



Program Evaluation and Audit

Metro Transit

Master Engineering Contracts

15 January 2009

INTRODUCTION

Background

Since 2007, Metro Transit's Purchasing and Contract Services Department (PCSD) has solicited proposals for and awarded Master Engineering Contracts (MECs) to engineering firms that provide environmental assessment, surveying, traffic study and engineering, architecture, geotechnical and construction support services and civil, building and rail engineering evaluations and design. Prior to 2007 the Engineering Services Contracts and Procurement Unit (CPU) was responsible for soliciting and procuring such services. The MECs are similar to blanket purchase orders in which a contract ceiling ranging from \$50,000 to \$300,000 is established and individual Work Orders are awarded there under. Project end products can include environmental studies and assessments, surveys, rights-of-way investigations, traffic studies, geotechnical investigations, materials inspection and testing, construction support services, studies and design documents (drawings and specifications) for the construction of a capital project. By Department Work Instructions, the value of Work Orders is limited to \$50,000 unless authorization is received from the General Manager who can approve Work Orders up to \$100,000.

Master Engineering Contracts are awarded to engineering firms (Consultants) that submit proposals most advantageous to the Council following an evaluation of demonstrated competence and qualification for the type of professional services required (i.e., Consultant qualifications, experience, work plan quality, responsiveness to the scope of work and scheduling needs). A panel that includes representatives of Metro Transit Finance, Purchasing, and Engineering staff conduct the evaluations. After contract award, Work Orders for individual projects are negotiated with the Consultant based upon cost to ensure that the Council obtains Consultant services at fair and reasonable prices.

Master Engineering Contracts are cost type contracts, some of which are awarded with "not-to-exceed" ceiling overhead rates that are audited by Program Evaluation and Audit (Audit) periodically and at the request of Metro Transit management. The Consultant is required to provide the Council either audited or auditable actual overhead rates upon the close of its fiscal year. The Council is responsible for adjusting the MECs overhead rates and recouping any Consultant over billings that may have occurred. This report discloses the results of our review of the PCSD solicitation, proposal evaluation, and contract award processes and Audit's evaluation of Consultant overhead charges for the period 2004 through 2007.

Assurances

This audit was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and the U. S. Government Accountability Office's *Government Auditing Standards*.

Purpose

This review was conducted to assure that (1) Metro Transit Master Engineering Contracts are solicited, awarded and administered according to Federal Transportation Administration (FTA) regulations and Council policies and procedures, and (2) to determine if Metro Transit is owed any funds due to lower actual overhead rates than those that were initially included in the Consultant contracts.

Scope

The process followed to identify Consultants and award MECs entered into during the period 2004 through 2007 was reviewed for compliance with FTA regulations and Council policies and procedures. In addition, contracted ceiling overhead rates were compared to Consultant audited rates for the years projects were awarded under the MECs to determine if the Council was over billed for any Consultant services.

Methodology

To gain an understanding of MECs and contracting processes for engineering services, the following methods of inquiry were used:

- Engineering, procurement and contract administration personnel were interviewed.
- Master Engineering Contact proposal and contract files were reviewed.
- Professional Services Consultant pay requests were analyzed.
- Independent audit reports of Consultant overhead rates were reviewed.
- FTA regulations and Council procurement policies and procedures were reviewed.
- Contract Work Orders were analyzed.

OBSERVATIONS

Audit judgmentally selected and reviewed 27 MECs awarded by Metro Transit for the years 2004, 2005 and 2007. These contracts were reviewed for completeness of proposal evaluation documentation, completeness of contract file documentation, adherence to diversity (DBE) regulations and evidence of risk transfer via consultant liability insurance coverage. All 40 MECs awarded for the years 2004, 2005 and 2007 were then audited to determine if Consultants invoiced Metro Transit for excess overhead (see *Ceiling Overhead Rates*, below).

