

NORTHERN CALIFORNIA 21 COUNTIES MAP

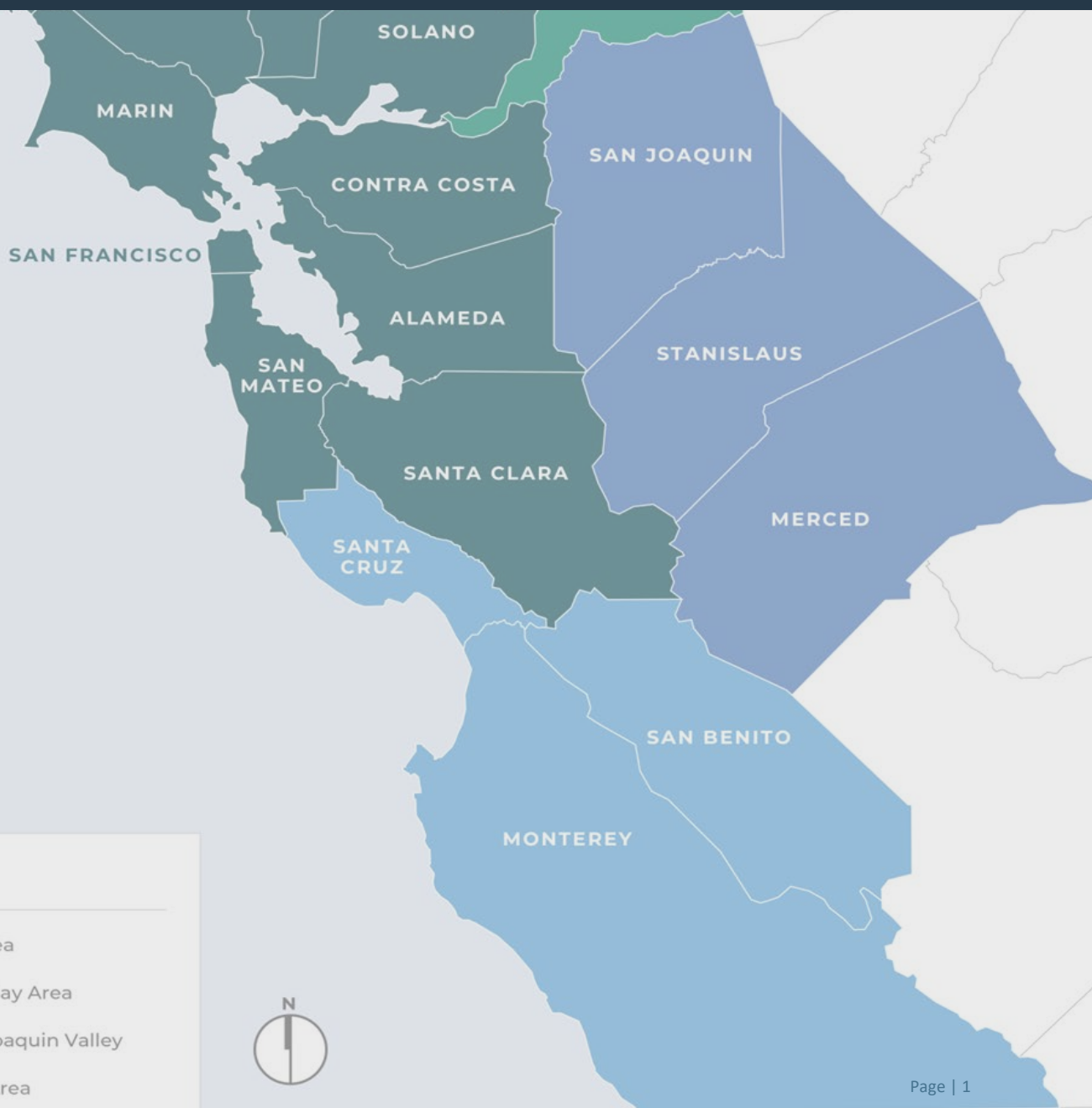


San Francisco Bay Area Rapid Transit

Office of the Inspector General

Highlights: Performance Audit of the Link21 Program

Companion Report to Full Audit Starting on Page Nine



AUDIT HIGHLIGHTS



The BART independent Office of the Inspector General (OIG) is pleased to present its report, *Performance Audit of the Link21 Program*. This audit is part of the OIG's Fiscal Year 2024–2026 Audit Plan, which focuses on large-scale reviews of areas posing great risk to BART. We commissioned this audit to assess whether the Link21 program's spending and contract-management practices align with BART policy and best practices. Our audit covered Link21 from its launch in August 2019 through June 30, 2024, and examined contractor selection, contract compliance, workplan oversight, billing and rate controls, expenditure tracking, and long-term funding needs.

Link21 is fundamentally on track. Staff are doing work consistent with the program's goals and spending appears consistent with intended purposes. Still, we found areas where stronger controls and administrative discipline would better protect BART, prevent avoidable costs, and position the program for long-term success. These are opportunities to strengthen oversight, not major failures. Link21 has a large vision and strong regional importance. By adopting our audit recommendations, Link21 will move into its next phases with stronger guardrails and assurance that public funds support well-managed, well-informed decisions.

WHAT IS LINK21?



Link21 is a long-range, regional rail infrastructure program focused on the Northern California Megaregion comprised of 164 cities and 21 counties within four regions: the greater San Francisco Bay Area, the Monterey Bay area, the Sacramento area, and the Northern San Joaquin Valley. This Megaregion accounted for 31.5% of California's population, totaling 12.7 million people as of January 2021. Link21's core vision is to create a better-connected, more reliable rail network that supports economic growth and reduces congestion.

WHY THIS AUDIT MATTERS



Link21 is a multi-billion-dollar, multi-agency capital program with significant operational, financial, and environment implications for BART and the Northern California Megaregion.

Early independent review helps ensure that governance structures are well-defined, planning assumptions are evidence-based, and public commitments around cost, risk management, and outcomes are backed by accountable processes. Assessing these foundational elements now helps prevent costly missteps, strengthen transparency, and promote sound stewardship of public funds before major decisions become irreversible.

RECOMMENDATIONS IN BRIEF



To strengthen Link21 Program oversight and management, BART should:

- Clarify and update key policies.
- Strengthen oversight and enforce contract terms.
- Improve internal controls.
- Expand equitable outreach and translation access.
- Increase regional engagement and integrate feedback.
- Enhance systems and tracking for better oversight.

See full report starting on page nine for details on findings and recommendations.

Key Findings & Opportunities for Improvement



Billing Rate Inconsistencies



\$929,830

Labor Rate Differences

\$75,628

Overhead Rate Differences

Issue: Advance Rate Agreements were not used in accordance with contract.

Risk: Inability to recover unallowable costs from contractors & administrative burden.

Recommendation: Adhere to contract terms.



Procurement Authority



\$302,500

Cumulative contract & amendments total without Board approval.

Issue: Ambiguous procurement authority policy.

Risk: Limited public visibility on expenditures by contractor.

Recommendation: Update and clarify policy.



Contract Timeline & Amendments



\$2.1 million

Work performed outside of workplan schedule.

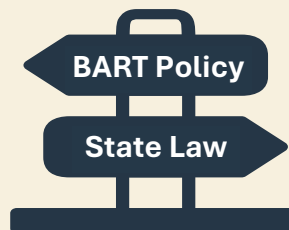
Issue: Prime contract terms confused with workplan schedule requirements.

Risk: Inability to hold contractors accountable to workplan terms.

Recommendation: Adhere to contract terms.



Campaign Contribution Limits



\$1,000 vs. \$500

BART contribution limit double state limit.

Issue: Policy allows potential contractors to contribute \$1,000 to Board Director's campaign.

Risk: Unintentional violation of state law, leading to contract voidance.

Recommendation: Amend policy.

BILLING RATE INCONSISTENCIES



About \$1 million in contractor billings were inconsistent with approved workplans. These variances included \$929,830 in labor-rate differences and \$75,628 in overhead-rate differences because provisional rates were not updated in accordance with the contract requirements. District contracts stipulate that BART and consultants negotiate, in good faith, an Advance Rate Agreement on an annual or multi-year cycle to establish provisional overhead and labor rates for billings. At the end of each period, either party may request a rate adjustment, which they must negotiate and incorporate into a revised agreement. If this is not done, consultants are to continue using the rates established in the most recent Advance Rate Agreement.

The \$1 million does not represent unallowable costs, but rather non-compliance with contract payment terms. Staff reviewed hundreds of labor rate changes to ensure labor rates were acceptable; an administrative burden that can be streamlined using renegotiated Advance Rate Agreements. Staff also relied on Internal Audit to identify overhead rate errors as part of Internal Audits regular review activities. Relying on after-the-fact detection increases the risk of overpayments that BART will not recover.

PROCUREMENT AUTHORITY LIMIT



Link21 issued contracts and amendments totaling \$302,500 to a professional-services consultant without BART Board review. BART policy authorizes the General Manager to approve service contracts up to \$99,999 and requires board approval when the agreement and any amendments total, in aggregate, \$100,000 or more in the fiscal year or any subsequent fiscal year. BART interprets the policy as a per-year cap. Based on our professional knowledge of similar policies in other jurisdictions; we interpret the policy to mean board approval is required at any point in which the contract and amendments reach \$100,000 or more. These differing views demonstrate ambiguity as the policy's intent. In practice, BART requires obtaining board approval once the cumulative total reaches \$300,000. By clarifying and updating the policy, BART can improve public visibility while also reducing administrative burdens.

CONTRACT TIMELINE & AMENDMENTS



Roughly \$2.1 million in contract work continued past authorized workplan end dates without an amendment to extend the period of performance. District contract terms require the scope of services to be completed within the number of calendar days specified in the corresponding workplan. When the workplan reaches the end of that schedule, work should either stop or an extension should be issued, even if there are still funds available for that specific workplan. Although contract language considers the scope complete when the limit on maximum compensation is reached, that language is specific to the prime agreement. BART staff, however, interpreted that language to apply to individual workplans. While the \$2.1 million did not indicate overpayments, work performed outside of term limits exposes BART to risks, including being unable to hold contractors accountable to workplan terms.

CAMPAIGN CONTRIBUTION LIMITS

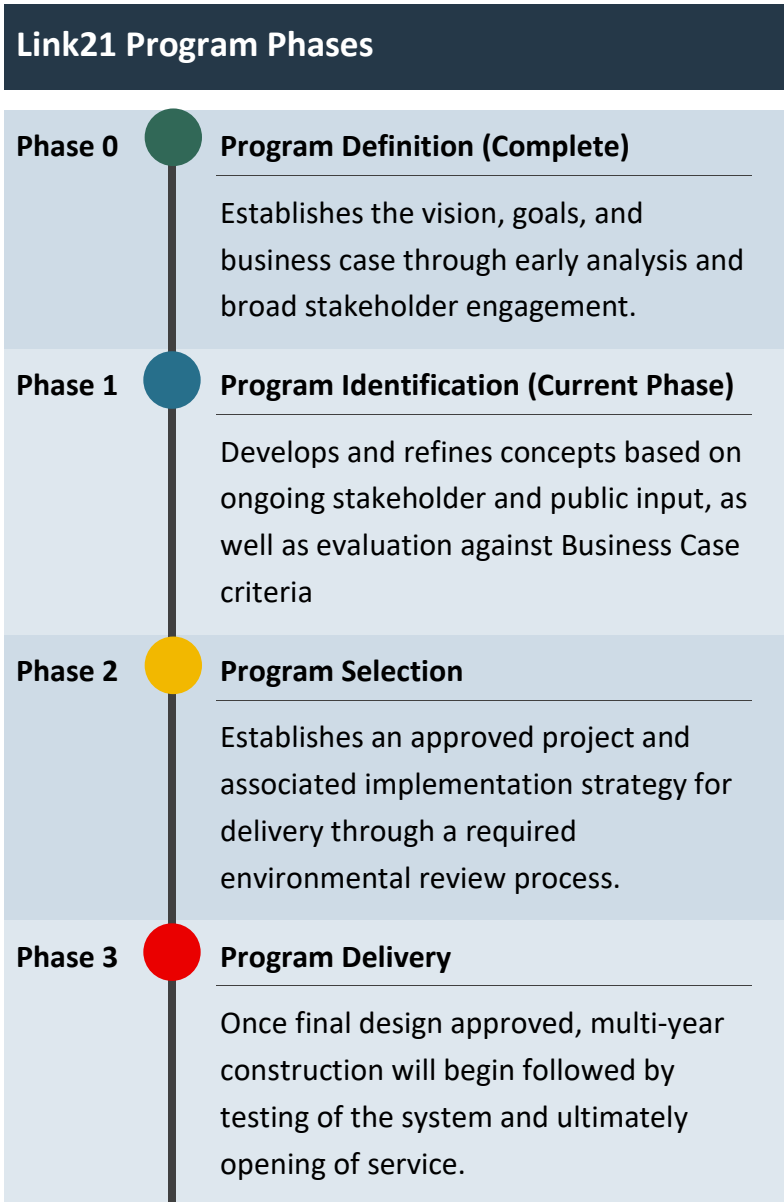
 BART’s campaign contribution limit conflicts with Government Code §84308. BART’s Board rule limits campaign contributions from contractors potentially doing business with the District to \$1,000. The code, however, limits these contributions to \$500.¹ This conflict creates a risk that a director could unintentionally violate the state’s stricter \$500 cap, which could have significant consequences, including the need to void the contract while work is in progress.

PROGRAM FUNDING OUTLOOK

Link21 needs roughly \$83 million by the end of 2026 to reach the environmental stage of Phase 2, and about \$187 million more to complete that phase.²

The program’s funding strategy is, in part, reliant on federal contributions to complete the work. Currently, however, that funding is uncertain, putting the program at risk of delay, which would also increase costs based on the loss of purchasing power due to inflation.

Link21 management understands the funding challenge and is working to identify funding sources and secure support for the Program. Still, there is substantial risk that BART’s \$121.4 million³ investment could, at a minimum, stall in the short term.



¹ The limit during our audit period was \$250; the state subsequently amended the code.

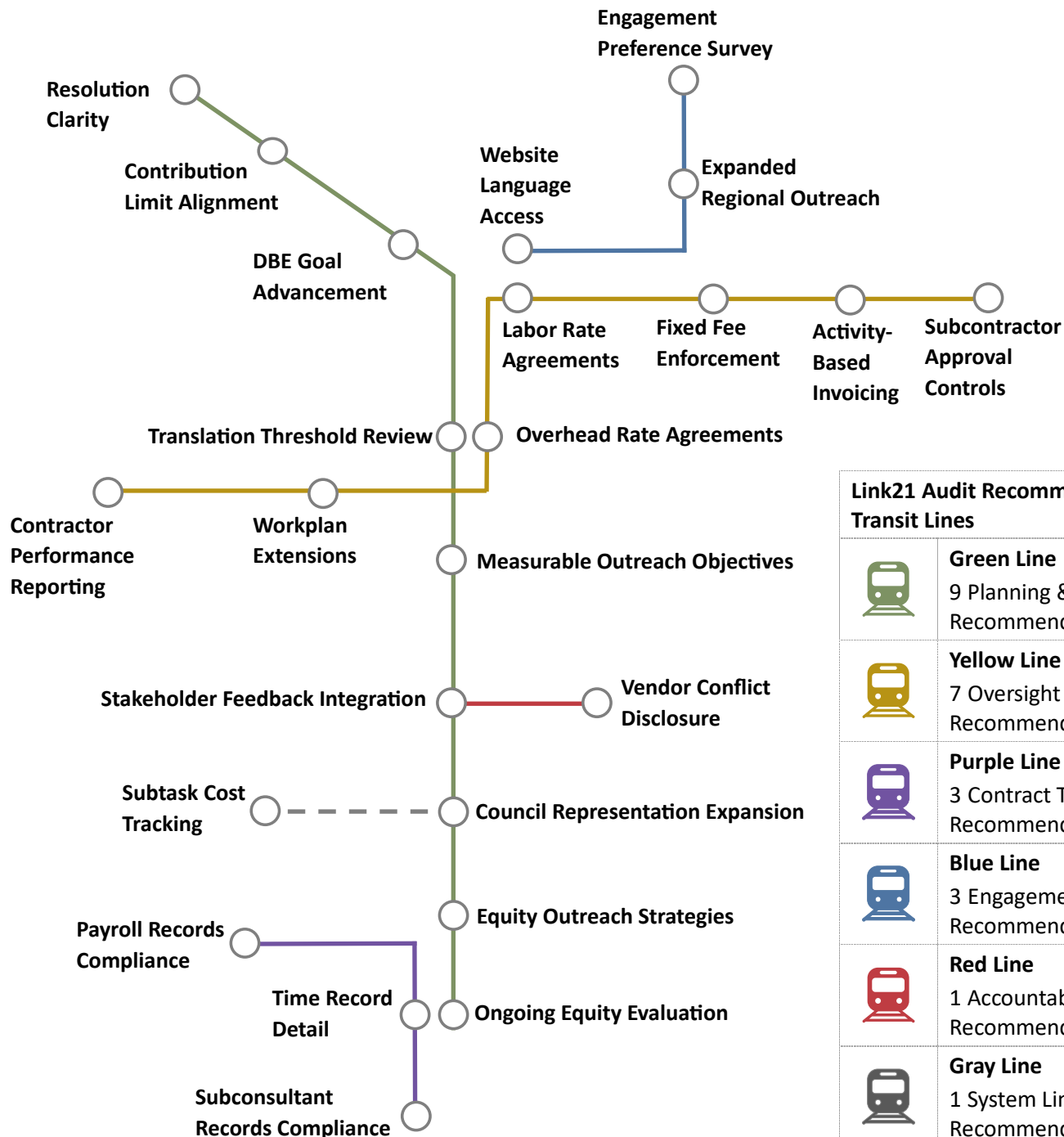
² These estimates are as of June 30, 2024.

³ This is the amount BART spent on the Program as of June 30, 2024, which encompasses the scope of this audit. Per the Link21 website, BART has since spent an additional \$3 million on the Program.

RECOMMENDATIONS

Our audit includes 24 recommendations to assist the Link21 team in their program management: Nine (9) to strengthen planning and policies. Seven (7) to tighten oversight and control activities. Three (3) to ensure contract term enforcement. Three (3) to improve engagement. One (1) to improve accountability. One (1) to address system limitations.

