

# ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



## Limited-Scope Audit: Right-of-Way Acquisition Activities for Interstate 405 Improvement Project

**Internal Audit Report No. 18-502**

September 27, 2017



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## **Conclusion**

The Internal Audit Department (Internal Audit) has completed a limited-scope audit of right of way acquisition activities for the Interstate 405 (I-405) Improvement Project (I-405 Project). Based on the audit, administrative settlement and incentive program payments have been properly authorized and reported to the Board of Directors (Board); however, initial activities were not reported timely and reports are not provided as frequently as requested by the Regional Planning and Highways Committee (RP&H) and the Board.

## **Background**

### I-405 Project

The I-405 Project will add one general purpose lane in each direction from Euclid Street to Interstate 605 (I-605), consistent with the voter-approved Measure M2 Project K. The I-405 Project will also construct an additional lane in each direction that will be combined with the existing high-occupancy vehicle lane to provide dual express lanes in each direction from State Route 73 to I-605.

On April 27, 2015, the Board authorized a design-build cooperative agreement with the California Department of Transportation (Caltrans) for OCTA to be the lead agency to implement the I-405 Project. The cooperative agreement identifies OCTA as the lead agency in the property acquisition phase. As the lead agency, OCTA acquires all necessary property for the project.

### Incentive Payment Program and Modified Settlement Delegation Authority

At the September 11, 2015 RP&H meeting, staff requested authorization for the Chief Executive Officer (CEO) to implement the Interstate 405 Acquisition-Incentive Payment Program (Program) and to execute agreements under a modified settlement delegation authority for the I-405 Project. The Program offers an incentive of 20 percent of the appraised value, with a minimum of \$1,000 and maximum of \$100,000, to all property owners that execute an agreement within 60 days of the first written offer. The CEO's modified settlement authority represented an increase to existing levels in order to expedite acquisition of properties for the I-405 Project.

The RP&H recommended approval of the Program and modified settlement authority for the CEO, but directed staff to provide monthly reports of settlement activities. On September 28, 2015, the Board approved the Program and modified settlement authority with the addition of a 30-day reporting requirement.

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Staff provides a list of administrative settlements and Program payments to OCTA's legal counsel. OCTA legal counsel transmits the information to the Board on a quarterly basis, along with a litigation summary.

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## **Objectives, Scope, and Methodology**

The objectives were to assess and test compliance with approval and reporting requirements for administrative settlements and the Program for the I-405 Project.

The scope was limited to compliance with approval and reporting requirements for administrative settlements and the Program for the I-405 Project. The scope excluded assessment of compliance with state and federal laws and regulations, due to ongoing disputes between OCTA and Caltrans regarding the interpretation of right of way regulations as a result of a Caltrans' Incurred Cost Audit.

The methodology consisted of a review of controls over authorizing administrative settlements and reporting administrative settlements and contracts executed under the Program. Internal Audit reviewed all administrative settlements and a sample of 25 contracts for compliance with authorization thresholds, the Program, and/or other policies and procedures, for evidence of controls, and for accuracy and timeliness of reporting to the Board. The 25 contracts were haphazardly selected from the general ledger record of payments made for I-405 Project acquisitions. Since the sample is non-statistical, any conclusions are limited to the sample items tested.

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.

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**Audit Comment, Recommendation, and Management Response**

**Reporting of Administrative Settlements and Contracts Executed under Incentive Payment Program**

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The reporting of administrative settlements and contracts executed under the Program did not begin timely and reports are not provided monthly as requested by RP&H and the Board. The first report was provided on January 31, 2017, as part of legal counsel's quarterly litigation report to the Board; however, this was several months after the first contracts were signed. Internal Audit also identified some minor errors in the dates, amounts, and descriptions in the administrative settlement and contract lists included in the report.

**Recommendation 1:**

Internal Audit recommends that management develop written procedures for the reporting of administrative settlements and contracts executed under the Program for the I-405 Project. The procedures should identify the frequency and method of reporting.

**Management Response:**

The Real Property Department has drafted a written procedure for the reporting of administrative settlements and contracts executed under the Program for the I-405 Project. The procedure identifies the frequency and method of reporting and includes two exhibits illustrating the format of each report. The I-405 Modified Settlement Delegation Authority Administrative Settlements Authorized Report format will now reflect the appraisal amount, additional compensation amount, total contract amount, and the calculated percentage of the settlement.