



Metro

## Board Report

Los Angeles County  
Metropolitan Transportation  
Authority  
One Gateway Plaza  
3rd Floor Board Room  
Los Angeles, CA

**File #:** 2021-0669, **File Type:** Informational Report

**Agenda Number:**

**FINANCE, BUDGET, AND AUDIT COMMITTEE  
NOVEMBER 17, 2021  
CONSTRUCTION COMMITTEE  
NOVEMBER 18, 2021**

**SUBJECT: REVIEW OF PROJECT MANAGEMENT SUPPORT SERVICES (PMSS) CONTRACT  
- BEST PRACTICES TO FUND & EXTEND PROFESSIONAL SERVICES  
CONTRACTS**

**ACTION: RECEIVE AND FILE**

### **RECOMMENDATION**

RECEIVE AND FILE Office of the Inspector General Review of Project Management Support Services Contract (PMSS) Best Practices to Fund & Extend Professional Services Contracts.

### **ISSUE**

In May of 2021, Program Management came to the Board to exercise the optional two-years of the Program Management Support Services (PMSS) staff augmentation contract (five year + two additional year option). At that time the Board requested additional information on how the original contract was performed and tabled the matters of increasing the funding for the additional years sought after.

### **BACKGROUND**

In June 2017, the Board approved awarding a five-year plus two years option of a cost reimbursable fixed fee staff augmentation contract, for Program Management Support Services (PMSS) and a not-to-exceed \$90,809,070 for seven years. Program Management would be in control of a staff augmentation contract for 54 projects.

Management has made four separate presentations to the Metro Board including one request for initial funding, and three subsequent presentations to renew funding and/or extend contract time, as summarized below:

Base/Option Year	Board Presentation	Description	Cost Increment	FY NTE
1	6/22/2017	2018 & 2019	24,970,960	24,970,960
2	4/25/2019	2020	\$25,339,082	\$51,306,204
3	5/28/2020	2021	\$12,041,501	\$63,347,705
4	5/27/2021	2022	10,296,886	\$73,644,591
Pending - Option		2023-2024	27,461,365	\$101,105,956

#### Board Presentations and Funding Requests (Summary)

On May 27, 2021, Program Management sought authorization from the Board for three actions on PMSS Contract. 1) To increase the authorized budget to fund Year 5, 2) To authorize the extension period for an additional two years, and 3) To approve budget to fund the option period. The Board approved the first request but tabled the option for addition two years and the funding for those years pending an audit report “to hear how well the original contract was performed.” (Board Minutes from 5/27/2021, Najarian Amendment.)

The OIG and MASD commenced an audit immediately following that Board matter. To avoid duplication of review, the OIG agreed that MASD would audit certain detailed aspects of the contract including invoice review, and the OIG would review a broader, more macro level of other aspects of the Board’s concerns to use in directing further action on the PMSS Contract.

OIG examines whether:

- Internal policies and practices are in place and used to track and evaluate contractor performance on key performance indicators related to work and quality, compliance with contract terms, and maintenance of budget;
- Internal policies and practices are in place and used to track and evaluate the budget for professional services as it relates to the individual budget for each program and project making use of staff augmentation; and
- Internal policies and practices are in place and used to foster continuous improvement of staffing to ensure the benefits of consultant services are not outweighed by costs which include not only financial costs but also standardization, risks of loss of retaining institutional knowledge, and succession planning.

## DISCUSSION

The Office of Inspector General (OIG) found that the board presentations for contract renewals to fund or extend contract time under the PMSS Contract could be improved through supplemental information on the topics of vendor performance, budget status, and Contract Efficacy/Continuous Improvement. Robust controls practices and data collection methods are currently used for oversight of the vendor and to track budget utilization but these practices are not self-evident. Enhanced reporting on Metro’s controls practices could allow the Board to assess management’s renewal recommendations with greater efficiency and confidence.

The OIG's recommendations encourage development of written policies and procedures to standardize both collecting and reporting upon management's existing controls practices for more comprehensive board presentations. The OIG's recommendations are not intended to impose onerous time and resource impacts associated with timely preparation, presentation, reading and analysis of board reports.

## **Findings and Recommendations**

### **Performance Evaluation**

Finding 1: Program Management/Project Management lacks written policies and procedures to establish a comprehensive and regular process for evaluating vendor performance under a professional services contract.

Recommendation 1: Develop written policies and procedures to establish a comprehensive and regular process for evaluating vendor performance under a professional services contract. A standard checklist used monthly, quarterly, or other regular basis can be used to document vendor's compliance with key performance indicators.

Finding 2: The processes in place by Program Management/Project Management and V/CM Departments constitute a de facto controls process ensuring the vendor is generally performing satisfactorily. However, no methods to analyze key performance indicators (KPIs) and identify sub-optimal use of staff augmentation resources were identified.

Recommendation 2: Describe key performance indicators (KPIs) to identify and track performance metrics for the vendor.

Finding 3: Management did not use its board presentations to articulate its best practices efforts to assure that the vendor performs satisfactorily and showing that management optimizes use of the staff augmentation resources.

Recommendation 3: Include in the board presentation a summary of management's quality review actions and statement of findings on KPIs affirming vendor's satisfactory performance.

### **Budget Controls & Status**

Finding 4: The total budget for the PMSS Contract is derivative of the individual budget(s) for the programs/projects anticipated to use staff augmentation resources under the PMSS Contract. Management's initial baseline budget for the PMSS Contract did not link estimated soft costs on a per program/project basis (or revise the baseline budget where necessary over the term of the contract), creating the appearance of no budget controls.

Recommendation 4: Establish long-term initial baseline budget using estimated soft costs associated across identified and identifiable program/project budgets to serve as a necessary budget control measure.

Finding 5: Management's presentations to the board omitted necessary explanations for variances between an initial baseline budget/Recommended NTE established as a control for the PMSS

Contract and the Actual costs to date and the projected cost trend.

Recommendation 5: For each Board presentation, documenting the reasons for the variance between management's initial or revised baseline budget/Recommended NTE, and the Actual NTE.

Finding 6: Program Management/Project Management appears to engage in annual/short-term planning for staff augmentation in lieu of longer-term planning for use of staff augmentation resources under the PMSS Contract.

Recommendation 6: For multi-year cost-reimbursement professional services contract, plan and develop multi-year CWOs to encourage longer-term staff capacity plan, to minimize administrative efforts.

Finding 7: Management may issue CWOs that address one functional area of staff augmentation and use those services across programs or projects ("many-to-1"), or issue one CWO for each program or project and include a range of functional areas ("1-to-1"). The issuance of "many-to-1" CWOs requires more tedious labor for cross-checking of timesheets and invoices across different project managers, and additionally requires checking of correct cost coding for budget use across projects and budget.

Recommendation 7: For multi-year cost-reimbursement professional services contract providing services across projects, issuing 1-to-1 CWOs or 1 to multiple CWOs which ever one is most efficient based upon the consultation with project management, V/CM, accounting and the vendor to confirm which method best facilitates budget tracking and make more efficient the invoicing process for CWOs.

### **Contract Efficacy/Continuous Improvement**

Finding 8: Management omits discussion regarding the status of overall Staff Capacity Planning including the historical vs. current ratio of Metro FTEs to consultants.

Recommendation 8: Review and communicate to the Board the status of overall Staff Capacity Planning including the historical vs. current ratio of Metro FTEs to consultants.

Finding 9: Management omits discussion of (presumed) net benefits of the continued use of external consultants given competing considerations related to cost, institutional knowledge and succession planning.

Recommendation 9: Review and communicate to the Board the benefits of the continued use of external consultants given competing considerations related to cost, institutional knowledge and succession planning.

Finding 10: Management omits discussion of opportunities to hire and train local community members.

Recommendation 10: Review and communicate to the Board opportunities to hire and train local community members.

Finding 11: Management omits discussion of opportunities to bridge or prepare for the next PMSS

Contract solicitation.

Recommendation 11: Review and communicate to the Board the opportunities to bridge or prepare for the next PMSS Contract solicitation.

## **FINANCIAL IMPACT**

There are no anticipated financial impacts from the information provided in this report to the agency.

## **EQUITY PLATFORM**

In the OIG's opinion, there are no anticipated equity impacts identified as a result of this informational report.

Program Management has stated, Metro DEOD assigned a 30% DBE commitment for this Contract. The joint venture consultant proposed a 73.31% DBE commitment making this Contract the largest small business led consultant services contract at Metro which they state this utilization will continue the end of the Contract.

## **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommendations that the Office of Inspector General has put forward support Metro's Strategic Plan Goal #5: Provide responsive, accountable, and trustworthy governance within the Metro organization and CEO goals to exercise fiscal discipline to ensure financial stability. The OIG mission includes reviewing expenditures for fraud, waste, and abuse in Metro program, operations and resources. Our goal is to provide rational, trustworthy information to the Board and support the efforts of Metro management to constantly improve and refine its efforts for the benefit of the public.

## **NEXT STEPS**

Our preliminary review with management regarding the OIG's report and recommendations was generally positive. Management will review and respond to recommendations, and implement as appropriate.

## **ATTACHMENTS**

Attachment A - OIG Report dated October 16, 2021: Review of PMSS Contract - Best Practices to Fund & Extend Professional Services Contracts

Attachment B - Tracking Schedule for Recommendations

Attachment C - Power Point Presentation

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*[Handwritten signature]*

Inspector General/Chief Hearing Officer

**DATE:** November 2, 2021

**TO:** Board of Directors  
Chief Executive Officer

**FROM:** Karen Gorman  
Inspector General

**SUBJECT: Review of Project Management Support Services (PMSS) Contract  
Best Practices to Fund & Extend Professional Services Contracts**

## **EXECUTIVE SUMMARY**

The Office of Inspector General (OIG) found that the board presentations for contract renewals to fund or extend contract time under the PMSS Contract could be improved through supplemental information on the topics of vendor performance, budget status, and “alternatives considered.” Robust controls practices and data collection methods are currently used for oversight of the vendor and to track budget utilization but these practices are not self-evident. Enhanced reporting on Metro’s controls practices could allow the Board to assess management’s renewal recommendations with greater efficiency and confidence.