System Check: Link21 Recommendations Transit Map



Link21 Audit Recommendations Transit Lines

	Green Line 9 Planning & Policies Recommendations
	Yellow Line 7 Oversight & Control Recommendations
	Purple Line 3 Contract Term Recommendations
	Blue Line 3 Engagement Recommendations
	Red Line 1 Accountability Recommendation
	Gray Line 1 System Limitations Recommendation

SPECIAL THANKS



The OIG thanks BCAWR for their dedicated work in completing this audit. We contracted with BCAWR to conduct the audit on our behalf as part of our [FY 24-26 Audit Plan](#). Their attention to compliance detail and expertise is evident in their work.

We also thank BART officials for their cooperation and assistance during this audit. Their valuable input helped complete a fair and balanced report.

FULL AUDIT REPORT

Users of this summary report should refer to the accompanying audit report for full details on the audit findings, conclusion, and recommendations, as well as BART's responses to those recommendations.

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Bay Area Rapid Transit District
Office of the Inspector General

Performance Audit Report
on the
Link21 Program

FINAL REPORT

September 2025



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Attachment: Link21 Program Management Written Response

1. EXECUTIVE SUMMARY

The San Francisco Bay Area Rapid Transit District (BART) Office of the Inspector General (OIG) contracted with BCA Watson Rice LLP (BCAWR), after a competitive bidding process, to conduct a comprehensive performance audit of Link21 Program expenditures, including contractor selection, compliance, management oversight, and Diversity, Equity, and Inclusion (DEI)¹ outreach efforts. The audit period was from Link21 Program inception in August 2019 to June 30, 2024.

The Link21 Program is an initiative to create a faster, more connected, and more accessible rail network that focuses on passengers and improves the environment and quality of life for generations to come for the Northern California 21-County Megaregion. The Link21 Program Team consists of BART and the Capital Corridor Joint Powers Authority (CCJPA) management, collectively referred to as BART/CCJPA, and Program Management Consultants (PMC) consisting of HNTB (prime contractor) and various subconsultants. BART/CCJPA leads and maintains control of all ultimate decisions, and the PMC, as an extension of BART/CCJPA staff, provides strategic advising, program management services, technical analyses, and consultant oversight services.

Link21 contractor expenditures from program inception through June 30, 2024, totaled \$121.4 million. The expended amount represents cumulative costs invoiced from Link21 contractors and does not include BART employee labor and other non-labor project costs. Total contracted funding commitments as of June 30, 2024, totaled \$132.3 million with Link21 Program committed funding allocations totaling \$216.2 million as of June 30, 2024.

The primary objectives of this performance audit included the following: 1) assess the contractor selection process for compliance with policies, procedures, laws, and regulations, 2) test for potential conflicts of interest between Link21 contractors and BART Board of Directors, 3) assess contract compliance and adequacy of management oversight, 4) analyze the Work Plan Proposal (WPP) approval process and determine compliance with BART WPP guidelines, 5) identify, quantify, test, and analyze project expenditures, 6) assess funding adequacy and security, 7) analyze outreach costs for compliance with policies and procedures, laws, and regulations, and 8) assess the impact of the equity outreach efforts on project direction.

To achieve the audit objectives, BCAWR interviewed key Link21 Program staff and managers and requested and reviewed relevant documentation; and selected samples and conducted substantive testing of invoices, and proper reporting of monthly reports.

We conducted this performance audit in accordance with 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 our findings and conclusions based on our objectives.

¹ This audit was completed prior to the issuance of recent federal Executive Order 14151 affecting DEI programs.

Below we provide a summary of the more significant findings and recommendations. A more detailed discussion of the audit results is set out in Section 4 of this report beginning on page 11.

SIGNIFICANT FINDINGS AND RECOMMENDATIONS

Finding: Link21 contract management oversight of contract compliance could be improved. Our audit found several instances of contract management non-compliance issues summarized below. Also, during our detailed testing of invoices, we did not identify any instances of fraud, waste or abuse.

- Invoices tested totaling \$2,102,545 were for expenditures incurred *after* the service period specified in the work plans. Article 2.1A of the contract requires the Consultants to complete the services within the number of calendar days specified in the corresponding work plan. The work plan period of performance was not amended.
- Invoices tested for overhead rate billings found a difference of \$75,628 in overhead costs paid to contractors because overhead rates listed in the approved work plans did not agree to the overhead rates invoiced. The work plan overhead rates were not amended to reflect the overhead rates invoiced.
- Invoices tested for the billing of labor rates found a difference of \$929,830 in labor costs paid to contractors because labor rates listed in the approved work plans were lower than the labor rates invoiced. The work plan labor rates were not amended to reflect the higher labor rates invoiced.
- Invoices tested found \$143,952 paid to subcontractors that were not included in the original work plan proposal. The work plan was not amended to include the subcontractors added to the team after the original work plan was approved.
- Invoices tested found insufficient supporting documentation for some subconsultant invoiced costs.

The cost differences noted above are not questioned as unallowable costs, but rather non-compliance with certain contract payment terms.

Recommendation: We recommend that Link21 program management improve its oversight of contract management compliance by formal written modifications to work plans and/or agreements and by enforcing the terms and conditions of the work plans and agreements. In addition, to decrease the administrative workload of approving requests for changes to overhead rates and labor rates, we recommend that Link21 program management negotiate and issue annual Advance Rate agreements for provisional cost reimbursement as allowed for under each of the prime contracts.

Finding: BART's Annual Budget Resolutions lack clarity regarding whether Board authorization is required for contracts that cumulatively exceed \$100,000 over multiple fiscal years.

Our audit found that from February 8, 2020, through November 7, 2023, four contracts and one change order were issued totaling \$302,500 via sole source to one contractor without Board authorization. BART's FY26 Annual Budget Resolution a. requires Board authorization *when the agreement, and amendments thereto, total in the aggregate \$100,000 or more in the fiscal year; or b. amendments total in aggregate \$100,000 or more in any subsequent fiscal year.* Based on this language, it is unclear if the intent of the Board was to require Board approval if an agreement exceeds \$100,000 within a fiscal year or if Board approval is also desired when the agreement amounts cumulatively exceed \$100,000 across multiple fiscal years. Link21 management believes this Budget Resolution requires Board authorization only if any subsequent amendment exceeds \$100,000 in any fiscal year. Thus, Link21 management did not seek Board authorization for this sole source contract and subsequent amendments because no singular amendment exceeded \$100,000. Furthermore, based on our review of procurement documents for this contract award, we found no detailed analysis or breakdown as to how the contract amounts were derived. There was no price comparison with other similar vendors, nor review of the hourly rate that was being charged. Lastly, we found that no specific deliverables were required to be submitted by this contractor other than oral communications.

Recommendation: We recommend an amendment to future Annual Budget Resolutions to clarify the intent of the resolution. We also recommend Link21 program management 1) require a cost or price analysis of all sole source contracts to verify the reasonableness of proposed costs, and 2) all contractors be required to submit specific deliverables at least monthly, evidencing the work performed.

Finding: Link21 Program committed funding amounts for the completion of Phase 0 – Stage Gate 1 and Phase 1 – Stage Gates 2 and 3 appears sufficient but additional funding for Phase 2 and beyond is not secure and is reliant on federal funding. A central element of the funding strategy is reliant on federal funding from the Federal Railroad Administration's (FRA) Corridor Identification and Development Program, which was created under the prior Administration. Funding for this FRA Program has not yet been impacted by the current Administration.

Link21 Program funding sources for Phase 2 Stage Gates 4 and 5 have yet to be secured. An estimated additional \$83 million is required before December 31, 2026, to achieve Phase 2 Stage Gate 4 – Environmental Review, and an estimated additional \$187 million is required to complete Phase 2 Stage Gate 5 – Project Selection.

Link21 program management's strategy for securing additional funding relies on a combination of local, state, and federal funding sources. However, a central element of the funding strategy is reliant on federal funding from the Federal Railroad Administration's (FRA) Corridor Identification and Development Program, which was created by the former White House Administration. According to Link21 Program management, funding for the

FRA Corridor Identification and Development Program has not yet been impacted by the current Administration.

Link21 Program management understands the challenging funding environment beyond Phase 1 but will continue to pursue the additional funding needed by working closely with BART and the Capital Corridor Joint Powers Authority (CCJPA) for buy-in and coordination on funding proposals and developing an approach for grant pursuits at the federal and state levels.

Finding: The Link21 Program has four goals that reflect the broad benefits intended to be achieved through its equity outreach program. After reviewing outreach activities and documentation, it has been determined that feedback from various stakeholders has been adequately considered and integrated into the program's goals, positively influencing the project direction.

A thorough review was performed of over 600 outreach documents for the Link21 Program. These documents included meeting notes, agendas, activity reports, and other records from various outreach activities conducted by the Link21 team. The documentation provided detailed insights and comprehensive feedback from stakeholders, reflecting the breadth and depth of the outreach efforts.

Through this review, it became evident that the Link21 team has engaged in extensive outreach activities, capturing a wide range of stakeholder perspectives while following major elements of the BART Public Participation Plan (PPP). The meticulous documentation of these interactions demonstrates a commitment to transparency, inclusivity, and equity. The feedback collected has been diverse and, in many cases, detailed, indicating active participation from the community and stakeholders.

Recommendation: We recommend that the Link21 Program continue to document and integrate stakeholder feedback into its project goals to ensure ongoing alignment with community needs and priorities.

Finding: The Equity Advisory Council membership does not represent all four regions of the Northern California Megaregion as defined by the Link21 Program.

The Equity Advisory Council consists of 18 members from diverse backgrounds within the Link21 megaregion. The megaregion includes four key areas: the greater San Francisco Bay Area, the Monterey Bay Area, the Sacramento Area, and the Northern San Joaquin Valley. Currently, the Council includes 15 members from the San Francisco Bay Area, 2 members from the Sacramento Area, and 1 member from the Monterey Bay Area. However, there is no representation from the Northern San Joaquin Valley. This lack of representation means that the perspectives and unique needs of communities in Stockton, Modesto, and Merced counties, which are part of the Northern San Joaquin Valley and have significant Priority Populations as defined by Link21, may not be directly considered in the Equity Advisory Council's deliberations.

Recommendation: We recommend that the Equity Advisory Council be expanded to include at least one representative from the Northern San Joaquin Valley to ensure that the voices and concerns of this region are adequately represented and that the Link21 Program is inclusive of all regions within the Megaregion.

Finding: Survey responses show low public awareness of the Link21 Program.

Multiple surveys and polls were reviewed that support Link21's engagement and outreach efforts. According to the Strategic Program Plan, Link21 employs polling and surveying to gauge public awareness and opinion, aiming to better understand the public's needs. Despite these efforts, survey responses indicate low awareness of the Link21 Program, highlighting potential gaps in the effectiveness of equity in engagement and outreach activities.

The Link21 Branding Survey conducted in June 2020 revealed that 55% of respondents (out of 1,405 total interviews) had heard "nothing at all" about the "integrated rail system" or the "project". Similarly, the Link21 Crossings Trade-Off Survey conducted in December 2023 found that 70% of respondents (out of 1,255 total interviews) were unaware of the Link21 Program. These findings suggest that despite ongoing outreach efforts, there is a significant portion of the population that remains uninformed about the project, pointing to the need for enhanced and more inclusive engagement strategies. Although there is low public awareness of Link21, the same Link21 Crossings Trade-Off Survey in December 2023 showed that 70% of respondents supported the continued long-term planning and development of Link21.

Recommendation: We recommend that Link21 Program management conduct an engagement and outreach survey to understand how people prefer to receive information about the program. This approach will enhance equitable engagement by meeting people where they are and increasing public awareness of the project. Based on the survey results, the Link21 team can then develop targeted strategies to improve information dissemination.

2. INTRODUCTION AND BACKGROUND

The Link21 Program vision is to transform the BART and Regional Rail network in the Northern California Megaregion into a faster, more integrated system that provides a safe, efficient, equitable, and affordable means of travel for all types of trips. The Northern California Megaregion covers a 21-county area ranging from Sacramento to Monterey, San Francisco to the Central Valley, as well as points in between. The Megaregion is home to approximately 12.7 million people, and the population is expected to reach 14.9 million people by 2050. Travel demands across the Megaregion are expected to increase sharply in the coming decades. The Link21 Program includes a new transbay passenger rail crossing between Oakland and San Francisco that will enhance environmental quality, livability, and economic opportunity. The Link21 Program will leverage the existing rail network and increase capacity and system reliability to better meet the needs of residents throughout the Megaregion.

The Link21 Program is structured into four main phases:

1. Phase 0 (Program Definition) focused on establishing the program's vision, goals and objectives, and a preliminary business case framework.
2. Phase 1 (Project Identification) is currently underway and involves developing and refining concepts based on ongoing stakeholder and public input, as well as evaluation against business case criteria to advance into environmental review.
3. Phase 2 (Project Selection) will establish an approved Project and associated implementation strategy for delivery through a required environmental review process.
4. Phase 3 (Project Delivery) will first focus on the final design of the approved Project and associated funding strategy. Once completed and approved, a multi-year construction stage will begin followed by testing the system and ultimately opening of service.

Link21 Program contract expenditures totaled approximately \$121.4 million as of June 30, 2024. Committed funding allocations total \$216.2 million, with most of the funding (\$150 million) allocated from BART Measure RR.

BART's OIG contracted with BCA Watson Rice LLP (BCAWR), after a competitive bidding process, to conduct a comprehensive performance audit of Link21 Program expenditures, including contractor selection, compliance, management oversight, and Diversity, Equity, and Inclusion (DEI) outreach efforts.

The overall objective of this performance audit is to improve the efficiency and effectiveness of Link21 Program management operations and internal controls as the program moves forward into the Program Identification, Project Selection and Project Delivery phases.

3. OBJECTIVES, SCOPE, AND METHODOLOGY

The primary objectives of this performance audit were to: 1) assess the contractor selection process for compliance with policies, procedures, laws, and regulations, 2) test for potential conflicts of interest between Link21 contractors and BART Board of Directors, 3) assess contract compliance and adequacy of management oversight, 4) analyze the Work Plan Proposal (WPP) approval process and determine compliance with BART WPP guidelines, 5) identify, quantify, test, and analyze project expenditures, 6) assess funding adequacy and security, 7) analyze outreach costs for compliance with policies and procedures, laws, and regulations, and 8) assess the impact of the equity outreach efforts on project direction. The period of review was from August 2019 (program inception) to June 30, 2024.

We conducted this performance audit in accordance with 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 our findings and conclusions based on our objectives.

Based on our approved BART OIG work plan, we performed the following tasks and procedures:

1. Assess the contractor selection process for compliance with policies, procedures, laws, and regulations.

- Obtained and reviewed Link21 program procurement and contracting policies and procedures to obtain an understanding of the approach and control structure for contracting.
- Conducted interviews with procurement and contract management staff to clarify policies and procedures and gain an understanding of the functional processes for procurement and contracting.
- Identified and conducted a high-level review of all the different types of contracts issued during the audit period and selected a stratified sample of contracts to review in detail.
- Conducted a detailed review of selected contracts to verify that the contractor selection process was compliant with procurement and contracting policies and procedures.

2. Test for potential conflicts of interest between the contractors and BART.

- Verified whether conflict of interest required disclosures were filed in accordance with BART Codes of Conduct, California Government Code 1090, FPPC Form 700, and FTA regulations (if contract is federally funded).
- Examined vendor and supplier relationships with BART employees and Board members.
- Reviewed the composition of Board members and key committees.

- Assessed the procurement process to ensure full transparency in the selection of contractors.
- Assessed training and ongoing monitoring efforts to identify and manage potential conflicts of interest.

3. Assess contract compliance and adequacy of management oversight.

- Identified all contracts issued during the audit period and selected a stratified sample of contracts to review in detail.
- For a sample of contracts, reviewed contract language to determine if clear terms and conditions were established for scope of work, deliverables, timelines, and performance.
- Determined whether key performance indicators (KPI's) and performance metrics were established to measure the contractor's performance against contractual obligations.
- Determined whether regular meetings and communications between contractor and BART management occurred to discuss progress, issues, and any changes in scope of work.
- Determined if periodic inspections, audits, or reviews were performed to assess the quality of work and identify any improvements needed.
- For a sample basis of selected contracts, identified the performance and billing requirements outlined in the selected contracts, and conducted substantive tests to assess overall compliance with performance and billing requirements.

4. Analyze Work Plan Proposals (WPP) and assess compliance with BART work plan proposal policies and procedures.

- Reviewed BART's guidelines for preparation of work plans for the Link21 program.
- Identified the WPP's issued for the Link21 Program from inception to date.
- Selected a representative sample of WPP's issued under the Link21 program.
- Based on the selected sample, reviewed and tested compliance with BART WPP guidelines.

5. Identify, quantify, test, and analyze all project expenditures to date.

- Conducted an overall assessment of project expenditures to date including an analysis of budget to actual expenditures.
- Reviewed and reconciled the expenditure amounts from various cost documents to validate the accuracy of the amounts being recorded and reported by BART and identified the discrepancies found.
- Reviewed contract requirements and verified compliance with the contract payment terms and identified areas of non-compliance.
- For a sample of invoices, we reviewed contractor billings for completeness and checked total against approved Work Plan amounts.

- For selected invoices, conducted expenditure testing of direct labor rates, overhead rates, and other direct costs for adequacy of support, and identified questioned costs.

6. Assess funding adequacy and security.

The Link21 Program is in the development phase and has four phases: Phase 0 – Program Definition, Phase 1 – Concept Identification, Phase 2 – Project Selection, and Phase 3 – Project Delivery. The Link21 Program is currently in Phase 1. The total budget for Phase 0 was \$50 million. Phase 1's total budget is \$205 million, and Phase 2 total budget is estimated at \$595 million. Phase 3 total budget has yet to be determined. Current budget projections show original budget estimate at completion of approximately \$850 million of which \$153.9 million has been funded to date. The Link21 Program development phase is scheduled for completion in Fiscal Year 2028.

To assess the funding adequacy of the Link21 program development phase we will review budget to actual costs to date for Phases 0 and 1 and identify any cost overruns. We will discuss the remaining budget requirements for the completion of Phase 1 and review/assess cost estimates for the completion of Phase 2. We will also identify the current and potential funding sources for Phase 2 and identify the challenges in obtaining sufficient funding for Phases 2 and 3.

