 2019 CATS Blue Line Extension Professional Services audit.

Objective

This audit was conducted to determine whether recommendations from the March 2019 CATS Blue Line Extension Professional Services audit report were implemented and to determine whether HNTB North Carolina, PC (HNTB) substantially complied with contract terms in other City agreements.

Scope, Methodology, and Compliance

Scope

The CATS BLE Professional Services audit report (March 2019) focused on CATS' contract with HNTB for construction administration services for the Blue Line Extension and covered fiscal years 2014 through 2018.

This follow-up report focused on additional HNTB contracts in place as of March 2020 and covers expenditures in fiscal years 2015 through 2020.

Methodology

Auditors performed the following:

- Identified and reviewed HNTB agreements throughout the City
- Interviewed relevant department personnel
- Reviewed HNTB invoices for compliance with contract terms
- Reviewed HNTB payroll and indirect cost data

Compliance

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.

Findings and Recommendations

1. CATS has implemented prior recommended actions and is seeking arbitration with HNTB to resolve disputed payroll and vehicle costs.

The 2019 CATS BLE Professional Services audit report included eight recommendations, as detailed in the Appendix. CATS has fully or partially implemented most of the recommendations by revising policies and procedures. For example, CATS revised policies to require documentation of cost analyses as part of the record of negotiations and has consulted with Internal Audit staff regarding the negotiation and establishment of overhead rates on the Silver Line project. In addition, CATS created a new form for the review and authorization of pay rate changes. CATS has applied these changes to professional service contracts greater than \$1 million.

Six of the original recommendations have been implemented and two are in progress, pending resolution of disputed payroll and vehicle charges with HNTB. Auditors have not been able to verify that all of the revised policies and procedures have been put in practice, as there have been only two additional contracts meeting the threshold requirement.

In the March 2019 report, auditors recommended that CATS recover \$298,000, calculated on the assumption that unapproved mid-year increases were “ratified” based on annual approval of salary adjustments. Auditors also recommended that CATS request cost or pricing data that supported proposed vehicle rates, and request reimbursement of any amount paid in excess of the supported cost data.

Note: HNTB’s limited cooperation to provide the requested documentation does not acknowledge the City’s contractual right to audit, or correct errors following invoice payments. In addition, this contract remains subject to audit by federal agencies.

CATS and HNTB held a good faith meeting in April 2020, but were unable to reach agreement regarding disputed payroll and vehicle costs.

Resolution Status: As of August 2020, CATS is in the process of scheduling an arbitration process with HNTB to resolve the disputed charges.

Recommendation 1A: The initial audit recommendations from April 2019 remain unchanged. CATS should continue to pursue resolution of disputed payroll and vehicle expenses. (No response is required, as CATS’ action plan is stated above.)

Value Added: Risk Reduction; Cost Savings; Compliance; Efficiency

Recommendation 1B: In future solicitations/contracts with A&E firms, including HNTB, the City should expressly state the requirement to support proposed costs with documented historical actual costs.

Value Added: Risk Reduction; Cost Savings; Compliance; Efficiency

CATS Response: Agree. CATS will work with City General Services Procurement staff to develop appropriate language to include in future solicitations.

2. HNTB billed for employees not explicitly authorized in contract documents.

Auditors reviewed City agreements with HNTB and assessed risk related to each contract. The following contracts were selected for compliance review, considering contract type, terms and value. Including the prior review of CATS' contracts with HNTB, testing has now covered 94% of the City's activity with HNTB.

| Contract # | Contract Name | Dept | Contract Amount | Expended |
|------------|---|------------------|-----------------|-------------|
| 1100855 | Airport Access Roadway and Dynamic Message System | Aviation | \$2,279,074 | \$2,279,074 |
| 1300272 | Airport Terminal Elevated Roadway Design | Aviation | \$4,415,365 | \$4,112,275 |
| 1000236 | Traffic Analyses | CDOT | \$250,000 | \$221,294 |
| 2017000337 | CRTPO Cost Estimating Tool | CDOT | \$425,000 | \$400,000 |
| 2017000904 | Lakeview Road Farm-to-Market Project | General Services | \$1,413,040 | \$1,187,509 |

Payroll Rates

Contract pay rates

Of the five contracts selected, two (Airport Access Roadway and CRTPO Cost Estimating) were invoiced on a percentage of completion basis and did not require the billing of negotiated contract rates.