Program Management (PM), Program Management Oversight (PMO), and Vendor/Contract Management (V/CM) effectively administer the PMSS Contract through use of “four levels of control.” Level One relates to projects with life of project (LOP) budgets using time-phased cost-loaded staffing plans for all staff (Metro or consultant); non-LOP projects will use fiscal year budgets. Budgets for each are evaluated monthly for trend analysis and potential revision. Level Two involves annual work plans that are developed on a per project basis in conjunction with task orders issued for staff augmentation. On a monthly basis, the PM, PMO, and V/CM each play a role in reviewing staff allocations and funding to assure compliance with vendor’s scope of work and contract terms, analyzing trends and potential revision. Level Three involves PMs reviewing monthly invoices to verify staff time billed and proper cost coding. Also, V/CM reviews invoices for compliance with the task order to assure compliant staffing, billing rates and small business compliance. Level Four engages the vendor themselves to regularly report on task order status, and to provide to Metro annual work plans for every task order reviewing staff allocation and funding which involves engaging with the PM, PMO, and V/CM.

The OIG’s recommendations encourage development of written policies and procedures to standardize both collecting and reporting upon management’s existing controls practices for more comprehensive board presentations. The OIG’s recommendations are not intended to impose onerous time and resource impacts associated with timely preparation, presentation, reading and analysis of board reports.

# Review of PMSS Best Practices to Fund & Extend Professional Services Contracts

Office of the Inspector General

Report No. 2021-0669

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## **INTRODUCTION**

On May 27, 2021, Metro’s Program Management Team sought authorization from Metro’s Board of Directors’ (Board) for three discrete actions on Contract No. AE35279 Program Management Support Services (PMSS Contract).<sup>1</sup> First, to increase the authorized budget to fund the fifth and final base year of the contract; next, to authorize Metro’s unilateral exercise of an option to extend the period of performance for an additional two years; and finally, to approve budget to fund the option period. The Board approved the request for an additional fifth year budget but tabled the other two matters pending a report “to hear how well the original contract was performed.” (Board Minutes from 5/27/2021, Najarian Amendment.)

The OIG commenced an audit immediately following that Board matter; also, the Management Audit Services Department (MASD) commenced an audit to assess the conformity of services to contract requirements performed by the Vendor. To avoid duplication of review, the OIG agreed that MASD would audit certain detailed aspects of the contract including invoice review, and the OIG would revise its review to a broader, more macro level of other aspects of the Board’s concerns. MASD will present its audit results to the Board in or about November 2021 simultaneously with this report. This OIG review of Metro Staff management of the PMSS Contract and its communication of key information to the Board for its use in directing further action on the PMSS Contract is intended to not materially duplicate the MASD’s efforts.

## **OBJECTIVES, METHODOLOGY AND SCOPE OF REVIEW**

In 2016, the Los Angeles Metropolitan Transportation Authority (LA Metro, Metro) published its Program Management Plan (PMP) to map implementation of the 40-year Los Angeles County Traffic Improvement Plan (LACTIP) estimated to cost \$64.52B and financed by Measure M funds.<sup>2</sup> Out of twenty-eight key projects, four “Pillar Projects” have been identified as key to finish by 2028 to prepare for the US Olympics, and as part of Metro’s “The Reimagining of LA County” initiative.<sup>3</sup>

The PMP includes three key strategic initiatives implicated in this OIG Review: Staff Capacity Planning; Acquisition Process Innovation; and Strengthen(ing) the Budget Process.

Metro’s Acquisition Policy also states a key guiding principle:

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<sup>1</sup> Kal Krishnan Consulting Services/Triunity Engineering and Management Joint Venture (KTJV, Vendor) is the vendor on this contract.

<sup>2</sup> [Program Management Plan - Measure M \(metro.net\)](https://www.metro.net/programs/traffic-improvement-plan/measure-m/)

<sup>3</sup> See February 2019 Board Reports prepared for meetings of Planning & Programming Committee, Executive Committee and Board of Directors.

“The goal of every Metro Acquisition is to procure and receive delivery of goods and services to support the agency’s activities in a timely and cost-efficient manner while maintaining the public’s trust in fulfilling Metro’s public policy objectives.”

(ACQ-1, Para. 3.2.) PMP and Acquisition Policy compel the Board to continuously review the efficacy of every contract. Indefinite delivery contracts for professional services due to their size, evolving staffing priorities, and bolstering the community through small/disadvantaged business hiring incentives should be reviewed in detail.

Management requests for additional funding and/or extensions to the period of performance present opportunities for focused review. For purposes of the OIG’s review, presentations to the Board for funds and/or contract extensions are referred to as a “contract renewal action.”

The objectives of this report are to aid the Board’s efficient and confident review of management’s recommendations for renewing the contract. To that end, the OIG examines whether:

- Internal written policies and practices are in place and used to track and evaluate contractor performance on key performance indicators related to work and quality, compliance with contract terms, and maintenance of budget;
- Internal policies and practices are in place and used to efficiently track and evaluate the budget for professional services as it relates to the individual budget for each program and project making use of staff augmentation; and
- Internal written policies and practices are in place and used to foster continuous improvement of staffing to ensure the benefits of consultant services are maximized.

To achieve the OIG review objectives, we performed the following procedures:

- Reviewed relevant local, state, and federal requirements related to the type of contract, total contract value, limits to length of period of performance, requirements for exercise of option, and extension to periods of performance in absence of option;<sup>4</sup>
- Reviewed Metro’s policies and procedures that relate to Metro’s Procurement: Acquisition Policy Statement (ACQ-1); Acquisition Policy and Procedure Manual (ACQ-2); Vendor/Contract Management Guide;
- Reviewed Metro’s policies and procedures that relate to Program and Project Management;

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<sup>4</sup> The terms and conditions of use of federal funds provided through the Federal Transit Administration (FTA) require Metro to comply with Title 31 of the Federal Acquisition Regulation (FAR) and FTA Circular 4220.1F. The Best Practices Procurement and Lessons Learned Manual (2016 ed.) provides a useful but secondary resource.

- Reviewed detailed time-phased staffing plans conforming to FTA planning standards.
- Reviewed Metro’s policies and procedures that relate to budgeting during the planning phase, life of project (LOP) budgeting, timing of requests for budget authorization, and Frequently Asked Questions; and
- Interviewed Metro staff across the following Departments: Program Management, Project Management, Vendor/Contract Management, and the Office of Management & Budget.

The PMSS Contract is the primary focus of review and is discussed in detail. For purpose of analysis, we also discuss a professional services contract providing construction management support services (CMSS) to an ongoing construction project. These two professional services are not directly comparable. The PMSS contract is program-based with a mix of LOP and non-LOP budgeting. The CMSS Contract relates to a single project with an LOP budget and is used to discuss the potential for efficiencies, and better understanding administrative constraints under the PMSS Contract.

- Contract No. AE35279, Program Management Support Services (PMSS Contract) is a multi-year professional services contract with a base five-year term and two-year option with an initial anticipated contract value of \$90,809,070 which is the amount approved in 2017. The PMSS Contract was described as a “new approach” for augmenting staff at the program level and across projects for program management duties. A high priority was placed upon using small businesses, and the participation of disadvantaged, minority and women-owned businesses currently exceeds 71%.
- Contract No. AE5818600MC072-PLE2, Purple Line Extension Section 2 Project, Construction Management Support Services (CMSS, PLE-2 CMSS Contract) is a multi-year professional services contract augmenting staff for one project only, e.g., Contract No. C1120 Westside Purple Line Extension Section 2 Project. This contract has a base term of 108 months, and two one-year options. The anticipated total contract value is \$54,718,942. In 2016, the Board authorized a not-to-exceed cost increment of \$8,890,488 through Fiscal Year 2018. Management has not returned to the full Board since 2016.

The OIG does not rely upon using only generally accepted government auditing standards for this review. The OIG solely uses “hard data” in this review that is above an audit standard with no predisposition to, or conditions for, any particular bias.

## **APPLICABLE RULES**

Metro’s procurement, contract administration, and budgeting activities must comply with applicable state and federal law, as guided by documented policies and procedures

promulgated within Metro.<sup>5</sup> This truism provides a backdrop to the entirety of the OIG’s review. Specific laws, regulations or principles will be discussed only if placed directly at issue by a finding or recommendation.

A list OIG interviews and materials reviewed is provided at Attachment A.

## **RENEWING PROFESSIONAL SERVICE CONTRACTS**

### **Indefinite Delivery Cost-Reimbursement Contract**

Unlike a competitive sealed bid procurement that generally seeks lowest cost from responsible and responsive bidder, an indefinite delivery type contract for professional services allows an agency to select based on performance criteria. Step 1 prior to contract formation involves negotiating labor unit price ranges for identified positions and other rates that will be applied for cost reimbursement. Provisional rates may be agreed upon subject to a final review that occurs post-award. Step 2 following contract award involves “micro-procurements” where the agency orders staff augmentation services at the agreed rates.

Services under the cost-reimbursement-type contract are “ordered” through a Task Order (also known as Contract Work Order (CWO). (ACQ-5.14(B)(3).) Task Orders must be issued within the approved not to exceed value of the contract and funds shall be obligated to cover the cost of the Task Order. (ACQ-5.14(D); see also ACQ-18.7.) “Each Indefinite Delivery contract issued must include a fixed dollar ceiling that represents the target Not to Exceed (NTE) cost authorization for the work specified. Unused funds may only be transferred from one task to another when the unused funds have been unencumbered and a new acquisition has been approved.” (ACQ-5.14(G).) Each order placed under an indefinite delivery/task order contract shall contain required minimum information needed for a contract including price justification, documented negotiations, and price reasonableness decision.” (ACQ-5.14(I).)

