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Date August 26, 2020

To: Marissa Madrigal, COO
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CC: Metro Council
Housing Bond Community Oversight Committee
Carrie MacLaren, Metro Attorney
Andrew Scott, Deputy COO

From: Brian Evans, Metro Auditor

RE: Housing Bond Audit - Early Communication

Summary

Our audit of Metro's affordable housing bond preparedness began in January 2020. As part of that audit, we reviewed bond expenditures and information about the community oversight committee. Generally accepted government auditing standards require auditors to communicate in writing when they detect deficiencies in internal control that are not significant to the audit objectives, but warrant the attention of those charged with governance. This memo summarizes those deficiencies.

In November 2018, voters approved the \$652.8 million bond measure to fund affordable housing in the region. The bond measure approved by voters required:

- Local and regional administrative costs to be capped at 5% of bond proceeds
- An independent community oversight committee to review bond expenditures and provide annual reports

We found Metro's guidance for managing regional administrative costs was not specific enough to determine which costs were bond-eligible. This made it difficult to consistently manage them over time. We also found some contracts with Metro could reduce the oversight committee's independence. Without stronger controls, voters' trust in the bond may be weakened. As a result, voters may be less likely to support future ballot measures.

Results

Guidance to determine bond-eligible administrative costs was underdeveloped

Oregon’s Constitution required general obligation bonds—like the housing bond—to be spent on capital costs. State law defined capital costs as including acquisition, construction, remodeling, and repair. Metro did not provide sufficient guidance for staff to determine which regional administrative costs were bond-eligible. The bond work plan—released in January 2019—listed several categories of administrative costs, such as program development and administration, financial administration, and monitoring and oversight. It did not provide specific guidance for staff to follow. Staff relied on a working definition to determine whether administrative expenditures were appropriate within the work plan’s general categories. We heard this definition consisted of costs that could not be directly assigned to a housing project.

We identified three issues related to relying on a working definition of administrative costs. First, we found some administrative expenditures that were difficult to tie to the categories listed in the bond work plan. Those costs included travel, staff development, and leave. Second, as of March 31, 2020 we found that about 20% (or 174) of Metro’s bond transactions were reversed so staff could adjust or recode them. Having to reverse transactions indicated confusion over which costs should be administrative. Third, we heard that staff turnover made managing administrative costs more challenging. Written guidance would ensure a consistent approach to coding expenditures if there are personnel changes.

Exhibit 1: Examples of questionable administrative expenditures, April 2019 to March 2020

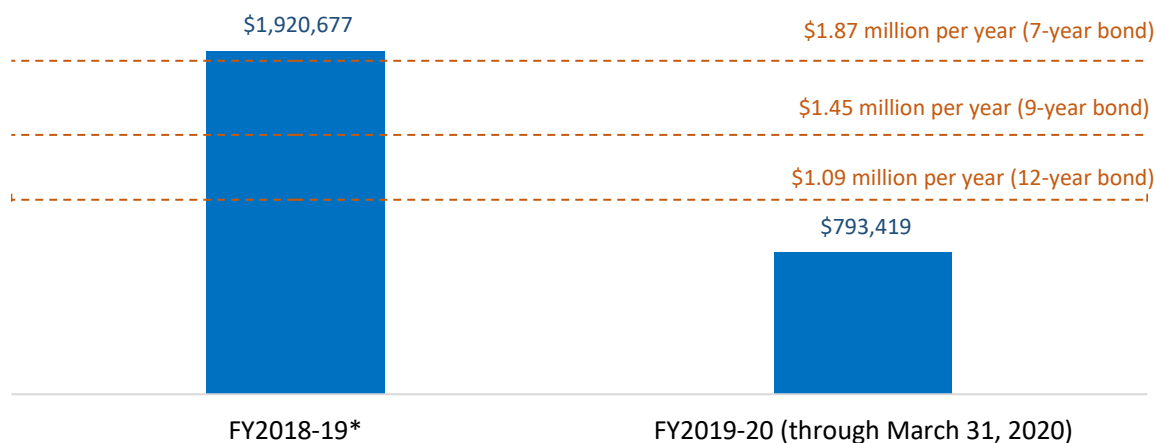
Description	Costs
Travel and Lodging	\$1,890
Staff Development	\$873
Leave	\$8,089
TOTAL	\$10,852

Source: Auditor’s Office analysis of PeopleSoft expenditures and Affordable Housing Bond Program Work Plan.