7. Analyze outreach costs for compliance with policies and procedures, laws, and regulations.

Gathered a list of key Link 21 outreach activities and expenses incurred since 2019. Reviewed the cost of outreach activities and the types of activities conducted to ensure conformance with applicable policies and procedures, laws and regulations which included the following:

- ✓ FTA Circulars – Environmental Justice Policy Guidance for FTA Recipients and Title VI Requirements & Guidelines for FTA Recipients.
- ✓ BART Title VI Plan – includes a plan to ensure underserved communities are considered when making transit decisions.
- ✓ BART Reports and Analysis Documents – includes Title VI fare equity analysis and environmental justice reports.
- ✓ BART agency specific outreach policies and procedures – if applicable.

Determined whether public participation activities were properly communicated, whether the public was allowed to review and provide input at key milestones, and whether outreach was accessible to all audiences and in various languages and formats.

8. Assess the impact of the equity outreach efforts on project direction.

Conducted a review of all relevant outreach activities performed to date. Specifically, reviewed documents and reports prepared from the various community meetings, community events, advisory council events, and surveys conducted. Determine whether community feedback and findings were adequately considered and how this ultimately impacted on the project activities and direction. Determined whether train service improvement recommendations were considered and if project plans were updated to address areas with unmet potential for train travel. Determined whether Link21 has an equity program and has made specific intentional efforts to work with marginalized communities. Assessed whether marginalized communities' voices were heard and meaningfully considered in the project planning.

4. DETAILED RESULTS

AUDIT TASK 1

Assess the contractor selection process for compliance with policies, procedures, laws, and regulations.

As of June 30, 2024, the Link21 Program had awarded six Professional Services/Architectural & Engineering contracts. In addition, a series of four separate professional services engagement and outreach contracts and one change order were awarded to one vendor via a sole source non-competitive basis. To assess the adequacy of the contractor selection process and to verify compliance with BART contracting policies and procedures, we tested the following contracts and one change order as shown below.

Sample Contracts Tested

Prime Contractor/Agreement No.	Contract Award Date/End Date	Contract Value
HNTB/6M8159	8-1-19/7-31-24	\$ 50M
HNTB/6M6155	5-9-22/5-9-26	80M
Arup-WSP JV/6M6146-SC3	8-16-21/8-15-27	55M
Zell & Associates/6M8198	2-2-21/12-31-21	60,500
Zell & Associates/6M8181	3-13-23/12-31-23	60,500
Zell & Associates/6M6181 Change Order	10-25-23/12-31-24	60,500

We performed the following audit procedures for each of the contracts selected above:

- Obtained and reviewed Link21 program and BART's procurement and contracting policies and procedures to obtain an understanding of the approach and controls for contracting. In addition, we reviewed the following:
 - District's Procedure Manual, revised June 2022.
 - Procedure for Preparation, Review, and Award of Service Agreements, April 2023.
 - Relevant laws and regulations pertaining to award contracts by governmental agencies to third parties.
- Conducted interviews and email correspondence with Link21 program management to clarify policies and procedures and gain an understanding of the functional processes for procurement and contracting.
- Conducted a detailed review of the selection process and verified that the contractor selection process was compliant with BART procurement and contracting policies and procedures.

Finding 1: The contractor selection process for the Architectural & Engineering (A&E) contracts awarded were found to be in compliance with BART's procurement policies and procedures.

The three A&E contracts reviewed to assess compliance with BART's procurement policies and procedures included HNTB Contract No. 6M8195, HNTB Contract No. 6M6155, and ARUP/WSP Joint Venture Contract No. 6M6146-SC-3.

Per the Procurement Manual, Revised June 2022, a Request for Proposal (RFP) process is required for all A&E Services contracts. The Board of Directors is required to review and approve all contract awards above \$100,000. Other major requirements for A&E Services contracts include:

1. Request for Proposal (RFP) needs to be publicized.
2. Publication of RFP in local and national newspapers.
3. Submitted proposals to include at a minimum cost estimate, staffing tables, similar work experience to the proposed project, key personnel, resumes, proposed certified DBE/SBE companies, and disclosure of financial contributions to the Board of Directors, among other forms.
4. The Selection Committee evaluates all contractors on their submitted written proposal and oral interviews, selecting the contractor with the highest score.
5. Selection Committee participants are required to sign Conflict of Interest Statements and certify that they will not disclose confidential information.
6. Selection Committee Chair completes the Source Selection Recommendation (SSR form) which identifies the process followed for the contractor selected and name of the chosen A&E contractor.
7. Price and Cost Analysis for Contractors is performed by the Procurement Department.
8. Final cost proposal sent to Internal Audit and Office of Civil Rights for comments/approval.

We reviewed and verified that the A&E contractor selection procurement process detailed above complied with BART and Link21 procurement policies and procedures without exception.

Finding 2: BART's Annual Budget Resolution Part (3) a. and b. lack clarity regarding whether Board authorization is required for contracts that cumulatively exceed \$100,000 over multiple fiscal years.

From February 8, 2020, through November 7, 2023, four contracts and one change order were issued by sole source contract award to Zell & Associates. We reviewed two of the four contracts and one change order. The cumulative cost for all contracts and the change order totaled \$302,500 for a duration of five years. These successive contracts were requested by the former BART Link21 Program Director, and the purchase order and executed contracts were approved/signed by the Director of Procurement. The contracts with Zell & Associates all had the same scope of work, consisting of professional consulting services for government outreach, state, regional and local funding opportunities, and engagement and outreach coordination and implementation.

The cost of each of the four contracts and change order totaled \$60,000 for services provided plus \$500 for miscellaneous costs. Over a five-year period, Zell & Associates was paid \$302,500 or \$60,500 per year. Based on our review of the procurement documents provided, there was no detailed analysis or breakdown as to how the contract amount was derived. There was no price comparison with other similar vendors, nor review of the hourly rate that was charged by Zell & Associates.

BART's FY26 Annual Budget Resolution requires a. Board authorization for agreement, and amendments thereto, *that total in the aggregate \$100,000 or more in the fiscal year; or b. amendments total in the aggregate \$100,000 or more in any subsequent fiscal year.* Based on this language, it is unclear whether the intent of the Board was to require Board approval if an agreement exceeds \$100,000 within a fiscal year or if Board approval is also desired when the agreement amount cumulatively exceeds \$100,000 across multiple fiscal years. Link21 management believes this Budget Resolution requires Board authorization only if any subsequent amendment exceeds \$100,000 in any fiscal year. Thus, Link21 management did not seek Board authorization for this sole source contract and subsequent amendments because no singular amendment exceeded \$100,000.

If Zell & Associates had gone through the RFP process when the cumulative costs exceeded \$100,000, BART would have required the following certifications from the contractor:

- Potential Conflicts of Interest, (per FTA Circular 4220.1F, Third Party Contracting Guidance, and California law Government Code Section 1090).
- Financial contribution of any monetary or in-kind contribution (including loans) to a BART Director or to any other candidate for Director equal to or below \$1,000, (per Rules of Board of Directors, Chapter V, Section 5).
- Lobbying (per Section 1352, Title 31, U.S. Code).
- Disadvantage Business Enterprises (DBE) and Small Business Entity (SBE) Information Form.
- Commitment to achieve the required DBE/SBE goal percentage set by the Office of Civil Rights, (for DBE per Title 49, CFR, Part 26, and for SBE per District's Policy).
- Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions, (per Federal Regulations, Executive Order 12549).

Without such certifications, BART increased its financial and legal risk.

Recommendation 1: We recommend an amendment to future Annual Budget Resolutions to clarify the intent of the Board resolution. We also recommend Link21 program management 1) require a cost or price analysis of all sole source contracts to verify the reasonableness of proposed costs, and 2) all contractors be required to submit specific deliverables at least monthly, evidencing the work performed.

AUDIT TASK 2

Test for potential conflicts of interest between Link21 contractors and BART Board of Directors.

To test potential conflicts of interest between Link21 contractors and BART Board of Directors, we conducted the following:

- Verified whether conflict of interest required disclosures were filed in accordance with BART Codes of Conduct, California Government Code 1090, FPPC Form 700, and FTA regulations (if contract is federally funded).
- Examined vendor and supplier relationships with BART Board members.
- Reviewed the composition of the BART's nine Board members as of June 2024.
- Assessed the procurement process to ensure full transparency in the selection of contractors (see Task 1 above). We reviewed the Selection Committee Member's Contract Evaluation and Award Confidentiality and Conflict of Interest Certifications.
- Assessed the training and ongoing monitoring efforts to identify and manage potential conflicts of interest.

Identifying conflicts of interest within an organization requires a combination of proactive measures and ongoing monitoring. Disclosure of potential conflicts of interest between contractors and BART Board of Directors is key to avoiding actual conflicts of interest.

By having an effective conflict of interest disclosure policy and ongoing monitoring program for potential conflicts of interest, organizations can be proactive in identifying and addressing any potential conflicts of interest, thereby reducing the risk of reputational damage, legal liabilities and financial losses associated with such conflicts.

Finding 3: BART's conflict-of-interest policies and procedures were found to be thorough and enforced for contracts over \$100,000. However, our review indicated that a Conflict-of-Interest form is not required for contracts under \$100,000.

In our review, we noted that the Link21 Program follows BART's policies and procedures related to disclosure of actual, potential or perceived conflicts of interest. Most of the documents that we reviewed have been updated to strengthen internal control measures regarding the disclosure process.

Below are the details of our assessment:

Contractor Conflict of Interest Testing

For Architectural & Engineering contracts, BART policy requires that contractors with a contract of more than \$100,000 in any one year be approved by the Board of Directors. Contractors are also required to certify the following in their proposal:

- If there was any potential or actual conflict of interest for the potential contractor or subcontractors/suppliers, and
- If there was any monetary or in-kind contribution (including loans) more than \$1,000 made to a BART Director or to any other candidate for Director by the potential contractor or subcontractors/suppliers.

We reviewed the following contractors for the filing of conflict-of-interest forms and financial contribution forms.

Sample Contracts Tested

Prime Contractor/Agreement No.	Conflict-of-Interest Form Filed	Form 700 Filed
HNTB/6M8159	Yes	Yes
HNTB/6M6155	Yes	Yes
Arup-WSP JV/6M6146-SC3	Yes	Yes
HDR Engineering/6M6146-SC1	Yes	Yes
Cambridge Systematics/6M6146-SC2	Yes	Yes
Zell & Associates/6M6181	N/A	N/A
ICF Jones & Stokes/6M6146-SC4	Yes	Yes
N/A – Not required to file		

The contractors above, except for Zell & Associates, provided a potential conflict of interest information in their submitted proposals. The former Link21 Program Director also monitored, tracked and documented any potential conflicts of interest and developed the Contractor Conflict of Interest Tracking Spreadsheet, noting resolutions. A conflict-of-interest form was not provided by Zell & Associates because this contract was a sole source award that was initially under \$100,000 that did not require certain certifications as discussed above.

Recommendation 2: To improve transparency and accountability we recommend that the BART Board update the procurement policy to require that all vendors complete a conflict-of-interest form including those vendors with contracts under \$100,000.

Campaign Contributions

Campaign contributions received in connection with an elective office may serve as the basis for disqualifying an officer from voting on a matter affecting the contributor and may limit the amount of a contribution an officer can receive from a contributor with a matter pending before the officer's agency. These rules apply to decisions before both elected officers as well as appointed officers where the appointed officer is also a candidate for an elected office. Government Code Section 84308 prohibits contributions over \$500, as of January 1, 2025. During the testing period for this audit, the contribution limit was set at \$250. It prohibits an officer from soliciting, accepting, or directing campaign contributions of more than the applicable contribution limit from any party, participant, or agent of a party or participant, while a proceeding involving a license, permit, or other entitlement for use is pending before the officer's agency and for 12 months following the date of that decision. It also requires

disclosure of all campaign contributions and requires an officer's disqualification from making decisions in certain proceedings in which the officer is acting in an appointed position if the official has received more than applicable contribution limit in campaign contributions from a party or participant within 12 months preceding the decision.

Also, BART adopted a Board rule limiting financial contributions to Board members and candidates for Director (per Rules of Board of Directors, Chapter V, Section 5). This Rule prohibits all proposers and any proposed first-tier subconsultant whose subcontract exceeds \$100,000 from making any monetary or in-kind contributions (including loans) of more than \$1,000 to a BART Director or to any candidate for Director. This Rule is effective from the date proposals are opened by BART and continues until the award of the Agreement.

Finding 4: There is a significant difference between the contribution threshold established by the FPCC (\$500) and BART's contribution threshold of \$1,000.

As discussed above, there is a \$500 contribution limit set forth by the FPCC, but BART's criteria establishes a threshold of \$1,000 during the RFP process, resulting in conflicting contribution limits criteria.

Recommendation 3: We recommend that BART revise its policy for the contribution limit to follow FPCC's requirement of limiting the contribution to \$500, not \$1,000, when a contractor's proposal is being considered by the Board.

We reviewed FPCC campaign contribution forms filed for all the Board Directors, FPCC 460 and 497, to determine if there were any contributions made by the Link21 Program contractors and/or key personnel. The Certification of Financial Contribution forms were included in the proposal submissions. The chart below details the results.

Campaign Contributions

Prime Contractor/Agreement No.	Contribution Date	Contribution Amount
HNTB/6M8159	7-15-20	\$ 100
HNTB/6M6155	8-18-20	500
Arup-WSP JV/6M6146-SC3	None	None
HDR Engineering/6M6146-SC1	None	None
Cambridge Systematics/6M6146-SC2	None	None
Zell & Associates/6M6181	7-06-20	100
ICF Jones & Stokes/6M6146-SC4	None	None

Based on our review, HNTB's contract was approved by the Board of Directors on June 19, 2019, and the contract was executed on August 1, 2019. The \$500 contribution was made on August 18, 2020. The contribution appears to be acceptable as the contribution was more

than a year after the award of the contract. The other campaign contributions were under the contribution limit for Boards and commissions under Government Code Section 84308.

Filing of Forms FPCC 700, Economic Interest

Government Code Section 87100 of the Political Reform Act (the “Act”)¹ prohibits a public official at any level of state or local government from making, participating in making, or attempting to use the official’s position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest. Government Code Section 87103 provides that an official has a “financial interest” within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official’s interests as identified and distinguishable from the decision’s effect on the public generally.

Taken together, these provisions of the Act prohibit an official from taking part in a decision if it is reasonably foreseeable that the decision would have a material financial effect on one or more of the official’s financial interests identified in Section 87103 distinguishable from the decision’s effect on the public generally. The first step in determining whether an official has a disqualifying conflict of interest under the Act is identifying the official’s financial interests with respect to the decision at issue. Section 87103 identifies the following financial interests which may give rise to an official’s disqualifying conflict of interest under the Act:

- A business entity in which the official has a direct or indirect investment worth \$2,000 or more (Section 87103(a); or in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)).
- Real property in which the official has an interest worth \$2,000 or more. (Section 87103(b).)
- A source of income totaling \$500 or more in value provided or promised to or received by the official within 12 months prior to the time when the decision is made. (Section 87103(c).)
- A giver of a gift or gifts totaling \$250 or more in value provided or promised to, or received by, the official within the 12 months prior to the time when the decision is made. (Section 87103(e).)
- The official’s personal finances and those of “immediate family,” defined in Section 82029 as the spouse and dependent children. (Section 87103.)

Board of Directors FPCC Form 700 Testing

We obtained the most current FPCC Form 700 for the 9 District Board Members who were directors as of July 12, 2024. We reviewed content for any conflict of interests related to contractors. No potential conflict of interest was noted.

BART Link21 Program Employees Sample of Form 700 Testing

We obtained the most currently required Annual Form 700 Statement of Economic Interests as applicable for a sample of twenty-five (25) BART employees who worked on the Link21 Program. We reviewed the content for any actual, potential or perceived conflict of interests.

Based upon our review, twenty-two (22) employees completed the FPCC Form 700. There were two employees whose job classification was not required to file the FPCC form 700. There was one former employee who left the District in March 2021, for whom the form could not be located.

Employees are responsible for filing Form 700 by their due date. In addition to tracking who has filed Form 700, BART personnel send written notices to non-filers after the due date and conduct follow-up phone calls.

Conflict of interest procedures require an ongoing effort for monitoring relationships with contractors, employees and the Board of Directors. Also, educating employees regarding what conflicts of interest are, the types of examples that can be considered a conflict and how to resolve those issues is necessary to ensure compliance. This continuous effort can mitigate financial risk, potential reputation damage, and legal consequences.

Training and Monitoring Efforts

Finding 5: The BART Link21 Program is part of an ongoing effort by BART management to provide training and monitor potential conflicts of interests to mitigate and avoid possible financial and reputational risks.

We inquired about BART and Link21 Program training and monitoring efforts to identify and manage potential conflict of interest. Based on our inquiries, we noted the following:

- BART's Filing Status Report tracks the required BART management filing of the Fair Political Practices Commission (FPPC) Economic Interest Form 700 which includes the Link21 Program. BART uses Pathlore Reporting, a software program for monitoring training and compliance requirements and other related educational programs.
- A report reviewed by Pathlore Reporting for the completion and submittal of Conflict of Interest and Form 700, for all BART management employees, including Link21 Program management, found of the 421 management employees, 407 had completed the forms. The report covers the period from March 16, 2022, through July 31, 2024.
- Reviewed a sample of 25 Link21 Program employees to verify completion of the Link21 Program Employee Acknowledgements for Code of Conduct. All new employees are required to sign a Code of Conduct Acknowledgement form when onboarding. We noted that 21 employees completed the form. The form could not be located for two current employees and two former employees.
- Reviewed the Form 700, Economic Interest Filing Status Report which was provided to BART's external auditors in June 2023. The report showed that of 753 employees, 664 employees filed Form 700, 45 were not yet required to file Form 700, and 44 had not yet filed Form 700. The District Secretary's Office follows up with those employees who have not yet filed Form 700. The filing of Form 700 is the responsibility of the employee and per Government Code section 91013 a penalty can be imposed for non-filers, up to a maximum of \$100.

- We noted BART held the following training courses regarding employee conflict of interest training.
 - Conflict of Interest and Form 700 Economic Interest On-line Presentation course conducted on February 1, 2022, which was self-paced.
 - Conflict of Interest and Contract Review hosted by the Office of Infrastructure Delivery conducted on March 31, 2023.

AUDIT TASK 3

Assess contract compliance and adequacy of management oversight.