PMSS Contract No. AE35279 operates as an indefinite delivery contract as reflected in the Compensation and Ordering provisions controlling the terms and conditions for performing work and receiving payments for services under the contract. (See Form of Contract, Art. IV D & VIII; SP-06.) The vendor is guaranteed no minimal quantity of work. (*Ibid.*)

### **Renewing Funds & Extending Time**

For Metro’s professional service contracts, the Board typically authorizes an initial cost increment to be used to reimburse costs services. Management must return to the Board to request an additional cost increment. Alternatively, OMB may “program” the budget in

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<sup>5</sup> The OIG’s high-level review of Metro’s compliance with state and federal contracting and procurement laws and regulations with respect to the PMSS Contract revealed no obvious problems or concerns.

accordance with the Life of Project (LOP) budget. The Board's funding authorization may reference a period of performance, which period will be treated as extended if the contract contemplates an automatic extension if funds remain available. This is the case with the PMSS Contract. (See Form of Contract, Art. VII.)

The PMSS Contract establishes a five-year base term with an option to extend for an additional two-year period. Metro's Acquisition Procedure indicates that options may be included in a solicitation and the contract if found to be in Metro's best interests to include this unilateral right. (ACQ-6.1A, C (2).) The record shows that the option was reviewed as part of the negotiations for the PMSS Contract. The FTA views options as beneficial mechanisms for continuing an existing contract where there appear to be no countervailing detrimental impacts.<sup>6, 7</sup> Management's request to exercise the bargained for option under PMSS Contract No. AE35279 appears to comport with FTA guidelines.

If the contract contains no option for unilateral exercise of a right to extend the base term, the term may be continued in accordance with contract terms to the extent authorized funds remain available. Additionally, management may seek a bilateral contract modification to extend the period of performance. The terms and conditions during the extended period may be subject to negotiation.

### **Compliance with the FTA**

Federal regulations and the FTA's published best practices leave to a sponsoring agency's business judgment whether to augment internal staff with external consultants, the manner and method of contracting for these services, the total value and term for period of performance, and renewal decisions. that management will perform proper oversight, and that the benefits of the contracting method and requested approval will outweigh any risks or harm to the agency.

### **Metro Policies & Practices**

The OIG reviewed Metro's Administrative Code and the policies and procedures developed by the Program Management and Vendor/Contract Management departments regarding professional services contracts. Metro's PMP states a preference for negotiated procurements for these contracts.<sup>8</sup> However Metro codes do not tell Metro Management how to implement the contract.

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<sup>6</sup> To exercise an option, the Contracting Officer should determine that (a) funds are available; (b) the requirement fills an existing need; (c) the exercise of the option is the most advantageous method of fulfilling the Government's need considering price and other factors; (d) the option part of original solicitation; (e) the contractor remains in good standing; and (g) the contractor's performance has been acceptable. (FAR 17.207 c.)

<sup>7</sup> The Owner may exercise the option unilaterally, in accordance with any contract requirements for the exercise. A bilateral agreement may be necessary if the Owner needs to update any terms and conditions, particularly those associated with revisions to federal funding requirements that must be complied with by the Vendor.

<sup>8</sup> PMP Section 3.5.3.3, p. 124.

## **BACKGROUND**

### Comparing & Contrasting the PMSS & CMSS Contracts

The PMSS and PLE-2 CMSS contracts are each multi-year indefinite delivery cost-reimbursement contracts providing professional services. For each contract, management identified labor categories for services, developed an anticipated level of effort (LOE) for each labor category and applied estimated costs to develop an Independent Cost Estimate (ICE) for purposes of negotiating with the vendor. Based on the different LOEs and terms, the two contracts differ significantly on anticipated total contract value and period for performance.

<b>Contract</b>	<b>Initial Recommended Total Value</b>	<b>Period of Performance</b>	<b>Presentation to Board Frequency</b>
PMSS	\$90,809,070	5 years, 2-year Option	2017, 2019, 2020, 2021
CMSS	\$54,718,942	108 months, two 12-month Options	2016

Table 1: PMSS versus CMSS Contract

The Program Management team is responsible for managing and supporting the delivery of Metro’s overall Capital Program and was developed to augment staff in eight key functional areas at the program level:

- Program Management
- Project Management
- Project Delivery and Contract Development/Compliance
- Project Control
- Estimating
- Configuration Management
- Project Management and Other Technical Training
- Project Management Information Systems (PMIS) Support

Within these eight functional areas, the PMSS Contract describes twenty-four “labor category descriptions” ranging from Administrative Aide to Training Manager. (See Attachment B for complete list).

PMSS consultants are embedded throughout programs and projects, and over the term of the PMSS Contract, the level of staff augmentation has “flexed” to meet Metro’s staffing needs. A graphic showing staffing levels is provided at Attachment C. Currently, 53 consultants actively assist the Program Management/Project Management Teams in various roles.



Contract Work Orders as Micro Procurements

For the PMSS Contract, Project Managers request staff augmentation services through CWOs.<sup>9</sup> CWOs incorporate the general terms and conditions of the PMSS Contract. The terms of the PMSS Contract will take precedence if a conflict arises from a CWO. (SP-06 B.) The CWO controls the scope of work, agreed rates and NTE value and the period for performance. (SP-06 C-M.)

The Acquisition Procedures appear to apply to both the overall contract and derivative task orders and state that each task order under an indefinite delivery contract be based on “[a] realistic estimate of the total quantity or dollar amount that will be ordered, based on the most current information available...” (ACQ-5.14 C.) CWOs must be supported by required minimum documentation needed for a contract including price justification, documented negotiations, and price reasonableness decision. (ACQ-5.14 I.)

A single CWO may be used to order professional services for one program area or project, (“1-to-1”) or it may order a particular service that will be used across many program areas or projects (“many-to-one”). A program/project ordering services may have an approved Life of Project (LOP) budget, or it may still be in the planning stages with no approved LOP. Metro Staff must track the variable funding sources used to reimburse the contractor’s costs incurred. Tracking costs is straightforward when the CWO provides services to one program area or project, and more complex when dealing with many programs/projects.

CWOs may be issued for a single or multi-year period of performance. During the OIG review, Metro staff reported that 54 different CWO’s have been issued. Task order modifications or changes (approximately 209) have been generated primarily reflective of controls used to reconcile changes to the initial CWO’s budget over time. A total of 40 CWOs appear to be “open” and available to be invoiced against.

PMSS Contract – Board Presentations

Management has made four separate presentations to the Metro Board to request initial funding and to renew funding and/or extend contract time.<sup>10</sup> The Table 2, below, provides details regarding management’s requests for initial or renewal cost increments in each of four board presentations, including the funding request for the two-year option period pending before the Board.<sup>11</sup> Table 3 provides a summary snapshot of the net cost increment for each fiscal year, and the cumulative NTE value for the PMSS Contract.

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<sup>9</sup> The PMSS Contract defines a Contract Work Order (CWO) as, “[t]he documents issued by Metro for each separate assignment detailing the Scope of Work, price and completion time.” (General Conditions (GC)-01B; see also Special Provisions (SP)-06.)

<sup>10</sup> Each visit to the Metro Board is preceded by a presentation to the Construction Committee for an initial presentation of issues.

<sup>11</sup> Board presentations reconcile the prior fiscal year’s requested cost increments and transparently notify the Board that previously authorized funds are being shifted to the next fiscal year.

# Review of PMSS Best Practices to Fund & Extend Professional Services Contracts

Office of the Inspector General

Report No. 2021-0669

Base/Option Year	Board Presentation	Description	Cost Increment	FY NTE
1, 2 FY 2018 FY 2019	6/22/2017	New FY 18-19 Cost Increment	24,970,960	24,970,960
	4/25/2019	Retroactive Adjustment to FY 2019	-850,228	24,120,732
3 FY 2020	4/25/2019	<i>Request for remaining 3 yr base/2 yr option funding rejected. Staff to return in 2 years w performance eval. No NTE</i>	65,838,110	90,809,070 - Rejected
	4/25/2019	Unspent 2019 Move to FY 2020	850,228	24,970,960
	5/28/2020	Retroactive Adjustment to FY 2020	-2,572,832	22,398,128
	5/28/2020	Reconciled Cost Increment for FY 2020	26,335,244	48,733,372
4 FY 2021	5/28/2020	Unspent 2020 Move to FY 2021	2,572,832	51,306,204
	5/20/2021	Retroactive Adjustment to FY 2021	-2,650,429	48,655,775
	5/28/2020	New FY 2021 Cost Increment	12,041,501	60,697,276
5 FY 2022	5/20/2021	Unspent 2021 Move to FY 2022	2,650,429	63,347,705
	5/20/2021	New FY 2022 Cost Increment	10,296,886	73,644,591
6,7 FY 2023/24	5/20/2021	OPTION TERM (2 YEARS) FY 23-24; 1	27,461,365	101,105,956

Table 2: Board Presentations and Funding Requests (Detailed)

For Fiscal Year 2020-2021, staff extrapolated a cost increment from the base year funding value of \$63,347,705 of \$12,699,541 per year (or \$25,339,082 for two years). Based on acceleration of the 4 Pillar Projects, the two-year cost increment was used faster than expected, prompting management to return in May 2020.

Base/Option Year	Board Presentation	Description	Board Authorized NTE	To Date NTE
1	6/22/2017	2018 & 2019	24,970,960	24,970,960
2	4/25/2019	2020	\$25,339,082	\$51,306,204
3	5/28/2020	2021	\$12,041,501	\$63,347,705
4	5/27/2021	2022	10,296,886	\$73,644,591
<b>Pending - Option</b>		2023-2024	27,461,365	\$101,105,956

Table 3: Board Presentations and Funding Requests (Summary)

Management's presentations to the Board include essential information related to the scope and purpose of the contract and a detailed status update related to Diversity & Economic Opportunity Department goals. Management reconciles past expenditures and describes new funds needed on a per project basis.



