

**DEPARTMENT OF TRANSPORTATION****AUDITS AND INVESTIGATIONS**

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December 19, 2013

Ms. Patricia Taylor  
 Executive Director  
 Madera County Transportation Commission  
 2001 Howard Road, Suite 201  
 Madera, CA 93637

Re: Madera County Transportation Commission  
 Audit of Indirect Cost Allocation Plans for Fiscal Years 2010/2011 and 2011/2012  
 File Number: P1591-0087

Dear Ms. Taylor:

We have audited the Madera County Transportation Commission's (MCTC) Indirect Cost Allocation Plans (ICAP) for the fiscal year (FY) ended June 30, 2011, and June 30, 2012, to determine whether the ICAPs are presented in accordance with Title 2 of the Code of Federal Regulations (CFR) Part 225 and the California Department of Transportation's (Caltrans) Local Programs Procedures (LPP) 04-10. MCTC management is responsible for the fair presentation of the ICAPs. The MCTC proposed the following indirect cost rates:

| <b>Fiscal Year</b> | <b>Rate</b> |
|--------------------|-------------|
| 2010/2011          | 64.06 %     |
| 2011/2012          | 77.79 %     |

The rates are based on a percent of total direct salaries and wages, plus fringe benefits.

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. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of the MCTC. Therefore, we did not audit and are not expressing an opinion on the MCTC's financial statements.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the data and records selected. An audit also includes assessing the accounting principles used and significant estimates made by MCTC, as well as evaluating the overall presentation.

The FY 2010/2011 and 2011/2012 ICAPs were prepared on a basis of accounting practices prescribed in 2 CFR Part 225 and Caltrans' LPP 04-10, and are not intended to present the results of operations of MCTC in conformity with generally accepted accounting principles (GAAP).

The scope of the audit was limited to select financial and compliance activities. The audit consisted of a recalculation of the ICAPs, a limited review of MCTC's Overall Work Program for FY 2011/2012, a review of MCTC's audited financial reports for the FYs ended June 30, 2009 and 2010, and inquiries of MCTC personnel. Reliance was placed on the audit conclusions set forth in the single audit reports for the FYs ended June 30, 2009, and 2010. The audit also included tests of individual accounts to the general ledger and supporting documentation to assess allowability, allocability, and reasonableness of costs based on a risk assessment and an assessment of the internal control system as related to the ICAPs as of July 15, 2013. Financial management changes subsequent to this date were not tested and, accordingly, our conclusion does not pertain to changes arising after this date. We believe that our audit provides a reasonable basis for our conclusion.

Because of inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected. Also, projections of any evaluation of the financial management system to future periods are subject to the risk that the financial management system may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

Our findings and recommendations were communicated to Troy McNeil, MCTC Fiscal Supervisor, and Patricia Taylor, MCTC Executive Director, on October 22, 2013 and again on November 26, 2013. MCTC concurred with the findings detailed below. See Attachment VI for MCTC's full response.

## **AUDIT RESULTS**

Based on audit work performed, MCTC's ICAPs for the FY 2010/2011 and FY2011/2012 are presented in accordance with 2 CFR Part 225 and LPP 04-10, except as noted below. The approved indirect cost rates for FY 2010/2011 and FY 2011/2012 are 64.06 percent and 77.79 percent, respectively, of total direct salaries and wages, plus fringe benefits. The approval is based on the understanding that a carry forward provision applies and no adjustment will be made to previously approved rates.

MCTC has made progress in implementing corrective action to the audit findings identified in prior audits. However, MCTC has not demonstrated compliance with contract provisions and/or State and federal regulation as we found that MCTC has not implemented corrective actions to all findings, including the issue of an inadequate financial system and system of

contract administration. Therefore, given the results of our current audit, it is our recommendation that MCTC continue to be classified as a "High Risk" recipient of federal and State transportation funds in accordance with the provisions of 49 CFR 18.12. The "High Risk" designation should remain in effect until the MCTC has demonstrated compliance with contract provisions and State and federal regulations. A follow-up audit will not be performed until after MCTC has implemented the required corrective actions for a period of at least six months. We further recommend that the Caltrans continue increased oversight and monitoring of all transportation funds provided to MCTC.

On July 1, 2011 and March 5, 2012, Caltrans accepted the ICAP rates of 64.06 percent and 77.79 percent, respectively, for the billing and reimbursement purposes of respective FY costs. Because the approved rates are the same as the previously accepted rates, no adjustments are necessary to prior reimbursed claims.

## **Audit Findings**

### **Finding 1- Unresolved Prior Audit Finding**

A similar finding was originally reported in our audit report issued on March 4, 2010. As a result of our testing of direct costs billed to Caltrans, we found MCTC continued to have deficiencies in its financial management system and system of contract administration. (For criteria, see Attachment I, Finding 1). During the current audit we reviewed MCTC's billed costs and found two of the consultant agreements and associated costs billed contain at least two of the following issues:

- a. MCTC billed for subconsultant travel costs with a 15 percent mark-up fee, however, the allowable fee is 10 percent.
- b. MCTC billed for consultant/contractor costs that were not in accordance with contract payment terms. Specifically:
  - The contract payment terms were based on a traffic count rate however MCTC paid on a basis of percentage of completion. (This contract was entered into on September 23, 2009, however the invoice dates were for July and September 2010.)
  - The contract payment terms were based on specified hourly rates, however, MCTC billed at lower/higher rates than the rates approved in the contract.
- c. MCTC billed subconsultant costs in FY 2010/2011 for work performed in FY 2009/2010.
- d. The consultant's proposal added a 10 percent mark-up fee to the subconsultant's cost estimate. The subconsultant payment terms were based on specified hourly rates, which include overhead and profit; as such mark-ups are deemed additional profit and are unallowable.
- e. A contract was amended on January 16, 2012, for the purpose of extending the contract end date, 16 days after the agreement expired.

