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AGENDA

**TEXAS TRANSPORTATION COMMISSION
Audit Subcommittee, Quarterly Meeting
125 East 11th Street
Austin, Texas 78701-2483**

**WEDNESDAY
December 9, 2020**

NOTE: After consultation with the Governor's Office and consideration of the Governor's Proclamation of March 13, 2020, declaring a state of disaster for all counties in Texas from the imminent threat posed by COVID-19 and the Governor's approval of the request from the Office of the Attorney General to temporarily suspend certain open-meeting provisions of Texas law, the Texas Transportation Commission Audit Subcommittee meeting on December 9, 2020, will be conducted as a telephonic/audio meeting. You may listen to the meeting and comment on an agenda item by calling the following toll-free number: 1-800-309-1256, participant access code 459976. If the Texas Department of Transportation's computer network is operational at the time of the meeting, you will be able to view an electronic copy of the agenda packet for the meeting at <https://www.txdot.gov/inside-txdot/administration/commission/subcommittee-meetings.html>.

The meeting will be recorded, and the recording will be available at <https://www.txdot.gov/inside-txdot/administration/commission/subcommittee-meetings.html> on the day after the meeting or as soon thereafter as technically possible.

Persons with special needs or disabilities who require auxiliary aids or services are requested to contact the department's Compliance Division at (512) 463-5671 at least five working days prior to the meeting so that appropriate arrangements can be made.

Atención. Si desea recibir asistencia gratuita para traducir esta información, llame al 512-305-9500.

10:00AM CONVENE MEETING

- 1. Meeting Guidelines**
Staff will provide instruction and guidance on procedures for the meeting.
- 2. Consider the approval of the Minutes** of the September 23, 2020, quarterly meeting of the Texas Transportation Commission Audit Subcommittee

3. **Independent Auditor's Report**
Preliminary summary of Fiscal Year 2020 audit
4. **Compliance Division Update**
 - a. Compliance Program Effectiveness
 - b. Summary of Investigations - Fiscal Year 2021, 1st Quarter
 - c. Traffic Safety Grants - Pre-Award Review
5. **Internal Audit Division Update**
 - a. Management Action Plans (MAP)
 - b. Internal Audit Reports
 - (1) Local Government Projects Pre-Award
 - (2) Maintenance Project Payment Review and Approval
6. **Executive Session** Pursuant to Government Code, Chapter 551
 - a. **Section 551.071** - Consultation with and advice from legal counsel regarding any item on this agenda, pending or contemplated litigation, or other legal matters
 - b. **Section 551.076 and Section 551.089** - Discussion concerning department security audits
 - c. **Section 551.074** – Discussion concerning the evaluation and duties of the Chief Audit and Compliance Officer
7. **Performance Evaluation of Chief Audit and Compliance Officer**
In accordance with Minute Order 115323 section IV(c) Responsibilities - Internal Audit and Compliance, present a performance plan of the Chief Audit and Compliance Officer based on performance evaluation

ADJOURN

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Audit Subcommittee Quarterly Meeting

Texas Transportation Commission



Approval of minutes:

September 23, 2020, Audit Subcommittee meeting



Smart decisions. Lasting value.™

Texas Department of Transportation
– Audit Sub-Committee

Fiscal Year Ended August 31, 2020
Audit Presentation – December 9, 2020

Kevin Smith, Partner

Engagement Update

- Current status
- Completion timing
- Anticipated results
- Other

Deliverables

By the SAO deadline of December 20, 2020, we expect to issue the following:

- Report of Independent Auditors on:
 - Texas Department of Transportation
 - Texas Mobility Fund
 - Central Texas Turnpike System
 - Grand Parkway Transportation Corporation
- Report of Independent Auditors on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With *Government Auditing Standards*
- SAS 114 Letter “Communication to Those Charged with Governance”