### Vendor Performance

As to vendor performance, from 2019 through 2021, Management affirmed vendor cooperation: “KTJV has been responsive and works with Metro staff to provide...qualified resources...” Methods used to verify the vendor’s satisfactory performance, supporting data or key performance indicators used by management are not described to the Board to demonstrate management’s diligence in overseeing vendor performance.

### Budget Status

As to budget status, this text from the 2017 Board Report under the headings “Financial Impact” and “Impact to Budget,” is representative for the level of detail typically provided:

Funding for these services is included in the approved FY18 Budget for the various Metro projects. The individual CWOs will be funded from the associated life-of-project (LOP) budgets that are approved by the Board. The project managers, cost managers and Chief Program Management Officer will be accountable for budgeting the cost in future years, including cost associated with exercising the option.

There is no impact to the FY18 Budget as funds for this action will be included in the approved budget for each project. Most of the projects are funded with multiple sources of funds: federal and state grants, federal loans, bonds and local sales taxes. Much of local sales taxes are eligible for bus and rail operations and capital improvements. These funds are programmed to state of good repair projects and to augment the costs of mega projects, where eligible and appropriate.

Management’s statement establishes that the Board will not be committing “new money” for the PMSS Contract does not reference or integrate the four levels of controls used by management in overseeing the PMSS Contract.

### Alternatives Considered

As for contract efficacy, Board Reports for 2019, 2020 and 2021 include an “Alternatives Considered” section used by Management to compare the status quo (continuing to fund staff augmentation needs) with ceasing the further procurement of consultant services. A statement is made suggesting that hiring Metro Staff would be inefficient and attempts, likely futile:<sup>12</sup>

The Board may elect to discontinue using KTJV for PMSS. Staff does not recommend this alternative as the Program Management capital projects are in

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<sup>12</sup> Metro Staff ascribes “futility” to Metro’s out-of-date pay bands asserted to be non-competitive for a range of hard to fill jobs in the competitive marketplace.

various degrees of completion and the loss of staff would cause these projects to be significantly impacted.

Another alternative would be to hire Metro staff to perform the required services. This alternative is also not recommended since the intent of the PMSS is to augment Metro staff in terms of technical expertise and availability of personnel. PMSS are typically required on a periodic or short-term basis to accommodate for peak workloads or specific tasks over the life of the projects. Further, for some projects, the specific technical expertise required may not be available within the ranks of Metro staff, whereas the KTJV consultant can provide the technical expertise on an as-needed basis.

For purposes of brevity, perhaps, management does not use the board presentation to describe known challenges or opportunities related to long-term staff capacity planning. The OIG acknowledges that impacts arising from the COVID-19 emergency render this issue less salient.

## **EVALUATION**

### **Performance Evaluation**

The Board requested management report upon the vendor's performance both in 2019 and 2021, pursuant Solis and Najarian amendments.<sup>13, 14</sup> In general, vendors providing professional services based on expertise cannot be easily measured against an objective standard. The criteria for vendor compliance relate to contractor inputs not a particular outcome, and Metro bears most of cost or performance risk if the contractor fails to make its best efforts.

For that reason, best practices oversight calls for strong internal controls by management to ensure that (1) CWOs are issued only for work scope included under the PMSS Contract; (2) the vendor provides and supports qualified staff who understand Metro's deliverables (whether tangible or intangible), as guided by clearly defined expectations; (3) the vendor accurately and timely submits monthly invoices; and (4) vendor remains aware of and complies with not-to-exceed budgets.

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<sup>13</sup> Solis Amendment: "[T]hat the Board amends Agenda Item No. 31 to authorize funding for two years and direct Metro staff to return in April 2021 with the next request for authorization as well as a report on the contractor's performance."

<sup>14</sup> Najarian Amendment: "That the Board look back at the performance success of the contractors and give a report before extending a 2-year option, one year ahead of its extension date. The contract should be audited, as quickly as possible so it does not delay our ability to exercise the option to extend. It's good board policy if there is a large contract, that has an option, before that option is extended, we should get a report back to hear how well the original contract was performed."

The OIG did not review the specifics of the vendor's performance to avoid duplication of MASD's efforts and confined its review to the policies and practices used by the PMO, PMs and V/CM teams. With respect to vendor performance, the OIG identified that multiple tools exist for management to ensure that vendor continues to comply with the PMSS Contract. Because some of those tools overlap with budget controls which are discussed below, the OIG limits its discussion here to the written performance evaluation that has been developed by Program Management.

The OIG has been informed by staff that on at least two occasions Metro's PM executive met with its counterpart for the vendor to go through a written process of performance evaluation. The OIG was provided a signed copy of one of the performance evaluations agrees it reflects a detailed review of key performance metrics. The performance evaluation process that occurred was not pursuant to written procedures. To ensure consistency and fairness in vendor performance reviews across contracts, the OIG recommends that V/CM and Project Management consider developing an agreed documented approach for regular performance evaluations. It may be appropriate to reference the process in Metro's solicitation and contract documents.

#### *Communication of KPIs*

Based on management's board presentations containing a very succinct affirmation of Metro's satisfaction with the vendor, the OIG inquired as whether management captures data related to key performance indicators (KPIs). Management confirms that standardized tools for collection and measurement related to KPIs exist that may provide useful insights. The OIG encourages management to investigate whether board presentations could be made more comprehensive and useful with the inclusion of this KPI data.

#### Budget – Cost Trends and Efficient Gatekeeping

##### *Initial PMSS Contract NTE Value*

Management's 2017 board presentation requesting authorization to proceed under the PMSS Contract described its potential to augment staff across 111 "Anticipated Projects" at a recommended total contract NTE of \$90,809,070.<sup>15</sup> Staff requested two years' cost increment based on a pro rata share of the total anticipated funding and stated that they "will return to the Board every two years to request additional authorization for the subsequent two-year period." The board presentation holistically communicates that the purpose of the PMSS Contract will be to flexibly adjust Metro's staff resources to implement and deliver capital projects and communicates that funding requests will reflect up to date information on staffing needs.

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<sup>15</sup> In its presentation to the Construction Committee in advance of its presentation to the full Board, Management indicated a Recommended NTE for the total contract value equivalent to the vendor's proposal value, e.g., \$109,181,894. The original NTE has perhaps been retroactively validated.

For this report, Staff provided to the OIG the independent cost estimate (ICE) prepared by Metro in anticipation of negotiations with the PMSS Contract vendor. A representation was made that “the Solicitation ICE used historical information from past support services contract and then included assumptions for new positions. Based our assumptions on our org chart, program management org chart, prior support services org chart, and required FTA staff allocation needs.”

Records provided for review include an Excel spreadsheet showing a level of effort (LOE) for twenty-four labor categories that totals 83,580 hours/year, equating to approximately 40 full time employees (FTEs). Note 1 on the ICE spreadsheet notes that “Estimated hours are for proposal and evaluation purposes only and are not a guarantee of Metro's actual requirements.”

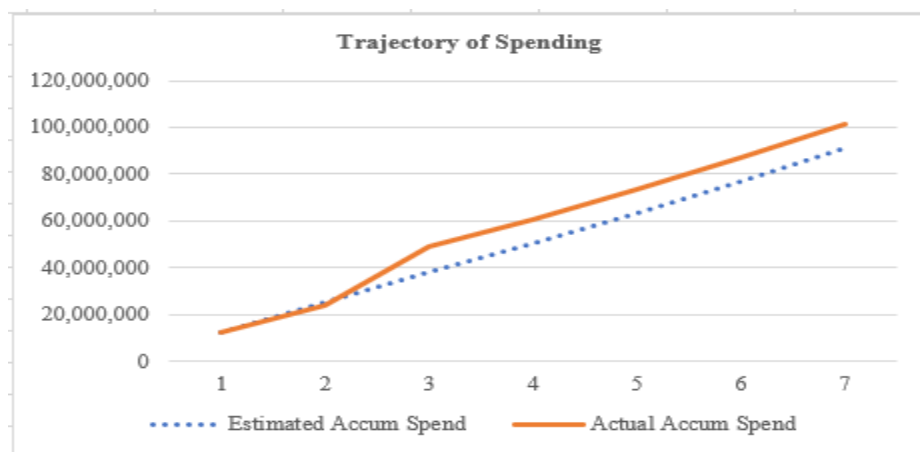
#### *Actual and Projected Contract Value*

Anticipated costs under the PMSS Contract over its seven-year term based on its initial total NTE value of \$90,809,070 is compared to actual and project remaining costs detailed in Table 2 presented earlier. Table 4, below, compares those annual cost increments.

Year	Est Accum Spend	Actual Accum Spend
1	12,669,541	12,060,366
2	25,339,082	24,120,732
3	38,008,623	48,733,372
4	50,678,164	60,697,276
5	63,347,705	73,644,591
6	77,078,388	87,375,274
7	90,809,070	101,105,956

Table 4: 2017 Planned Costs versus 2021 Actual Costs

A graph of the Table 4 data shows an increase in spending that occurred in 2020.



Graph 1: Variance Between Estimated Costs and Actual PMSS Contract Costs

In interviews with staff, OIG learned that in 2019, Program Management was directed to accelerate efforts on four Pillar Projects, e.g., Gold Line Eastside Extension Phase 2, Green Line Extension to Torrance, Sepulveda Transit Corridor, and the West Santa Ana Branch to Downtown LA. Additionally, a decision was made to hire a consultant to review issues related to the public private partnership (P3) project delivery method. As a result, expenditures were higher than anticipated under the PMSS Contract. Once the COVID-19 emergency impacted Metro's operations, management was directed to throttle down all staffing commitments.

#### *Management's Four Levels of Control*

Based on the PMSS Contract providing flexible, responsive staff augmentation that could not be comprehensively defined during its solicitation, a "top down" cost estimating process was used to establish the anticipated LOE. In lieu of comparing actual costs to the initial estimate, management implemented a controls process assuring that budget use is transparently tracked so that the Board and public are apprised of budget utilization. This comprehensive approach described as "four levels of controls" comprehensively tracks use of funds while ensuring compliance with the terms and conditions of the PMSS Contract, therefor meeting best practices oversight requirements.