In addition, in our review of the executed agreements between MCTC and the consultants we found three agreements lacked provisions required by the Master Fund Transfer Agreement (MFTA) between MCTC and Caltrans. Specifically, the agreements lacked critical clauses detailing, applicable cost principles, requirements for travel and subsistence, third party

contracting, record retention requirements, Caltrans' right to audit and accounting system requirements.

The lack of adequate contract management, internal controls and recording of costs, increases the risk of noncompliance with federal and State requirements, which may result in disallowed costs. Further, contracts lacking the required contract provisions increase MCTC's and Caltrans' risk of paying for unallowable costs. Also, the recipient is not given sufficient notice regarding the rules and regulations that it must comply with as a recipient of funds.

### **Recommendation**

We recommend MCTC:

- Strengthen its system of internal controls to ensure that an adequate financial management system and system of contract administration is in place.
- Provide staff adequate training to ensure an effective administration of contracts.
- Ensure contractor payment terms, conditions, and specifications are written with consideration to expected work product and billing.
- Implement policies and procedures which ensure that contractor payments are made in accordance to the terms, conditions, and specifications in their contracts.
- Implement policies and procedures which ensure that costs are recorded in the same FY in which they were incurred.
- Exclude language allowing mark-ups on sub-consultant costs on MCTC's executed consultant contracts.
- Implement policies and procedures which ensure that all contract amendments are fully executed before the ending date of the agreement.
- Include in its agreements with subrecipients, contractors and subcontractors, the provisions listed in Attachment II.
- Amend any current agreements with subrecipients that receive Caltrans funds to include the provisions listed in Attachment II.
- Not bill Caltrans for unsupported/unallowable costs.

### **Finding 2**

MCTC lacks an adequate process to administer the Regional Surface Transportation Program (RSTP) funds. MCTC did not comply with contract administration provisions as required by the agreement between MCTC and Caltrans. The specific provisions are listed in Attachment III. In addition, MCTC did not execute individual formal written agreements between MCTC and the subrecipients. As a result, the subrecipients were not required to comply with fund requirements as well as with critical clauses such as, applicable costs principles, requirements for travel and subsistence, third party contracting, record retention requirements, Caltrans' right to audit and accounting system. See Attachment IV for the required provisions. (For criteria, see Attachment I, Finding 2)

Not performing adequate contract management and oversight of the RSTP funds and not having written agreements with fund recipients increases MCTC's and Caltrans' risk of paying for unsupported costs.

Based on our review, we determined that \$674,089 of the \$1,261,075 in RSTP exchange funds are questioned as \$586,977 had not been expended nor allocated. MCTC stated they did not monitor the funds and although we reviewed the cost reports provided to MCTC by the RSTP recipients during the audit, it is ultimately MCTC's responsibility to determine and provide the evidence that the costs were used for allowable activities.

### **Recommendation**

We recommend the following:

- MCTC establish written agreements with RSTP Exchange fund recipients to ensure compliance with the RSTP Exchange fund requirements, conditions and specifications.
- MCTC develop and implement RSTP Exchange Fund policies and procedures which ensure adequate contract management and oversight of the program funds.
- MCTC should ensure that the FY 2010/2011 and future fund recipients provide evidence to substantiate the project costs incurred by the fund recipients are in compliance with Section 133(b) and 133(c) of Title 23 United States Code and Article XIX of the California State Constitution.

### **Finding 3**

We found MCTC's request for reimbursements of labor costs are not fully supported as they are not based on actual hourly rates. (For criteria, see Attachment V, Finding 3). We found MCTC's hourly rates were miscalculated due to the following:

- MCTC's labor costs based on the payroll time period did not match the same labor hours time period, which were based on when the hours were worked during the quarter. For example, the first quarter labor costs were based on the payroll time period June 19, through September 24, 2010, while the hours worked were from July 1, through September 30, 2010.
- MCTC did not use proper year end cut-off procedures, as such MCTC incorrectly captured FY 2009/2010 costs in the calculation of the FY 2010/2011 first quarter labor costs and hourly rates.

Consequently, we found the hourly rates were misstated for all employees, both over and under on average by \$3.00 per hour. (Hourly rate was overstated for one employee by as much as \$4.62). In addition, MCTC's labor costs were over/under stated on a quarterly basis. The labor costs were overstated by approximately \$17,000 in quarters one and two and then understated by approximately the same amount in quarters three and four.

### **Recommendation**

MCTC should ensure:

- Labor costs billed on the quarterly invoices are reflective of the labor hours worked for the same period and upon the fiscal year, July 1 through June 30.
- To implement procedures which ensure that the hourly billing rates used to determine labor costs billed to Caltrans are accurately determined.

- The quarterly invoices include supporting documents such as schedules detailing how labor dollars were determined along with pay registers supporting the hourly rates.