For the remaining three contracts, HNTB billed labor rates in accordance with contract terms when positions, employees and rates were specifically listed in contract documents. However, HNTB billed for employees that were not listed in the contract documents for them (i.e., Elevated Roadway, Lakeview and CDOT Traffic Analysis contracts).

On the Elevated Roadway project, HNTB billed for 18 employees/positions not listed in contract documents. Contract language did not specify an approval process for adding positions not listed in the contract. The billing of positions unanticipated at contract origination increases the risk that a larger percentage of hours will be charged for higher rate positions. This could result in the contract reaching the not-to-exceed limit unnecessarily.

On the Lakeview Road project, HNTB billed for 25 employees in positions not listed in the contract or amendments. NCDOT approved the rates paid for most of these employees based on review of HNTB payroll certifications. Eleven employees were not listed in the contract and were not included in payroll certifications. The contract notes that the NCDOT will approve the reimbursable salary rates of each employee. The contract also states that additional updates, staff members and personnel categories can be added to the payroll register, as needed, upon mutual agreement of both parties (City and HNTB). However, no process was established beforehand.

On CDOT's Traffic Analyses contract, invoices included five charges for positions/personnel not included in the original contract personnel schedule. CDOT was able to provide a work order accepting four of the five positions and rates as of April 2017. This documentation was not included in Munis. An Intern position (the fifth position) was not on the work order.

Salary Escalation and Mid-year Increases

HNTB provided mid-year and annual pay increases for two of the five contracts (Elevated Roadway and Lakeview Road).

For the Elevated Roadway project, HNTB billed for Resident Engineer pay increases throughout the life of the contract. Aviation approved the 3% annual increases by email; however, this was not documented in the contract or amendments. All other pay rates were billed consistently.

On the Lakeview Road project, HNTB billed the City for mid-year and annual pay increases for multiple employees. While NCDOT approved and certified the annual rate increases, HNTB and the City were not able to provide documentation of approval for the **mid-year** increases, as required by the contract terms. However, the rate increases occurred relatively late in the contract life, resulting in an immaterial impact (\$15,000, or about 1% of the \$1.4 million contract), as shown in the table below.

| Unapproved Mid-Year Raises | | | | | |
|----------------------------|-----------------|-----------------|------------------|-------------------------|----------|
| Title | Initial Rate | Revised Rate | Pct. Increase | Hours After Raise | Impact |
| Unknown Position | 48.00 | 51.84 | 8.00% | 296.75 | \$2,849 |
| Sr Project Analyst | 31.76 | 36.88 | 16.12% | 38.00 | 486 |
| Engineer II | 31.44 | 33.76 | 7.38% | 925.50 | 5,368 |
| Project Engineer | 66.88 | 72.16 | 7.89% | 20.50 | 271 |
| Engineer I | 28.88 | 31.36 | 8.59% | 295.50 | 1,832 |
| Project Manager | 84.16 | 96.80 | 15.02% | 117.50 | 3,713 |
| Project Engineer | 61.36 | 64.88 | 5.74% | 75.00 | 660 |
| Group Director | 72.16 | 86.56 | 19.96% | 0.50 | 18 |
| Total | | | | | \$15,197 |

According to General Services, the Lakeview Project is funded by NCDOT and the City does not negotiate the rates. Rather, NCDOT approves the rates and the City receives an approval letter from NCDOT. NCDOT implemented the Consultation Rate Schedule (CRS) system in the fall of 2019 and all requests and approvals go through this system with no City input. While NCDOT was responsible for negotiating and approving the rates, the City acts as project manager and has the responsibility to ensure this process is performed. However, the City requested access to the CRS system and was denied. In addition, the City's Procurement staff has experienced a lack of response from NCDOT Project Managers when information has been requested.