Level One relates to projects with life of project (LOP) budgets using time-phased cost-loaded staffing plans for all staff (Metro or consultant); non-LOP projects will use fiscal year budgets. Budgets for each are evaluated monthly for trend analysis and potential revision. Level Two involves annual work plans that are developed on a per project basis in conjunction with task orders issued for staff augmentation. On a monthly basis, the PM, PMO, and V/CM each play a role in reviewing staff allocations and funding to assure compliance with vendor's scope of work and contract terms, analyzing trends and potential revision. Level Three involves PMs reviewing monthly invoices to verify staff time billed and proper cost coding. Also, V/CM reviews invoices for compliance with the task order to assure compliant staffing, billing rates and small business compliance. Level Four engages the vendor themselves to regularly report on task order status, and to provide to Metro annual work plans for every task order reviewing staff allocation and funding which involves engaging with the PM, PMO, and V/CM. Both Program Management and V/CM participate in a detailed review and approval process for the vendor's invoices. Project Management reviews for cost costs to ensure that costs are segregated properly and eligible for reimbursement under full funding grant terms. V/CM reviews for proper labor classification, labor rates, overhead rates, fees, scope of work and tracking against the NTE.

To supplement management's existing four levels of controls, the OIG also recommends management consider discussing in the board presentation project-specific budget information or other factors pertinent to cost variances with the initial baseline assumptions (whether LOE or costs). A reviewer comparing the board presentations for different years can identify new or modified CWOs that may have resulted in variable costs, but the better

approach may be for management to highlight and describe significant matters that impacted funding expectations. Management's practice of developing detailed project budgets is not made evident regarding costs under the PMSS Contract.

*CWO Funding Process and Efficient Budget Oversight*

The OIG acknowledges that the PMSS Contract is more complex to administer than a typical CMSS contract, including the PLE-2 CMSS Contract. The PLE-2 CMSS Contract made one Board presentation for an initial funding authorization in 2016, and no presentations have been made since to the full board. The PLE-2 CMSS Contract is under a project with an approved LOP Budget which allows the OMB to program its expenditures without direction by the Board.

Program Management states that a large proportion of programs/projects using staff augmentation resources do not have approved LOP budgets, and for that reason management has no option but to return annually to the board for new cost increments. OMB policies were cited as the source of the constraint. Management acknowledges that in 2017 the initial cost increment was for two years, and the 2017 staff report references an intent to return biennially. Because the PMSS Contract staff augmentation began to be requested by non-construction related departments with frequent changes, management stated it may be a sounder practice to reassess annually and limit each CWO to a one-year period of performance.

In discussions with Staff, the OIG learned that PMOC, PM and V/CM teams would welcome less burdensome administrative responsibilities associated with single year CWOs. It was agreed that multi-year CWOs might require more planning work at the "front end" which could be worth it if "nothing changed" as to scope of work and associated costs. Efforts at longer term staff capacity planning under the CWOs would be beneficial to the extent the information identifies efficiencies or alternative approaches related to using Metro staff over consultant staff.

An additional reason to increase CWO efficiency relates to budget tracking and invoice review. A single CWO may be an order for professional services for one program area or project, or for many program areas or projects. For each CWO, Metro Staff must track the variable funding sources used to reimburse the contractor's costs incurred. Tracking costs is straightforward when the CWO provides services to one program area or project, and complex when dealing with many.

In summary, improved efficiency may arise from a practice of issuing CWOs that are longer term and relate to only one program or project while covering multiple functional areas and labor categories. Efforts should be made to use OMB as a gatekeeper where possible to control total project spending. Since CWOs are the primary vehicles for ordering and tracking services and use of budget, it follows that they could be a valuable tool for long-term staff capacity and budget planning. The PMOC, PM and V/CM in consultation with and OMB are best positioned to analyze and agree upon how to most efficiently administer



CWOs. Certainly, efficiencies are encouraged to save not only the time spent by Metro employees, but costs associated with the vendor tracking and administering the CWOs.

#### Alternatives Considered and Principles of Continuous Improvement

Management's "Alternatives Considered" topic could be better used to apprise the Board and public of ongoing efforts to review alternatives to status quo use of the PMSS Contract. As stated above, Metro's 2016 PMP describes the importance of attracting, training and retaining core staff and growing through succession planning while also acknowledging the need for consultants to augment Metro Staff for work requiring specialized expertise, difficult to hire positions, and short-term assignments.

Every presentation to the Board to request additional funds and/or extended time under the PMSS Contract should be treated as an opportunity to reassess the value of the PMSS Contract and to proposed changes identified as furthering Metro's other strategic staffing goals. If following substantive consideration of relevant issues, the status quo appears the best option, that will be self-evident.

#### *Consultant to Metro Staff Ratio*

Metro's 2016 PMP and adopts an assumption that a 50/50 staffing split between Metro staff and consultants is appropriate and describes that the ratio should change over the course of capital program development as Metro moves from planning to close out. This PMP recommends that as part of staff capacity planning, "each staffing discipline will be reviewed on a granular basis to assess the appropriate staffing split for each staffing area."<sup>16</sup>

The OIG's 2016 Construction Best Practices Report reported the 2016 Metro Staff to consultant ratio as close to 50/50 and recommended increasing Metro FTEs to achieve a closer to 70/30 staff to consultant ratio consistent with best practices of other agencies. This ratio is described as promoting better succession planning and a more committed, loyal staff.

Currently, Metro staff reports the current staff to consultant ratio as variable and ranging from almost 90% consultant-based on some projects with closer to 30/70 Metro staff to consultant ratio, in general. The staffing ratio is "phase dependent" with consultant staff being more ubiquitous during the construction phase and increasing levels of Metro staff once the startup phase commences. Management states that an upcoming review will be occurring in the near future to analyze the use of consultants. A deliverable will be provided with comprehensive up-to-date information that can be used to improve (where necessary) Metro's staff capacity planning. Recently the OIG completed a study of Metro hiring practices describing organizational challenges toward hiring Metro staff (that have been exacerbated by the labor scarcity effects of COVID-19), as referenced in Office of The

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<sup>16</sup> LACTMA Program Management Plan (2016), page 14.

Inspector General Report On Metro Personnel Hiring Process Study Board report September 17, 2020, (2020-0426).

*Compliance with AB5 Independent Contractor Restrictions*

On January 1, 2020, AB5, also known as the “gig worker law” took effect in California. This law requires that workers formerly identified as contractors should be given employee status and benefits. A supplemental Assembly bill was passed to establish an AB5 exemptions list. The “Business to Business Exemption” allows sole proprietors, partnerships, limited liability partnerships/companies, or corporation to enter into a contractual relationship with a business. This exemption applies to Metro’s professional service contracts but there is still good reason to be cautious. The exemption is a narrow one and only time will tell how a court will apply the law given a set of facts.

So long as contractor employees are receiving benefits and having taxes withheld, impacts on Metro are likely to be minimal as AB5 application is unlikely. However, if a Metro contractor employs someone as an independent contractor assigned to Metro, it may present some risk of application. Also, to the extent any contractor or subcontractor staff work solely for Metro – with Metro being its first and only “gig,” Metro may face some risks. The level of risk may require further analysis by County Counsel. For Metro, compliance with AB5 may place Metro on a collision course with the salutary benefits arising from a high participation from small/disadvantaged businesses. This is another area where further analysis is required.

*Planning for Next Procurement Action & Implementing Lessons Learned*

In interviews, Program Management indicates that a re-solicitation of the PMSS Contract requires up to one year of advance planning. For that reason, a determination whether to unilaterally exercise a contract option – or to seek a bilaterally agreed contract time extension – must occur one year prior to the expiration date of an existing PMSS Contract. Ideally, there would be a period of overlap between an expiring professional services contract and the next contract. The transition from one contract to another could vary in complexity based on whether the new contract is awarded to the incumbent vendor. The complexity that comes with transition to a new vendor into Metro’s capital program mix as a factor worthy of consideration when deciding the nature and timing of the next procurement.

**CONCLUSION**

In discussions with the OIG regarding its initial findings, management describes that four levels of controls or checks and balances are used on the PMSS Contract, which is not contradicted by this OIG Report.

1) Project level life of project budget that involves time phased cost loaded staffing plans for all staff (i.e. Metro or consultant) or fiscal year budgets for non-LOP projects, and that both are evaluated monthly for trend analysis and potential revision;



- 2) Metro performed contract level annual work plan for every task order reviewing staff allocation and funding required engaging PM, PMO, and V/CM. AWP is evaluated monthly for trend analysis and potential revision;
- 3) V/CM level compliance reviews for invoices, staffing, small business etc.; and
- 4) Vendor performed contract level annual work plan for every task order reviewing staff allocation and funding required engaging PM, PMO, and V/CM. AWP is evaluated monthly for trend analysis and potential revision.

This OIG Report is not about absent or erroneous controls, but the adequacy of the board presentations in communicating meaningful and transparent information associated with Metro's controls related to vendor performance, budget, and contract efficacy.

Management's recommendations could be made stronger if supported by key performance indicators and information that explains variances in budget utilization. Finally, management is encouraged to proactively prepare for the eventual expiration of the contract through continuous improvement measures and discussion of comprehensive staff capacity planning exercises.

## **FINDINGS & RECOMMENDATIONS**

### **Findings – Performance Evaluation**

Finding 1: Program Management/Project Management lacks written policies and procedures to establish a comprehensive and regular process for evaluating vendor performance under a professional services contract.

Finding 2: The processes in place by Program Management/Project Management and the Vendor/Contract Management Departments constitute a de facto controls process ensuring the vendor is generally performing satisfactorily. However, no methods to analyze key performance indicators (KPIs) and identify sub-optimal use of staff augmentation resources were identified.

