



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT INDEPENDENT OFFICE OF THE INSPECTOR GENERAL

PROPORTIONAL BILLING PRACTICE DISTORTS ACTUAL PROJECT COSTS

INVESTIGATION RESULTS



BART paid invoices to an on-call construction management firm for costs that lacked supporting documentation or that billed against projects that had already been completed. According to the firm, BART authorized them to use proportional billing, a practice that involved the firm spreading their total monthly labor costs among projects under multi-project workplans on a proportional basis rather than actual time worked on the projects. The documentation the firm provided to support their assertion did not indicate that BART instructed them to use proportional billing. However, BART accepted and paid the firm's invoices using that billing practice.

District procurement staff also could not confirm that the firm was authorized to use proportional billing but told us that project managers may have allowed the practice to expedite payment instead of modifying workplans as required by contract. District procurement staff acknowledged that allowing firms to use proportional billing could result in inaccurate total project costs and that the practice should be discontinued.

During our investigation, we noted that another on-call consulting firm was using proportional billing on their multi-project workplans. This indicated to us that the practice of proportional billing was not isolated to the consulting firm in question and was likely a practice that BART is allowing.

The practice of proportional billing violated the terms and conditions of the firm's prime contract with the District, made it difficult for the District to determine actual project costs, and created the risk that the District will misuse its special funding sources. Proportional billing also created a fraud risk as it can be used to mask false claims to the District by removing the ability to properly track costs to the work performed.

WHY THIS WORK MATTERS



Ensuring contractors and BART officials adhere to contract terms is essential to upholding service reliability and accountability, and to providing assurance to the public that contractors fulfill their contractual obligations before obtaining payment.

RELEVANT LAW



The California False Claims Act (CFCA) provides liability against anyone who "[k]nowingly presents or causes to be presented" false claims to a public entity. Billing for work under the incorrect project is a potential violation of CFCA.

RECOMMENDATION



To address potential false billings, BART should:

- Discontinue proportional billing.
- Determine if the CFCA applies.
- Impose contractor restrictions.

Management agreed with our recommendations and have taken some immediate corrective action to address them. See page five for details.

OIG REPORTING REQUIREMENT & DISCLOSURE PRACTICES

We are providing this report to comply with California Public Utilities Code § 28841, which requires that we keep BART administration, the Board of Directors, and the public informed of our fraud, waste, or abuse investigation findings and recommendations.

We identify those involved in our investigations in only limited circumstances. This avoids violating privacy and confidentiality rights granted by law and creating unwarranted actions against those involved with our investigation. The decision to provide names is made on a case-by-case basis and considers all elements of an investigation. This practice does not prevent individuals from requesting documents under the California Public Records Act (CPRA). However, such disclosures may be restricted or limited by law. The investigation described in this report is associated with case number 300-2025.

INVESTIGATION RESULTS

In August 2020, the District awarded a round of on-call construction management contracts to eight firms valued at \$40 million each. The District often contracts with a bench of consultant firms for these services. This allows BART to quickly start work on anticipated capital and maintenance projects by issuing workplans under a prime contract instead of individual contracts for the services. At times, the District issues multi-project workplans to consultant firms, with each individual project having its own project costs, funding sources, and line items under a single purchase order. For example, one workplan and associated purchase order may consist of work for 10 separate projects. In turn, the subsequent monthly invoices should have 10 separate project lines to align costs with projects.

In March 2025, we received a whistleblower complaint that one of the District's consultant firms billed BART \$2,869 for construction management services in 2024 for a project that was completed in September 2022. We analyzed the consultant firm's invoice history for the completed project for the period after September 2022, substantiating the allegation. Although this initially appeared to constitute potential false claims under the California False Claims Act (CFCA), we later determined that the firm used a proportional billing method that caused charges to be allocated to closed projects. We also found nine invoices totaling \$5,580 that lacked appropriate supporting documentation: six had no documentation and three were not associated with the invoice line item. This removed the ability to properly assess the purpose and accuracy of the invoices.