#### **Finding 4**

During our testing of direct and indirect costs, we identified a few instances of internal control weaknesses as follows:

- Print/copy services were purchased with a signed blank check. The check was signed by the appropriate MCTC staff, but it did not include an amount to pay. The amount of the check was filled in by the staff once the print/copy job was completed. In addition, we found MCTC did not document that this transaction was approved for payment.
- The purchase requestor and the approval signature were the same person on a purchase approval form for the acquisition of an upgrade of Quickbooks.
- An employee was involved in a purchase for printing services from a family business. MCTC stated the employee (requestor) was not involved in the initial decision in 2008 to procure services from this vendor. However, we found the requestor was involved in the subsequent purchase in 2010, in that he obtained the quote, and prepared and processed the purchase request, which can be perceived as a conflict of interest.
- MCTC failed to properly document the approval for the payment of filing fees related to an Environmental Impact Report. The check was prepared and signed by the appropriate MCTC staff, however since the payment was made in person, MCTC did not document the approval for payment.

49 CFR Part 18.20 Section (b) (1) and (3) state, in part, that accurate current, and complete disclosure of the financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant. Also, effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

The lack of adequate internal controls and recording of costs increases the risk of noncompliance with federal and State requirements, which may result in disallowed costs.

#### **Recommendation**

We recommend MCTC strengthen its internal control process to ensure the following:

- All transactions, regardless of their nature, are properly approved for payment consistent with the established MCTC policies and procedures.
- MCTC employees have absolutely no involvement in the procurement of any goods or services from a related party, regardless if they are not in a capacity of making a final decision, in order to avoid the perception of conflict of interest.
- The requestor and the approver of a purchase request are different individuals.
- Staff is properly trained on procurement practices when management is not available.

This report is intended solely for the information of MCTC, Caltrans Management, the California Transportation Commission, and the Federal Highway Administration (FHWA). However, this report is a matter of public record. In addition, this report will be posted on Caltrans website.

Please retain the approved ICAP for your files. Copies were sent to the Caltrans District 6, Caltrans Division of Accounting and the FHWA. If you have any questions, please contact Elena Guerrero, Auditor, at (916) 323-7954 or Amada Maenpaa, Audit Manager, at (916) 323-7868.



ZILAN CHEN, Chief  
External Audits- Local Governments  
Audits and Investigations

Enclosures

- c: Janice Richard, Director of Financial Services, Federal Highway Administration
- Jermaine Hannon, Director, Planning and Air Quality, Federal Highway Administration
- Kara Magdaleno, Administrative Program Assistant Planning & Finance, Federal Highway Administration
- James Ogonna, Chief, Rural Transit and Intercity Bus Branch, Division of Mass Transportation, California Department of Transportation
- C. Edward Philpot, Jr., Branch Chief, Grants/Public Engagement, Office of Community Planning, California Department of Transportation
- Erin Thompson, Associate Transportation Planner, Regional and Interagency Planning, Division of Transportation Planning, California Department of Transportation
- Terry Farris, Senior Transportation Planner, State Transit Program, Office of State Policy, Research & Capital, Division of Mass Transportation, California Department of Transportation
- Lisa Gore, Associate Accounting Analyst, Local Program Accounting Branch, Division of Accounting, California Department of Transportation
- Karen Hunter, Rail Transportation Associate, Division of Rail, California Department of Transportation
- Lai Huynh, Audits & Federal Performance Measures Analyst, Division of Local Assistance, California Department of Transportation
- David Saia, LAPM/LAPG Coordinator, Division of Local Assistance, California Department of Transportation
- James Perrault, DLAE, Senior Transportation Engineer, Transportation Planning and Local Assistance Division, District 6 California Department of Transportation
- Michael Navarro, Chief North Planning, Transportation Planning and Local Assistance Division, District 6 California Department of Transportation
- Jennifer Bryan-Sanchez, Associate Transportation Planner, Transportation Planning and Local Assistance Division, District 6 California Department of Transportation

## Criteria

**Finding 1**

- 1a, c, d, e. 48 CFR Chapter 1, Part 31.204 (a), states, in part, costs shall be allowed to the extent they are reasonable, allocable, and determined to be allowed under 31.202 (direct costs).
- 1b. 48 CFR Chapter 1, Part 15.404 (c), states, in part, for other cost plus fixed fee contracts, the fee shall not exceed 10 percent of the contractor's estimated cost, excluding fee.
- 1b. The contract between MCTC and consultant section 4.06 states, in part, payment shall be in an amount based upon the hours spent on the work satisfactorily performed and the hourly billings rates for the person performing the work set forth in Exhibit A.
- 1c. The MFTA between MCTC and Caltrans, Article I, Section 1, item I, states that only work performed during the term of, and consistent with, the work elements in the OWP may be reimbursed. Reimbursements are based upon the fiscal year, July 1 - June 30. All work performed subsequent to the end of each fiscal year (June 30) can only be reimbursed in the following fiscal year and is subject to the approved OWP and annual OWPA for that corresponding fiscal year.
- 1a, c, e. 49 CFR Part 18.20 (b) (6) states, accounting records must be supported by such documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.
- 1b. 49 CFR Part 18.36 (b) (2) states, in part, grantees and subgrantees will maintain a contract administration which ensures that contractors perform in accordance to the terms, conditions, and specifications in their contracts or purchase orders.
1. The MFTA between MCTC and Caltrans requires MCTC to include in all of its agreements with subrecipients, contractors and subcontractors, amongst other provisions, all the provisions identified in Attachment III.

**Finding 2**

49 CFR Part 18.36 (b) (3) states, in part, grantees and subgrantees will maintain a contract administration which ensures that contractors perform in accordance to the terms, conditions, and specifications in their contracts or purchase orders.