Contract compliance is the direct result of effective and ongoing management oversight of contractor performance and financial performance. To assess the effectiveness of Link21 management oversight of contractor performance and financial performance, we performed the following:

- Identified all Link21 contracts and related work plan proposals (WPPs) issued during the audit period and selected a sample of contracts and WPPs to review in detail.
- For the sample contracts and WPPs selected, we reviewed the contract language to determine if terms and conditions were established for scope of work, deliverables, timelines and performance.
- Determined whether regular meetings and communications between contractors and Link21 management occurred to discuss progress, issues, and any changes in scope of work.

Link21 program management oversight controls are essential for ensuring that projects within a program are aligned with strategic goals, are managed efficiently, and delivered successfully. To assess the effectiveness of Link21 program management oversight controls, we determined if the following ten program management controls best practices were in place:

1. Establishment of clear governance structures
2. Development of comprehensive program plans
3. Implementation of regular reporting and monitoring
4. Effective communications
5. Periodic reviews and audits
6. Implementation of change control processes
7. Risk and issue management
8. Resource management
9. Financial management²
10. Quality assurance

Finding 6: Link21 program management has established a clear governance structure and has developed a Strategic Program Plan (SPP) that serves to memorialize key strategies, policies, and protocols to guide the Link21 Program Team.

The Link21 Program Team consists of BART and Capital Corridor Joint Powers Authority (CCJPA) management, collectively referred to as BART/CCJPA, and Program Management Consultants (PMC) consisting of HNTB and various subconsultants. BART/CCJPA leads and maintains control of all ultimate decisions, and the PMC, as an extension of BART/CCJPA staff,

² For financial management contract compliance, see Task 5 below.

provides strategic advising, program management services, technical analyses, and consultant oversight services.

Overall, we found the SPP includes most of the ten program management controls best practices detailed above. However, during our detailed review of Link21 Program management oversight, we found the following issues as described below.

Finding 7: Three of the six Link21 Program agreements have not achieved its disadvantaged business enterprise (DBE) subcontracting goals as of June 30, 2024.

The goal of BART's DBE program is to contribute to the growth and stability of the disadvantaged and small business community by addressing and mitigating the difficulties small businesses may encounter when competing against larger, more established businesses. The Link21 program utilizes standards and processes established by BART's Office of Civil Rights (OCR) to guide the development of Link21 DBE participation. As such, specific DBE subcontracting goals have been established for certain contracts. We found that three of the six contracts have not achieved their DBE subcontracting goals as of June 30, 2024, as detailed in the table below:

DBE Participation

Prime Contractor/Agreement No.	DBE % Goal	Actual DBE % Participation
HNTB/6M8159	25%	27%
HNTB/6M6155	25%	18%
HDR/6M6146-SC1	30%	24%
Cambridge/6M6146-SC2	12%	22%
Arup-WSP JV/6M6146-SC3	30%	30%
ICF Jones & Stokes/6M6146-SC4	30%	17%

For the larger HNTB/6M6155 contract, the reasons provided for not meeting DBE subcontracting goals was because two DBE subconsultants were not DBE-certified at the time of proposal submission, resulting in their work not being eligible for DBE credit, and BART's management decision to reduce the level of effort and scope has impacted DBE utilization. The PMC indicated that they would work on identifying opportunities for increasing DBE participation in future work plans.

According to BART's Office of Civil Rights (OCR), they actively monitor all the District's Link21 Service Agreements to ensure prime contractors meet their DBE goals at project closeout. For the three contracts noted above that have not yet achieved meeting its DBE goals, OCR staff will continue to actively monitor DBE usage to ensure that DBE goals are ultimately met at contract end.

Recommendation 4: We recommend that prime contractors enhance their efforts to meet DBE subcontracting goals, and that BART Link21 management work closely with OCR staff to achieve DBE goals at contract completion.

Finding 8: Link21 program management oversight controls over the performance of a strategic advisement and government relations contractor was inadequate.

In December 2019, a non-competitive sole-source contract award totaling \$60,500 was issued to Zell & Associates to provide governmental outreach and strategic advisory services. As previously discussed above, the Zell & Associates contract was extended annually for 4 years at a cost of \$60,500 per year, increasing the total contract value to \$302,500. In addition to assessing the adequacy of this contract award, we also assessed the adequacy of Link21 program management oversight of this contract and found that management oversight controls over the performance of this contract were inadequate.

We found that Link21 Program management did not require monthly progress reports detailing the activities performed by the contractor, no deliverables were required, and monthly invoices did not include any supporting documentation such as timesheets or a breakdown of hours incurred. We were told that the former Link21 Project Director had sole responsibility for oversight of this contractor. Based on our inquiries, current Link21 Program management subsequently obtained an activity log for CY 2023 from Zell & Associates and provided a summary of benefits and value of Zell & Associates work over the past 4+ years. Moreover, we were informed that Zell & Associates contract expired in December 2024 and was not renewed.

Recommendation 5: We recommend that Link21 program management improve its oversight of contractor performance by ensuring all contractors provide monthly progress reports, deliverables be required, and invoices include sufficient detail and supporting documentation.

AUDIT TASK 4

Analyze the Work Plan Proposal (WPP) approval process and determine compliance with BART WPP guidelines.

As of June 30, 2024, Link21 professional service contracts totaled approximately \$132 million with approximately \$121.4 million in expenditures. BART procurement utilizes a Work Plan process approach under each professional services agreement whereby work is placed under these agreements by issuance of Work Plans, which include a specific scope of services, schedule, and budget. The Link21 project manager prepares the Work Plan Statement of Work (SOW) and Independent Cost Estimate (ICE) and seeks approval of the Work Plan by the project financial analyst, group manager, agreement manager, and the Office of Civil Rights (OCR). Upon approval, the project manager then solicits a WPP from the contractor that details the proposal requirements needed.

Finding 9: The Work Plan Proposal (WPP) review and approval process was found to be in compliance with BART's guidelines for preparation of work plans under Link21 A&E Services Agreements.

We sampled a selection of seven WPP's to review and test for compliance with BART WPP guidelines. The following table below is the WPP sample selected.

WPP Sample

Prime Contractor/Agreement No.	Work Plan #	Work Plan Amount/Cost Type
HNTB/6M8159	A.03	\$12.4 M/CPFF
HNTB/6M8159	A.02-02	\$160K/FP
HDR/6M6146-SC1	A.01-01	\$2.9M/CPFF
HDR/6M6146-SC1	A.01-02	\$105K/FP
Cambridge/6M6146-SC2	A.1.0	\$6.4M/CPFF
HNTB/6M6155	A.01-01	\$27M/CPFF
ICF Jones & Stokes/6M6146-SC4	A.01-01	\$2.2M/CPFF

*CPFF – Cost Plus Fixed-Fee; FP – Fixed-Price

We reviewed each of the above WPP's in detail and verified compliance with BART's guide to preparation of work plans under Architectural and Engineering(A&E) Services Agreements. We verified that each of the WPP's contained the following information, and that proper review and approvals were performed.

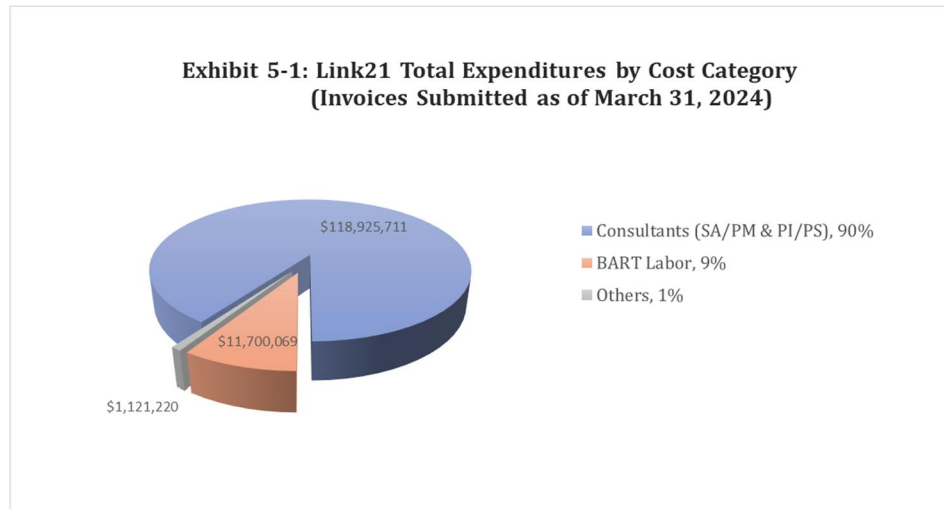
1. Detailed scope of services and proper approval of scope of services.
2. BART's independent cost estimate.
3. Consultant's proposal.
4. Technical evaluation and cost analysis memorandum of consultant's proposal.
5. Proper review and approval of final negotiated technical scope of work and cost.

Based on our detailed review of the WPP review and approval process, we found Link21 Program management complied with BART's WPP guidelines.

AUDIT TASK 5

Identify, quantify, test, and analyze all project expenditures to date.

As of March 31, 2024, approximately \$132 million or 85% of the total funded budget of \$155 million has been expended. Of the \$132 million, approximately \$119 million or 90% was spent on consultant costs for Strategic Advising and Program Management Services (SA/PM) and Program Identification and Project Selection (PI/PS). Approximately 9% of the expended amount was spent on BART's internal labor costs and 1% on other costs. See Exhibit 5-1 below.



To identify, quantify, test, and analyze project expenditures, the following procedures were performed:

- Conducted an overall assessment of project expenditures to date including an analysis of budget to actual expenditures.
- Reviewed and reconciled the expenditure amounts from various cost documents to validate the accuracy of the amounts being recorded and reported by BART and identified the discrepancies found.
- Reviewed contract requirements and verified compliance with the contract payment terms and identified areas of non-compliance.
- For a sample of invoices, and reviewed contractor's billings for completeness and checked total against approved Work Plan amounts.
- For selected invoices, conducted expenditure testing of direct labor rates, overhead rates, and other direct costs for adequacy of support, and identified questioned costs.

Finding 10: Total expenditure was found to be within the allocated budget and contract compensation limits for Strategic Advising and Program Management Services (SA/PM) and Program Identification and Project Selection (PI/PS) contracts.

On August 1, 2019, BART awarded a contract to HNTB Corporation (HNTB) for Strategic Advising and Program Management Services (SA/PM) for a Not-To-Exceed (NTE) amount of

\$50 million for Phase 0 of up to five years with an option to extend the term of the agreement for another five years, for a maximum term of ten years. On May 10, 2022, BART awarded a second contract to HNTB to continue SA/PM services for a NTE amount of \$80 million for Phase 1 of up to four years and \$120 million for Phase 2 Option of up to six years, contingent upon BART Board's approval. For Strategic Advising, HNTB will provide a team of Strategic Advisors to support the advancement of the Program and Project from concept to operations. The Strategic Advisors will offer Program level decision making insight that rises above Project level, bringing an elevated perspective to process and delivery approaches. For Program Management, HNTB will provide a team to manage and conduct the functional components of ongoing program management, integration, and coordination.

In summer 2021, four contracts were awarded for Program Identification and Project Selection (PI/PS) under the following service categories: 1) Engagement and Outreach, 2) Travel Demand and Land Use, 3) Planning and Engineering, and 4) Environmental. The PI/PS Consultants will provide professional services to support the development of the Preliminary Business Case and the identification of a Preferred Program Alternative through Phase 1 with an option, if approved by BART's Board, to continue to Phase 2. A Preferred Program Alternative could include either or any combination of BART or Regional Rail (commuter, intercity, or high-speed rail) and a new transbay passenger rail crossing between Oakland and San Francisco. In Phase 2, the PI/PS Consultants will support the development of an Intermediate Business Case that will identify a Preferred Project Alternatives, the preparation of the appropriate environmental documentation leading to a California Environmental Quality Act (CEQA) Notice of Determination and National Environmental Policy Act (NEPA) Record of Decision, and a Final Business Case. The compensation limits for these four contracts were \$125 million for Phase 1 and \$475 million for Phase 2.

Exhibit 5-2 below summarizes the contract number, Consultant name, scope of services, period of performance, and compensation limits for the SA/PM and PI/PS contracts.

Exhibit 5-2: SA/PM and PI/PS Contracts by Contract Number and Consultant Name

Contract No.	Consultant Name	Scope of Services	Period of Performance			Compensation Limits (Not-To-Exceed Amount)			
			Start Date	End Date	One Option	Base Amount (Phase 0)	Base Amount (Phase 1)	Option Amount (Phase 2)	Total Amount
6M8159	HNTB Corporation	Strategic Advising and Program Management Services	8/1/2019	7/31/2024	5-year	\$ 50,000,000	\$ -	\$ -	\$ 50,000,000
6M6155	HNTB Corporation	Strategic Advising and Program Management Services	5/10/2022	5/9/2026	6-year	-	80,000,000	120,000,000	200,000,000
6M6146-SC1	HDR Engineering, Inc.	Engagement and Outreach	7/22/2021	7/21/2027	10-year	-	30,000,000	105,000,000	135,000,000
6M6146-SC2	Cambridge Systematics, Inc.	Travel Demand and Land Use	6/24/2021	6/23/2027	10-year	-	10,000,000	20,000,000	30,000,000
6M6146-SC3	ARUP/WSP JV	Planning and Engineering	8/16/2021	8/15/2027	10-year	-	55,000,000	210,000,000	265,000,000
6M6146-SC4	ICF Jones & Stokes, Inc.	Environmental	7/15/2021	7/14/2027	10-year	-	30,000,000	140,000,000	170,000,000
TOTAL						\$ 50,000,000	\$205,000,000	\$595,000,000	\$ 850,000,000

In accordance with Article 1.3 of the contract agreements, the Consultants were to provide services to BART for the projects as described in each Work Plan. Each Work Plan was placed into effect by the issuance of a Purchase Order (PO) to the Consultants by BART upon acceptance of the Work Plan Proposal. Article 3.1F further states that the amount compensated to the Consultant should not be greater than the amount in an individual Work Plan, for services performed under such Work Plan, and should not exceed the compensation limits amount approved for each contract.

From August 1, 2019, to March 31, 2024, twenty (20) Work Plans and Purchase Orders totaling approximately \$132 million were approved by BART authorizing the SA/PM and PI/PS Consultants to proceed with the tasks specified in each Work Plan and approximately 90% or \$119 million have been expended. Of the \$119 million expended, approximately \$80 million or 67% was for one Consultant (HNTB) and \$39 million or 33% were for the four PI/PS Consultants.

Based on our review of the various documents including Contract Agreements, Work Plans, Work Plan Proposals, Purchase Orders, Listing of Invoices, Project Cost Spreadsheet, and Quarterly Reports, we found that the amounts expended as of March 31, 2024, for the SA/PM and PI/PS Consultants were within the allocated budget for each Work Plan and contract compensation limits. See Exhibit 5-3 below.

**Exhibit 5-3: Comparison of Total Expenditures to BART Approved Budget
(For Invoices Submitted as of March 31, 2024)**

Contract No.	Consultant Name	Contract Limits Base Amount (Phase 0 & 1)	Work Plan Amount (Allocated Budget)	Actual Expenditures	Remaining Budget Balance
6M8159	HNTB Corporation	\$ 50,000,000	\$ 50,000,000	\$ 49,692,375	\$ 307,625
6M6155	HNTB Corporation	80,000,000	33,935,805	30,382,298	3,553,507
6M6146-SC1	HDR Engineering, Inc.	30,000,000	12,196,453	10,515,865	1,680,588
6M6146-SC2	Cambridge Systematics, Inc.	10,000,000	7,413,391	6,991,730	421,661
6M6146-SC3	ARUP/WSP (JV)	55,000,000	21,977,792	17,877,537	4,100,255
6M6146-SC4	ICF Jones & Stokes, Inc.	30,000,000	6,256,118	3,465,906	2,790,212
TOTAL		\$ 255,000,000	\$ 131,779,559	\$ 118,925,711	\$ 12,853,848

Finding 11: Total amount invoiced to date did not exceed the amounts approved for Fixed Price Work Plans.

Since 2019, twenty (20) Work Plans totaled \$131,779,559 were issued to consultants. Seventeen (17) of these Work Plans were on a Cost-Plus Fixed Fee (CPFF) basis with total approved amount of \$131,327,444 or 99.66% of the \$131,779,559. The remaining three (3) Work Plans were issued on a Fixed Price basis with a total of \$452,115 or 0.34%.

To date, invoices totaling \$118,925,711 were submitted to BART. Of this amount, \$118,506,746 or 99.65% was for cost-plus-fixed-fee (CPFF) Work Plans and \$418,965 or 0.35% was for fixed price.

For services performed on a fixed price basis, the consultants were required to complete the specified services for the fixed price established in each Work Plan according to Article 3.1G of the contract agreements. To ensure that the amounts billed did not exceed the total amounts approved for each Work Plan, we compared the amounts billed to date to the approved Work Plan amounts. Based on our review, we found that the total amount invoiced to date did not exceed the amounts approved in each Work Plan for the services performed on a fixed price basis.

Finding 12: Consultants and Subconsultants were found to be partially not in compliance with the contract requirements for the services performed on a cost-plus fixed fee basis.

The contract requirements for CPFF work plans are more stringent than the fixed-price work plans. For CPFF work plans, we judgmentally selected 30 invoices totaling \$23,077,787 or about 20% of the total expenditure amount of \$118,506,746 for testing to determine compliance with the contract requirements. We performed the following procedures:

- Reviewed and summarized the contract requirements for each contract.
- Reviewed the invoices and supporting documents.
- Compared the required information on the invoices and supporting documents to the purchase order, work plan, and work plan proposal.
- Identified any area of non-compliance.

We found that the Consultants and subconsultants were partially not in compliance with the contract requirements as detailed below.

- A. Eight (8) invoices totaling \$2,102,545 were for expenditures incurred *after* the service period specified in the work plans. Article 2.1A of the contract requires the Consultants to complete the services within the number of calendar days specified in the corresponding work plan.

According to Link21 management, BART staff has always processed and paid invoices within the limit of the work plan based on the interpretation of the contract term under Article 2.1A and Article 3.1. Link21 management believe that although the workplan date has ended, the terms of the Master Agreement are still enforceable. To mitigate any potential risk, the practice has been that BART staff allows work to continue after the work plan end date with an agreement from the Project Manager and Agreement Manager, knowing that the work is within the defined scope and there is enough budget on the Purchase Order (PO) to cover the work. The work plan end date would subsequently get extended to reflect the work performed as an administrative step to modify the PO.