Finding 3: Management did not use its board presentations to adequately articulate to the Board its best practices efforts to assure that the vendor performs satisfactorily - and showing that management optimizes use of the staff augmentation resources.

### **Recommendations – Performance Evaluation**

We recommend management consider:

Recommendation 1: Develop written policies and procedures to establish a comprehensive and regular process for evaluating vendor performance under a professional services contract. A standard checklist used monthly, quarterly, or other regular basis can be used to document vendor's compliance with key performance indicators.

Recommendation 2: Describe key performance indicators (KPIs) to identify and track performance metrics for the vendor. These KPIs should likewise demonstrate management's use of best practices to maximize use of vendor's best efforts toward the success of the capital program.

Recommendation 3: Include in the board presentation a summary of management's quality review actions and statement of findings on KPIs affirming vendor's satisfactory performance for improved communication, accountability, and transparency for the Board, the public and regulators of Metro.

### **Findings – Budget Controls & Status**

Finding 4: The total budget for the PMSS Contract is derivative of the individual budget(s) for the programs/projects anticipated to use staff augmentation resources under the PMSS Contract. Management's initial baseline budget for the PMSS Contract did not link estimated soft costs on a per program/project basis (or revise the baseline budget where necessary over the term of the contract), creating the appearance of no budget controls.

Finding 5: Management's presentations to the board omitted necessary explanations for variances between an initial baseline budget/Recommended NTE established as a control for the PMSS Contract and the Actual costs to date and the projected cost trend.

Finding 6: Program Management/Project Management appears to engage in annual/short-term planning for staff augmentation in lieu of longer-term planning for use of staff augmentation resources under the PMSS Contract. This approach may be useful for annual work planning but creates inefficiencies related to committing and tracking funds for services under the PMSS Contract, unnecessary Board presentations, and burdensome administrative work related to issuance of updated CWOs – which impacts Metro as well as the vendor (who bills us for that work). This approach may interfere with OMB's ability to act as budget gatekeeper through programmed budget allocation.

Finding 7: Management may issue CWOs that address one functional area of staff augmentation and use those services across programs or projects ("many-to-1"), or issue one CWO for each program or project and include a range of functional areas ("1-to-1"). The issuance of "many-to-1" CWOs requires more tedious labor for cross-checking of timesheets and invoices across different project managers, and additionally requires checking of correct cost coding for budget use across projects and budget.

### **Recommendations – Budget Controls & Status**

We recommend management consider:

Recommendation 4: For future indefinite delivery cost-reimbursement type contracts like the PMSS Contract, establish a long-term initial baseline budget using estimated soft costs associated across identified and identifiable program/project budgets to serve as a necessary budget control measure over the term of the contract. An initial baseline budget may be superseded by a re-baselined budget with documented justification.

Recommendation 5: For each Board presentation, document the reasons for the variance between management's initial or revised baseline budget/Recommended NTE, and the Actual NTE.

Recommendation 6: For any multi-year cost-reimbursement professional services contract, plan for and develop multi-year CWOs to encourage longer-term staff capacity planning, to minimize administrative efforts required to annually revise individual CWOs, and for OMB to used programmed budget allocations.

Recommendation 7: For any multi-year cost-reimbursement professional services contract providing services across projects, issue 1-to-1 CWOs or 1 to multiple CWOs which ever one is most efficient based upon the consultation with project management, V/CM, accounting and the vendor to confirm which method best facilitates budget tracking and make more efficient the invoicing process for CWOs.

**Findings – Contract Efficacy/Continuous Improvement**

Finding 8: Management omits discussion regarding the status of overall Staff Capacity Planning including the historical vs. current ratio of Metro FTEs to consultants.

Finding 9: Management omits discussion of (presumed) net benefits of the continued use of external consultants given competing considerations related to cost, institutional knowledge and succession planning.

Finding 10: Management omits discussion of opportunities to hire and train local community members.

Finding 11: Management omits discussion of opportunities to bridge or prepare for the next PMSS Contract solicitation.

**Recommendations – Contract Efficacy/Continuous Improvement**

We recommend management consider:

Recommendation 8: Review and communicate to the Board the status of overall Staff Capacity Planning including the historical vs. current ratio of Metro FTEs to consultants.

Recommendation 9: Review and communicate to the Board the benefits of the continued use of external consultants given competing considerations related to cost, institutional knowledge and succession planning.

Recommendation 10: Review and communicate to the Board opportunities to hire and train local community members.

Recommendation 11: Review and communicate to the Board the opportunities to bridge or prepare for the next PMSS Contract solicitation.

# Review of PMSS Best Practices to Fund & Extend Professional Services Contracts

Office of the Inspector General

Report No. 2021-0669

## MANAGEMENT COMMENTS

Issue Category	No.	Recommendations	Agree or Disagree	Assigned Staff	Proposed Action	Estimated Completion Date
Performance Evaluation	1	Develop written policies and procedures to establish a comprehensive and regular process for evaluating vendor performance under a professional services contract. A standard checklist used monthly, quarterly or other regular basis, can be used to document vendor's compliance with key performance indicators.	Agree	DEO Program Control	Will memorialize the annual contract performance evaluation process already in place with a policy/procedure.	12/31/21
Performance Evaluation	2	Describe key performance indicators (KPIs) to identify and track performance metrics for the vendor. These KPIs should likewise demonstrate management's use of best practices to maximize use of vendor's best efforts toward the success of the capital program.	Agree	Sr. EO Program Control	Institutional KPI's already exist to track performance metrics. Share institutional KPIs already in existence.	6/30/22
Performance Evaluation	3	Include in the board presentation a summary of management's quality review actions and statement of findings on KPIs affirming vendor's satisfactory performance for improved communication, accountability, and transparency for the Board, the public and regulators of Metro.	Agree	DEO Program Control	Will investigate and implement as necessary	6/30/22
Budget Controls & Status	4	For future indefinite delivery cost-reimbursement type contracts like the PMSS Contract, establish long-term initial baseline budget using estimated soft costs associated	Agree	Sr. EO Program Control	Will implement baseline tracking for FY23 task orders, if applicable.	7/1/2022

# Review of PMSS Best Practices to Fund & Extend Professional Services Contracts

Office of the Inspector General

Report No. 2021-0669

Issue Category	No.	Recommendations	Agree or Disagree	Assigned Staff	Proposed Action	Estimated Completion Date
		across identified and identifiable program/project budgets to serve as a necessary budget control measure over the term of the contract. An initial baseline budget may be superseded by a re-baselined budget with documented justification.				
Budget Controls & Status	5	For each Board presentation, document the reasons for the variance between management's initial or revised baseline budget/Recommended NTE, and the Actual NTE.	Partially Agree	DEO Program Control	Although board reports already include variance information, will add variance tracking to FY23 task orders.	7/1/2022
Budget Controls & Status	6	For any multi-year cost-reimbursement professional services contract, planning and developing multi-year CWOs is recommended to encourage longer-term staff capacity planning, to minimize administrative efforts required to annually revise individual CWOs, and for OMB to use programmed budget allocation	Agree	Sr. EO Program Control	As per APTA Peer Review, Study already underway to evaluate Metro staff to consultant ratio.	6/30/22
Budget Controls & Status	7	For any multi-year cost-reimbursement professional services contract providing services across projects, issuing 1-to-1 CWOs or 1 to multiple CWOs which ever one is most efficient based upon the consultation with project management, VCM, accounting and the vendor to confirm which method best facilitates budget tracking and make	Agree	DEO Program Control	No action necessary as this is already the existing practice.	10/29/21

# Review of PMSS Best Practices to Fund & Extend Professional Services Contracts

Office of the Inspector General

Report No. 2021-0669

Issue Category	No.	Recommendations	Agree or Disagree	Assigned Staff	Proposed Action	Estimated Completion Date
		more efficient the invoicing process for CWOs.				
Contract Efficacy/ Continuous Improvement	8	Review and communicate to the Board the status of overall Staff Capacity Planning including the historical vs. current ratio of Metro FTEs to consultants.	Agree	Sr. EO Program Control	Will occur as part of ongoing update to Program Management Plan.	6/30/22
Contract Efficacy/ Continuous Improvement	9	Review and communicate to the Board the benefits of the continued use of external consultants given competing considerations related to cost, institutional knowledge and succession planning.			Board report language already included that states 'Metro is continuing to undertake the largest transportation construction program in the nation. This creates an unprecedented challenge to project delivery. Recognizing that staffing is a key factor in project delivery, Program Management is committed to developing strengths in its capacity and capability to ensure the multi-billion-dollar capital program can be successfully managed. Attachment E lists the projects that the Contract currently supports and those we anticipate it will support over the duration of the PMSS contract.  Metro staff works with KTJV to scale staff up or down depending on Metro's transit, highway, regional rail and other capital improvement program needs. With the volume of work that accompanies Metro's fast-paced Capital program, the PMSS Contract utilization to assist Program Management in securing enough qualified, flexible resources across a broad spectrum of disciplines in a timely manner needed to manage and support delivery of Board approved projects has increased significantly.'	
			Partial	Sr. EO Program Control		10/29/21
Contract Efficacy/ Continuous Improvement	10	Review and communicate to the Board opportunities to	Agree	EO, DEOD	Investigate program to implement at agency level	6/30/2022

# Review of PMSS Best Practices to Fund & Extend Professional Services Contracts

Office of the Inspector General

Report No. 2021-0669

Issue Category	No.	Recommendations	Agree or Disagree	Assigned Staff	Proposed Action	Estimated Completion Date
		hire and train local community members.				
Contract Efficacy/ Continuous Improvement	11	Review and communicate to the Board the opportunities to bridge or prepare for the next PMSS Contract solicitation.	Agree	DEO Program Control	Current board report already states 'During these final years of the contract, Metro will begin procurement of a new contract to ensure a seamless transition of services to mitigate disruption to the projects in need of consultant staff.'	11/18/21