Report of Independent Auditors

Entity	Opinion	Emphasis of Matters
Texas Department of Transportation	<p>Unmodified (“Clean”) Opinion</p> <p>In our opinion, the basic financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of TxDOT, as of August 31 2020, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.</p>	<p>As discussed in Note 1, the financial statements of TxDOT are intended to present the financial information of the State that is attributable to the transactions of TxDOT. They do not present fairly the financial position of the State as of August 31, 2020.</p>
Texas Mobility Fund	<p>Unmodified (“Clean”) Opinion</p> <p>In our opinion, the basic financial statements present fairly, in all material respects, the respective financial position of each major fund of the Texas Mobility Fund, as of August 31, 2020, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.</p>	<p>The financial statements present only the Fund, a debt service and capital project fund of the Texas Department of Transportation, an agency of the State of Texas and do not present fairly the financial position of TxDOT or the State of Texas as of August 31, 2020.</p> <p>The Fund does not report entity-wide financial statements and as a result, the long-term liabilities are presented in Notes 4 and 5.</p>
Central Texas Turnpike System	<p>Unmodified (“Clean”) Opinion</p> <p>In our opinion, the basic financial statements present fairly, in all material respects, the financial position of the System, as of August 31, 2020, and the changes in its financial position and its cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.</p>	<p>The financial statements present only the Central Texas Turnpike System, an enterprise fund of the Texas Department of Transportation, an agency of the State of Texas, and do not, present fairly the financial position of TxDOT or the State of Texas, as of August 31, 2020.</p>
Grand Parkway Transportation Corporation	<p>Unmodified (“Clean”) Opinion</p> <p>In our opinion, the basic financial statements present fairly, in all material respects, the financial position of the GPTC, as of August 31, 2020, and the changes in its financial position and its cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.</p>	<p>N/A</p>

Expected Internal Control Related Comments

- **Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards***

Significant Deficiencies

Two issues noted to be discussed in Executive Session.

Required Communication with Those Charged with Governance

- Auditor Responsibility
- Planned Scope and Timing of the Audit
- Significant or Unusual Transactions
- Significant Accounting Policies in Controversial or Emerging Areas
- Accounting Estimates
- Auditor Judgments about Qualitative Aspects of Significant Accounting Practices
- Corrected and Uncorrected Misstatements (*see next slide*)
- Other Communications

Corrected and Uncorrected Misstatements

Fund	Corrected		Uncorrected or Waived	
	No.	Net Impact	No.	Net Impact
State Highway Fund			3	\$19.9M
Texas Mobility Fund	1	\$1.8M	1	(\$1.8M)
Central Texas Turnpike System			1	(\$2.6M)
Grand Parkway Transportation Corporation			2	(\$2.3M)
Non-major fund	1	\$3.0M	3	(\$10.5M)
Total	2	\$4.8M	13	(\$2.7M)



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value.™

Thank you

Kevin Smith

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Compliance Division Update

Kristin Alexander, Director, Compliance Division



a. FY 2020 Compliance Program Assessment



Compliance Program contains all elements identified in the US Sentencing Commission Guidelines. Assessed as a maturing and forward focus practice compliance program.

Dedicated commitment from Senior Leadership to ensure the Compliance Program is appropriately resourced and supported.

All eight program elements assessed as **leading practices**.

Greater alignment between HRD Practices and Compliance Program Activities from FY 2019 to FY 2020 solidifies the program's value to TxDOT's operations.



COVID CHALLENGES	PLANNED ACTIONS
Communication & Training Culture	(1) Dedicating outreach resources and leveraging Coffee with Crew success (2) Compliance Division Roadshows to Divisions and Districts to continue TxDOT's message of doing business the right way
Reporting & Response	(1) Implementing a single reporting hotline and case management system for investigations (Go Live December 2020)
Auditing & Monitoring	(1) Proactive data analytics to identify trends, hotspots, and potential non-compliance areas

FY 2020 Compliance Program Accomplishments



Standards of Conduct/Policies and Procedures

- Confirmed implementation of 52 Legislative bills and riders
- Reviewed implementation plans for 77 Legislative bills and riders
- 35 TxDOT Policy Manuals reviewed; TxDOT Policy Governance Workgroup Member

Compliance Officer & Compliance Committee

- Quarterly Audit Subcommittee, Compliance Council, FHWA Coordination, External Audit Liaison
- Coordination of Grant Sanction Rules updates

Employee Outreach and Education

- 15 Coffee with the Crews District visits, 6 Fraud & Compliance presentations to employees and contractors
- Ethics Training Tracking, Compliance Quarterly Newsletter, Contract Management Ethics training update
- Fraud Awareness Week Campaign, Compliance Podcast, Fraud Education Videos

Monitoring and Auditing

- Compliance Assurance Activities (Subrecipient Internal Compliance Program, Revolving Door Determinations, Contractor Affiliation reviews, FHWA Stewardship Monitoring, etc.)
- Detection Projects (e.g. Senior Travel, Pcard Transactions, Commission Agenda, etc.)
- External Audits and Advisory Services (Regional Toll Revenue Audits, Utility Closeout Audits, SOX Key Control testing, Grants Pre-Award Reviews, , etc.)