Based on our assessment of the work plan terms, per Article 2.1A, the scope of services is to be completed within the number of calendar days specified in the corresponding work plan. Therefore, when the work plan reaches the end of that schedule, work should either stop or an extension should be issued, even if there are still funds available for that specific work plan and the work is not yet complete. Although Article 2.1A states that the scope is considered complete when “the limit on maximum compensation established in Article 3.1, COMPENSATION, of this Agreement” is reached, that compensation language is specific to the prime agreement, not individual work plans.

Moreover, Contract Article 4.2(B) states that “no claim for additional compensation or extension of time with respect to a work plan shall be recognized unless contained in an

accepted work plan modification and a duly executed PO.” Based on our review of the sample invoices, we found that 8 invoices totaling \$2,102,545 were for expenditures incurred **after** the service period specified in the work plans. However, BART did not issue any work plan modification to extend the work plan terms for these invoices. Thus, BART is partially not in compliance with the contract agreement.

Recommendation 6: We recommend that Link21 management formally issue a modification to work plans extending the work plan terms for any work performed after the work plan end date.

- B. Twenty (20) invoices were found to be partially not in compliance with the contract agreement requirement for overhead rate billings resulting in a difference of \$75,628 between the overhead rates billed and overhead rates approved in the work plans. Article 3.1C of the contract agreement states that both BART and the Consultant will negotiate in good faith and enter into an Advance Rate Agreement for Provisional Cost Reimbursement on an annual or multi-year basis for the work to be performed for each consultant fiscal year. At the end of the annual or multi-year period, either party may request a rate adjustment, subject to negotiation between the parties and modification to the Advance Rate Agreement. If the parties fail to negotiate a new Advance Rate Agreement, Consultant agrees to accept the provisions of the previous Advance Rate Agreement, until the new Advance Rate Agreement is accepted. We were informed by BART Link21 management that there were no Advance Rate Agreements negotiated after the initial year. Without an executed Advance Rate Agreement, the Consultants were required to use the rates approved in the work plans. For 20 invoices, we found that the overhead rates billed were either higher or lower than the overhead rates listed in the original work plan proposals.

According to Link21 management, these invoices were paid with adequate review and approvals. In practice, the revised overhead rates are considered acceptable for billing following BART Internal Audit’s review of the Consultants’ financial statements and Agreement Manager’s approval. Subsequently, overhead rate modification requests are submitted to Procurement for processing and issuance of a formal contract amendment/Agreement modification. It often takes time for Procurement to officially release the modified agreement; hence, the overhead rate changes are implemented based on reviews and approvals obtained not to delay/impact payments to consultants, especially DBE/SBEs that have financial constraints.

The \$75,628 cost difference is not questioned as unallowable costs, but rather non-compliance with the contract payment terms. During our audit, there were no documents provided for our review to support that the overhead rate modification requests were submitted to Procurement for processing or that any issuance of a formal contract amendment was completed. We found that BART’s current process for rate adjustments could be streamlined by limiting the implementation of an Advance Rate Agreement to annually or for a multi-year period, as detailed in Article 3.1C of the contract.

Recommendation 7: We recommend that Link21 management formally negotiate and issue an Advance Rate Agreement as allowed under Article 3.1C of the prime contracts to support the negotiated overhead rates.

- C. Twenty-nine (29) invoices were found to be partially not in compliance with the contract agreement requirement for the billing of labor rates resulting in a difference of \$929,830 between the labor rates billed and labor rates approved in the Work Plans. Article 3.1C of the contract states that both BART and the Consultant will negotiate in good faith and enter into an Advance Rate Agreement for Provisional Cost Reimbursement on an annual or multi-year basis for the work to be performed for each consultant fiscal year. At the end of the annual or multi-year period, either party may request a rate adjustment, subject to negotiation between the parties and modification to the Advance Rate Agreement. If the parties fail to negotiate a new Advance Rate Agreement, Consultant agrees to accept the provisions of the previous Advance Rate Agreement, until the new Advance Rate Agreement is accepted. We were informed by BART Link21 management that there were no Advance Rate Agreements negotiated after the initial year. Without an executed Advance Rate Agreement, the Consultants were required to use the rates approved in the work plans. For 29 invoices, some labor classifications billed were not found in the Work Plan Proposals (WPP) and some of the labor rates billed were higher than the labor rates listed in the WPP.

According to Link21 management, under the contract term, Consultants can submit rate change requests due to CPI, promotional or merit increases during the work plan, which is different from the Work Plan proposals. They believe these changes can be implemented with Agreement Manager review and approval. Link21 management assert that the payments in question were appropriate based on the compliance checks they performed and that there is no risk of the wrong rates being applied, other than the administrative step of having the modified rate agreement issued by the Procurement Department. They note that of the 29 invoices sampled, there are approximately 300 individual staff with rate changes. Link21 management believes that formally modifying the rate agreements for these many individuals would be onerous and inefficient.

The \$929,830 cost difference is not questioned as unallowable costs, but rather non-compliance with the contract payment terms. We were informed by BART Link21 management that they would need to spend a significant amount of time retrieving all the approval documents as there are hundreds of rate adjustment requests. Thus, we found that BART's current process of approval for the rate adjustments could be streamlined by limiting the implementation of an Advance Rate Agreement annually or for a multi-year period, as allowed by Article 3.1C of the prime contract.

Recommendation 8: We recommend that Link21 management formally negotiate and issue an Advance Rate Agreement as allowed under Article 3.1C of the prime contracts to support the negotiated labor rates.

- D. For fixed fees, we found that all 30 invoices were in non-compliance with the contract requirements resulting in an excess of \$39,247 of fixed fee paid to contractors. According to Article 3.3E, the fixed fee for Consultant or any of its subconsultants should be billed monthly on a percentage complete basis as approved by the Agreement Manager. We reviewed the invoices and found that the fixed fee on all 30 invoices for the Consultants and all subconsultants were billed using 8% for labor and overhead and 2% for subconsultant costs rather than on a complete percentage basis, resulting in an overbilling of the fixed fee for two contracts.

According to Link21 management, regarding reviewing the fixed fee amount billed to date, due to the volume of information required for invoice payments, BART has implemented peer reviews to ensure additional layers of check on invoice payments. The fixed fee amounts billed in excess of those approved for Work Plans 6M6146-SC1 (HDR) and 6M6146 SC4 (ICF) mentioned were subsequently refunded or credited.

Even though the overbilled fixed fee amounts were refunded or credited, BART is still not in compliance with the contract which requires the contractors and subcontractors to bill the fixed fee using percentage of completion.

Recommendation 9: We recommend that Link21 management enforce the requirement of billing the fixed fee monthly based on a percentage complete basis or modify the contract requirements.

- E. Three (3) invoices were found to be partially not in compliance with the contract requirements for approved subcontractors resulting in \$143,952 paid to subcontractors not included in the work plan proposal. The \$143,952 cost difference is not questioned as unallowable costs, but rather non-compliance with the contract payment terms. Article 14A of the contract agreement states that the Consultants should not further subcontract all or any portion of their services under this agreement or work plan, without prior written approval of the Agreement Manager and any attempt to do so shall be void and unenforceable. On 3 invoices, 3 subcontractors were listed and approved in the Master Agreement, but not listed in the work plan proposals

According to Link21 management, not all consultant staff are identified in the original work plan proposals. As work takes place, additional or specific staff are added, with Agreement Manager approval.

Our non-compliance finding refers to subcontractors (individual companies) and not subconsultant staff (individual employees). For 3 invoices totaling \$143,952, we found that the prime contractors included 3 additional subcontractors not listed in the work plan proposals. Written documentation was not provided to support these subcontractors that were approved by the Agreement Manager prior to the work being performed.

Recommendation 10: We recommend that Link21 management require prime contractors to obtain written approval from the Agreement Manager for any new subcontractors not listed in the work plan proposals prior to the performance of any work.

- F. Eleven (11) invoices were found to be partially not in compliance due to lack of payroll records. Article 1.7A of the contract agreement requires the Consultants to submit a breakdown of the total costs charged to the Agreement, including properly executed payrolls, time records, invoices and vouchers.

According to Link21 management, contract terms require consultants to maintain good accounting records, including payroll records. This is not a requirement for each invoice package to include payroll records in addition to the timesheets received. Payroll records are not something being requested for all invoices as opposed to timesheets. Only when there are questions on the timesheet and Link21 management needs an additional layer of support, then Consultant payroll records are being requested.

Contract Article 1.7A states that “all such records shall provide, as a minimum, a breakdown of total costs charged to the Agreement, including properly executed payrolls, time records, invoices and vouchers.” Thus, both time records and payroll records are required to be submitted with the invoices.

Recommendation 11: We recommend that Link21 management enforce the contract requirement that Consultants submit both payroll records and time records as required by Article 1.7A of the contract agreements or modify the contract requirements.

- G. Fifteen (15) invoices were found to be partially not in compliance with the contract agreement due to the lack of signed and approved time records or only Link21 hours were recorded on the time records. Per Article 1.7B(1) of the contract agreements, time records are required to be in writing, recorded by the employee and verified by the immediate supervisor and must include all hours worked, Link21 and non-Link21.

According to Link21 management, this practice was consistently applied post the FTA audit and internal memo communicating the requirement in July 2022.

BART’s internal memo states “The District will now require that detailed time records be submitted with all invoices for labor performed on a basis other than fixed price. For services rendered on or after July 1, 2022, detailed time records will be expected to accompany all invoices for work under on-call agreements...detailed time records are to be in writing, recorded by the employee and verified by the immediate supervisor. Such records shall (i) be complete, (ii) record all employees’ activities, Agreement and non-

Agreement related, within a given accounting period and (iii) identify by means of cost codes what activities were being performed.

Based on our review of the sample invoices, we found 15 invoices did not have adequate detailed time records. Of these 15 invoices, 4 invoices were for services rendered after July 1, 2022. Thus, BART is not in compliance with the contract agreements and FTA requirements.

Recommendation 12: We recommend that Link21 management enforce the contract requirement that Consultants submit adequate detailed time records in accordance with Article 1.7B(1) of the contract agreements.

- H. Two (2) invoices were not submitted timely and therefore in non-compliance with Article 3.3A of the contract agreement. According to Article 3.3A, the consultant's services should be invoiced monthly with satisfactory backup documentation. We reviewed the invoices and found that 1 invoice submitted was for a service period of 3 months while the other invoice was for 4 months.

According to Link21 management, during regular interactions with consultants as well as monthly invoice reviews by project management, reminders and discussion meetings are conducted with the consultants to submit invoices if any delays are identified. Additionally, at the Quarterly check-in meetings with consultants, invoice log is a formal discussion topic to review timely submission of invoices and to go over any challenges. Often, delays in billings to BART are caused by prime consultants waiting for subconsultants' billing information. Many subconsultants are small operations with under-staffed accounting teams, hence requiring longer time to compile invoices and support documents.

- I. Twenty-five (25) invoices were found in non-compliance with the contract requirements for labor costs. According to Article 3.3B(2) of the agreement, costs for individual labor should be identified by activity and product in a manner consistent with that of the detailed cost estimate submitted with Consultant's Work Plan Proposal (WPP). We reviewed the labor costs for each of the sample invoices and found that 25 invoices did not have the tasks and sub tasks identified on the WPP.

Recommendation 13: We recommend that Link21 management enforce the contract requiring the Consultants to invoice labor costs by activity and product in a manner consistent with the WPP or modify the contract requirements.

- J. Thirty (30) invoices were found to be partially not in compliance related to requiring supporting documentation for the subconsultants. According to Article 14B, 1.7A and 1.7B(1), the subconsultants were required to submit executed payrolls and signed and approved time records including all hours worked, Agreement and non-Agreement. However, executed payrolls were not included for any of the subconsultants. Also, for

some subconsultants, there were no signed and approved time records, or the time records did not include all hours worked, Agreement and non-Agreement.

Recommendation 14: We recommend that Link21 management require that subconsultants submit both payroll records and time records in accordance with Article 14B, 1.7A and 1.7B(1) of the contract agreements or modify the contract requirements.

AUDIT TASK 6

Assess funding adequacy and security.

The Link21 program is a highly complex and long-term effort with an estimated final project delivery date in 2039. To manage this highly complex and long-term project, the Link21 Program is structured around four delivery phases and Stage Gates within each phase. Stage Gates are key points in the development and delivery of the Link21 Program that provide strategic definition to the Link21 Program's progress. The Stage Gate process is designed to minimize and mitigate risks associated with the delivery of capital projects and to enable appropriate governance and control. It also documents the support for continued investment in projects as they progress through development and onto delivery and completion. The following are the Link21 Program phases and Stage Gates within each phase:

- Phase 0 – Program Definition (Stage Gate 1), Completed April 2022
- Phase 1 – Concept Advancement (Stage Gate 2), Completed November 2024 and Program Identification (Stage Gate 3), Estimated Completion 2026
- Phase 2 – Project Selection (Stage Gate 4 and 5), Estimated Completion 2029
- Phase 3 – Project Delivery (Stage Gate 6+), Estimated Completion 2039

As of June 30, 2024, the funding allocations committed for Phase 0 and Phase 1 totaled \$166.2 million, plus \$50 million of committed but unallocated funds. Most of the committed funds (\$150 million) for Phase 0 and Phase 1 are from BART Measure RR, with the remaining funding from the California State Transportation Agency (CalSTA), BART Capital Allocation, and Regional Measure 3, as shown in Exhibit 6.1 below.

Exhibit 6.1- Funding Allocations Committed as of June 30,2024

Current Funding Sources	Amount
BART Measure RR	\$ 150,000,000
CalSTA 2020	999,668
CalSTA 2021	1,000,000
CalSTA 2022	1,000,000
CalSTA 2023	1,000,000
BART Capital Allocation	954,719
Transit and Intercity Rail Capital Improvement Program (TIRCP)	11,276,000
Regional Measure 3	50,000,000**
Total	\$ 216,230,386

** Committed but unallocated, funding date to be determined.

Link21 contractor expenditures as of June 30, 2024, totaled \$121.4 million, broken down by various professional service type contracts as detailed in Exhibit 6.2 below. The expended amount represents cumulative costs invoiced from Link21 contractors and does not include BART employee labor and other non-labor project costs.

Exhibit 6.2 - Contract Expenditures by Service Type

Link21 Professional Service Type	Total Contractual Commitment	Total Expended as of June 30, 2024
Strategic Advising and Project Management Contract # 1	\$ 50,000,000	\$ 49,692,375
Strategic Advising and Project Management Contract # 2	33,935,805	32,438,442
Engagement and Outreach	12,764,954	10,519,746
Travel Demand and Land Use	7,413,391	7,139,379
Planning and Engineering	21,977,792	18,168,858
Environmental	6,256,118	3,490,376
Total	\$132,348,060	\$121,449,176

Link21 Program committed funding allocations total \$216.2 million as detailed in Exhibit 6.1 above. Total contractual commitments to Link21 contractors total \$132.3 million as detailed in Exhibit 6.2 above. Thus, the remaining budget to complete Phase 1 Stage Gate 3 is \$83.9 million as of June 30, 2024. Link21 Program rough order of magnitude (ROM) cost estimates by phase and Stage Gates are shown in Exhibit 6.3 below.

Exhibit 6.3 – Link21 Program Cost Estimates by Phase/Stage Gates

Phase and Stage Gate	Phase/Stage Gate Description	Actual/Estimated Completion Date	ROM Cost Estimate
Phase 0 – Stage Gate 1	Program Definition	April 2022	\$ 50M
Phase 1 – Stage Gate 2	Concept Advancement	November 2024	90M
Phase 1 – Stage Gate 3	Project Definition	December 2026	45M
Phase 2 – Stage Gate 4/5	Project Selection	December 2029	220-400M

Finding 13: Link21 Program committed funding amounts for the completion of Phase 0 – Stage Gate 1 and Phase 1 – Stage Gates 2 and 3 appears sufficient but additional funding for Phase 2 and beyond is not secure and is reliant on federal funding. A central element of the funding strategy is reliant on federal funding from the Federal Railroad Administration’s (FRA) Corridor Identification and Development Program, which was created under the prior Administration. Funding for this FRA Program has not yet been impacted by the current Administration.

Link21 Program funding sources for Phase 2 Stage Gates 4 and 5 have yet to be secured. An estimated additional \$83 million is required before December 31, 2026, to achieve Phase 2 Stage Gate 4 – Environmental Review, and an estimated additional \$187 million is required to complete Phase 2 Stage Gate 5 – Project Selection.

Link21 program management's strategy for securing additional funding relies on a combination of local, state, and federal funding sources. However, a central element of the funding strategy is reliant on federal funding from the Federal Railroad Administration's (FRA) Corridor Identification and Development Program and funding from the State Rail Plan.

Link21 Program management understands the challenging funding environment beyond Phase 1 but will continue to pursue the additional funding needed by working closely with BART and the Capital Corridor Joint Powers Authority (CCJPA) for buy-in and coordination on funding proposals and developing an approach for grant pursuits at the federal and state levels.

AUDIT TASK 7

Analyze outreach costs for compliance with policies and procedures, laws, and regulations.

We identified Link21 Program outreach activities and expenses incurred since 2019. The cost of outreach activities and the types of activities conducted were reviewed to ensure conformance with applicable policies and procedures, laws and regulations which include the following:

- BART Public Participation Plan (PPP) Link 21 Strategic Program Plan
- BART Language Assistance Plan
- National Environmental Policy Act (NEPA)

To analyze outreach costs for compliance with policies and procedures, laws and regulations, we conducted a comprehensive review of Link21 Program outreach and engagement activities, budget and costs, as well as applicable funding related requirements, and BART agency specific reports, policies and procedures. Our review covered Link21 outreach activities and costs incurred during Phase 0 and Phase 1, with a cut-off date of March 31, 2024, for outreach expenses.

The objectives of this review were to:

- Evaluate outreach costs to ensure they align with funding requirements, and laws and regulations applicable to rail transportation projects.
- Assess Link21 Program adherence to the BART agency's internal policies and framework regarding outreach and fund utilization to maintain consistency and accountability.
- Identify discrepancies in financial reporting related to outreach activities.

As of March 31, 2024, approximately \$25 million has been allocated toward engagement and outreach efforts for the Link21 Program, of which approximately \$22 million has been expended. It is important to note that due to the program's key objective of providing equitable outreach, often public outreach and equity were intertwined. As a result, these totals include approximately \$2.5 million in equity related activities. Assessing whether this expenditure is adequate is inherently subjective and depends on various factors, including the project's goals and the effectiveness of the engagement strategies employed.