49 CFR, Part 18.20 (b) (3) states, in part, effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

## Provisions Required By MFTA between Caltrans and MCTC

1. Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Personnel Administration for similar employees (i.e. non-represented employees) unless written verification is supplied that government hotel rates are not commercially available to MPO, or its contractors, its subcontractors, and/or its subrecipients, at the time and location required as specified in the California Department of Transportation's Travel Guide Exception Process.
2. MPO agrees, and shall require all of its contractors, subcontractors, and subrecipients to agree to the following: (a) the Contract Cost Principles and Procedures, 48 CFR Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., (subrecipients shall refer to 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments) shall be used to determine the allowability of individual project cost items, and (b) these parties shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
3. MPO shall maintain, and shall require its subrecipients, contractors, and its subcontractors to maintain all source documents, books and records connected with their performance of OWP work initiated under this MFTA and each applicable annual OWPA for a minimum of three (3) years from the date of final payment to MPO or until audit resolution is achieved for each annual OWPA, whichever is later, and shall make all such supporting information available for inspection and audit by representatives of the State, the Bureau of State Audits, or the Federal Government upon request. Copies will be made and furnished by MPO upon request at no cost to State.
4. MPO shall establish and maintain, and shall require that its subrecipients, contractors, and subcontractors shall establish and maintain, an accounting system conforming to GAAP to support Requests for Reimbursement which segregate and accumulate the costs of work elements by line item and produce Quarterly Reports which clearly identify reimbursable costs and other expenditures by OWP work elements.

Administration Provisions Required

By RSTP Exchange Funds Agreement Number X11-6138(032) between Caltrans and MCTC

1. RTPA agrees to allocate all of these Funds only for those projects (a) implemented by cities, counties, and other agencies as are authorized under Article XIX of the California State Constitution, in accordance with the requirements of Section 182.6(d)(1) of the Streets and Highways Code.
2. RTPA agrees to require project sponsors receiving those Funds provided under this Agreement to establish a special account for the purpose of depositing therein all payments received from RTPA pursuant to this Agreement: (a) for cities within their Special Gas Tax Street Improvement Fund, (b) for counties, within their County Road Fund, and (c) for all other sponsors, a separate account.
3. RTPA agrees, in the event a project sponsor fails to use Funds received hereunder in accordance with the terms of this Agreement, to require that project sponsor to return those exchange Funds to RTPA for credit to the account established under item 2 above. In the event of any such requirement by State, RTPA shall provide written verification to State that the requested corrective action has been taken.
4. RTPA shall not award a construction contract over \$10,000 or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Governmental Code Sections 4525 (d) (e) and (f)] on the basis of a non competitive negotiation for work to be performed using Funds without the prior written approval of State.
5. RTPA agrees that any subcontract or agreement entered into by RTPA as a result of disbursing Funds received pursuant to this agreement shall contain all of the fiscal provisions of this Agreement: and shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as project costs only after those costs are incurred and paid for by the subcontractors.
6. Preaward requirements of third party contractor/consultants with RTPA should be consistent with Local Program procedures as published by State.

Provisions Required By RSTP Exchange Funds Agreement Number X11-6138 (032)  
Between MCTC and Project Sponsors

1. RTPA agrees to comply with, and required all project sponsors to comply with 2 CFR Part 225 (previously Office of Management and Budget A-87), Cost Principles for State, Local, and Indian Tribal Governments, and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
2. RTPA will assure that its Fund recipients will be obligated to agree that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual Project cost items and (b) those parties shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Every sub-recipient receiving Funds as a contractor or sub-contractor under this Agreement shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
3. RTPA, its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate Fund expenditures by line item. The accounting system of RTPA, contractors and subcontractors shall conform to GAAP, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.
4. For the purpose of determining compliance with this agreement and other matters connected with the performance of RTPA's contracts with third parties RTPA, RTPA's contractors and subcontractors and State shall each maintain, and make available for inspection all books, documents, papers, accounting and other evidence pertaining to the performance of such contracts, but not limited, to the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times for three years from the date of final payment of funds to RTPA. STATE, the California State Auditor, or any duly authorized representative of STATE or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent for audits, examinations, excerpts, and transactions, and RTPA shall furnish copies thereof if requested.
5. Payments to only RTPA for travel and subsistent expenses of RTPA forces and its subcontractors claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non-represented State employees under current State Department of Personnel Administration rules. If the rates invoiced are in excess of those authorized DPA rates, then RTPA is responsible for the cost difference any overpayments shall be reimbursed to State on demand.
6. The RTPA accounting system shall conform to GAAP, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

## Criteria

**Finding 3**

49 CFR Part 18.20 Section (b) (1) and (3) state, in part, that accurate current, and complete disclosure of the financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant. Also, effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets.

The MFTA between MCTC and Caltrans, Article III, Section 3, item B, states, in part, MPO shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles to support Requests for Reimbursement.

The MFTA between MCTC and Caltrans, Article I, Section 1, item I, states that only work performed during the term of, and consistent with, the work elements in the OWP may be reimbursed. Reimbursements are based upon the fiscal year, July 1 - June 30. All work performed subsequent to the end of each fiscal year (June 30) can only be reimbursed in the following fiscal year and is subject to the approved OWP and annual OWP for that corresponding fiscal year.