Proposal Evaluation

Each engineering firm submits a proposal which is reviewed by an evaluation team. Evaluation team members use an evaluation sheet listing five categories in which to record strengths, weaknesses and deficiencies plus an overall summary rating. The five categories are:

- Experiences and Qualifications
- References
- Key Personnel
- Sub-Consultants
- Comprehensiveness of the Proposal

2007 Consultant Proposal Evaluation

Audit reviewed the evaluation sheets for the 30 proposals received in response to the 2007 contract solicitation and the evaluation information regarding the selected Consultant required to be maintained in each contract file. At first the evaluation sheets could not be found. However, they were subsequently located in the work area of one of the evaluation team members and placed in the contract files.

The 2007 evaluation team was comprised of three members, one of whom did not provide sufficient rationale for his ratings. Of the 30 proposals evaluated only 11 were sufficiently documented. The other 19 included written explanations in only one to three of the five categories and the form usually did not have an overall written rationale for the final score. The second evaluator thoroughly documented the evaluation, usually including written comments in all five categories as well as in support of the overall rating. The third evaluator usually documented three or four of the five categories but did not include a written summary to support the overall rating.

2004 – 2005 – 2007 Contract Evaluations

Audit also reviewed the proposal evaluation documentation for 27 contracts awarded for 2004, 2005 and 2007. The required documentation and instances of compliance are as follows:

	<u>2004</u>	<u>2005</u>	<u>2007</u>
Evaluation Team Membership Memo	3 of 3	3 of 12	12 of 12
Conflict of Interest Form	3 of 3	0 of 12	12 of 12
Confidentiality Form			12 of 12
Evaluation Team Member Evaluation Form	3 of 3	3 of 12	12 of 12
Evaluation Team Report	3 of 3	12 of 12	12 of 12
Successful Bidders Memo	3 of 3	12 of 12	12 of 12

Although all 2004 MECs Evaluation Team Member Evaluation Forms were in the files, one member wrote down only the rating with no explanation and another member was absent from the process. On two of the three 2005 contracts that included Evaluation Team Member Evaluation Forms, the proposal evaluation team comprised four people. Three of the four provided written explanations on the evaluation form; the other just provided the rating. The absence of evaluation documentation was addressed at the beginning of 2008 by holding individual and group meetings with all evaluation team members. If a member does not come to the evaluation meeting with the evaluation form filled out, he/she is asked to leave, the person is reported to the Regional Administrator, and a note is placed in the employee's personnel file.

When the proposals for a solicitation are all evaluated, the evaluation team prepares an Evaluation Team Report and submits it to the appropriate signature authority. For all 27 contracts, the Approval Selection of the Successful Bidders Memo and Evaluation Team Report was signed by the General Manager and the evaluation team members, respectively. The 12 2007 MECs contract files also included signed Confidentiality Forms. These forms are not required; however, this commendable practice adds assurance that Consultant information will be protected according to Minnesota Data Practices Act requirements by the individual Evaluation Team Members.

Contract Award

When the Consultant proposals have been evaluated and ranked, three year MECs are awarded. Council approval is required for non-construction contracts exceeding \$250,000. Six of the 27 MECs reviewed exceeded \$250,000 and all received such approval, as documented in the contract files. The following documentation is also required by the Contract Administration Manual to be included in each procurement file. The number of files that contained the respective documentation is as follows:

Contract Initiation Memo (CIM)	27 of 27
Advertising Notices	27 of 27
Firms requesting the RFP	27 of 27
A copy of the RFP	27 of 27
Notice to Proceed (NTP)	27 of 27
Executed contract	27 of 27
Insurance information	24 of 27
Evaluations of Responsibility	11 of 27 (2005 contracts only)
Selection of contract type	3 of 27 (2004 contracts only)
Contract transmittal letter	See Note 1, below

Independent cost estimate
DBE documentation

See Note 2, below
See "*Diversity*," below

Note 1: The NTP includes a statement transmitting the contract; therefore, when a separate transmittal letter was not in the file, the NTP was given credit as being such.