Direct Expenses

No exceptions were noted in this area of billings. Four of the five contracts selected included reimbursement for direct expenses. Auditors reviewed 34 of a total 136 invoices (25%). HNTB requested reimbursement in accordance with contract terms and provided appropriate supporting documentation for the direct expenses.

Contract Administration

The following deficiencies were noted:

- Four of the five contracts did not address a process for pay rate changes during the contract. Only General Services' Lakeview Road Farm-to-Market project included a clause stipulating that "the City reserves the sole right to approve or reject requests for adjustments."
- The Lakeview Road Farm-to-Market contract also specified in Section 4.1 that "No overhead costs or fee will be added to the overtime or shift premium rate." However, the overhead rate was applied to billed overtime, resulting in an immaterial extra cost that was not identified or corrected by General Services staff.

Recommendation 2: City departments should establish, document and utilize contract administration practices similar to those implemented by CATS to include:

- Requirement for documentation of cost analyses
- Requirement for payroll certification where applicable
- Contract language and templates for the approval of rate changes during the contract
- Controls to identify and verify rate changes due to escalation, promotions or job reclassifications

Value Added: Risk Reduction; Cost Savings; Compliance

General Services Response: We agree with the requirement for documentation of cost analysis and requirement to include examination of payroll certification for Design Build and CMR projects and for other complicated, high risk projects. City Procurement already has appropriate language in the Architecture and Engineering Services (AES) contract templates to address approval of rate changes during the contract. Any pay rate change should result in an amendment, per the current contract terms and conditions. City Procurement agrees to perform training, so Project Managers are aware of the expectation and requirements related to a rate change during the contract.

The Engineering Services Division of General Services will add to the Project Management assignment checklist a task labeled 'pay invoices' and have a note that includes checking the rates against the approved contract rates. Recommendation to be implemented by December 31, 2020.

CDOT Response: We will work with City Procurement and the General Services Department to establish, document and utilize contract practices that include requirements for the documentation of cost analyses for initial contract awards and future amendments; requirements for payroll certification where applicable; and contract language and templates that define the process for approving personnel and rate changes during the life of the contract.

Aviation Response: We agree with this recommendation. Aviation already obtains Independent Fee Estimates (IFE) for AIP funded projects. The FAA mandates that our contracts for professional services are within 10% of the IFE before they will sign off on them. As part of the Capital Governance Process recently implemented by Aviation, we will document cost analyses for projects. Aviation tracks certified payroll on all applicable projects and has contract language in current contracts that addresses the approval of rate changes. The contract that was reviewed was executed in FY2013.

3. Aviation approved HNTB salary rates about 9% - 25% higher than those charged CATS for three positions without considering lower overhead rates.

For the Airport Terminal Elevated Roadway Design contract, Aviation requested a contract amendment (Amendment #3, dated October 8, 2018) to add e-Builder services for the period July 2018 to July 2019 for \$320,000 to the design contract (originally set at \$1.7 million, and totaling \$4.4 million after three amendments). Specific tasks detailed in the scope of work include project setup and initiation, project cost setup, user setup, training, document management, project controls and process development. According to Aviation staff, HNTB's posted labor rates were used as a guideline in negotiating the contract. Aviation did not retain documentation indicating how the rates were determined to be reasonable. During the same time period, Aviation paid about 9% to 25% more than CATS for the same HNTB employees for e-Builder consulting work on the BLE Construction Administration contract. The following chart compares the rates paid under the two agreements:

| E-Builder Title | Elevated Roadway | BLE | Hourly Difference | Percent Difference |
|-----------------|------------------|---------|-------------------|--------------------|
| Manager | \$ 91.00 | \$83.70 | \$ 7.30 | 8.7% |
| Task Lead | \$120.00 | \$96.20 | \$23.80 | 24.7% |
| Analyst | \$100.00 | \$86.20 | \$13.80 | 16.0% |

The BLE rates were HNTB's audited actual costs for the listed positions, including indirect costs but excluding profit. Aviation therefore provided HNTB with the profit margins included in the "Percent Difference" column above, as the BLE rates represent HNTB's audited actual costs. Aviation could have used available information to negotiate lower rates for the e-Builder tasks performed by HNTB. As noted in the CATS BLE Professional Services audit report (March 2019), the BLE labor rates include a 148% Federal Transit Administration (FTA) approved overhead rate. As a federal project, CATS was mandated to accept the cognizant agency approved home office overhead rate. However, it would have been reasonable for Aviation to request field overhead rates (98% instead of 148%) for the employees performing e-Builder tasks, which would have resulted in \$71,000 less in billed charges, or 22% of the \$320,000 scope of work.

