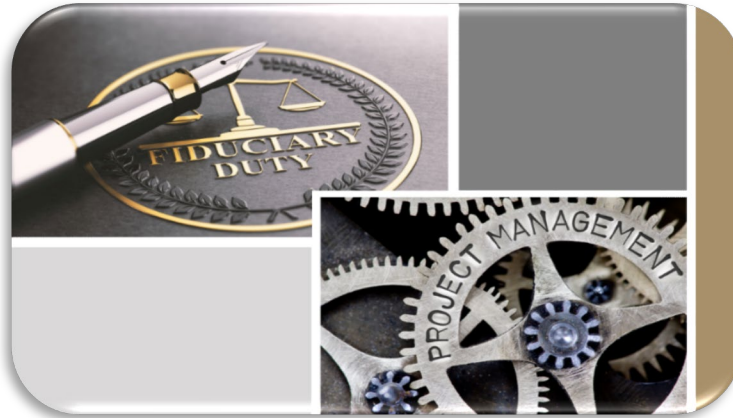


No Evidence of Fraud but Employees Would Benefit from Training on their Fiduciary Responsibilities

Office of the Inspector General



Investigation Results

Fraud examiners completed a detailed review of all invoices paid to Program Management Group LLC (PMG) for its work under three separate prime contracts and found no evidence supporting intentional submission of false information as alleged. In general, PMG submitted invoices with documentation that supported the charges and for work required by the contract scope of services. However, the examiners identified one invoice with a \$3,204 overbilling. This does not indicate an intent to commit fraud. The charge represents less than one quarter of one percent (0.24%) of the \$1.335M billed by the subcontractor. The prime contractor under which PMG submitted the invoice, HTNB Corporation, acknowledged the \$3,204 error and agreed to refund BART.

Although fraud was not evident, there is a weakness in BART's invoice review and approval process. BART does not provide the training and guidance necessary to aid employees in fulfilling their fiduciary responsibilities in reviewing invoices to look for errors or false billings from contractors and subcontractors, particularly contractors with multiple contracts concurrently in place with BART.