Note 2: These are Master Contracts. Individual projects are let under the contract ceiling previously established. At the MECs level there is no need for an independent cost estimate. This is conducted as work orders are placed under the MECs. All work orders that were reviewed for *Ceiling Overhead Rates* did contain independent cost estimates. The 2004 and 2007 MECs files also contained analysis of Consultant Overhead Rates.

Only the three 2004 MECs contained Procurement Decision Matrix forms that summarize the reasons for selecting the contract type. In addition, the 2004 and 2007 MECs files did not contain Evaluations of Responsibility (assessments of past work on similar contracts) for the selected Consultants.

Diversity

All 27 contracts were FTA funded and would normally require DBE subcontracting goals and monitoring. However, because these MECs were for individual engineering firm consulting services, subcontracting opportunities did not exist. Therefore, Section 21 (DBE Goals) of each RFP stated, "No DBE/WBE/MBE goals," and each resulting contract clause 15.09 stated, "FTA Funding with No DBE Goal." The Council's Office of Diversity and Equal Opportunity provided guidance for this interpretation.

Risk Management

Each Consultant is required to provide proof of liability insurance in the form of an Insurance Certificate prior to being awarded a contract and to continue such coverage throughout the contract term. A review of the 27 MECs contract files disclosed that 11 did not contain current insurance certificates and no certificates could be found for three of the contracts. PCSD and CPU are responsible for obtaining the initial certificates prior to contract award; however, there is not a clear understanding regarding whether PCSD, CPU, Metro Transit's Facilities and Engineering Department or the Council's Risk Management Department is responsible for obtaining follow-up certificates. A similar misunderstanding occurred between Environmental Services CPU, Risk Management and the Environmental Services Council Authorized Representative (project administrator). In that case, the Council Authorized Representative has taken responsibility for obtaining follow-up insurance certificates.

Ceiling Overhead Rates

The 11 MECs awarded for 2004, the 12 MECs awarded for 2007 and eight of the 17 MECs awarded for 2005 included ceiling OH rates as a basis for incurring and invoicing contract costs. Nine of the 17 2005 contracts used fully loaded hourly labor rates in which the base labor rate,

OH and fee are all included in a single hourly rate. Of these nine MECs, four were executed with firms that had executed ceiling OH rate contracts for 2004 and three were executed with firms that had executed ceiling OH rate contracts for 2007.

Three of the 2005 MECs were awarded for environmental assessment and investigation; two of which were awarded using a ceiling OH rate and the third which was awarded using fully loaded hourly labor rates. In such instances, Consultants awarded MECs for similar work could be treated differently, for two can be audited for ceiling OH rates and under current practices one cannot. In addition, four of the 2005 MECs were awarded for surveying and rights-of-way services. Each of these is valued at \$50,000 and all were awarded using fully loaded labor rates. In this instance, all Consultants can be treated alike when auditing for ceiling OH rates.

Contracts awarded using ceiling overhead rates allow the Council to invoice the Consultant for any costs previously invoiced by the Consultant if the actual overhead rate experienced by the Consultant falls below the rate included in the contract. Such a recapture clause is not included in contracts awarded using fully loaded hourly labor rates.

Contracts awarded using fully loaded hourly labor rates do contain the provision that the Consultant notify the Council of any decrease in salary or overhead and that hourly rates shall then be reduced. However, it is not always known what the individual OH and Fee rates are since some contracts contain that information and some do not. In addition, Consultants do not make a practice of notifying the Council if and when rates do fall and the CPU does not have a process for identifying such contracts and requesting OH and labor rate updates. Therefore, the Council cannot effectively review for such adjustments.