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Zilan Chen, Chief  
Department of Transportation  
Audits and Investigations  
External Audits – Local Governments  
1304 O Street, Suite 200  
P.O. Box 942874 – MS 2  
Sacramento, CA

**RE: MCTC Response to Draft Audit Findings, P1591-0087**

Dear Ms. Chen:

This letter is written in response to the Audits and Investigations Draft Audit Findings emailed to Madera County Transportation Commission (MCTC) staff on November 26, 2013. The following are MCTC's summary responses to the findings and recommendations. Appendix A contains the draft findings with MCTC's response to each finding and the corrective action to be taken to resolve the findings.

Finding 1 – MCTC acknowledges that thorough contract administration is important. MCTC has taken many steps to improve its procurement and contract administration processes over the past 3 years. MCTC will continue to strengthen and improve these processes as needed to comply with all state and federal regulations.

Finding 2 – MCTC agrees that the process in place to administer and monitor the RSTP Exchange funds was not fully adequate according to the agreement between MCTC and Caltrans. When made aware of this concern, MCTC responded immediately to correct the concerns. MCTC will implement all of the recommendations to ensure there is an adequate process.

Finding 3 – This finding is related to an accounting accrual issue. MCTC staff discussed this finding in detail with Audits and Investigations staff. Adjustments have been made and beginning with FY 2013/14 requests for reimbursement (RFR) invoices, this finding has been resolved.

Finding 4 – As you are aware the MCTC over the past 3 years has taken many measures to strengthen its system of internal controls and to correct prior deficiencies. Many of the issues mentioned in this finding were addressed upon the adoption of the MCTC Financial and Accounting Policies and Procedures Manual in January 2011. Following proper policies and procedures should prevent these issues from reoccurring.

The MCTC appreciates the opportunity to respond to the draft audit findings. Thank you for recognizing the progress MCTC has made in implementing corrective action to the audit findings identified in prior audits. MCTC will continue to implement corrective action as necessary to ensure compliance with all federal and state regulations and requirements. If you have any concerns or questions about MCTC's response or proposed corrective action, then please feel free to contact Troy McNeil at [troy@maderactc.org](mailto:troy@maderactc.org) or (559) 675-0721 ext. 12 or me at [patricia@maderactc.org](mailto:patricia@maderactc.org) or (559) 675-0721 ext. 13.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Taylor', with a long horizontal flourish extending to the right.

Patricia Taylor, Executive Director  
Madera County Transportation Commission

## APPENDIX A

**Finding 1- Unresolved Prior Audit Finding**

A similar finding was originally reported in our audit report issued on March 4, 2010. As a result of our testing of direct costs billed to Caltrans, we found MCTC continued to have deficiencies in its financial management system and system of contract administration. (For criteria, see Attachment I, Finding 1). During the current audit we reviewed MCTC's billed costs and found two of the consultant agreements and associated costs billed contain at least two of the following issues:

- a. MCTC billed for subconsultant travel costs with a 15 percent mark-up fee, however, the allowable fee is 10 percent.

***Response:** At the time MCTC staff was unaware of the allowed percentage. All future invoices will be scrutinized to ensure that no unallowed mark-up fees are paid.*

- b. MCTC billed for consultant/contractor costs that were not in accordance with contract payment terms. Specifically:
  - The contract payment terms were based on a traffic count rate however MCTC paid on a basis of percentage of completion. (This contract was entered into on September 23, 2009, however the invoice dates were for July and September 2010.)
  - The contract payment terms were based on specified hourly rates, however, MCTC billed at lower/higher rates than the rates approved in the contract.

***Response:** When invoices were paid during this time, invoices were not scrutinized enough to ensure the basis of payment was consistent with the payment terms. However, no contractor was paid more than the overall agreement amount. Procedures have been implemented to scrutinize and ensure that invoices are consistent with the payment terms.*

- c. MCTC billed subconsultant costs in FY 2010/2011 for work performed in FY 2009/2010.

***Response:** The subconsultant's invoice indicated a date of June but the prime consultant's invoice was dated in July. The accrual of this cost did not occur. Procedures have been implemented to scrutinize and ensure that costs are recorded in the proper period.*

- d. The consultant's proposal added a 10 percent mark-up fee to the subconsultant's cost estimate. The subconsultant payment terms were based on specified hourly rates, which include overhead and profit; as such mark-ups are deemed additional profit and are unallowable.

***Response:*** *At the time of field work, MCTC staff was unaware that administrative costs with handling subconsultant's invoices were not allowed. When made aware of this issue, staff immediately resolved it by contacting the consultant and by using local funds to pay for the mark-up. Future proposals and invoices will be analyzed to prevent this issue from reoccurring.*

- e. A contract was amended on January 16, 2012, for the purpose of extending the contract end date, 16 days after the agreement expired.

***Response:*** *The Project Manager on this identified contract terminated his employment with MCTC at the same time this contract should have been extended. Procedures have been implemented to ensure that contracts and agreements are monitored to avoid this issue from reoccurring.*

In addition, in our review of the executed agreements between MCTC and the consultants we found three agreements lacked provisions required by the Master Fund Transfer Agreement (MFTA) between MCTC and Caltrans. Specifically, the agreements lacked critical clauses detailing, applicable cost principles, requirements for travel and subsistence, third party contracting, record retention requirements, Caltrans' right to audit and accounting system requirements.

The lack of adequate contract management, internal controls and recording of costs, increases the risk of noncompliance with federal and State requirements, which may result in disallowed costs. Further, contracts lacking the required contract provisions increase MCTC's and Caltrans' risk of paying for unallowable costs. Also, the recipient is not given sufficient notice regarding the rules and regulations that it must comply with as a recipient of funds.