The FTA approved overhead rate includes costs that the City could view as negotiable for non-federal projects. For example, HNTB's approved home office overhead rate includes bid and proposal costs on non-government projects, which represented approximately 24% of the 148%. Knowledge of both the lower field overhead rate and the composition of the home office rate could have been used in negotiating lower rates.

The Citywide Policy for Procurement of Design and Construction Services (EPM1) Section 16 requires departments to enter into contracts that are in the City's best interests. The policy also requires documentation of the Summary of the Evaluation and Final Determination of Selection (Sections 7.1.7, 9.4, 10.3 & 11.4). EPM1 does not establish documentation requirements for supporting the reasonableness of accepted or negotiated labor or indirect rates.

Department staff indicated that the analysis used to determine the reasonableness of the contracted rates accepted is not formally documented, as shown in the following table.

| Contract # | Contract Name | Dept | Rate Analysis Methodology |
|------------|---|------------------|---|
| 1300272 | Airport Terminal Elevated Roadway Design | Aviation | No known documentation for analysis of lump sum reasonableness; pay rates were not negotiated; used vendor posted hourly rates as guideline; vehicle rate was in line with other Aviation contractor vehicle reimbursements |
| 2017000904 | Lakeview Road Farm-to-Market Project | General Services | Rates were accepted as reviewed and approved by NCDOT |
| 2017000337 | CRTPO Cost Estimating Tool | CDOT | Hourly pay rates were not reviewed; reasonableness of total lump sum project cost was considered |
| 1000236 | Traffic Analyses | CDOT | No documentation of rate analysis, however CDOT noted that rates are based on the comparison of rates recently charged by City vendors performing similar work. |
| 1100855 | Airport Access Roadway and Dynamic Message System | Aviation | No known documentation |

Recommendation 3: City departments should establish guidelines regarding the negotiation and documentation of the reasonableness of proposed direct labor, indirect rates and fixed direct costs. Guidelines should consider:

- Review of contracts with other City departments, specifically on federal projects that may be based on cost plus approved overhead rates
- Documentation standards for support of determinations of reasonableness
- Requiring certified payroll and overhead rates subject to audit for certain non-federal projects – for example, projects exceeding a certain dollar value or timeframe

Value Added: Risk Reduction; Cost Savings; Compliance

General Services Response: While City Procurement does have a process in place for rate negotiations, we commit to developing a Record of Negotiations document by September 30, 2020; which will capture and support the determination of reasonableness. City Procurement agrees certified payroll and overhead rates for Design Build and CMR projects should be subject to audit review and as such the templates will be updated to reflect this. City Procurement will obtain assistance as necessary for the review of burden rates and hourly for

any Design Build or CMR projects exceeding \$5 million. This effort has already started with the last two (2) CMR projects.

Aviation Response: We understand the intent of this recommendation; however, each federal agency has its own guidance for contract terms that must be addressed. A review of this nature would highlight the differences in the contracts, but the departments may not be able to standardize overhead rates. Aviation will be using its Project Controls Team to ensure project documentation, such as records of negotiation and fee reasonableness, is captured consistently. Aviation agrees that it may be appropriate on certain other projects, particularly large construction projects, to require certified payroll and overhead rates. We will review each project on a case by case basis going forward and include appropriate language when required.

Conclusion

CATS satisfactorily implemented prior audit recommendations. City staff's commitment to more aggressively administer construction contracts will reduce unnecessary expenses.

Distribution of Report

This report is intended for the use of the City Manager's Office, City Council, and all City departments. Following issuance, audit reports are sent to City Council via the Council Memo and subsequently posted to the [Internal Audit website](#).