For the 12 2007 MECs awarded, only four Work Orders were assigned, all within the fourth quarter and three in December. Due to this, insignificant labor costs were invoiced for which to conduct ceiling OH reviews. Nine of the 17 2005 MECs were awarded using fully loaded hourly labor rates and thus could not be audited for ceiling OH rates. Work Orders assigned to four additional MECs did not include work invoiced until 2008 for which OH rates are not available. Audit compared contracted OH rates with actual OH rates for the remaining four 2005 and the 11 2004 MECs with the following results:

- Five Consultants over invoiced Metro Transit a total of \$8,123 due to having actual OH rates lower than those used to calculate their pay requests.
- One Consultant invoiced Metro Transit using the lump sum method, providing no labor detail. This does not comply with contract clause 5.03 *Payment Requests* nor does it allow for OH recapture.
- Five Consultants performed work on projects in 2007; however, 2007 audited OH rates were not yet available. MnDOT conducts audits for most of the Consultants used by the Council. It is not unusual for the 2007 audits to be delayed this long due to the volume of audits for which MnDOT is responsible. Audit periodically contacts MnDOT to obtain updated OH rate information and will calculate any additional Consultant over billings during its follow-up review of audit recommendations.

CONCLUSIONS

1. *The evaluation process for selecting those Engineering Consultants to whom contracts will be awarded is not consistently documented to provide evidence that Council policy and procedures were followed.*

A review of the evaluation sheets for the 30 proposals received in response to the 2007 contract solicitation disclosed that one evaluator did not provide sufficient rationale for his ratings. Audit also reviewed the proposal evaluation documentation for 27 contracts awarded for the years 2004, 2005 and 2007. The required documentation and instances of compliance are as follows:

	<u>2004</u>	<u>2005</u>	<u>2007</u>
ET Membership Memo	3 of 3	3 of 12	12 of 12
Conflict of Interest Forms	3 of 3	0 of 12	12 of 12
Confidentiality Forms			12 of 12
ET Member Evaluation Form	3 of 3	3 of 12	12 of 12
Evaluation Team Report	3 of 3	12 of 12	12 of 12
Successful Bidders Memo	3 of 3	12 of 12	12 of 12

Although all 2004 MECs Evaluation Team Member Evaluation Forms were in the files, one member wrote down only the rating with no explanation and another member was absent from the process. On two of the three 2005 contracts that included Member Evaluation Forms, the proposal evaluation team comprised four people. Three of the four provided written explanations on the evaluation form; the other just provided the rating.

2. *Procurement files contain most of the information required by the Contract Administration Manual. However, three forms were not consistently present where they should be.*

All six MECs exceeding \$250,000 obtained required Council approval. In addition, all procurement files reviewed contained the required CIM, advertising notices, a list of firms requesting the RFP, copies of the RFP and the contract, and the NTP. The following documentation is also required by the Contract Administration Manual to be included in each procurement file; however, the number of files that contained the respective documentation was as follows:

Insurance information	24 of 27
Evaluations of Responsibility	11 of 27 (2005 contracts only)
Selection of contract type	3 of 27 (2004 contracts only)

Only the three 2004 MECs contained a Procurement Decision Matrix form that summarizes the reasons for selecting the contract type. In addition, the 2004 and 2007 MECs files did not contain Evaluations of Responsibility (an analysis of performance on similar contracts) for the selected Consultants.

3. *Procurement and the Office of Diversity and Equal Opportunity effectively evaluated the MEC regarding diversity subcontracting goals.*

All 27 contracts were FTA funded and would normally require DBE subcontracting goals and monitoring. However, because these MECs were for individual engineering firm consulting services, subcontracting opportunities did not exist. The Council's Office of Diversity and Equal Opportunity provided guidance for this interpretation

4. *The procurement files lacked adequate documentation regarding required Consultant liability insurance coverage.*

Each Consultant is required to provide proof of liability insurance in the form of an Insurance Certificate prior to being awarded a contract and continue such coverage throughout the term of the contract. A review of the 27 MECs contract files disclosed that 11 files did not contain current insurance certificates and no certificates could be found for three of the contracts. In addition, there is not a clear understanding regarding which department is responsible for obtaining follow-up insurance certificates.