Finding 14: Link21 has provided comprehensive outreach and engagement activities that are on par with BART's Public Participation Plan (PPP) guidelines. As the Link21 Program advances into future phases, additional PPP guidance should be revisited regarding vital document translation.

The BART Public Participation Plan (PPP) provides overall goals, guiding principles and appropriate outreach methods that are tailored to achieve participation from low income, minority and LEP populations. The PPP serves as a guide for public involvement efforts and

lists the following project-specific public participation strategies to take into consideration: 1) target populations and needs, 2) partnerships with Community Based Organizations (CBOs), and 3) translation and interpretive services.

Based on our review of Link21's Strategic Program Plan, engagement and outreach reports, meeting agendas and minutes, and outreach materials, it is evident that the Link21 Program team has incorporated the PPP's project specific strategies into their public outreach and engagement framework. For example, the Link 21 Program addresses target populations and needs by identifying "Priority Populations" as areas to focus meaningful and equitable outreach. Priority Populations are census tracts where people are most impacted by negative economic, mobility, community and health and safety outcomes. Link 21 outreach also partnered with CBOs to reach target audiences and assist with hosting community co-creation rounds designed to inform and include target populations in current and future phases of the project. Co-creation rounds offered translation services to participants, accommodating English, Spanish, Mandarin, Cantonese, and Hmong. Link 21 materials were made available in English, Spanish, and Cantonese. Language translation services were offered for virtual office hours, virtual workshops, co-creation workshops, and open houses.

With regards to language-based services, the BART Public Participation Plan states that:

"BART staff will work with CBOs to identify the specific language services that community members may expect to be provided. When BART hosts public meetings in a particular geographic area with a well-known, significant LEP population, the following should be done:

1. Meeting notices should be produced and distributed according to the language translation threshold in the LAP, encouraging community members to participate. In addition, participants can request interpreter services 48 hours in advance of the meeting, if needed; and
2. BART will provide at least one qualified interpreter at these meetings who is fluent in the designated LEP language(s)"

The BART PPP refers to the BART Language Assistance Plan (LAP) for specific guidance on language translation thresholds. Per the LAP update in 2022, the language translation threshold for frequently encountered languages is as follows: "The languages BART most frequently encounters are Spanish, Chinese, Vietnamese, Tagalog, Korean and Russian. With due consideration to resource and time constraints, BART will provide written translation of vital documents into Spanish and Chinese, the two most frequently encountered languages. The other frequently encountered languages may be included in a tagline for language assistance." The LAP also states that "BART will also endeavor to consider translating its Vital Documents into additional languages, if needed and practicable, to be determined on a case-by-case basis, due to the feedback from the LEP Advisory Committee and BART's desire for consistency throughout its currently planned system expansion."

Link21 follows the LAP for both interpretation services, where Spanish and Cantonese are always provided, and for written translation, where Spanish and traditional Chinese are used.

When local partners such as community-based organizations identify additional languages, interpreters for those languages are provided. This includes Mandarin and Hmong.

As the Link21 Program progresses into the next phases, the language translation thresholds will need to be reviewed to ensure continued compliance with requirements of the LAP, specifically with regards to vital documents. Vital documents are defined either as (1) any document that is critical for obtaining services and benefits, and/or (2) any document that is required by law. Vital documents will be required in the Project Delivery Phase

Additional information about the engagement of priority populations, partnerships with CBOs and language services can be found on Task 8.

Recommendation 15: As the Link21 Program progresses into future phases, we recommend that language translation thresholds be reviewed to ensure compliance with requirements. For example, vital documents will be needed in the project delivery phase and there are specific requirements related to translation of such documents.

Link21 details all outreach activities in Engagement and Outreach Summary Reports, which are publicly available on the project website. These reports provide qualitative and quantitative information related to informing and including stakeholders in various regions. The Public Participation Plan provides a list of suggested measurable objectives for public participation outreach monitoring. Suggested measurable performance objectives include:

- Number of participants attending a participation activity (currently reported)
- Percent of the participants from a specific geographic area
- Number and percent of participants providing feedback in languages other than English (identify number of respondents by language)
- Number and percentage of responses received to a survey or questionnaire (currently reported)
- Number of webpage downloads occurring during a specific time (currently reported)
- Number and percentage of participants signed up to receive web, phone, or mail-based communications because of participation activity (currently reported)
- Number and percentage of contacts updated (on a monthly or quarterly basis) to ensure participants continue receiving notices and announcements
- Number and percentage of participants expressing satisfaction regarding the process or results of a participation activity

Many of these measurable objectives are currently tracked and reported in Engagement and Outreach reports. However, additional measurable objectives could be added to Engagement and Outreach reports to better inform stakeholders.

Recommendation 16: We recommend that specific measurable objectives provided in the Public Participation Plan are added to outreach reports, such as the percentage of participants from a specific geographic area.

Finding 15: As a recipient of BART Capital Allocation funds, the Link21 Program is subject to the National Environmental Policy Act (NEPA) requirements. Such requirements will not be applicable until Phase 2: Project Selection. The Link21 Program team has been proactive in anticipation of environmental regulations and is currently completing environmental justice and equity related work. On January 20, 2025, a suite of Federal Executive Orders aimed at promoting federal environmental justice programs, including Executive Order 12898, which addresses environmental justice in minority populations and low-income populations were rescinded. Environmental justice regulations will need to be revisited in future phases of the project to determine compliance requirements.

NEPA requires project sponsors to study how projects will affect the community and the environment before they make decisions. The NEPA process begins when the federal agency is asked to act, such as to fund a proposed transit project. For most construction projects, NEPA ramps up once a project sponsor finds a way to fund the project. NEPA must be finished before construction can begin. Most NEPA activities occur during the design phase of a project.

Considering Executive Order 12898, the White House Council on Environmental Quality (CEQ) issued Environmental Justice, Guidance Under the National Environmental Policy Act. This guide includes six principles for environmental justice to determine and analyze any disproportionately high and adverse human health or environmental effects to low-income, minority, and tribal populations. The principles are:

- Consider the composition of the affected area to determine whether low-income, minority or tribal populations are present and whether there may be disproportionately high and adverse human health or environmental effects on these populations.
- Consider relevant public health and industry data concerning the potential for multiple exposures or cumulative exposure to human health or environmental hazards in the affected population, as well as historical patterns of exposure to environmental hazards.
- Recognize the interrelated cultural, social, occupational, historical, or economic factors that may amplify the natural and physical environmental effects of the proposed action.
- Develop effective public participation strategies.
- Assure meaningful community representation in the process, beginning at the earliest possible time.
- Seek tribal representation in the process.

The Link21 Program team has contracted an environmental consultant, tasked with providing a methodology for incorporating Environmental Justice (EJ) populations into the Link21 Program. The methodology will include a comparison between the current definition of EJ with the program's priority population definition. The consultant will also evaluate the

differing definitions of EJ based on potential funding sources (FTA, FRA, etc.). This consultant is also providing additional equity related environmental tasks, such as developing an equity implementation plan and baseline report and providing support on any identified environmental needs during the early program concept phase. Such tasks were budgeted to cost about \$324K, of which \$277K has been expended.

The Link21 Program team has committed to a fully integrated planning and environmental process with public and stakeholder input, in compliance with federal and state laws for environmental analysis.

Finding 16: The monitoring of how outreach costs are tracked and reported needs improvement.

During our review, certain outreach activity cost-related items were not readily available due to difficulty providing specific cost data.

Examples of outreach cost tracking and reporting challenges are provided below.

- Contractor expenditures were not provided for a particular task order because invoices were pending. However, the request was made after the period of performance for the task order. The invoices were still pending 6 months after the period of performance. Per contract requirements, the Consultant is to prepare monthly invoices and associated progress reports by the 10th of each month, per the BART format, that reflect the actual labor and expenses incurred as well as the project progress for that reporting period. Furthermore, this results in incomplete expenditure reporting.
- A specific contract for Early Engagement Guidance was not included in the Quarterly Reports on the Link21 website. This contract included four annual purchase orders totaling \$242K. In addition, expenditure data was not provided for this contract.
- Invoicing via contract requires an accounting of costs by task. In some cases, consultants did not provide a summary of the cost by task within their invoice. This presented difficulties in determining expenditures for outreach planning and implementation activities beyond the general task level. Instead, we had to rely on the cost breakdowns provided in the approved Work Plan Proposals (WPP).
- The descriptions of outreach activities provided on the invoices lack sufficient detail to clearly identify the locations of the events or the associated costs. As a result, it is challenging to determine how much was spent on specific outreach efforts by region, limiting the ability to conduct a more in-depth financial analysis beyond what was included in the Task 8 write-up below.

Recommendation 17: We recommend that management evaluate the need to manually track project subtask expenses where they are needed. Since there is currently no system capability to track project subtask expenses, manually tracking project subtask expenses should be based on risk.

AUDIT TASK 8

Assess the impact of the equity outreach efforts on project direction.

To assess the impact of equity outreach efforts on the project direction, we conducted a comprehensive review of all relevant outreach activities performed to date for the Link21 Program. This review included an extensive examination of documentation related to public and stakeholder outreach during Link21 Program Phase 0 and Phase 1 activities.

The objectives of this review were to ensure equity considerations were fully integrated into the Link21 Program's outreach and engagement activities. Specifically, the review aimed at:

- Ensuring that all 21 counties within the megaregion are represented in various outreach activities.
- Evaluating the engagement level with marginalized and historically underrepresented communities.
- Identifying if meaningful and inclusive participation with Priority Populations were promoted and their unique needs were considered in the decision-making process for the project direction.

To date, Link21 has expended approximately \$22 million (out of \$25 million committed) toward engagement and outreach efforts for this project. Assessing whether this expenditure is adequate is inherently subjective and depends on various factors, including the project's goals and the effectiveness of the engagement strategies employed. This report specifically examines the impact of equity in engagement and outreach efforts.

While significant strides have been made to ensure equitable engagement with Priority Populations, this report identifies areas for further enhancement. Equity-related efforts should not be viewed as a one-time "check-the-box" activity but as a continuous and evolving process.

The report acknowledges the commendable initiatives undertaken to engage marginalized and disadvantaged communities. However, we found improvements can be made to deepen and broaden the outreach impact. Ongoing adjustments and refinements are necessary to ensure that all community members, particularly those in hard-to-reach areas or without access to digital devices and the internet, have ample opportunities to participate and provide input.

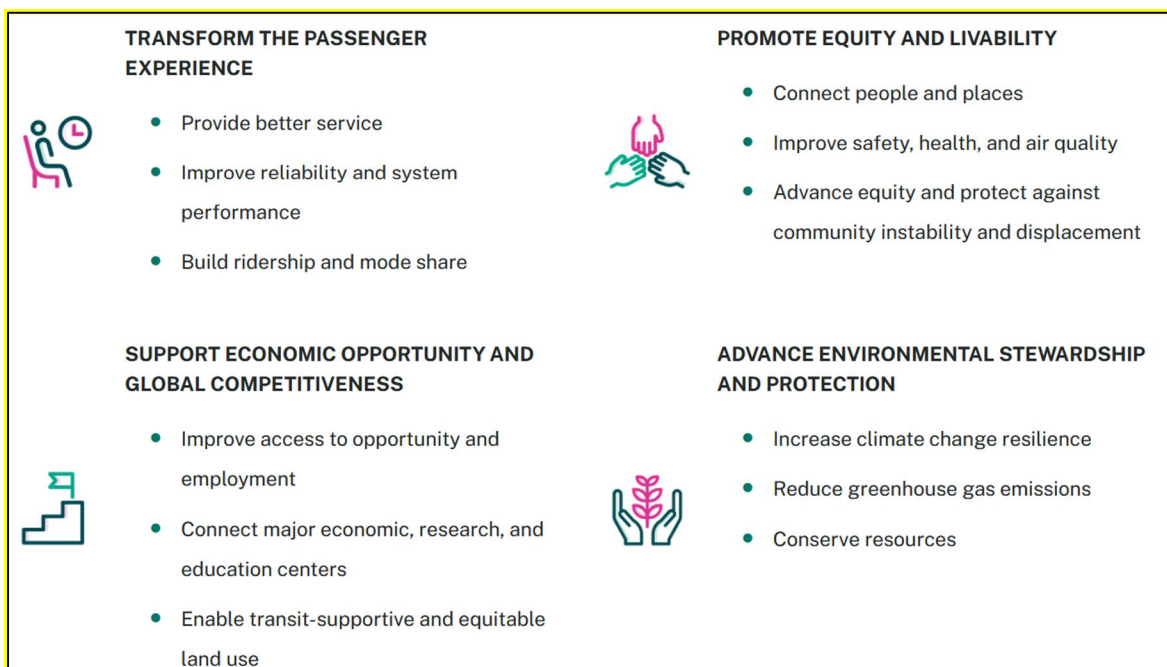
Continuous monitoring and iterative enhancements to the outreach strategies will help maintain the momentum towards achieving genuine equity in the Link21 project. This approach ensures that the voices of Priority Populations are not only heard but also meaningfully integrated into the project's development and decision-making processes.

Finding 17: The Link21 Program has four goals that reflect the broad benefits intended to be achieved through this program. After reviewing outreach activities and documentation, it has been determined that feedback from various stakeholders has been adequately considered and integrated into the program’s goals, positively influencing the project direction.

A thorough review was performed of over 600 outreach documents for the Link21 Program. These documents included meeting notes, agendas, activity reports, and other records from various outreach activities conducted by the Link21 team. The documentation provided detailed insights and comprehensive feedback from stakeholders, reflecting the breadth and depth of the outreach efforts.

Through this review, it became evident that the Link21 team has engaged in extensive outreach activities, capturing a wide range of stakeholder perspectives while following major elements of the BART Public Participation Plan (PPP) as mentioned in Task 7. The meticulous documentation of these interactions demonstrates a commitment to transparency, inclusivity, and equity. The feedback collected has been diverse and, in many cases, detailed, indicating active participation from the community and stakeholders. This documentation is also reflective of Link21 Program’s overall program goals (see Exhibit 8-1 below).

Exhibit 8-1: Link21 Goals and Objectives ([Source Link](#))



For example, in 2021, the Link21 Team hosted two rounds of community co-creation. Link21 partnered with over 30 CBOs to reach more than 500 community members through workshops, 1,500 through polls, and hundreds more through surveys. During these workshops, the project team captured detailed feedback from stakeholders using a structured agenda and breakout rooms to understand the community’s priorities and needs.

The major themes that came up from these discussions included safety, reliability, economic development, environmentalism, equity, and much more. It is apparent that these themes have positively impacted the project's direction as they are currently integrated into Link21's goals and objectives. It is apparent that stakeholder feedback is integrated in work completed within the concepts. This is documented in the [Concept Planning and Engineering Report](#) available on the Link21 website.

Recommendation 18: We recommend that the Link21 Program continue to document and integrate stakeholder feedback into its project goals to ensure ongoing alignment with community needs and priorities.

Finding 18: The Equity Advisory Council membership does not represent all four regions of the Northern California Megaregion as defined by the Link21 Program.

The Equity Advisory Council consists of 18 members from diverse backgrounds within the Link21 megaregion. The megaregion includes four key areas: the greater San Francisco Bay Area, the Monterey Bay Area, the Sacramento Area, and the Northern San Joaquin Valley. Currently, the Council includes 15 members from the San Francisco Bay Area, 2 members from the Sacramento Area, and 1 member from the Monterey Bay Area. However, there is no representation from the Northern San Joaquin Valley. See Exhibit 8-2. This lack of representation means that the perspectives and unique needs of communities in Stockton, Modesto, and Merced counties, which are part of the Northern San Joaquin Valley and have significant Priority Populations as defined by Link21, may not be directly considered in the Equity Advisory Council's deliberations.

Exhibit 8-2: Equity Advisory Council Membership by Geographic Location

Region	Number of Members
Monterey Bay Area	1
Sacramento Area	2
San Francisco Bay Area	15
Northern San Joaquin Valley	0
Grand Total	18

Recommendation 19: We recommend that the Equity Advisory Council be expanded to include representatives from the Northern San Joaquin Valley. Specifically, at least one member should be added to ensure that the voices and concerns of this important region are adequately represented. This expansion will help ensure that the Council's input to the Link21 Program is comprehensive and inclusive of all regions within the megaregion, thereby enhancing the equity and effectiveness of the program's outreach and engagement efforts.

Finding 19: Survey responses show low public awareness of the Link21 Program.

Multiple surveys and polls were reviewed that support Link21's engagement and outreach efforts. According to the Strategic Program Plan, Link21 employs polling and surveying to gauge public awareness and opinion, aiming to better understand the public's needs. Despite these efforts, survey responses indicate low awareness of the Link21 Program, highlighting potential gaps in the effectiveness of equity in engagement and outreach activities.

For instance, the Link21 Branding Survey conducted in June 2020 revealed that 55% of respondents (out of 1,405 total interviews) had heard "nothing at all" about the "integrated rail system" or the "project" (see Exhibit 8-3). Similarly, the Link21 Crossings Trade-Off Survey conducted in December 2023 found that 70% of respondents (out of 1,255 total interviews) were unaware of the Link21 Program (see Exhibit 8-4). These findings suggest that despite ongoing outreach efforts, there is a significant portion of the population that remains uninformed about the project, pointing to the need for enhanced and more inclusive engagement strategies. Although there is low public awareness of Link21, the same Link21 Crossings Trade-Off Survey in December 2023 showed that 70% of respondents supported the continued long-term planning and development of Link21.

Exhibit 8-3:
Link21 Branding Survey
June 2020

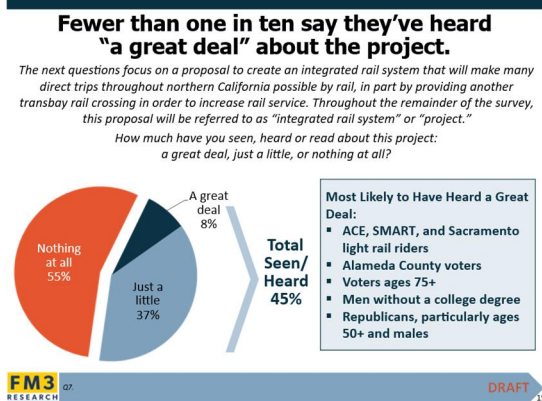
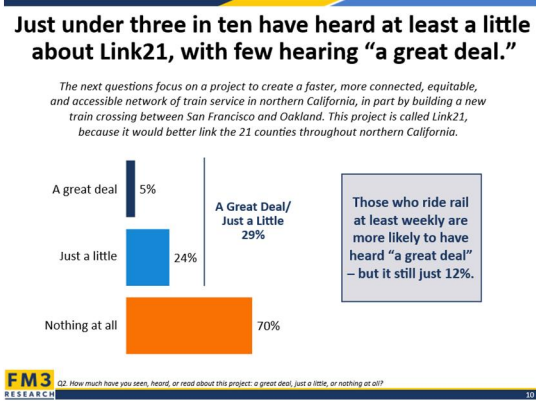


Exhibit 8-4:
Link21 Crossings Trade-Off Survey
December 2023



Despite significant outreach efforts by Link21, including a public website, stakeholder engagements through workshops and webinars, and various informational resources, surveys indicate low public awareness of the program.