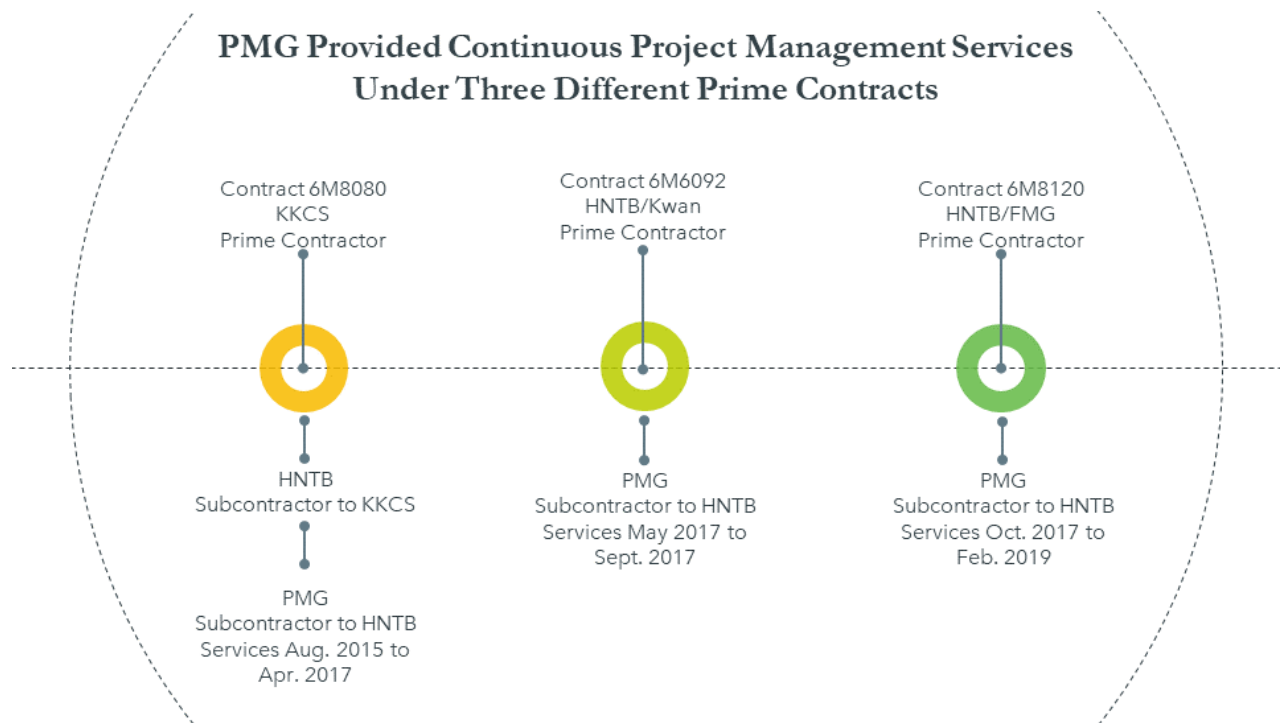
Recommendations

1. Obtain the \$3,204 from HNTB Corporation for the invoice error.
2. Develop training and guidance to assist BART employees in fulfilling their fiduciary responsibility in reviewing and approving invoices. Include examples that demonstrate common invoice errors and methods by which vendors might attempt to or could submit false information. Require personnel to complete the training before they are inserted into the PeopleSoft invoice approval workflow. Training need not be in person and can be achieved through online tutorials and videos.

Background & Investigation



PMG served as a subcontractor under three different prime contracts from August 2015 to February 2019, during the start-up and early revenue generating phase of the eBART extension project. Now called BART to Antioch, the project extended BART rail service to East Contra Costa County. PMG provided continuous project management services across all the three prime contracts for the purpose of developing and implementing business processes for accounting, budgeting, invoice review, document control, and inventory control. Although PMG provided its services under different prime contracts, the work was similar and an evolution of project management needs for the stated business process developments. The prime contractors included Kal Krishnan Consulting Services, Inc. (KKCS); HNTB Corporation/Kwan Henmi Architecture and Planning, A Joint Venture (HNTB/Kwan); and HNTB Corporation/FMG Architects, Joint Venture (HNTB/FMG).



The allegations brought to our office warranted a detailed, in-depth analysis that exceeded our staffing capacity given the number of parties involved in the investigation and volume of documentation that required examination. Therefore, we obtained the services of TAP Financials, LLP, which used the services of two Certified Fraud Examiners, including one senior Certified Fraud Examiner subconsultant for added leverage to their expertise in performing the analytical and technical examinations necessary for a fraud investigation. Certified Fraud Examiners are trained to identify the warning signs and red flags that indicate evidence of fraud and fraud risk. This report is the result of TAP Financials' investigation, as well as our own work.

TAP Financials' reviewed work plans, invoice data, and reports related to the three specified prime contracts for work performed by PMG from August 2015 to February 2019. TAP Financials also performed a detailed review of project documentation, purchase orders, and prime and subcontractor invoices and related support, and conducted interviews with the complainant, witnesses, and the subject of the investigation. TAP Financials focused their fraud examination on whether invoices were properly supported; billed hours were reasonable within a given day or week; the same work was invoiced under more than one prime contract; and the invoices contained unallowable costs such as those already part of the approved overhead rate.



The Office of the Inspector General received multiple allegations from a complainant regarding the actions of subcontractor Program Management Group, LLC. The allegations pointed to possible fraudulent activity, which elevated the significance of the investigation.

Allegations & Determinations

- 1 Approved own invoices
- Substantiated for one invoice
- 2 Billed for same work through more than one prime contractor
- Unsubstantiated
- 3 Billed for work performed by BART personnel
- Unsubstantiated
- 4 Billed for unallowed costs
- Unsubstantiated

Key Findings



TAP Financials found no evidence of fraudulent billing by PMG but did identify:

- An overbilling of \$3,204.¹
- A need for training on an employee's fiduciary responsibilities.
- Contracting practices warranting further analysis.

The overbilling represents less than one quarter of one percent (0.24%) of the \$1.335M billed by the subcontractor, which did not indicate an intent to commit fraud. The overbilling was due to a duplicate charge on a subsequent invoice on which the subcontractor also marked hours for a day that they should have identified as a holiday. Further, the invoice was reviewed by BART staff, which provided them an opportunity to authenticate the charge and require the contractor to correct the error before approving the payment. The reviewer, however, did not identify the overbilling. A lack of training could be the reason why. We contacted the prime contractor, HNTB Corporation, which was responsible for collecting invoices from PMG and submitting them to BART for payment. HNTB acknowledged the \$3,204 error and agreed to refund BART.

¹ TAP Financials identified a total of six invoices requiring further clarification. We conducted further analysis and interviews and obtained missing documentation from HNTB Corporation. We determined that five of the six invoices were appropriate.