When we discussed the examples of questionable administrative costs with management, we were informed they considered these costs eligible due to a “but for the bond” test. To learn more about the test we were given 2013 guidance from Metro’s Finance and Regulatory Services that said costs could be capitalized if they existed only because of the bond project. It was not clear how this test would apply to regional administrative costs in the housing bond, since it was specific to the Natural Areas program. Employees responsible for managing bond finances did not mention this test when we interviewed them.

At the end of March 2020, Metro reported it had already spent 21% of its \$13 million regional administrative cost allocation, which underscored the need to carefully monitor those costs moving forward. While the bond was initially projected to be complete in 5-7 years, as of July 1, 2020 two jurisdictions did not yet have signed intergovernmental agreements, which may delay construction. This could mean administrative costs will need to last longer than the original timeline. Having a clear definition of regional administrative costs will help Metro proactively manage its allocation through the life of the bond. It will also help staff delineate between administrative and direct costs, since Metro has a role in implementing the bond through the site acquisition program.

Exhibit 2: Actual administrative costs compared to projected annual costs for possible bond timelines



Source: Auditor’s Office analysis based on “Housing bond funding availability and expenditures” report.

*2019 administrative costs included \$1.87 million in one-time financial issuance costs

Knowing the true cost of administering the bond will help Metro manage it through periods of uncertainty. Staff reported that administrative resources were insufficient, and \$500,000 in general funds were transferred to the housing bond fund as a contingency. Due to the financial constraints of COVID-19, those contingency funds have been cut from the program. Clear and accurate tracking of administrative costs will help Metro understand how much it costs to administer a regional housing bond program, which will help Metro manage scarce resources.

Contracts with Metro could reduce the independence of the oversight committee

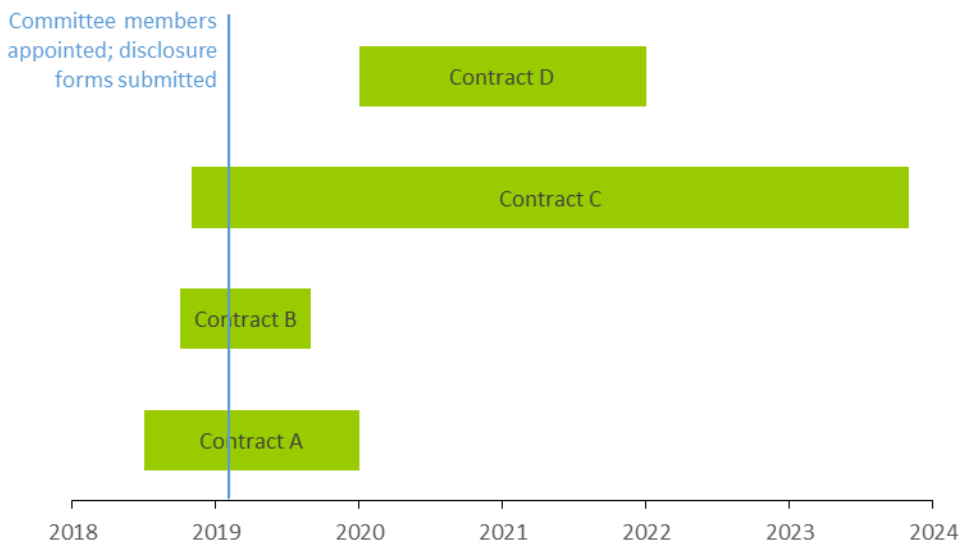
Independence refers to the state of mind and appearance that permits objective review. Maintaining independence allows reviewers’ findings and recommendations to be impartial, and viewed as impartial by third parties. Threats to independence include self-review, or the risk that an individual or organization that has provided services to the reviewed entity will not appropriately evaluate the results of that entity. When the bond measure passed, Metro required independent oversight of its implementation. The community oversight committee was intended to help ensure that Metro’s work was guided by community interests and consistent with commitments made to voters.

Oversight committee members are public officials. State ethics law prohibits public officials from using their positions to obtain a financial benefit. When a public official participates in official action that could or would result in a financial benefit, potential or actual conflicts of interest can arise. State ethics law requires public officials to disclose any conflicts of interest (potential or actual). The Oregon Government Ethics Commission enforces state ethics law.