***MCTC Response to Finding:*** *MCTC understands the importance of good contract administration. MCTC has taken many steps to strengthen its administration of procurement and contract administration and will continue to strengthen these tasks as needed. MCTC will implement the recommendations as stated.*

### **Recommendation**

We recommend MCTC:

- Strengthen its system of internal controls to ensure that an adequate financial management system and system of contract administration is in place.
  - Provide staff adequate training to ensure an effective administration of contracts.
  - Ensure contractor payment terms, conditions, and specifications are written with consideration to expected work product and billing.
-

- Implement policies and procedures which ensure that contractor payments are made in accordance to the terms, conditions, and specifications in their contracts.
- Implement policies and procedures which ensure that costs are recorded in the same FY in which they were incurred.
- Exclude language allowing mark-ups on sub-consultant costs on MCTC's executed consultant contracts.
- Implement policies and procedures which ensure that all contract amendments are fully executed before the ending date of the agreement.
- Include in its agreements with subrecipients, contractors and subcontractors, the provisions listed in Attachment II.
- Amend any current agreements with subrecipients that receive Caltrans funds to include the provisions listed in Attachment II.
- Not bill Caltrans for unsupported/unallowable costs.

| <b>Recommendation</b>   | <b>Corrective Action</b>                                | <b>Date to be Completed</b> | <b>Person Responsible</b>             |
|---|---|-----------------------------|---------------------------------------|
| 1. Provide staff adequate training to ensure an effective administration of contracts   | Conduct Staff Training on contract administration       | January 2014                | Executive Director, Fiscal Supervisor |
| 2. Ensure contractor payment terms, conditions, and specifications are written with consideration to expected work product and billing      | Comply with recommendation when administering contracts | On-going                    | Fiscal Supervisor                     |
| 3. Ensure that all of the contract administration policies and procedures are implemented as recommended                                    | Review current P&Ps and amend as needed                 | February 2014               | Executive Director, Fiscal Supervisor |
| 4. Amend any current agreements with subrecipients that receive Caltrans funds to include the provisions listed in Attachment II, if needed | Amend agreements to include all required provisions     | February 2014               | Fiscal Supervisor                     |

### **Finding 2**

MCTC lacks an adequate process to administer the Regional Surface Transportation Program (RSTP) funds. MCTC did not comply with contract administration provisions as required by the agreement between MCTC and Caltrans. The specific provisions are listed in Attachment III. In addition, MCTC did not execute individual formal written agreements between MCTC and the subrecipients. As a result, the subrecipients were not required to comply with fund requirements as well as with critical clauses such as, applicable costs principles, requirements for travel and subsistence, third party contracting, record retention requirements, Caltrans' right to audit and accounting system. See Attachment IV for the required provisions. (For criteria, see Attachment I, Finding 2)

Not performing adequate contract management and oversight of the RSTP funds and not having written agreements with fund recipients increases MCTC's and Caltrans' risk of paying for unsupported costs.

Based on our review, we determined that \$674,089 of the \$1,261,075 in RSTP exchange funds are questioned as \$586,977 had not been expended nor allocated. MCTC stated they did not monitor the funds and although we reviewed the cost reports provided to MCTC by the RSTP recipients during the audit, it is ultimately MCTC's responsibility to determine and provide the evidence that the costs were used for allowable activities.

***MCTC Response to Finding:*** *MCTC agrees that the process in place to administer and monitor the RSTP Exchange funds was not fully adequate according to the agreement between MCTC and Caltrans. When made aware of this concern, MCTC responded immediately by implementing an Agreement Form between MCTC and fund recipients for the new cycle. Staff educated the recipients of the funds on the new Agreement Form and eligibility criteria. Staff will implement the recommendation on this finding.*

### **Recommendation**

We recommend the following:

- MCTC establish written agreements with RSTP Exchange fund recipients to ensure compliance with the RSTP Exchange fund requirements, conditions and specifications.
- MCTC develop and implement RSTP Exchange Fund policies and procedures which ensure adequate contract management and oversight of the program funds.
- MCTC should ensure that the FY 2010/2011 and future fund recipients provide evidence to substantiate the project costs incurred by the fund recipients are in compliance with Section 133(b) and 133(c) of Title 23 United States Code and Article XIX of the California State Constitution.

| <b>Recommendation</b>  | <b>Corrective Action</b>   | <b>Date to be Completed</b>  | <b>Person Responsible</b> |
|--|--|--|---------------------------|
| 1. Establish written agreements with RSTP Exchange fund recipients   | Implement Agreement Form   | Completed 08/12 in response to a request from Audits and Investigations staff. | Fiscal Supervisor         |
| 2. Develop and implement RSTP Exchange Fund policies and procedures  | Draft Policies and Procedures  | February 2014  | Fiscal Supervisor         |
| 3. Ensure that the FY 2010/11 and future fund recipients provide evidence to substantiate the project costs incurred by the fund recipients are eligible | 1. Obtain detailed information from recipients.<br>2. Draft a Monitoring Report Form | February 2014  | Fiscal Supervisor         |

**Finding 3**

We found MCTC's request for reimbursements of labor costs are not fully supported as they are not based on actual hourly rates. (For criteria, see Attachment V, Finding 3). We found MCTC's hourly rates were miscalculated due to the following:

- MCTC's labor costs based on the payroll time period did not match the same labor hours time period, which were based on when the hours were worked during the quarter. For example, the first quarter labor costs were based on the payroll time period June 19, through September 24, 2010, while the hours worked were from July 1, through September 30, 2010.
- MCTC did not use proper year end cut-off procedures, as such MCTC incorrectly captured FY 2009/2010 costs in the calculation of the FY 2010/2011 first quarter labor costs and hourly rates.