Allegations Unsubstantiated with One Exception

TAP Financials did not find any evidence that supported that PMG routinely approved its own invoices for payment. Nor did they find evidence supporting that PMG billed for the same work under more than one contract, work it did not perform, or for unallowed costs. TAP Financials received evidence supporting two instances in which PMG was inserted as an invoice approver in the PeopleSoft invoice approval workflow. One of those invoices included charges for PMG. TAP Financials confirmed that the invoice included documentation supporting those charges. The other invoice did not include charges for PMG but did include charges from the prime contractor under which PMG was subcontracted. We confirmed that the prime contractor's invoice included documentation supporting the charges. We also confirmed that there were no other instances in PeopleSoft of PMG approving its own invoices for their work on eBART.

During an investigation interview, the complainant said that PMG also reviewed 12 of its own invoices. We used PeopleSoft to look up each of PMG's invoices and confirmed that PMG was added to the PeopleSoft invoice approval workflow as a reviewer for 12 invoices. We confirmed that a BART employee reviewed and then approved for payment all 12 invoices after PMG reviewed them in the PeopleSoft invoice approval workflow.

eBART management inserted PMG into the PeopleSoft invoice review and approval workflow on some occasions because it was consistent with PMG's role as a program manager with knowledge of ongoing project activities. While their rationale was reasonable given PMG's role, it signified a departure from standard internal control procedures meant to prevent fraud and detect errors. This gave the appearance that PMG acted improperly and exposed BART to fraud risks. Ideally, automated systems such as PeopleSoft should be configured to restrict the insertion of contractors and subcontractors into a business process. Further, subcontractors should not approve their own invoices or those submitted by the prime contractor that employs them. When business needs dictate a departure from those standards, management can use mitigating procedures to achieve objectives. This includes additional invoice reviews by those with knowledge of the work invoiced and trained in proper invoice review.

