



February 26, 2025

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit

Subject: Audit of Oversight Controls and Contract Compliance Related to Agreement No. C-9-1177 with Cofiroute USA, LLC for 91 Express Lanes Operations

Overview

The Internal Audit Department of the Orange County Transportation Authority has completed an audit of oversight controls and contract compliance related to Agreement No. C-9-1177 with Cofiroute USA, LLC for 91 Express Lanes operations. Based on the audit, management exercises oversight of Cofiroute; however, recommendations have been made to enforce all contract requirements, develop procedures for waivers of liquidated damages and penalties, improve performance reporting, and enhance invoice review controls.

Recommendation

Direct staff to implement four recommendations provided in Audit of Oversight Controls and Contract Compliance Related to Agreement No. C-9-1177 with Cofiroute USA, LLC for 91 Express Lanes Operations, Internal Audit Report No. 24-508.

Background

The 91 Express Lanes (91EL) is a four-lane, 18-mile tolled facility built in the median of California's Riverside Freeway (State Route 91) between the Costa Mesa Freeway (State Route 55) in the City of Anaheim and the Interstate 15 interchange in the City of Riverside. The 91EL toll road is jointly managed by the Orange County Transportation Authority (OCTA) and the Riverside County Transportation Commission (Agencies) with operations and maintenance of the toll road outsourced to Cofiroute USA, LLC (Cofiroute). In January 2020, the Agencies entered into a seven-year agreement with Cofiroute to design,

implement, install, operate, and maintain a back-office system and operate a customer service center for the 91EL. The agreement defines two phases, an Implementation Phase and a Maintenance and Operations Phase.

The Implementation Phase included 19 distinct milestones with a fixed amount to be paid for completion of each. The agreement required Cofiroute to submit a Baseline Implementation Schedule with completion dates for each milestone. Additional requirements for this phase included a guaranteed completion date for the back-office system, Agencies' written approval of Cofiroute's submittals, ten percent retention of all milestone payments, and liquidated damages for failure to meet the guaranteed completion date, or "Go-Live" date. The Maintenance and Operations Phase began after the back-office system Go-Live date. During this phase, Cofiroute is required to bill the Agencies monthly, based on fixed monthly prices, variable unit prices, and pass-through costs outlined in the agreement. Cofiroute is required to meet certain performance measures, submit monthly performance scorecards, and provide monthly status reports highlighting traffic and revenue statistics, operational and financial highlights, and peak hour volumes.

Discussion

Back-office system implementation milestones have been significantly delayed, and the milestones for operational and acceptance testing and final acceptance have yet to be completed. Half of the liquidated damages related to the delays were waived, and some of the milestones lacked evidence of timely formal approval from the Agencies. Internal Audit recommended that management enhance its project management oversight to ensure vendors are held accountable to contract requirements and develop policies and procedures to address parameters and authorization thresholds for waiving liquidated damages. Management agreed and will develop policies and procedures to address waiving damages and will work with their consultant, HNTB Corporation, to submit formal approval letters for the remaining milestones.

Cofiroute has not consistently provided complete and accurate reporting of performance measure results and its plans to correct failures. Internal Audit identified 100 performance measure failures out of 520 tested. Cofiroute failed to provide a formal Corrective Action Plan for the failures, as required by the agreement. Internal Audit calculated \$1,246,218.39 in penalties due to OCTA related to these failures; however, \$782,012.72 of these penalties were waived. Internal Audit recommended management strengthen enforcement of contract requirements related to performance measures and develop a policy to address parameters and authorization thresholds for penalty waivers. Management agreed to enhance documentation of monthly performance standards review

and to strengthen oversight by developing a performance standards checklist. Management is also committed to developing a policy to address parameters and authorization thresholds for penalty waivers.

Performance measure results reported to the Board of Directors through the 91 Express Lanes Monthly Status Reports (reports) are not calculated in accordance with the agreement. Internal Audit recommended management adjust reports to reflect results against standards, as outlined in the agreement. Management agreed and has implemented this recommendation starting with the November 2024 report.

Invoices do not meet all the requirements of the agreement and complete invoice packages are not available in the accounts payable file. Internal Audit recommended management utilize an invoice review checklist to ensure all invoice requirements are met and include all supporting documentation with the invoice package submitted to the Accounts Payable Department (Accounts Payable). Management agreed with the recommendation and developed an invoice review checklist. Additionally, beginning with the June 2024 invoice, the entire invoice package is being submitted to Accounts Payable, as recommended.

Summary

Internal Audit has completed an audit of oversight controls and contract compliance related to Agreement No. C-9-1177 with Cofiroute USA, LLC for 91 Express Lanes operations and has offered four recommendations for improvement.

Attachment

- A. Audit of Oversight Controls and Contract Compliance Related to Agreement No. C-9-1177 with Cofiroute USA, LLC for 91 Express Lanes Operations

Prepared by:



Ricco Bonelli
Principal Internal Auditor
714-560-5384

Approved by:



Janet Sutter
Executive Director, Internal Audit
714-560-5591