Consequently, we found the hourly rates were misstated for all employees, both over and under on average by \$3.00 per hour. (Hourly rate was overstated for one employee by as much as \$4.62). In addition, MCTC's labor costs were over/under stated on a quarterly basis. The labor costs were overstated by approximately \$17,000 in quarters one and two and then understated by approximately the same amount in quarters three and four.

***MCTC Response to Finding:** This finding is related to an accounting accrual issue. MCTC staff discussed this finding in detail with Audits and Investigations staff. Adjustments have been made and beginning with FY 2013/14 requests for reimbursement (RFR), this issue has been resolved and the finding should not reoccur.*

**Recommendation**

MCTC should ensure:

- Labor costs billed on the quarterly invoices are reflective of the labor hours worked for the same period and upon the fiscal year, July 1 through June 30.
- To implement procedures which ensure that the hourly billing rates used to determine labor costs billed to Caltrans are accurately determined.
- The quarterly invoices include supporting documents such as schedules detailing how labor dollars were determined along with pay registers supporting the hourly rates.

| <b>Recommendation</b>   | <b>Corrective Action</b>   | <b>Date to be Completed</b>  | <b>Person Responsible</b> |
|---|--|--|---------------------------|
| 1. Labor costs billed on the quarterly invoices are reflective of the labor hours worked  | Make accounting accrual adjustments, as needed   | On-going   | Fiscal Supervisor         |
| 2. Implement procedures which ensure that the hourly billing rates used to determine labor costs billed to Caltrans are accurately determined                         | Accounting accrual adjustments procedures are already included in MCTC Financial Manual adopted January 2011 | Completed January 2011   | Fiscal Supervisor         |
| 3. Quarterly invoices include supporting documents such as schedules detailing how labor dollars were determined along with pay registers supporting the hourly rates | Include requested documentation in RFR invoices  | Included information in FY 13/14 1 <sup>st</sup> Quarter RFR and will continue to do so each quarter | Fiscal Supervisor         |

#### **Finding 4**

During our testing of direct and indirect costs, we identified a few instances of internal control weaknesses as follows:

- Print/copy services were purchased with a signed blank check. The check was signed by the appropriate MCTC staff, but it did not include an amount to pay. The amount of the check was filled in by the staff once the print/copy job was completed. In addition, we found MCTC did not document that this transaction was approved for payment.

***Response:*** *This transaction occurred before the adoption of our Financial Policies and Procedures in January 2011. The adopted policies prohibit this form of payment.*

- The purchase requestor and the approval signature were the same person on a purchase approval form for the acquisition of an upgrade of Quickbooks.

***Response:*** *This purchase was preapproved by the appropriate person through email communication. However, the Purchase Approval Form was not subsequently signed by this person. MCTC will ensure that all required signatures are obtained on purchasing documents.*

- An employee was involved in a purchase for printing services from a family business. MCTC stated the employee (requestor) was not involved in the initial decision in 2008 to procure services from this vendor. However, we found the requestor was involved in the subsequent purchase in 2010, in that he obtained the quote, and prepared and processed the purchase request, which can be perceived as a conflict of interest.

***Response:*** *Although no impropriety occurred with this transaction, staff will be retrained on the Conflict of Interest Policy and instructed that all conflicts of interest, including perceived ones, should be avoided.*

- MCTC failed to properly document the approval for the payment of filing fees related to an Environmental Impact Report. The check was prepared and signed by the appropriate MCTC staff, however since the payment was made in person, MCTC did not document the approval for payment.

***Response:*** *This transaction occurred before the adoption of the procurement policies and procedures. Staff has been trained and will be retrained on the appropriate process and required documentation for all purchases.*

49 CFR Part 18.20 Section (b) (1) and (3) state, in part, that accurate current, and complete disclosure of the financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant. Also, effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

The lack of adequate internal controls and recording of costs increases the risk of noncompliance with federal and State requirements, which may result in disallowed costs.

***MCTC Response to Finding:*** *MCTC understands the importance of having good internal controls. Over the past 3 years, MCTC has taken many steps to improve its internal controls in response to findings from our independent auditor and Caltrans Audits & Investigations. MCTC will continue to implement policies and procedures as needed to improve internal controls.*

### **Recommendation**

We recommend MCTC strengthen its internal control process to ensure the following:

- All transactions, regardless of their nature, are properly approved for payment consistent with the established MCTC policies and procedures.
- MCTC employees have absolutely no involvement in the procurement of any goods or services from a related party, regardless if they are not in a

capacity of making a final decision, in order to avoid the perception of conflict of interest.