# Review of PMSS Best Practices to Fund & Extend Professional Services Contracts

Office of the Inspector General

Report No. 2021-0669

## ATTACHMENTS

A	Interviews & Materials	C	Staffing Levels (Program Management)
B	PMSS Labor Categories		

## ATTACHMENT A

### Staff Interviews

No.	Name	Title	Department	Date	Interview Type
1	Bruce Warrensford	DEO, Procurement	Vendor/Contract Management	9/13/2021	Telephone
2	Jesse Solis	EO, Finance/Controller	Office of Management/Budget	9/13/2021	Email
3	Julie Owen	Sr. EO, Project Management Oversight, Program Control (PMO/PC)	Program Management	9/15/2021 9/24/2021 10/08/21 10/15/21	TEAMS, Email
4	Robert Romanowski	Principal Contract Administrator	Vendor/Contract Management	9/16/2021 9/17/2021 9/20/2021 09/28/21 10/07/21 10/08/21	TEAMS, Email
5	Brad Owens	EO, Projects Engineering	Program Management	9/28/2021	TEAMS
6	Marie Kim	DEO, Finance	Office of Management/Budget	9/29/2021	TEAMS
7	Michael Martin	DEO, Program Management	Program Management	9/29/2021 10/08/2021 10/13/2021	Telephone, Email
8	Mayumi Lyons	DEO, Construction & Project Management SPRT Program Control	Program Management	9/30/2021 10/04/21 10/08/21	TEAMS, Email

Board Presentations

<b>Contract No. AE35279 Program Management Support Services (PMSS)</b>	
	<b>Type</b>
Contract No. AE35279 Program Management Support Services (PMSS)	Contract
	<b>Item No./File No.</b>
Construction Committee Meeting: Staff Report	#14 / 2017-0188
Metro Board: Staff Report	#48 / 2017-0419
Metro Board: Staff Report	#48 / 2017-0419
Metro Board Minutes	#48 / 2017-0419
Construction Committee Meeting: Staff Report	#31 / 2019-0153
Metro Board: Staff Report (Same as Construction Committee)	#31 / 2019-0153
Metro Board Minutes with Solis Amendment	#31 / 2019-0153
Construction Committee Meeting: Staff Report	#25 / 2020-0283
Metro Board: Staff Report (Same as Construction Committee)	#25 / 2020-0283
Metro Board Minutes	#25 / 2020-0283
Construction Committee Meeting: Staff Report	#32 / 2021-0250
Metro Board: Staff Report (Same as Construction Committee)	#32 / 2021-0250
Metro Board Minutes with Najarian Amendment	#32 / 2021-0250
<b>Contract No. AE5818600MC072-PLE2 Construction Management Support Services (CMSS)</b>	
	<b>Type</b>
Contract No. AE5818600MC072-PLE2 Construction Management Support Services (CMSS)	Contract
Metro Board: Staff Report	#1 / 2016-0610
Metro Board Minutes	
Finance, Budget and Audit Committee	

Federal, State, LACMTA Authorities, Policies & Procedures

<b>FEDERAL AUTHORITIES</b>
Federal Transportation Agency (FTA) Circular 4220.1F, Rev. 4, March 18, 2013
Federal Transportation Agency (FTA) Best Practices Procurement & Lessons Learned Manual, Revised October 2016, FTA Report No. 0105
Federal Acquisition Regulation (FAR) - Found at Chapter 1 of Title 48 of the Code of Federal Regulations (CFR); organized into 53 parts.

# Review of PMSS Best Practices to Fund & Extend Professional Services Contracts

Office of the Inspector General

Report No. 2021-0669

Mlinarchik, Christoph (2021 Ed.) Federal Acquisition Regulation in Plain English (Self Published)	
Contract Attorneys Deskbook, The Judge Advocate Generals Legal Center and School United States Army (2021)	<a href="#">Contract Attorneys Deskbook 2021 (loc.gov)</a>
<b>STATE AUTHORITIES</b>	
California Government Code (GOV), Title 1, Division 5 Public Work and Public Purchases [See GOV Sections 4525-4529.20]	
California Public Contracting Code (PCC), Division 1, Purpose and Preliminary Matters & 2 General Provisions, [See PCC Sections 100-9204.]	
California Public Utilities Code (PUC) Division 12. County Transportation Commissions [See PUC Sections 130000-13028.1]	
California PUC, Chapter 2. Creation of Commissions [See PUC 130050-130059; in particular PUC Section 130051, et. seq.	
AB5	
<b>LACMTA: AGENCY AUTHORITIES &amp; PLANNING DOCUMENTS</b>	
<b>Board of Directors</b>	
Board Rules and Procedures, Adopted 1993, Rev. 2017	<a href="#">Microsoft Word - Board Rules and Procedures (metro.net)</a>
	<a href="#">March 2010 Board Meeting - Item 34 (metro.net)</a>
	-
	-
<b>Chief Executive Officer</b>	
LACTMA Program Management Plan, October 19, 2016	<a href="#">Program Management Plan - Measure M (metro.net)</a>
The Reimagining of LA County - CEO Memorandum dated April 8, 2020	-
(And Staff Reports submitted to Board Committees and Full Board in February 2019)	-
	-
<b>LACMTA Administrative Code</b>	
<b>LACMTA: OFFICE OF MANAGEMENT &amp; BUDGET</b>	
LACMTA Metro 2017 Funding Sources Guide	
LACMTA Metro Funding Website	-
LACMTA Office of Management & Budget - Frequently Asked Questions	<a href="#">Measure M - LA Metro FAQs (sharepoint.com)</a>
LACMTA Office of Management & Budget - FY 2018 Budget	<a href="#">FAQs (sharepoint.com)</a>
LACMTA Office of Management & Budget - FY 2019 Budget	
LACMTA Office of Management & Budget - FY 2020 Budget	

## Review of PMSS Best Practices to Fund & Extend Professional Services Contracts

**Office of the Inspector General**

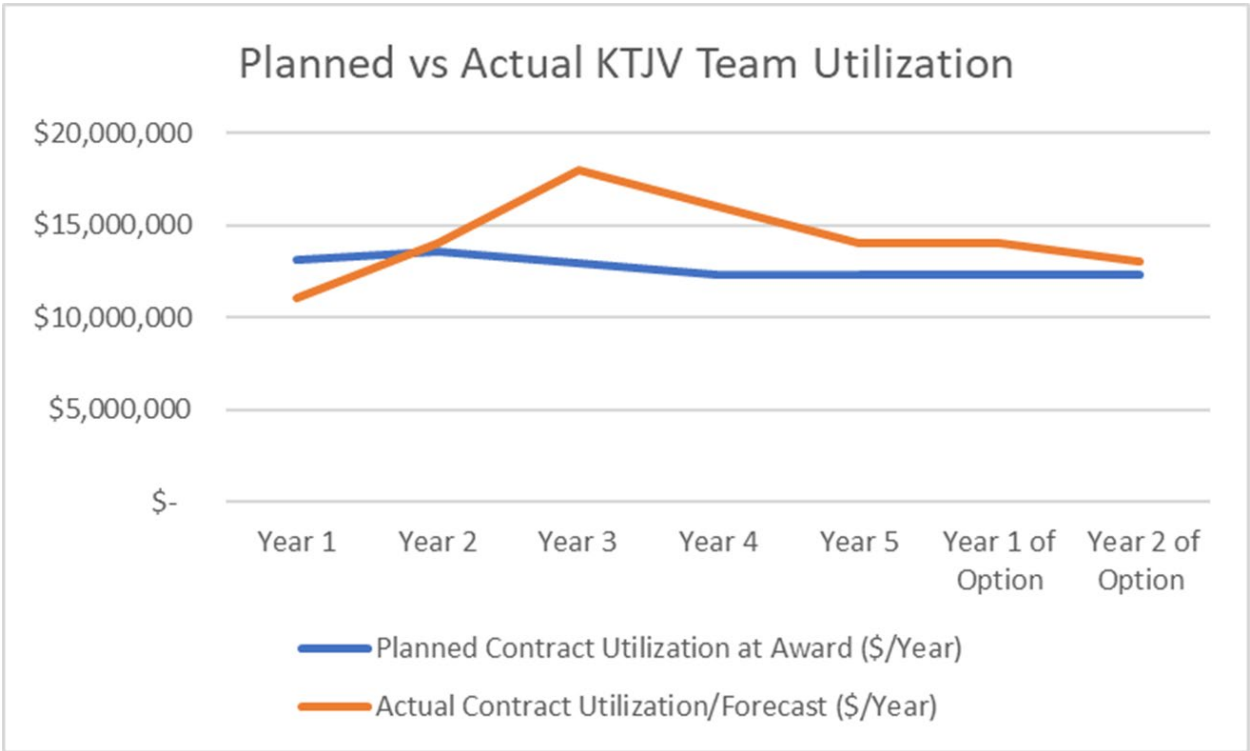
**Report No. 2021-0669**

LACMTA Office of Management & Budget - FY 2021 Budget	
LACMTA Office of Management & Budget - FY 2022 Budget	
OMB - POLICIES & PROCEDURES - (not provided by Staff)	
<b>LACMTA: CAPITAL PROGRAMS/PROGRAM MANAGEMENT</b>	
LACMTA Program Management Consultant Evaluation Form	
PROGRAM MANAGEMENT - POLICIES & PROCEDURES - NONE FOUND	<a href="#">Consultant Evaluation Form - yohana test (sharepoint.com)</a>
PROJECT MANAGEMENT - POLICIES & PROCEDURES - NONE FOUND	
CONSTRUCTION MANAGEMENT - POLICIES & PROCEDURES - NONE FOUND	
“Estimating Soft Costs for Major Public Transportation Fixed Guideway Projects” published by the Transit Cooperative Research Program (2010)	<a href="#">TCRP Report 138 – Estimating Soft Costs for Major Public Transportation Fixed Guideway Projects (reconnectingamerica.org)</a>
<b>LACMTA: VENDOR CONTRACT MANAGEMENT</b>	
Acquisition Policy Statement ACQ-1	
Acquisition Policy & Procedure Manual ACQ-2	<a href="#">Pages - ACQ-2 (sharepoint.com)</a>
Vendor/Contract Management - Your Guide to Mastering Procurement for Professional Services and Construction Services, Edition 3 (2018)	<a href="#">Microsoft Word - Draft APPM Update 1 2021 (sharepoint.com)</a>
	<a href="#">V/CM Client Guide.pdf (sharepoint.com)</a>
<b>LACTMA: OFFICE OF INSPECTOR GENERAL</b>	
Capital Project Construction Best Practices Study, Report No. 16-AUD-01, dated February 29, 2016 (CPC Best Practices Audit).	