Recommendation 20: We recommend that Link21 Program management conduct an engagement and outreach survey to understand how people prefer to receive information about the program. This approach will enhance equitable engagement by meeting people where they are and increasing public awareness of the project. Based on the survey results, the Link21 team can then develop targeted strategies to improve information dissemination.

Finding 20: The Link21 program website provides extensive resources and information, demonstrating transparency in the project's direction. However, some website enhancements could be made to ensure equitable engagement from diverse stakeholders.

The Link21 program website excels in providing comprehensive information and resources that enhance public awareness and understanding of the project's goals and objectives. We reviewed the website's [Accessibility Policy](#), offering specific information and directions on how to request accommodation. At the time of this write-up, the website featured easily accessible translation buttons in Chinese and Spanish located at the top-right corner of all the navigational webpages (see Exhibit 8-5 below), reflecting an effort to engage with diverse communities within the megaregion. However, upon a more recent review, these translation buttons no longer appear on the website (see Exhibit 8-6 below). While Link21's commitment to accessibility is evident through its accommodation requests and prior, multilingual support, the removal of these features represents a potential barrier for non-English speakers and an opportunity for improvement.

Exhibit 8-5: Link21 Program Website screenshot showing translation buttons in English, Chinese, and Spanish. ([Source Link](#))

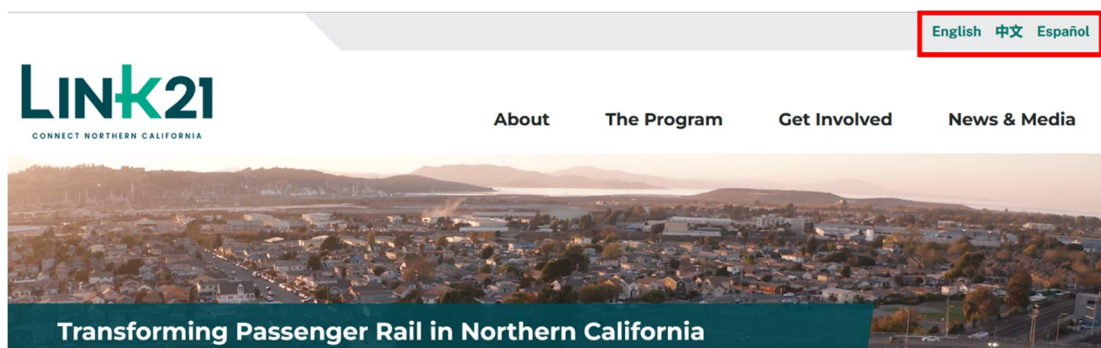
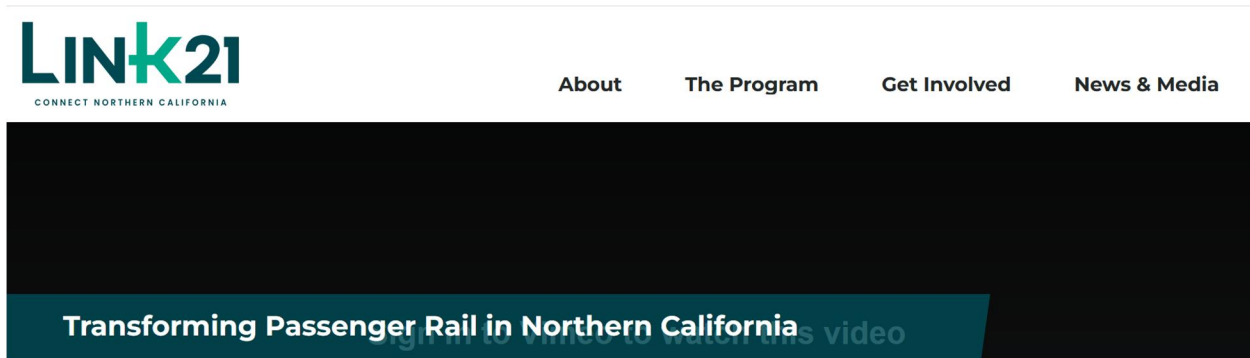


Exhibit 8-6: Link21 Program Website screenshot showing missing translation buttons in English, Chinese, and Spanish.



Despite these strengths, there is a lack of a clear statement on how to request translation services for other languages. This omission may exclude non-English-speaking stakeholders who do not speak Chinese or Spanish from fully accessing and understanding the project's information. Additionally, the BART Language Assistance Plan includes information on what vital documents need to be translated for public information and awareness. These gaps could diminish the overall effectiveness of the website in fostering equitable engagement and inclusivity.

Recommendation 21: We recommend the Link21 website be enhanced to clearly indicate how users can request translation services, bring back the translation buttons for Chinese and Spanish, and follow the requirements in the BART Language Assistance Plan. This could involve adding a dedicated section for translation services and ensuring it is prominently displayed on the website like the Accessibility Policy. By making these enhancements, the Link21 Program website can further its commitment to equitable engagement and ensure that all stakeholders, regardless of language or ability, can access and understand the project's information and resources.

Finding 21: Link21 Program participation in in-person events shows a disproportionate focus on the San Francisco Bay Area, with significantly fewer outreach efforts in the Sacramento Area, North San Joaquin Valley, and Monterey Bay Area.

As of March 2024, the Link21 Program conducted approximately 268 total outreach events and activities. See Exhibit 8-6 below. Among these, 102 were in-person outreach events. Specifically, 78 events took place in the San Francisco Bay Area, 14 in the Sacramento Area, 5 in the North San Joaquin Valley, and 1 in the Monterey Bay Area. Out of all these in-person engagements, 49 were in Priority Populations. See Exhibit 8-7 below.

Exhibit 8-6: Breakdown of Total Event/Activity Types for Link21 from 2020-2024

Event/Activity Type	Total
Virtual Events	137
In-Person Events	102
Other Activities*	29
Total Number of Events/Activities	268

**Other activities include Advisory Meetings, Equity Advisory Council Engagements, Surveys and Polls, etc.*

Exhibit 8-7: Breakdown of Event/Activity Types and In-Person Engagements with Priority Populations

In-Person Events by Location	Number of Events	Priority Populations
San Francisco Bay Area	78	38
Sacramento Area	14	7
North San Joaquin Valley	5	4
Monterey Bay Area	1	0
Total Number of Events	102	49

An analysis of Link21's in-person outreach events reveal a significant imbalance in the megaregional engagement efforts. While the San Francisco Bay Area saw a substantial number of events (78), the Sacramento Area (14), North San Joaquin Valley (5), and Monterey Bay Area (1) were significantly underrepresented. This disparity raises concerns about equitable engagement across the entire megaregion.

We utilized [Link21's Priority Population Map](#) to identify whether in-person outreach events were held in what the program identifies as "Priority Populations," which refers to census tracts in the megaregion that experience high levels of inequitable outcomes. There were 49 out of the 102 in-person events located in Priority Populations. Although this represents a considerable portion of the outreach, the uneven distribution of events across different regions suggests that some Priority Populations outside the San Francisco Bay Area may not have received adequate attention.

Limited outreach in regions like the Sacramento Area, North San Joaquin Valley, and Monterey Bay Area means that the unique needs and perspectives of these communities might not be fully captured and integrated into the Link21 program.

Recommendation 22: We recommend that Link21 increase the number of in-person outreach events in the Sacramento Area, North San Joaquin Valley, and Monterey Bay Area. Efforts should focus on organizing more events in these underserved regions, specifically targeting Priority Populations. To achieve this, Link21 should conduct targeted outreach to identify and collaborate with local community organizations within these areas.

Finding 22: Link21 provides sufficient feedback mechanisms to integrate community input into the project's direction. However, there is room for improvement, particularly in the feedback mechanisms such as online surveys and polls. Enhancements are needed to ensure that Priority Populations, hard-to-reach areas, and individuals without access to digital devices or the internet have an opportunity to learn about and engage with the project.

We reviewed Link21's various methods for collecting community feedback. Link21 provides multiple channels for input, including email (inquiries@link21program.org) and a toll-free number (1-855-950-5465). The program is also active on social media platforms such as Twitter, Facebook, and Instagram. Additionally, community members can fill out an online [Link21 Program Comment Form](#) via the Public Information Management Application (PIMA) tool, which also collects information and data tracking public sentiment on the project.

Surveys and polls are commonly used to gather feedback from community members, but many of these are conducted online, potentially excluding those without internet access. Link21 has also engaged in on-train and in-station outreach to increase public participation in surveys. However, feedback indicated that the surveys were perceived as "too long," and surveyors noted that transit users often did not have time to stop and take the surveys at stations or on board the trains.

Between 2020 and 2023, Link21 conducted a total of 32 in-station outreach events, with 25 in the San Francisco Bay Area, 7 in the Sacramento Area, and none in the North San Joaquin Valley or Monterey Bay Area. Of these 32 events, 18 were in Priority Populations, with the majority, 14, in the San Francisco Bay Area and the remaining 4 in the Sacramento Area. See Exhibit 8-8 below. This distribution indicates a need for more balanced outreach efforts across different regions, especially in areas with limited digital access.

Exhibit 8-8: Breakdown of In-Station Events by Megaregion Area and Priority Populations

In-Station Events by Location	Number of Events	Priority Populations
San Francisco Bay Area	25	14
Sacramento Area	7	4
North San Joaquin Valley	0	0
Monterey Bay Area	0	0
Total Number of Events	32	18

Balancing the geographic distribution of in-person outreach is also crucial. Ensuring that regions like the North San Joaquin Valley and Monterey Bay Area are adequately represented will help achieve more equitable engagement.

Recommendation 23: We recommend Link21 consider implementing the following strategies to positively influence the intended impact of equity as Link21 continues to plan and integrate feedback from hard-to-reach Priority Populations:

- **To ensure equitable outreach and comprehensive community engagement, we recommend that Link21 consider expanding its non-digital outreach efforts by increasing in-person events in hard-to-reach areas and regions with limited internet access. Hosting these events in community centers, libraries, and other public spaces will help reach a broader audience. Additionally, Link21 should simplify its surveys, making them shorter and easier to complete, particularly for transit users who may have limited time. Survey planning should be mindful of the target audience to ensure the questions are relevant and accessible.**
- **To further enhance feedback collection, Link21 should utilize alternative channels such as physical comment boxes in community centers and transit stations and distribute paper surveys through mail or local community organizations.**

Finding 23: The Public Information Management Application (PIMA) tool indicates that engagement from Priority Populations in the Link21 Program has been low, as evidenced by the comments received and stakeholder information.

We conducted an analysis of the comments tracked by the PIMA tool for the Link21 Program. A total of 670 comments were received and categorized based on "Stakeholder Support" into five groups: In Favor, Leaning in Favor, Less in Favor, Neutral, and Not in Favor. Out of these 670 respondents, 162 comments either lacked zip codes or were from outside the megaregion, and 166 comments were from respondents representing Priority Populations. Further breakdown of the data revealed that most comments came from respondents in the San Francisco Bay Area and the Sacramento Area, while there were very few comments from the North San Joaquin Valley and the Monterey Bay Area. For a detailed breakdown, refer to Exhibit 8-9.

Additionally, we reviewed the stakeholder database to analyze the geographic distribution of these stakeholders and determine whether they represent Priority Populations. The Link21 database includes a total of 34,513 stakeholders. Of these, approximately 3,667 stakeholders either had no zip codes or were from outside the megaregion. The San Francisco Bay Area accounted for 20,291 stakeholders, with 7,072 representing Priority Populations. In the North San Joaquin Valley, there were 5,450 stakeholders, of which 3,969 were from Priority Populations. The Sacramento Area had 3,897 stakeholders, including 1,709 from Priority Populations. Finally, the Monterey Bay Area had 1,208 stakeholders, with 275 representing Priority Populations. See Exhibit 8-10.

One important note to mention is that it was not mandated that all participants in engagement and outreach activities sign up as a stakeholder in PIMA. Therefore, this may be a reason for the low engagement from Priority Populations. Additionally, Priority Populations often face barriers such as limited access to digital devices and the internet, language differences, and socioeconomic constraints, which can hinder their participation in engagement activities. Link21's current outreach strategies, such as partnering with local community organizations, hosting in-person events, offering both digital and non-digital feedback options, and conducting targeted outreach through local media and social platforms, are effective approaches to increasing participation. The program has

demonstrated an ongoing commitment to these efforts, particularly in reaching and engaging Priority Populations.

Recommendation 24: We recommend that Link21 Program management reviews its current outreach strategies to identify effective methods and areas for improvement. Equity-related efforts should be ongoing and adjusted as needed. Continuous monitoring and evaluation will ensure these efforts remain effective and responsive to community needs.

Exhibit 8-9: Full Breakdown of the Comment Analysis and Stakeholder Support from the PIMA Tool for the Link21 Program

Stakeholder Support*	Total Number of Responses	%	Comments with No Zip Code or Outside of Megaregion	San Francisco Bay Area Respondents	San Francisco Bay Area Respondents Representing Priority Population	Sacramento Area Respondents	Sacramento Area Respondents Representing Priority Populations	North San Joaquin Valley Respondents	North San Joaquin Valley Respondents Representing Priority Populations	Monterey Bay Area Respondents	Monterey Bay Area Respondents Representing Priority Populations
In Favor	231	34.48%	28	160	52	36	4	3	3	4	0
Leaning in Favor	79	11.79%	14	52	29	9	0	1	1	3	0
Less in Favor	16	2.39%	3	9	2	4	0	0	0	0	0
Neutral	332	49.55%	114	165	66	52	9	0	0	1	0
Not in Favor	12	1.79%	3	9	0	0	0	0	0	0	0
Total	670	100%	162	395	149	101	13	4	4	8	0

*Stakeholder Support is the selection in which respondents chose when submitting comments for Link21 via the PIMA tool.

Exhibit 8-10: Link21 Stakeholder Breakdown

Total Number of Stakeholders Signed Up for Link21**	Total Number of Stakeholders Representing Priority Populations	Stakeholders with No Zip Code or Outside of Megaregion	San Francisco Bay Area Stakeholders	San Francisco Bay Area Stakeholders from Priority Population	Sacramento Area Stakeholders	Sacramento Area Stakeholders from Priority Populations	North San Joaquin Valley Stakeholders	North San Joaquin Valley Stakeholders from Priority Populations	Monterey Bay Area Stakeholders	Monterey Bay Area Stakeholders from Priority Populations
34,513	13,025	3,667	20,291	7,072	3,897	1,709	5,450	3,969	1,208	275

**This refers to the total number of stakeholders who signed up to receive Link21 notifications via the PIMA tool.

ATTACHMENT – LINK21 PROGRAM
MANAGEMENT RESPONSE

Management Responses to BART Link21 Audit (October 2, 2025)

AUDIT TASK 1

Assess the contractor selection process for compliance with policies, procedures, laws, and regulations.

RECOMMENDATION	AGENCY COMMENTS
Recommendation 1: We recommend an amendment to future Annual Budget Resolutions to clarify the intent of the Board resolution. We also recommend Link21 program management 1) require a cost or price analysis of all sole source contracts to verify the reasonableness of proposed costs, and 2) all contractors be required to submit specific deliverables at least monthly, evidencing the work performed.	Exhibit A of BART’s Procurement Manual (<i>Authorization Limits for Approving Contract Actions by Procurement Type</i>) gives the General Manager or Deputy General Manager authority to approve “Modifications/change orders to service agreements” for any “actions below \$100,000”. The amounts related to these actions are not cumulative. Clauses 3a and b of the Annual Budget Resolution referred to in the audit report are annual renewals from the Board of Directors of the General Manager’s authority in this area. The General Counsel's Office has consistently interpreted the language to mean Board authority is not required as long as spending remains under \$100K per fiscal year. The Board of Directors consistently receives periodic reports from the Procurement department of all contracts under \$100,000. BART’s Procurement department requires a cost or price analysis for all sole source contracts to verify the reasonableness of proposed costs, as it did for such contracts for Link21. In addition, in partnership with the Project Management team, BART Procurement will work to ensure the Scope of Work for each project requires contractors to provide specific monthly deliverables to document work performed and support accountability.

AUDIT TASK 2

Test for potential conflicts of interest between Link21 contractors and BART Board of Directors.

RECOMMENDATION	AGENCY COMMENTS
Recommendation 2: To improve transparency and accountability we recommend that the BART Board update the procurement policy to require that all vendors complete a conflict-of-interest form including those vendors with contracts under \$100,000.	BART's Procurement department agrees that enhancing transparency and accountability is important. BART Procurement will include vendors with contracts under \$100,000 to capture contractors that are not part of the Request For Proposal (RFP) process. The District implemented conflict-of-interest disclosures to all RFPs in December 2023 that applies to prime and subcontractors. In addition, all contractors, no matter the size of their contracts, are to report any potential conflicts via a disclosure form available on BART’s website.

RECOMMENDATION	AGENCY COMMENTS
Recommendation 3: We recommend that BART revise its policy for the contribution limit to follow FPCC’s requirement of limiting the contribution to \$500, not \$1,000, when a contractor’s proposal is being considered by the Board.	BART’s General Counsel is preparing a memo to the Board of Directors outlining the differences between the state campaign contribution law and the Board Rule so the Board can decide whether to eliminate the Board Rule and only be governed by the state law (which was amended recently to raise the limit from \$250 to \$500).

AUDIT TASK 3
Assess contract compliance and adequacy of management oversight.

