

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

It Could Use Certain Recommended Management Tools to Improve Its Oversight of Legal Contracts, and Its Efforts Resulted in the Award of a Large Construction Contract Within Budget

Audit Highlights . . .

Our review of the Los Angeles County Metropolitan Transportation Authority's (MTA) oversight of outside counsel found that:

- Its contracts generally include recommended management tools, such as case plans and budgets; however, case files often did not contain evidence of them.*
- Errors related to lack of required documentary support or to billing rates amounted to only 1 percent of tested costs.*
- A task-based billing format would, however, aid in the review of invoices by allowing for a quick determination of how much outside counsel spent on particular efforts.*
- Finally, there was often a lack of written prior approvals for the use and cost of consultants and expert witnesses.*

The MTA took actions to award a construction contract for its Metro Gold Line Eastside Extension project within budget by revising the project scope and reducing other project costs.

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Los Angeles County Metropolitan Transportation Authority's response as of October 2004

The Joint Legislative Audit Committee directed the Bureau of State Audits to review the Los Angeles County Metropolitan Transportation Authority's (MTA) legal and procurement practices. Specifically, the audit committee asked us to compile and note trends in MTA legal costs, to determine the sufficiency of the MTA's oversight of its outside legal counsel and associated costs, and to review the reasonableness of legal expense billings.

Finding #1: The MTA does not use certain recommended managements tools in its oversight of legal contracts.

The MTA could improve the oversight of its legal costs by requiring the county of Los Angeles, Office of the County Counsel (County Counsel), to fully implement recommended management tools included in its contracts with outside counsel. County Counsel represents the MTA in transactional matters such as drafting and reviewing contracts, provides advice on all legal issues in outstanding legal cases, and monitors outside counsel—contract lawyers who represent the MTA in a variety of litigation and transactional matters.

The MTA could benefit from the use of case plans and budgets, which provide a blueprint for the conduct of cases and allow an evaluation of the reasonableness of billed legal costs by providing cost estimates with which they may be compared. However, most case files relate to legal matters, other than workers' compensation and public liability/property damage, held no evidence of case plans or budgets covering each phase

of the case. In addition, most public liability/property damage cases we tested contained no budget revisions as is required for cases that exceed their budget. Further, outside counsel for workers' compensation cases are not required to submit budgets.

To more effectively monitor outside counsel, the MTA, in conjunction with County Counsel, should require outside counsel to prepare flexible case plans and budgets detailed by phase, as well as budget revisions where outside counsel expect costs to exceed budgets.



MTA Action: None.

The MTA says that it has found attempts to develop detailed case management plans and life of the case budgets for large, complex cases to be a waste of time and money because it believes it is impossible to predict with any degree of precision how the case will proceed over an extended period. Nevertheless, the MTA says that it is willing to consider attempting to use these tools in large, complex cases where it appears they will offer some benefit. However, it says that no new large, complex cases have been filed against it since the issuance of the audit.

Finding #2: Although outside counsel generally adhered to billing guidelines, the MTA and county counsel could improve their oversight in certain areas.

Although legal costs are detailed for legal services and related to the appropriate cases, a task-based billing format for invoices—which uses standardized billing codes for legal tasks—would aid in the analysis of legal fees (costs related to attorneys and paralegals working on a case). This would allow for a quick determination of how much outside counsel spent on particular tasks such as preparing briefs or depositions. A task-based format can provide for a more meaningful review of legal fees and can also lead to better-informed discussions with outside counsel, potentially allowing improved quality of services. Although we saw no evidence of such a task analysis, both the MTA and County Counsel appeared to enforce most billing rates and to thoroughly review invoiced legal expenses (other goods and services incurred by law firms, such as the costs of expert witnesses and consultants). Errors related to billing rates or to a lack of documentary support amounted to only 1 percent of the legal fees and expenses we tested. The MTA and County

Counsel, however, often could not show that outside counsel received prior approval for the cost and use of consultants and expert witnesses, as required in contracts with outside counsel.

To more effectively monitor outside counsel, we recommended that the MTA, in conjunction with County Counsel, consider requiring outside law firms to submit invoices using a task-based billing format if they have the ability to do so, and that it ensure outside counsel receive written prior approval to use consultants and expert witnesses within an established budget.



MTA Action: None.

The MTA says that it believes it is far more beneficial for invoices to use the standard chronological billing format and that if it needs to determine how much was spent on a particular task it can compile the time billed. Further, the MTA says that it has not authorized any outside experts in the cases it manages, but that it is prepared to ensure that outside counsel receive written approval prior to the engagement of any expert witness in the future.