ATTACHMENT B

	<b>PMSS Labor Categories</b>
1	Administrative
2	Cost Estimating Manager
3	Cost Estimator
4	Cost/Schedule Analyst
5	Hosting Technical Support
6	PMIS Implementation Lead
7	PMIS Implementation Support
8	Project Control Manager
9	Project Control Supervisor
10	Project Delivery & Contract Development Technical Advisor
11	Project Manager
12	Program Manager (Administrative)
13	Program Manager (Technical)
14	Secretary
15	Senior Configuration Management Analyst
16	Senior Contract Administrator
17	Senior Contract Compliance Officer
18	Senior Cost Estimator
19	Senior Cost/Schedule Analyst
20	Senior Program Management Analyst
21	Senior Programmer
22	Senior Training Specialist
23	Solution Architect
24	Training Manager

Staffing Levels (provided by Program Management)



	KTJV PMSS Scope Item:	Year 5 Planned FTEs:	FY22 Actual FTEs:	+/-
1	Program Management	4	6	2
2	Project Management	2	5	3
3	Contract Development	7	12	6
4	Project Controls	8	6	-2
5	Cost Estimating	16	14	-2
6	Configuration Management	3	5	2
7	PM Training	1	0	-1
8	PMIS Support	2	5	3
	<b>TOTALS:</b>	<b>41</b>	<b>53</b>	<b>11</b>

**Schedule for Tracking Metro's Proposed Actions to Implement the Recommendations  
PMSS Best Practices to Fund & Extend Professional Services Contracts**

<b>Issue Category</b>	<b>No.</b>	<b>Recommendations</b>	<b>Agree or Disagree</b>	<b>Assigned Staff</b>	<b>Proposed Action</b>	<b>Estimated Completion Date</b>
Performance Evaluation	1	Develop written policies and procedures to establish a comprehensive and regular process for evaluating vendor performance under a professional services contract. A standard checklist used monthly, quarterly or other regular basis, can be used to document vendor's compliance with key performance indicators.	Agree	DEO Program Control	Will memorialize the annual contract performance evaluation process already in place with a policy/procedure.	12/31/21
Performance Evaluation	2	Describe key performance indicators (KPIs) to identify and track performance metrics for the vendor. These KPIs should likewise demonstrate management's use of best practices to maximize use of vendor's best efforts toward the success of the capital program.	Agree	Sr. EO Program Control	Institutional KPI's already exist to track performance metrics. Share institutional KPIs already in existence.	6/30/22
Performance Evaluation	3	Include in the board presentation a summary of management's quality review actions and statement of findings on KPIs affirming vendor's satisfactory performance for improved communication, accountability, and transparency for the Board, the public and regulators of Metro.	Agree	DEO Program Control	Will investigate and implement as necessary	6/30/22
Budget Controls & Status	4	For future indefinite delivery cost-reimbursement type contracts like the PMSS Contract, establish long-term initial baseline budget using estimated soft costs associated across identified and identifiable program/project budgets to serve as a necessary budget control measure over the term of the contract. An initial baseline budget may be superseded by a re-baselined budget with documented justification.	Agree	Sr. EO Program Control	Will implement baseline tracking for FY23 task orders, if applicable.	7/1/2022
Budget Controls & Status	5	For each Board presentation, document the reasons for the variance between management's initial or revised baseline budget/Recommended NTE, and the Actual NTE.	Partially Agree	DEO Program Control	Although board reports already include variance information, will add variance tracking to FY23 task orders.	7/1/2022
Budget Controls & Status	6	For any multi-year cost-reimbursement professional services contract, planning and developing multi-year CWOs is recommended to encourage longer-term	Agree	Sr. EO Program Control	As per APTA Peer Review, Study already underway to	6/30/22

**Schedule for Tracking Metro's Proposed Actions to Implement the Recommendations  
PMSS Best Practices to Fund & Extend Professional Services Contracts**

<b>Issue Category</b>	<b>No.</b>	<b>Recommendations</b>	<b>Agree or Disagree</b>	<b>Assigned Staff</b>	<b>Proposed Action</b>	<b>Estimated Completion Date</b>
		staff capacity planning, to minimize administrative efforts required to annually revise individual CWOs, and for OMB to used programmed budget allocation			evaluate Metro staff to consultant ratio.	
Budget Controls & Status	7	For any multi-year cost-reimbursement professional services contract providing services across projects, issuing 1-to-1 CWOs or 1 to multiple CWOs which ever one is most efficient based upon the consultation with project management, VCM, accounting and the vendor to confirm which method best facilitates budget tracking and make more efficient the invoicing process for CWOs.	Agree	DEO Program Control	No action necessary as this is already the existing practice.	10/29/21
Contract Efficacy/ Continuous Improvement	8	Review and communicate to the Board the status of overall Staff Capacity Planning including the historical vs. current ratio of Metro FTEs to consultants.	Agree	Sr. EO Program Control	Will occur as part of ongoing update to Program Management Plan.	6/30/22
Contract Efficacy/ Continuous Improvement	9	Review and communicate to the Board the benefits of the continued use of external consultants given competing considerations related to cost, institutional knowledge and succession planning.	Partial	Sr. EO Program Control	Board report language already included that states 'Metro is continuing to undertake the largest transportation construction program in the nation. This creates an unprecedented challenge to project delivery. Recognizing that staffing is a key factor in project delivery, Program Management is committed to developing strengths	10/29/21



**Schedule for Tracking Metro's Proposed Actions to Implement the Recommendations  
PMSS Best Practices to Fund & Extend Professional Services Contracts**

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<b>Issue Category</b>	<b>No.</b>	<b>Recommendations</b>	<b>Agree or Disagree</b>	<b>Assigned Staff</b>	<b>Proposed Action</b>	<b>Estimated Completion Date</b>
					<p>in its capacity and capability to ensure the multi-billion-dollar capital program can be successfully managed. Attachment E lists the projects that the Contract currently supports and those we anticipate it will support over the duration of the PMSS contract.</p> <p>Metro staff works with KTJV to scale staff up or down depending on Metro's transit, highway, regional rail and other capital improvement program needs. With the volume of work that accompanies Metro's fast-paced Capital program, the PMSS Contract utilization to assist Program Management in securing enough qualified, flexible</p>	

**Schedule for Tracking Metro's Proposed Actions to Implement the Recommendations  
PMSS Best Practices to Fund & Extend Professional Services Contracts**

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<b>Issue Category</b>	<b>No.</b>	<b>Recommendations</b>	<b>Agree or Disagree</b>	<b>Assigned Staff</b>	<b>Proposed Action</b>	<b>Estimated Completion Date</b>
					resources across a broad spectrum of disciplines in a timely manner needed to manage and support delivery of Board approved projects has increased significantly.'	
Contract Efficacy/ Continuous Improvement	10	Review and communicate to the Board opportunities to hire and train local community members.	Agree	EO, DEOD	Investigate program to implement at agency level	6/30/2022
Contract Efficacy/ Continuous Improvement	11	Review and communicate to the Board the opportunities to bridge or prepare for the next PMSS Contract solicitation.	Agree	DEO Program Control	Current board report already states 'During these final years of the contract, Metro will begin procurement of a new contract to ensure a seamless transition of services to mitigate disruption to the projects in need of consultant staff.'	11/18/21



# **Los Angeles County Metropolitan Transportation Authority Office of the Inspector General**

## **Review of Project Management Support Services (PMSS) Best Practices to Fund & Extend Professional Services Contracts**

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**Karen Gorman, Inspector General**  
**November 18, 2021**



**Legistar File # 2021-0669**

**Board requested an audit report,  
“To hear how well the original  
contract was performed.”**

**OIG Examined:**

- ▶ Performance Evaluation
- ▶ Budget Controls
- ▶ Contract Efficacy / Continuous Improvement



# RECOMMENDATIONS



## PERFORMANCE EVALUATION

- ❖ Develop procedures to evaluate vendor
- ❖ Identify Key Performance Indicators (KPIs) to track vendor performance
- ❖ Add to Board presentations a summary of KPIs

# RECOMMENDATIONS



## BUDGET CONTROLS

- ❖ Establish long-term initial budget baseline from estimated soft costs
- ❖ Add to Board presentations variance between Initial and revised baseline budget
- ❖ Develop multi-year work orders for long-term staff capacity planning
- ❖ Consider 1-to-1 verses multiple work orders if it eases budget tracking and invoicing



# RECOMMENDATIONS



## CONTRACT EFFICACY / CONTINUOUS IMPROVEMENT

Communicate to Board:

- ❖ Staff capacity planning historical vs. current ratio of FTEs to consultants
- ❖ Pros and cons of consultants vs. FTEs related to cost, institutional knowledge, and succession planning
- ❖ Opportunities to hire and train local community
- ❖ Opportunities to prepare for next PMSS contract

Base/Option Year	Board Presentation	Description	Cost Increment	FY NTE
1	6/22/2017	2018 & 2019	24,970,960	24,970,960
2	4/25/2019	2020	\$25,339,082	\$51,306,204
3	5/28/2020	2021	\$12,041,501	\$63,347,705
4	5/27/2021	2022	10,296,886	\$73,644,591
Pending - Option		2023-2024	27,461,365	\$101,105,956

## PMSS RENEWAL

### Facts at a Glance