Appendix

CATS BLE Professional Services Audit (issued March 2019) Recommendation Status

| Recommendation | Response | Action | Status | Audit Comment |
|---|---|--|-------------------|---|
| 1A. In accordance with established policy, CATS and E&PM should require documented cost comparison analyses when establishing A&E consultant overhead rates. | Most of the City staff involved in the negotiation of the HNTB contract have since left the City and therefore CATS and E&PM have limited background regarding the specifics of the negotiation. Additional considerations beyond those listed above, such as risk to the City and staff resources to negotiate and manage the lease, likely factored into the decision for HNTB to provide the field office. CATS and E&PM agree that additional documentation should have been recorded and maintained in the records regarding the establishment of overhead rates. CATS and E&PM will document such cost comparison analyses in the future, effectively immediately for newly initiated procurements. | CATS has formally implemented procedures requiring documentation of cost analyses as part of the Record of Negotiation. Both the BLE Construction Management Manual (rev 6 Section 5.2A.3) and the BLE Change Control Procedures (BLE 106 Section 8.1) were approved by the CATS Director as of 10/30/2019 and include requiring preparation of a Record of Negotiation to finalize cost and scope and determination that the final price is fair and reasonable. This Record of Negotiation includes "Comparison of the Independent Cost Estimate and the contractor's proposal, detailing significant differences in the cost elements." | Fully Implemented | This action is subject to future Internal Audit follow-up as CATS enters more professional services agreements. |
| 1B. CATS and E&PM should ensure that procurement staff on large A&E projects have sufficient knowledge and training to recognize potentially unfavorable labor and overhead rates and act accordingly (e.g. dispute audited rate, stop negotiations and move to next best qualified firm, request that the company establish a new overhead pool, or hire external consultants to pre-audit rates). | CATS and E&PM agree that additional expertise in the review of overhead rates would be valuable and will seek to utilize City Auditor staff in this review as recommended, effective immediately for contracts greater than \$1 million in value and commensurate with project needs. | CATS has sought expert advice from Internal Audit in reviewing contract terms related to new contract for the Silver Line project. Procedure manuals have been updated requiring Record of Negotiation be documented including cost analyses. | Fully Implemented | This action is subject to future Internal Audit follow-up as CATS enters more professional services agreements. |

Appendix

CATS BLE Professional Services Audit (issued March 2019) Recommendation Status

| Recommendation | Response | Action | Status | Audit Comment |
|--|---|---|-----------------------|---|
| 2A. (Initial Pay Rates) In accordance with established policy, CATS and E&PM should document differences between cost estimates and contractor proposed rates and provide narrative analysis of how these differences were resolved. | The approval of initial pay rates is dependent on the experience and expertise determined to be needed as part of finalizing the scope of services. CATS and E&PM staff reviewed the proposed personnel and work plan and determined that the proposed personnel and rates were acceptable. CATS and E&PM agree that additional documentation on the negotiation of initial rates should have been maintained. CATS and E&PM will update policies and procedures to ensure such rates will be documented for professional service contracts in the future, effective immediately for newly initiated procurements. | Procedure manuals have been updated requiring Record of Negotiation be documented including cost analyses. | Fully Implemented | This action is subject to future Internal Audit follow-up as CATS enters more professional services agreements. |
| 2B. (Pay Rate Increases) CATS and E&PM should establish a control that would detect unauthorized pay rate changes. HNTB should reimburse the City \$298,000. | CATS and E&PM note that adjustments in pay rates other than annual may be appropriate related to employee promotions or retention. However, as noted, these rate changes should be approved by the City. CATS and E&PM Project Managers currently spot check the pay rates included in the invoice against approved rates. CATS and E&PM will develop a form that the contractor will be required to submit with each invoice that certifies that all rates used in the invoice have been approved by the City. This form will be developed by April 1, 2019. CATS will seek the recommended reimbursement from HNTB. | <p>CATS developed and issued a new form (P&CMF16), Certificate of Labor Rates, that will be required to be submitted in future contracts.</p> <p>After a Good Faith Meeting in April 2020, HNTB noted that CATS' request for \$231,970 in labor reimbursement was unreasonable and that HNTB billed actual rates paid to employees that performed essential work on the project.</p> <p>As of June 2020, CATS and HNTB have agreed to follow an arbitration process to resolve the dispute.</p> | Partially Implemented | <p>CATS has appropriately updated policies and procedures to ensure that pay rate changes are authorized.</p> <p>CATS has not reached a satisfactory resolution with HNTB over disputed payroll amounts.</p> <p>This action is subject to future Internal Audit follow-up as CATS enters more professional services agreements.</p> |