RECOMMENDATION	AGENCY COMMENTS
Recommendation 4: We recommend that prime contractors enhance their efforts to meet DBE subcontracting goals, and that BART Link21 management work closely with OCR staff to achieve DBE goals at contract completion.	The Office of Civil Rights (OCR) agrees with the recommendation and will continue to work closely with prime contractors and District project management teams to achieve DBE goals at contract completion for all District contracts. OCR will continue to actively monitor all of the District’s On-Call Service Agreements pursuant to an established set of monitoring procedures, as reflected below. These procedures enable active monitoring by OCR to ensure Primes meet their DBE goals at project closeout. <u>Work Plan Approvals and DBE Monitoring Procedures (Monitoring Procedures):</u> Individual Work Plan Review Guidelines OCR evaluates work plans at specific intervals, based on the percentage of the total authorized amount used. At each threshold, DBE commitments must meet defined benchmarks to ensure progress toward contractual goals: • 0–25% of Authorized Amount Utilized: Commitments should be within a <i>reasonable variance</i> of the goal. If not, a corrective action plan and written commitment are required. No further work plans will be approved until the corrective plan is approved by OCR. • 26–50% of Authorized Amount: Commitments must be within 10% of the goal. Falling below this triggers a hold on approvals until corrective actions are reviewed and approved. • 51–90% of Authorized Amount: Commitments must be within 5% of the goal. Non-compliance requires a corrective plan prior to continued approvals. • Over 91% of Authorized Amount: Commitments must be at or above the goal. Any dip below goal halts approvals until OCR validates a corrective action plan. Monthly Monitoring

RECOMMENDATION	AGENCY COMMENTS
	OCR staff are responsible for ensuring that all monitoring activities involving DBEs are carried out in full accordance with applicable OCR program requirements and federal regulations. In line with 49 CFR § 26.37(b), OCR staff conducts monthly reviews of the B2Gnow system to monitor DBE goals. During these monthly reviews, OCR staff assess whether the Agreement is on track to meet its DBE goal by reviewing data in B2Gnow, including progress report updates, and any changes to DBE commitments. OCR verifies that DBE firms are performing work as committed and that participation levels are accurately reported. Any discrepancies or signs of underperformance are addressed promptly, which may involve requesting corrective action plans or escalating the issue as needed. <u>Monitoring Summary of Link21 Agreements 6M6155, 6M6146SC1 and 6M6146SC4</u> 6M6146SC1 Link21 Engagement & Outreach: The Board authorized \$30 million for this Agreement in 2021. To date, six (6) work plans have been approved, with total commitments of \$12.7 million. Each of these work plans underwent the review process pursuant to the Monitoring Procedures and each of these work plans were within the allowable variance. The DBE goal for this Agreement is 30%, and the current DBE participation is 24.3%. Based on the Monitoring Procedures: • With 42% of the authorized amount utilized (\$12.7M of \$30M), the applicable threshold is the 26–50% range, where commitments must be within 10% of the DBE goal. • The current DBE participation is within 10% of the DBE goal as the DBE goal is 30% while the current DBE participation is 24.3%. Therefore, the current participation is within the acceptable variance range established by the Monitoring Procedures. • 58% or \$17.3 million of the Agreement’s funding authority is still available. It should be noted that throughout the duration of the Agreement, DBE performance was consistently monitored in accordance with OCR’s established compliance procedures. For example, during one monthly monitoring review, OCR staff engaged directly with the Prime Consultant on DBE participation reporting. In a separate instance, staff advised the Prime to update their work plan summary to reflect the 30% DBE goal after identifying it incorrectly showed 0%. Additionally, the Prime was informed that if future submissions did not meet the acceptable participation range, a corrective action plan would be required. These ongoing reviews and communications exemplify the proactive and consistent monitoring efforts applied to ensure alignment with DBE commitments. If subsequent work plans put the aggregated commitments outside of the allowable variance, the Prime would be required to meet with OCR and produce a satisfactory Corrective Action Plan detailing the Prime’s

RECOMMENDATION	AGENCY COMMENTS
	plan to meet its DBE Goal at the end of the Agreement. Further, the Prime would need to certify, in writing, that they would meet their DBE Goal at project closeout. OCR would monitor progress monthly (pursuant to the Monitoring Procedures). 6M6146SC4 Link21 Environmental Services: The Board authorized \$30 million for this Agreement in 2021. To date, two (2) work plans have been developed and approved, reflecting total commitments of approximately \$6.02 million. Each of these work plans underwent the review process pursuant to the Monitoring Procedures and each of these work plans were within the allowable variance. The DBE goal for this Agreement is 30%, and current DBE participation is 17.5%. Based on the Monitoring Procedures: • With 20% of the authorized amount utilized (\$6.02M of \$30M), the applicable threshold is the 0–25% range, where commitments must be within a reasonable variance of the goal. • Due to the indefinite quantity and scope nature of on-call agreements, the variance standard applied at this beginning stage is based on flexibility and reasonableness. This ensures that Primes are given sufficient opportunity to align their commitments with project requirements while still holding them accountable for demonstrating a path to achieving the DBE goal. • At 17.5% DBE participation against a 30% DBE goal, the Agreement is considered within a reasonable variance at this stage. • 80% or \$23.98 million of the Agreement’s funding authority is still available. It should be noted that throughout the duration of the Agreement, DBE performance was consistently monitored in accordance with OCR’s Monitoring Procedures. For example, staff regularly request updated DBE participation summaries to ensure accurate reporting, identify potential shortfalls, and proactively support goal attainment. If subsequent work plans put the aggregated commitments outside of the allowable variance, the Prime would be required to meet with OCR and produce a satisfactory Corrective Action Plan detailing the Prime’s plan to meet its DBE Goal at the end of the Agreement. Further, the Prime would need to certify, in writing, that they would meet their DBE Goal at project closeout. OCR would monitor progress monthly (pursuant to the Monitoring Procedures). 6M6155 Link21 Program Management and Strategic Advising: The BART Board of Directors (“Board”) authorized \$80 million for this Agreement in 2022 to support the delivery of key programmatic activities.

RECOMMENDATION	AGENCY COMMENTS
	Since that time, three (3) work plans have been developed and approved, representing a combined commitment of \$33.93 million. Each of these work plans underwent the review process pursuant to the Monitoring Procedures and each of these work plans were within the allowable variance. The DBE goal for this Agreement is 25%, and current DBE participation is 17%. Based on the Monitoring Procedures: • With 42% of the authorized amount utilized (\$33.93M of \$80M), the applicable threshold is the 26–50% range, which requires commitments to be within 10% of the goal. • The current DBE participation is within 10% of the DBE goal as the DBE goal is 25% while the current DBE participation is 17%. Therefore, the current participation is within the acceptable variance range established by the Monitoring Procedures. • 58% or \$46.08 million of the Agreement’s funding authority is still available. If subsequent work plans put the aggregated commitments outside of the allowable variance, the Prime would be required to meet with OCR and produce a satisfactory Corrective Action Plan detailing the Prime’s plan to meet its DBE Goal at the end of the Agreement. Further, the Prime would need to certify, in writing, that they would meet their DBE Goal at project closeout. OCR would monitor progress monthly (pursuant to the Monitoring Procedures). In addition to the monitoring controls noted above, Project Delivery Management and Agreement Management conduct quarterly check-ins with Consultants to review project progress, utilization of subconsultants in meeting DBE and SBE goals to ensure work allocation and assignments are appropriate and on track.
Recommendation 5: We recommend that Link21 program management improve its oversight of contractor performance by ensuring all contractors provide monthly progress reports, deliverables be required, and invoices include sufficient detail and supporting documentation.	The Link21 Program agrees with this recommendation. Program management will ensure all contractors to provide monthly progress reports, track associated deliverables, and provide sufficient detail on invoices.

AUDIT TASK 4

Analyze the Work Plan Proposal (WPP) approval process and determine compliance with BART WPP guidelines.

No Recommendations

AUDIT TASK 5

Identify, quantify, test, and analyze all project expenditures to date.

RECOMMENDATION	AGENCY COMMENTS
Recommendation 6: We recommend that Link21 management formally issue a modification to work plans extending the work plan terms for any work performed after the work plan end date.	Link21 Agreement Management concurs with the recommendation. There are controls in place to ensure Consultant billings do not exceed workplan/PO limits, currently there is no system capabilities to track workplan end date for early warnings. Link21 Agreements Management will work with Procurement department to develop a process to track workplans coming to expiration and determine extensions with Project Management.
Recommendation 7: We recommend that Link21 management formally negotiate and issue an Advance Rate Agreement as allowed under Article 3.1C of the prime contracts to support the negotiated overhead rates.	Link21 Agreement Management acknowledges the recommendation and agrees that the contract amendment process can be further streamlined. There are compensating controls in place (e.g., contracts over \$1M) where Internal Audit may review, and Agreement Manager would review the contractor-requested rate changes prior to approval, and the approval is provided to the Procurement department. There is no reconciliation or follow-up process to ensure the Procurement department issues a contract amendment subsequent to every management approved rate change. Per Article VI. D. of the Advance Agreement for Provisional Cost Reimbursement, the overhead rates that are approved are provisional only. The actual final overhead rates applicable to each specific period billed are determined during the true up process. As such, the differences identified in the audit report are naturally to be true-up based on the contract clause. Link21 Agreement Management will work with the Procurement department and the Office of the General Counsel to assess modification to existing contract requirement (in eliminating the additional administrative process to formally issue an amendment following every approved overhead rate change), given the provisional rate and true-up requirement as stated in the Advance Rate Agreement.
Recommendation 8: We recommend that Link21 management formally negotiate and issue an Advance Rate Agreement as allowed under Article 3.1C of the prime contracts to support the negotiated labor rates.	Link21 Agreement Management acknowledges the recommendation and agrees that the contract amendment process can be further streamlined. There are compensating controls in place where OCR (Prevailing Wages, if applicable), Agreement Manager and Project Management would review the contractor-requested rate changes prior to implementation, and the approval is provided to the Procurement department. There is no reconciliation or follow-up process to ensure the Procurement department issues an amendment to the contract or workplan subsequent to every management approved rate change. The Advance Agreement for Provisional Cost Reimbursement include a salary range that was reviewed by BART for reasonableness at the beginning of the contract. Any exception when compared to invoice billings are further reviewed for approval by the Agreement Manager and Project Manager.

RECOMMENDATION	AGENCY COMMENTS
	Link21 Agreement Management will work with the Procurement department and the Office of the General Counsel to assess modification to existing contract requirement (to eliminate contract amendments following every rate change) given the volume and review/approval controls that are in place.
Recommendation 9: We recommend that Link21 management enforce the requirement of billing the fixed fee monthly based on a percentage complete basis or modify the contract requirements.	Link21 Agreement Management acknowledges the finding and will continue to improve invoice review controls. The amount identified as payment discrepancy was refunded and rectified by the Consultant, due to Link21 Agreement Management team’s peer review. Management will continue to refine peer review controls to ensure billings are in accordance with the contract and workplan arrangements, given the volume and manual nature of invoice reviews. Link21 Agreement Management will also work with Procurement department to review potential contract modifications to appropriately align billing requirements with workplan arrangements.
Recommendation 10: We recommend that Link21 management require prime consultants to obtain written approval from the Agreement Manager for any new subcontractors not listed in the Work Plan Proposals prior to the performance of any work.	Link21 Agreement Management concurs with the recommendation. Although the three subcontractors identified as exceptions were not listed in the specific work plan proposals, they were listed and approved in the Master Agreement. Additionally, consultant invoices were reviewed and approved by project management and agreement management through PeopleSoft system workflow approval based on monthly progress reports, and supporting documents detailing personnel worked on the project and scope of work completed.
Recommendation 11: We recommend that Link21 management enforce the contract requirement that Consultants submit both payroll records and time records as required by Article 1.7A of the contract agreements or modify the contract requirements.	Link21 Agreement Management concurs with the recommendation. The practice has been to obtain time sheets to substantiate invoice billings; executed payroll was obtained as supplemental documentation as needed. Link21 Management will assess modification to existing contract requirement taking into consideration of process control and process efficiency in consultation with the Office of the General Counsel.
Recommendation 12: We recommend that Link21 management enforce the contract requirement that Consultants submit adequate detailed time records in accordance with Article 1.7B(1) of the contract agreements.	Link21 Agreement Management concurs with the recommendation to ensure practice is consistently followed. BART Agreement Managers will be reminded to ensure that proper time records are submitted, and management will provide periodic reminders to the project teams similar to the internal memo from July 2022.
Recommendation 13: We recommend that Link21 management enforce the contract requiring the Consultants to invoice labor costs by activity and product in a manner consistent with the WPP or modify the contract requirements.	Link21 Agreement Management concurs with the recommendation. There are varying forms of workplan arrangements such as cost-reimbursement based on completion (by task); cost-reimbursement based on term (by level of effort); fixed price. Management will assess the different workplan types, evaluate requirements for Consultants to submit invoices, and will work with the Office of the General Counsel to assess modification to contract requirement.

RECOMMENDATION	AGENCY COMMENTS
Recommendation 14: We recommend that Link21 management require that subconsultants submit both payroll records and time records in accordance with Article 14B, 1.7A and 1.7B(1) of the contract agreements or modify the contract requirements.	Link21 Agreement Management concurs with the recommendation. Similar to the finding and response to Recommendation 11, the practice has been to obtain time sheets by personnel to substantiate invoice billings; executed payroll was obtained as supplemental documentation where needed. Link21 Agreement Management will assess modification to existing contract requirement balancing process control and process efficiency in consultation with the Office of the General Counsel.

AUDIT TASK 6
Assess funding adequacy and security.

No Recommendations

AUDIT TASK 7
Analyze outreach costs for compliance with policies and procedures, laws, and regulations.

RECOMMENDATION	AGENCY COMMENTS
Recommendation 15: As the Link21 Program progresses into future phases, we recommend that language translation thresholds be reviewed to ensure compliance with requirements. For example, vital documents will be needed in the project delivery phase and there are specific requirements related to translation of such documents.	The Link21 Program will review language translation thresholds at the start of each major program phase to ensure compliance with BART’s Language Assistance Plan and federal/state requirements (or relevant lead agency).
Recommendation 16: We recommend that specific measurable objectives provided in the Public Participation Plan are added to outreach reports, such as the percentage of participants from a specific geographic area.	Future outreach reports will include measurable objectives from the Public Participation Plan.
Recommendation 17: We recommend that management evaluate the need to manually track project subtask expenses where they are needed. Since there is currently no system capability to track project subtask expenses, manually tracking project subtask expenses should be based on risk.	Link21 Program Management will evaluate areas where subtask expense tracking is necessary.

AUDIT TASK 8
Assess the impact of the equity outreach efforts on project direction.

RECOMMENDATION	AGENCY COMMENTS
Recommendation 18: We recommend that the Link21 Program continue to document and integrate stakeholder feedback into its project goals to ensure ongoing alignment with community needs and priorities.	The Link21 Program will continue documenting stakeholder feedback through outreach reports and internal summaries, and provide a clear record of how community input shapes program direction.

RECOMMENDATION	AGENCY COMMENTS
Recommendation 19: We recommend that the Equity Advisory Council be expanded to include representatives from the Northern San Joaquin Valley. Specifically, at least one member should be added to ensure that the voices and concerns of this important region are adequately represented. This expansion will help ensure that the Council's input to the Link21 Program is comprehensive and inclusive of all regions within the megaregion, thereby enhancing the equity and effectiveness of the program's outreach and engagement efforts.	Please note: all equity-related work referenced was completed prior to January 20, 2025, before the issuance of new federal executive orders and grant condition changes. Staff will review and consider this recommendation alongside all regulatory federal requirements.
Recommendation 20: We recommend that Link21 Program management conduct an engagement and outreach survey to understand how people prefer to receive information about the program. This approach will enhance equitable engagement by meeting people where they are and increasing public awareness of the project. Based on the survey results, the Link21 team can then develop targeted strategies to improve information dissemination.	The Link21 Program agrees that understanding how people prefer to receive information can enhance engagement. We will consider conducting a survey to gather this input as part of future outreach planning, subject to available resources.
Recommendation 21: We recommend the Link21 website be enhanced to clearly indicate how users can request translation services, bring back the translation buttons for Chinese and Spanish, and follow the requirements in the BART Language Assistance Plan. This could involve adding a dedicated section for translation services and ensuring it is prominently displayed on the website like the Accessibility Policy. By making these enhancements, the Link21 Program website can further its commitment to equitable engagement and ensure that all stakeholders, regardless of language or ability, can access and understand the project's information and resources.	The Link21 website has been updated to restore the translation buttons and describe how users can request translation services. Other recommendations are noted and will be considered with future work.
Recommendation 22: We recommend that Link21 increase the number of in-person outreach events in the Sacramento Area, North San Joaquin Valley, and Monterey Bay Area. Efforts should focus on organizing more events in these underserved regions, specifically targeting Priority Populations. To achieve this, Link21 should conduct targeted outreach to identify and collaborate with local community organizations within these areas.	Please note: all equity-related work referenced was completed prior to January 20, 2025, before the issuance of new federal executive orders and grant condition changes. Staff will review and consider this recommendation alongside all regulatory federal requirements.
Recommendation 23: We recommend Link21 consider implementing the following strategies to positively influence the intended impact of equity as Link21 continues to plan and integrate feedback from hard-to-reach Priority Populations: To ensure equitable outreach and comprehensive community engagement, we recommend that Link21 consider expanding its non-digital outreach efforts by increasing in-person events in hard-to-reach areas and regions with limited internet access. Hosting these events in community centers, libraries, and other public spaces will help reach a broader audience. Additionally, Link21 should simplify its surveys, making them shorter and easier to complete,	Please note: all equity-related work referenced was completed prior to January 20, 2025, before the issuance of new federal executive orders and grant condition changes. Staff will review and consider this recommendation alongside all regulatory federal requirements.

RECOMMENDATION	AGENCY COMMENTS
particularly for transit users who may have limited time. Survey planning should be mindful of the target audience to ensure the questions are relevant and accessible. • To further enhance feedback collection, Link21 should utilize alternative channels such as physical comment boxes in community centers and transit stations and distribute paper surveys through mail or local community organizations.	
Recommendation 24: We recommend that Link21 Program management reviews its current outreach strategies to identify effective methods and areas for improvement. Equity-related efforts should be ongoing and adjusted as needed. Continuous monitoring and evaluation will ensure these efforts remain effective and responsive to community needs.	Please note: all equity-related work referenced was completed prior to January 20, 2025, before the issuance of new federal executive orders and grant condition changes. Staff will review and consider this recommendation alongside all regulatory federal requirements.