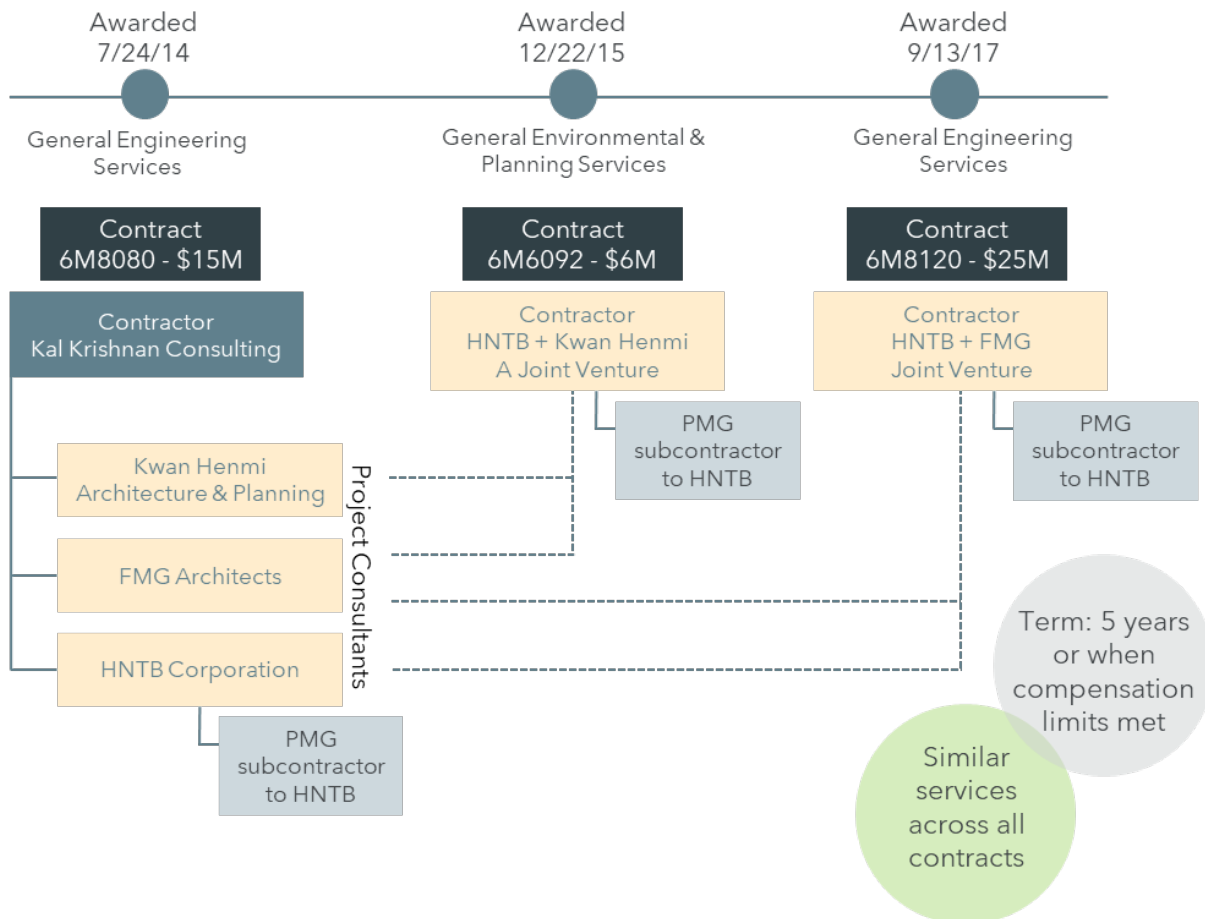
Need for Training and Guidance

One BART employee who was asked to approve invoices noted that BART did not provide training in the invoice approval process and felt uncomfortable approving invoices without having received such training. Accounts Payable staff confirmed that BART does not offer training and guidance that helps invoice approvers better understand their fiduciary responsibilities, particularly in authenticating the work done by contractors and subcontractors and understanding and looking for fraud indicators.



Contracting Practices Warrant Further Analysis

During this investigation, TAP Financials and our investigator remained alert to issues that warrant further analysis. One such issue was that project consultants who were subcontractors under prime contracts became prime contractors under new awards in subsequent years. This creates a reputational risk for BART that could lead an observer to suspect that BART is not following federal and state competitive bidding requirements, even if compliant, because the same contractors continue to provide similar services under successive contracts. This dynamic is also a red flag indicator that could mean fraud, such as collusion or duplicate billings, hidden under separate contracts. At a minimum, it creates circumstances in which billing errors could go overlooked.



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Providing independent oversight of the District's use of revenue.

BART OFFICE OF THE GENERAL MANAGER RESPONSE TO OIG FINDINGS & RECOMMENDATIONS

Report Title: No Evidence of Fraud but Employees Would Benefit from Training on their Fiduciary Responsibilities

1	Recommendation:	Obtain the \$3,204 from HNTB Corporation for the invoice error.
	Responsible Department:	Design & Construction and Accounts Payable (AP)
	Implementation Date:	As soon as possible
	Corrective Action Plan:	AP will coordinate with Design and Construction Department for the collection of the overpayment.
2	Recommendation:	Develop training and guidance to assist BART employees in fulfilling their fiduciary responsibility in reviewing and approving invoices. Include examples that demonstrate common invoice errors and methods by which vendors might attempt to or could submit false information. Require personnel to complete the training before they are inserted into the PeopleSoft invoice approval workflow. Training need not be in person and can be achieved through online tutorials and videos.
	Responsible Department:	Accounts Payable (AP), Human Resources (HR), Office of the Chief Information Officer (OCIO) and Internal Audit (IA)
	Implementation Date:	TBD
	Corrective Action Plan:	<p>Management concurs with the recommendation. AP will coordinate with HR, OCIO, and IA to develop a training plan that will provide guidance and assistance to BART employees on how to conduct and perform a proper review of invoices. Currently OCIO conducts ‘Purchase Requisitions and Receiving’ and ‘Creating and Approving Expense Reports’ training on a quarterly and ‘as needed/requested’ basis, both including approval processes. Due to shelter-in-place, the frequency of training has diminished. OCIO will return to scheduled training as soon as possible. All the current training materials are also posted and available in Employee Connect.</p> <p>Performance & Innovation (P&I) performed an Accounts Payable Improvement Initiative in FY21 that resulted in the development of invoice process desk guides for AP staff. Both the online and P&I training materials focus on the PeopleSoft process and not necessarily on fraud detection. IA will work with AP to conduct fraud awareness training, and training materials will be enhanced to include fraud awareness and prevention techniques to detect fraud and fraud red flags.</p>

BART OFFICE OF THE GENERAL MANAGER RESPONSE TO OIG FINDINGS & RECOMMENDATIONS

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To prevent instances of inappropriate segregation of duties, the OCIO will check the system configuration in PeopleSoft to determine if there is a way to prevent or not allow subcontractors and contractors from being inserted as a fiscal approver of invoices. In cases where it is necessary to obtain concurrence from the contractor or subcontractor due to the nature of the work they were engaged to perform, the system will be configured to allow them to be inserted only as 'reviewer'. IA will also add a review of invoice approval policies and procedures to its master audit plan.

Approval by District staff knowledgeable about the charges being billed will always be required. It should be noted that BART AP staff would be required to adhere to existing procedures for fiscal approval, regardless of 3rd party reviewers.