Appendix

CATS BLE Professional Services Audit (issued March 2019) Recommendation Status

| Recommendation | Response | Action | Status | Audit Comment |
|--|---|--|-------------------|---|
| 2C. (Payroll Cost Verification) CATS and E&PM should periodically compare base labor rates on consultant contracts to actual payroll data, as CATS' draft policy provides. | As noted in this report, a review of payroll records by the Auditors found no issues; reported wages matched payroll registers. The City's agreement with the consultant includes the right to review payroll records. Contract administrators will determine the scope of testing throughout the contract. If discrepancies are suspected, CATS and E&PM will conduct a review of payroll records to determine if the rates are accurate. Consideration will also be given to additional strategies like requesting payroll records for the initial invoices to ensure documentation and review expectations are clear as well as potential review of payroll records at prescribed and/or random intervals. | CATS requested and received certified payroll information for the Silver Line Design contract. | Fully Implemented | This action is subject to future Internal Audit follow-up as CATS enters more professional services agreements. |
| 3A. In accordance with established policy, CATS should perform and document cost analyses for A&E consultant other direct costs, especially when establishing fixed rates or allowances for cost-plus contracts. | CATS and E&PM agree that better documentation should have been maintained. CATS and E&PM will begin documenting such cost analyses, effective immediately for newly initiated procurements. | Procedure manuals have been updated requiring Record of Negotiation be documented including cost analyses. | Fully Implemented | This action is subject to future Internal Audit follow-up as CATS enters more professional services agreements. |

Appendix

CATS BLE Professional Services Audit (issued March 2019) Recommendation Status

| Recommendation | Response | Action | Status | Audit Comment |
|---|---|---|-------------------|---|
| 3B. CATS should require HNTB to provide cost or pricing data that supports the accepted vehicle rates and request reimbursement of any amount paid in excess of supported cost data, including proceeds from the sale of leased vehicles. | Based upon the contract provisions included in Article 11 Compensation of the HNTB contract, the City is not required to pay for out-of-pocket expenses that are not reasonable and is entitled to documentation to support all costs for reimbursable expenses. In addition, pursuant to Article 10.9 City Audit and Section 12 of the Supplementary Conditions A, the City has the right to audit the CMC's books, accounts and records regarding compensation paid by the City. Therefore, CATS will make the recommended request of HNTB by May 1, 2019. All back up documentation to support the monthly vehicle rates will be sought. If necessary, the Contract has a mandatory dispute resolution process which will be exercised to resolve the dispute. | On 2/26/2020 CATS formally requested a Good Faith Meeting with HNTB to discuss reimbursement of labor and vehicle costs. As of June 2020, CATS and HNTB have agreed to follow an arbitration process to resolve the dispute. | In progress | CATS has not reached a satisfactory resolution with HNTB over disputed vehicle costs. |
| 3C. CATS should review the contract change order language in Exhibit A and incorporate similar language in future construction and A&E contracts, where appropriate. | CATS and E&PM will review appropriate contract templates for Construction Management contracts, to determine appropriate changes to contract change order language. CATS and E&PM will provide Internal Audit with the changes to the contract language that will be included in CATS professional services contracts by June 1, 2019. | Contract template language was updated to include allowing City to audit and inspect records related to direct and indirect costs (including overhead) as applicable to the contract and all task orders. | Fully Implemented | This action is subject to future Internal Audit follow-up as CATS enters more professional services agreements. |