5. *Metro Transit has been over-invoiced \$8,123 due to MECs Consultants incurring actual overhead rates lower than those used in calculating the invoices. There was also an error in the method that one Consultant used to prepare its invoices.*

The MECs executed in 2004 and 2007 and eight of the 2005 MECs included ceiling OH rates as a basis for incurring and invoicing contract costs. For the 12 2007 MECs awarded, insignificant labor costs were invoiced for which to conduct ceiling OH reviews. Nine of the 17 2005 MECs were awarded using fully loaded hourly labor rates and thus could not be audited for ceiling OH rates. Work Orders assigned to four additional 2005 MECs did not include work invoiced until 2008 for which OH rates are not available. Audit compared contracted OH rates with actual overhead rates for the remaining four 2005 and the 11 2004 MECs with the following results:

- Five Consultants over-invoiced Metro Transit a total of \$8,123.
- One Consultant invoiced Metro Transit using the lump sum method, providing no labor detail. This does not comply with contract clause 5.03 *Payment Requests* nor does it allow for OH recapture.

6. *Metro Transit has been inconsistent in its use of contract clauses regarding calculating Consultant cost for compensation on invoices submitted to the Council. In addition, there is not a process for obtaining appropriate labor, OH and fee rates for conducting OH rate reviews on contracts awarded using fully loaded hourly labor rates as a basis for compensation.*

Three of the 2005 MECs were awarded for environmental assessment and investigation; two using ceiling OH rates and the third using fully loaded hourly labor rates. In such instances, under current practice, two Consultants can be audited and one cannot. In addition, a clear OH recapture clause is not included in contracts awarded using fully loaded hourly labor rates.

Contracts awarded using fully loaded hourly labor rates do contain a limited provision for auditing OH; however, it is not always know what the individual OH and fee rates are since some contracts contain that information and some do not. In addition, the PCSD does not have a process for identifying such contracts and requesting OH and labor rate updates. Therefore, the Council cannot effectively review for such adjustments.

RECOMMENDATIONS

Program Evaluation and Audit recommendations are categorized according to the level of risk they pose for the Council. The categories are:

- **Essential** – Steps must be taken to avoid the emergence of critical risks to the Council or to add great value to the Council and its programs. Essential recommendations are tracked through the Audit Database and status is reported twice annually to the Council’s Audit Committee.
- **Significant** – Adds value to programs or initiatives of the Council, but is not necessary to avoid major control risks or other critical risk exposures. Significant recommendations are also tracked with status reports to the Council’s Audit Committee.
- **Considerations** – Recommendation would be beneficial, but may be subject to being set aside in favor of higher priority activities for the Council, or may require collaboration with another program area or division. Considerations are not tracked or reported. Their implementation is solely at the hands of management.
- **Verbal Recommendation** – An issue was found that bears mentioning, but is not sufficient to constitute a control risk or other repercussions to warrant inclusion in the written report. Verbal recommendations are documented in the file, but are not tracked or reported regularly.

1. (Essential) Metro Transit should develop and implement guidelines for assuring that personnel evaluating MECs proposals provide sufficient narrative detail to support both the individual criteria and the overall proposal rating.

A review of the evaluation sheets for the 30 proposals received in response to the 2007 contract solicitation disclosed inconsistency among the evaluators in what and how much was documented on evaluation sheets. In some cases, it was difficult to infer how award decisions were made given the documentation provided.