- The requestor and the approver of a purchase request are different individuals.
- Staff is properly trained on procurement practices when management is not available.

| <b>Recommendation</b>  | <b>Corrective Action</b>   | <b>Date to be Completed</b>  | <b>Person Responsible</b>                |
|--|--|--|--|
| 1. All transactions, regardless of their nature, are properly approved for payment consistent with the established MCTC policies and procedures  | Comply with recommendation and established policies and procedures | On-going   | Executive Director,<br>Fiscal Supervisor |
| 2. MCTC employees have absolutely no involvement in the procurement of any goods or services from a related party, regardless if they are not in a capacity of making a final decision, in order to avoid the perception of conflict of interest | Train Employees on Conflict of Interest Policy                     | January 2014   | Executive Director,<br>Fiscal Supervisor |
| 3. Staff is properly trained on procurement practices when management is not available.  | Conduct Staff Training   | Training occurred upon adoption of written policies and procedures in 2010 and 2011. Additional training will be completed in January 2014 | Executive Director,<br>Fiscal Supervisor |

**Metropolitan Planning Organization (MPO)  
Madera County Transportation Commission  
Indirect Cost Plan**

Madera County Transportation Commission  
2001 Howard Road, Suite 201  
Madera, California 93637

February 1, 2011

**Indirect Cost Plan**

The indirect cost rate contained herein is for use on grants, contracts and other agreements with the Federal Government and California Department of Transportation (Department), subject to the conditions in Section II. This plan was prepared by the Commission and approved by the Department.

**SECTION I: Rates**

| <u>Rate Type</u>         | <u>Effective Period</u> | <u>Rate*</u> | <u>Applicable To</u> |
|--------------------------|-------------------------|--------------|----------------------|
| Fixed with carry forward | 7/01/10 to 6/30/11      | 64.06%       | All Programs         |

\* Base: Total Direct Salaries and Wages plus fringe benefits

**SECTION II: General Provisions**

**A. Limitations:**

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract, or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its indirect cost pool as finally accepted: such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as indirect costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government or Caltrans. In such situations the rate(s) would be subject to renegotiations at the discretion of the Federal Government or Caltrans; (5) Prior actual costs used in the calculation of the approved rate are contained in the grantee's Single Audit, which was prepared in accordance with OMB Circular A-133. If a Single Audit is not required to be performed, then audited financial statements should be used to support the prior actual costs; and, (6) The estimated costs used in the calculation of the approved rate are from the grantee's approved budget in effect at the time of approval of this plan.

**B. Accounting Changes:**

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs, which affect the amount of reimbursement resulting from the use of this Agreement, require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from indirect to direct. Failure to obtain approval may result in cost disallowance.

**C. Fixed Rate with Carry Forward:**

The fixed rate used in this Agreement is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined either by the grantee's Single Audit or if a Single Audit is not required, then by the grantee's audited financial statements any differences between the application of the fixed rate and actual costs will result in an over or under recovery of costs. The over or under recovery will be carried forward, as an adjustment to the calculation of the indirect cost rate, to the second fiscal year subsequent to the fiscal year covered by this plan.

**D. Audit Adjustments:**

Immaterial adjustments resulting from the audit of information contained in this plan shall be compensated for in the subsequent indirect cost plan approved after the date of the audit adjustment. Material audit adjustments will require reimbursement from the grantee.

**E. Use by Other Federal Agencies:**

Authority to approve this agreement by the Department has been delegated by the Federal Highway Administration, California Division. The purpose of this approval is to permit subject local government to bill indirect costs to Title 23 funded projects administered by the Federal Department of Transportation (DOT). This approval does not apply to any grants, contracts, projects, or programs for which DOT is not the cognizant Federal agency.

The approval will also be used by the Department in State-only funded projects.

**F. Other:**

If any Federal contract, grant, or other agreement is reimbursing indirect costs by a means other than the approved rate(s) in this Agreement, the organization should (1) credit such costs to the affected programs, and (2) apply the approved rate(s) to the appropriate base to identify the proper amount of indirect costs allocable to these programs.

**G. Rate Calculation:**

|   |                 |                                |
|---|-----------------|--------------------------------|
| FY 2011 Budgeted Indirect Costs                                 | \$ 345,445      | <see ICAP detail>              |
| Carry Forward from FY 2009                                      | <u>(72,347)</u> | <see carryforward calculation> |
| Estimated FY 2011 Indirect Costs                                | \$ 273,098      |                                |
| FY 2011 Budgeted Direct Salaries and Wages plus Fringe Benefits | \$ 426,339      | <see ICAP detail>              |
| FY 2011 Indirect Cost Rate                                      | 64.06%          |                                |

**CERTIFICATION OF INDIRECT COSTS**

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

- 
- (1) All costs included in this proposal to establish billing or final indirect costs rates for fiscal year 2011 (July 1, 2010 to June 30, 2011) are allowable in accordance with the requirements of the Federal and State award(s) to which they apply and OMB Circular A-87, "Cost

Principles for State, Local and Indian Tribal Governments.” Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

- (2) All costs included in this proposal are properly allocable to Federal and State awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government and the Department will be notified of any accounting changes that would affect the fixed rate.

I declare that the foregoing is true and correct.

Governmental Unit: Madera County Transportation Commission

Signature: 

Reviewed, Approved and Submitted by:

Name of Official: Patricia Taylor

Title: Executive Director

Date of Execution: February 1, 2011

Signature: 

Prepared by:

Name of Official: Troy McNeil

Title: Fiscal Supervisor

Telephone No.: (559) 675-0721 extension 13

#### INDIRECT COST RATE APPROVAL

The Department has reviewed this indirect cost plan and hereby approves the plan.

  
Signature

Reviewed and Approved by:

Zilan Chen  
Name of Audit Manager

Title: Chief, External Audits

Date: 12/19/2013

Phone Number: (916) 323-7877

  
Signature

Reviewed and Approved by:

Elena Guerrero  
Name of Auditor

Title: Auditor

Date: 12/19/2013

Phone Number: (916) 323-7954