When members were appointed to the oversight committee, they were asked to submit conflict of interest disclosure forms. The forms asked them at the time whether they, or any relative or business with which they were associated, were engaged in, or had a financial interest in, work related to Metro’s housing bond. Members agreed to submit new forms if anything of relevance changed during their time of service. Metro would work with members to resolve potential issues.

We compared some of the submitted forms to contract information in Metro’s records management system. We found at least four contracts with Metro that should have been disclosed to improve transparency. These contracts could inappropriately influence a committee member’s judgment or behavior, regardless of when payments were received.

Exhibit 3: Four contracts with firms that committee members were associated with overlapped with their appointments



Source: Metro Auditor’s Office analysis of submitted disclosure forms and contract transmittal and change order summaries and resolutions identified in Metro’s records management system.

Contracts with Metro created appearances that could threaten the committee’s independence. Three of them (Contracts A-C) created an appearance of self-review. The contracts supported Metro’s affordable housing policy and programs. They were made effective before committee members were appointed. Those contracts engaged one firm with which one committee member was associated. This introduced the potential for committee judgment to be perceived as less objective as a result of services provided.

One of them (Contract D) created an appearance that a financial benefit was obtained by a public official. That contract was made effective after committee members were appointed. This meant it was possible for gain to have resulted from serving on the committee. That contract engaged a second firm. That firm was owned by another committee member.

These contracts indicated controls over disclosures were not working as intended. They did not ensure accuracy or completeness. In one case, a disclosure was received, but it was incomplete. In another case, a disclosure was received, but it needed to be updated with new information. Processes to address disclosed issues and document how they were resolved were also unclear.

Making disclosures part of committee meetings could improve controls and reduce threats to independence. Meetings were open to the public and materials were available online. The committee was required to meet at least four times per year. Putting disclosures on the agenda would signal that the committee’s independence matters to Metro. It would also prompt members to make disclosures more frequently. This could increase the chance for potential issues to be identified over the course of

members' service. Making disclosures verbally at meetings could also remind committee members to update written forms as circumstances change.

Verbally disclosing conflicts of interest at committee meetings could also increase transparency and accountability. It would create opportunities for members to discuss circumstances affecting their independence, and for Metro and the public to be more informed. It would also allow disclosures, and any planned actions in response, to be captured in meeting records. Making this information more widely available could encourage Metro to follow up on potential threats to independence and document how they were reduced.

Recommendations

To ensure responsible stewardship of bond administrative funds, Metro should:

1. Develop written guidance to help employees determine which administrative costs are bond-eligible.
2. Provide training on written guidance to the employees responsible for making and coding expenditures

To strengthen perceptions of the community oversight committee's independence, Metro should:

3. Ensure that disclosures are accurate and complete by:
 - a. Reminding committee members at each meeting to follow guidance Metro provided to disclose any conflicts of interest (potential or actual) verbally and to update disclosure forms if circumstances affecting their independence change.
 - b. Documenting how potential threats to independence were reduced.

Methodology

Our audit objective was to determine whether Metro was prepared to implement the affordable housing bond measure. This early communication is based on generally accepted government auditing standards that require us to communicate in writing when we detect deficiencies in internal controls.

To develop the findings and conclusions in this memo, we reviewed state law, Metro Code, and legislation, as well as bond plans and oversight committee documentation. We reviewed guidance Metro provided to staff for coding expenditures and to committee members for disclosing conflicts of interest. We analyzed expenditures coded to the housing bond in Metro's financial accounting system and interviewed management and staff in Planning and Development and Financial and Regulatory Services departments. We also interviewed oversight committee members and analyzed contract information in Metro's records management system.

A performance audit of Metro's preparedness for the affordable housing bond was included in the FY 2019-20 audit schedule. That audit is being conducted according to 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 the findings and conclusions in this memo.

Management Response

Recommendation Number	Do you agree with the recommendation?	If Agree, what are the proposed plans for implementing solutions? If Disagree, please provide reasons.	What is the proposed timetable for implementation?
1	Yes	Written guidance is being finalized now and staff will be trained to appropriately code expenses.	Fall 2020
2	Yes	Staff have added a Disclosure of Conflicts of Interest Agenda item to all future meetings.	Fall 2020
3	Yes	Notes will be taken to document committee discussion regarding disclosures.	Fall 2020