***Management Response:** In early 2008, the Council conducted ten Evaluation Panel training sessions with over 100 employees who frequently serve on panels receiving formal training. Also, over the past year, each Evaluation Panel that is formed is given training prior to evaluating proposals. Each of these training sessions emphasizes proper documentation, including the importance of providing sufficient narrative to support the evaluation ratings. In addition, Purchasing Department Work Instructions will be revised to include the requirement that the Evaluation Team leader will not accept any Team Member evaluation form that does not include narrative comments for each of the individual criteria and the summary.*

***Staff Responsible:** Metro Transit Purchasing and Contract Services*

***Timetable:** Evaluation Panel training has been instituted. Revised Work Instructions will be written and implemented by May 29, 2009.*

2. (Significant) Metro Transit should develop and implement a procedure to assure that all required proposal evaluation documentation is maintained in the contract file.

Audit reviewed the proposal evaluation documentation for 27 contracts awarded during 2004, 2005 and 2007. The 2004 and 2007 contract files contained all the required documentation; the 2005 files did not. A comparison of evaluation documentation is as follows:

	<u>2004</u>	<u>2005</u>	<u>2007</u>
ET Membership Memo	all ok	3 of 12	all ok
Conflict of Interest Forms	all ok	0 of 12	all ok
ET Member Evaluation Form	all ok	3 of 12	all ok
Evaluation Team Report	all ok	all ok	all ok
Successful Bidders Memo	all ok	all ok	all ok

Management Response: *The Evaluation Panel training instituted in early 2008 included a checklist of proposal evaluation documents. These evaluation documents are included in the Evaluation Panel Manual, and the completed documents are compiled by the RFP Administrator during the evaluation. These completed documents are then filed under the Evaluation subfolder in the procurement file.*

Staff Responsible: *Metro Transit Purchasing and Contract Services*

Timetable: *Evaluation Panel training and the checklist for all required proposal evaluation documentation have been instituted.*

3. (Significant) Metro Transit should develop and institute a procedure to assure that all required contract solicitation, award and administration information is maintained in the procurement files.

All procurement files reviewed contained the required CIM, advertising notices, a list of firms requesting the RFP, copies of the RFP and contract, and the NTP. The following documentation is also required by the Contract Administration Manual; however, the number of files that contained the respective documentation was as follows:

Insurance information	24 of 27
Evaluations of Responsibility	11 of 27 (2005 contracts only)
Selection of contract type	3 of 27 (2004 contracts only)

A complete file is critical to clarity and accountability in contract procurement. Lacking key documents can make it difficult to support the Consultant selection process and for contract managers and others to work with contractors and provide adequate oversight.

Management Response: *A checklist, which lists the required documentation and includes the three types of documents listed above, is used by solicitation administrators to ensure that file documentation is complete. Staff will be reminded of the importance of proper file documentation, particularly related to insurance, responsibility evaluations, and selection of contract type. In addition, an administrative assistant will be trained to review, prior to file close out, the final procurement file against the checklist to ensure that all required documents are in the file.*

Staff Responsible: Metro Transit Purchasing and Contract Services

Timetable: The checklist of required documentation is implemented, and solicitation administrators will be reminded of the importance of complete file documentation by March 1, 2009. Training of the administrative assistant on final procurement document review will take place by April 1, 2009, as will the final review of procurement files at the time that Notice to Proceed is issued.

- 4. (Significant) Metro Transit should develop and institute a procedure, including which organization unit has responsibility for obtaining follow-up insurance certificates, to assure that Consultants awarded MECs provide proof of continuous liability insurance coverage.**

Each Consultant is required to provide proof of liability insurance in the form of an Insurance Certificate prior to being awarded a contract and continue such coverage throughout the term of the contract. A review of the 27 MECs contract files disclosed that 11 files did not contain current insurance certificates, no certificates could be found for three of the contracts and no department has taken responsibility for obtaining follow-up insurance certificates. Insurance is important because it reduces Council financial risk. If insurance coverage has not been maintained, the Consultant may not have the funds to indemnify the Council and the Council may bear a financial loss.

Management Response: Engineering & Facilities will prepare Department Work Instructions identifying the procedures and responsibilities for ensuring that proof of continuous insurance is submitted for each active contract.