We interviewed a representative from the firm in question who told us that BART instructed them to use proportional billing and bill their monthly work to any projects that had available funds, regardless of whether that project received the benefit. This was irrespective of how much or if any work was performed on the various projects and despite the terms and conditions of the firm's contract with the District specifically requiring that *"invoices must match PO (Purchase Order) line items."* Though the firm said that BART instructed them to use proportional billing, none of the BART staff we spoke to could confirm providing that instruction. Also, we determined that the email the firm provided to support their assertion of BART's instruction did not indicate that they should use proportional billing. According to BART staff, the email in

question discussed using percentages for budgeting purposes but said that it is reasonable that the contractor interpreted it to provide direction on billing costs proportionately. To determine whether other consultants may have been given the same direction, we analyzed invoices from another on-call consulting firm and concluded that they were also using proportional billing on their multi-project workplans. This indicated to us that the practice of proportional billing was not isolated to the consulting firm named in the whistleblower complaint. Rather, it was likely a practice that BART allowed some firms to use.

We then interviewed District procurement staff who informed us that invoiced work should agree with the project scope but noted that some BART project managers have been using the practice of proportional billing with the firm at issue and likely other on-call firms, which as noted above, we had already confirmed. It was the opinion of the District procurement staff whom we spoke to, that project managers used proportional billing to expedite payment when funds ran out on a project specific line item but the work was not complete. However, they also said that project managers should modify workplans before funds run out. Because multiple project managers have been responsible for the contract in question over time, some of whom have left District service, we did not interview project managers. Instead, we provided information to the Assistant General Manager of Infrastructure Delivery to address the project managers' noncompliance with the contract terms.

By using proportional billing, BART's total costs do not reflect true project costs and BART cannot ensure that special funding sources, like federal and state grants, are used for their agreed upon projects. Further, proportional billing poses a fraud risk. The practice can be used to mask false claims by spreading inflated or fake costs across many accounts, thus making it harder to identify theft. Because the amounts billed by the firm do not reflect work on the project identified on the invoice, the firm may be liable to the District for damages and penalties under the California False Claims Act. However, District claims may be limited if in fact BART instructed the firm to use proportional billing.

DISTRICT RESPONSE TO RECOMMENDATION

Recommendations		
1.	Recommendation:	Discontinue the practice of allowing contractors to use proportional billing and require that project managers adhere to contract terms regarding payment requirements.
	Implementation Date:	October 2026
	Corrective Action Plan:	<p>OID Management will issue an internal memorandum to reinforce best management practices related to workplan development, approval and consultant invoice review. Workplans that include proportional billing mechanisms will not be approved, except in limited cases where explicit approval is granted by the AGM/Chief Infrastructure Delivery Officer.</p> <p>Project managers and Project Control teams will be required to perform detailed monthly reviews of consultant invoices in order to ensure that charges accurately reflect the actual work performed as well as the level of effort and expenditure incurred on each project. Invoices based solely on proportional allocations without adequate support of actual work performed will not be approved.</p> <p>OID will also conduct a comprehensive review of all existing workplans that include proportional billing arrangements. Where necessary, workplans will be revised and reissued to ensure that billing practices align with actual project activities and work performed. OID will coordinate with the procurement team and the current GEC/CM firms to implement these corrective actions and ensure compliance with established procedures.</p>
2.	Recommendation:	Determine if the District should seek relief under the California False Claims Act.
	Implementation Date:	Implemented as of March 20, 2026
	Corrective Action Plan:	Based on management’s review, the consultant performed the services directed by BART at the cost approved by BART; however, the work was performed in support of projects other than those originally associated with the workplan. OID has coordinated with the Accounting, Finance and Legal teams to evaluate the appropriate accounting and false claim concerns related to these charges. Based on the evaluation and confirmation of

Recommendations	
	services and costs, seeking relief under the False Claims Act is not being pursued.
3.	<p>Recommendation: Impose restrictions against the vendors as permissible under the District’s Suspension and Debarment Policy.</p> <p>Implementation Date: October 2026</p> <p>Corrective Action Plan: Based on the evaluation and confirmation of services and costs, and the corrective actions being taken in response to Recommendation 1, the OID will coordinate with the procurement team and the current GEC/CM firms to implement corrective actions and ensure compliance with established procedures.</p>

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