Staff Responsible: Tom Thorstenson, Joe Edwards

Timetable: May 29, 2009

- 5. (Significant) Metro Transit should develop a practice of obtaining Consultant overhead rates and having MECs periodically reviewed for possible over billings. Those Consultants found to have over billed Metro Transit should be informed of the results of the review and be invoiced or have their Council account payable debited.**

Five of 15 Consultants in 2005 were found to have over billed Metro Transit a total of \$8,123. In addition, five Consultants performed work on projects in 2007 for which audited OH rates were not yet available. The absence of an audited rate for 2007 a year after that year's end is not uncommon. Many of the Consultants used by Metro Transit are also used by MnDOT which conducts the OH audits. Due to MnDOT priorities and work load, the Council must sometimes wait longer to receive an audited OH rate.

Management Response: In March 2009, Metro Transit will initiate an annual practice of obtaining Consultant overhead rates. The list of overhead rates will be used by Metro Transit to periodically review for possible over billings.

Staff Responsible: Metro Transit Engineering & Facilities

Timetable: Metro Transit's Master Engineering Contractors will be contacted in March 2009 and annually thereafter to obtain their overhead rates. These rates will be used to review for possible over billings.

6. (Significant) Metro Transit should develop and implement a practice of ensuring that Consultant invoices are not accepted or paid unless they comply with contract requirements.

One Consultant prepared its invoices using the lump sum method, providing no labor detail. Even though this did not comply with contract clause 5.03 *Payment Requests*, the invoices were approved for payment by the Project Manager. This did not allow for calculating possible OH recapture due to actual OH rates being lower than those used in preparing the invoice.

Management Response: Engineering & Facilities will review its Department Work Instructions for Master Contracts and Reviewing Payment Requests and revise (as necessary) to ensure Work Orders for Master Contracts are issued consistent with the contract terms and instructions for reviewing payment request are complete. Engineering & Facilities will prepare and provide a training session for its staff on reviewing payment requests.

Staff Responsible: Tom Thorstenson and Joe Edwards

*Timetable: May 29, 2009 for review of Work Instructions
June 30, 2009 for training session*

7. (Essential) Metro Transit should develop a practice for the consistent application of contract terms when awarding MECs for similar services.

Three of the 2005 MECs were awarded for environmental assessment and investigation; two using ceiling OH rates and the third using fully loaded hourly labor rates. In such a case, the Consultants may be treated differently for two can be audited for ceiling OH rates and one cannot. In addition, a clear OH recapture clause is not included in contracts awarded using fully loaded hourly labor rates which can result in inconsistent treatment during audits of Consultant OH rates.

Management Response: Metro Transit has instituted a practice of consistently using ceiling overhead rates for MECs. All Metro Transit contracts for MECs require contractors to use ceiling overhead rates.

Staff responsible: Metro Transit Purchasing and Contract Services

Timetable: Requiring the use of ceiling overhead rates for Master Engineering Contracts has been instituted.

8. (Significant) Metro Transit should review hourly rate contract clauses and develop a process for tracking Consultant labor and OH rates to ensure that the Council has sufficient contractual authority and data upon which to conduct audits of such contracts.

Contracts awarded using fully loaded hourly labor rates do contain a limited provision for auditing OH; however, it should be revised to clearly state the Council's audit authority and provide for penalties if Consultants do not provide essential information. In addition, the PCSD does not have a process for tracking such contracts to ensure essential information is received.

Management Response: As stated above, Metro Transit has instituted a practice of consistently using ceiling overhead rates for MECs. All Metro Transit contracts for MECs require contractors to use ceiling overhead rates. However, if Metro Transit ever decides to use fully loaded hourly labor rates for MECs, the contract will clearly state the Council's audit authority, will provide for penalties if the information is not provided, and Metro Transit will establish a process to track the submission of required information.

Staff responsible: *Metro Transit Purchasing and Contract Services*

Timetable: *Metro Transit has instituted a practice of using ceiling overhead rates for MECs.*