Reporting and Investigating

- Employee Conduct, Fraud, Waste and Abuse Investigations
- Increased number of allegations reported through TxDOT Watch

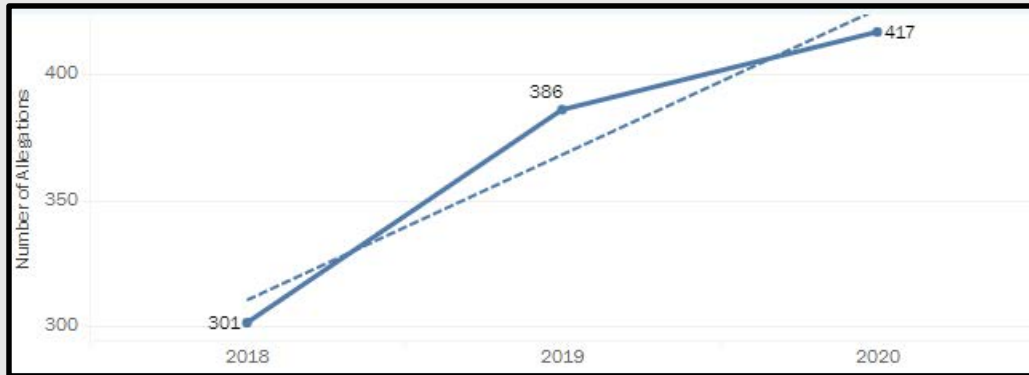
Enforcement and Discipline

- 6 Third Party Sanctions issued
- 282 Subrecipient Federal Single Audit Reviews
- Issued 6 Federal Single Audit Management Decision Letters


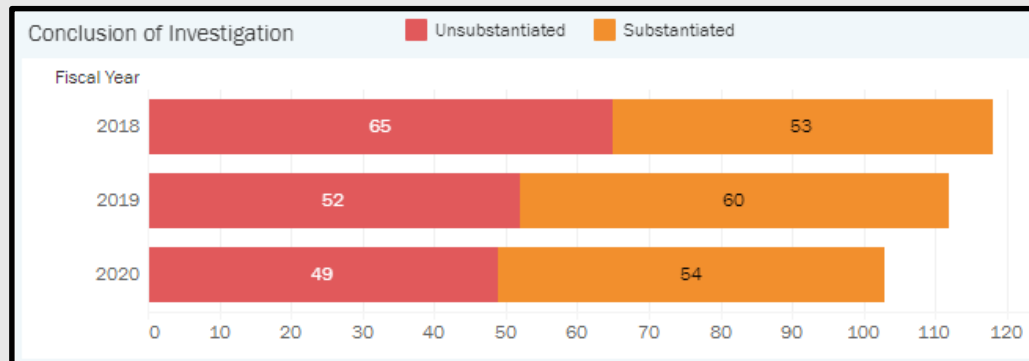
Response and Prevention

- Continuous Fraud Risk Assessment leverage HighBond Storyboards and ACL Data Analytics
- Increased guidance to Districts and Divisions on compliance matters (Creation of Touch Point Tracking)
- Recommendations to mitigate or reduce fraud and noncompliance risks (COVID and IT Project Falcon After Actions, Transportation Forum Reconciliation, Work Authorization Delegation, etc.)

Compliance Program Effectiveness: Allegation and Investigation Trends



- Increase in allegations attributed to focused outreach events and increase in EEO allegations
- Increase in internal referral of allegations
 - 37% of allegations from internal sources
 - 73% of substantiated investigations from from internal sources



Demonstrates increased trust in TxDOT's reporting mechanisms and commitment to accountability

b. Summary of Investigations – Fiscal Year 2021, 1st Quarter



Investigation Totals :

		<u>Q4 / Q3</u>
• Opened	17	↓ 35%
• Closed	20	↓ 17%

Closed Investigation Dispositions:

• Substantiated	8	—
• Unsubstantiated	12	

Closed Investigation Locations:

• Districts	9	↓
• Divisions	4	↓
• Third Party	7	↑

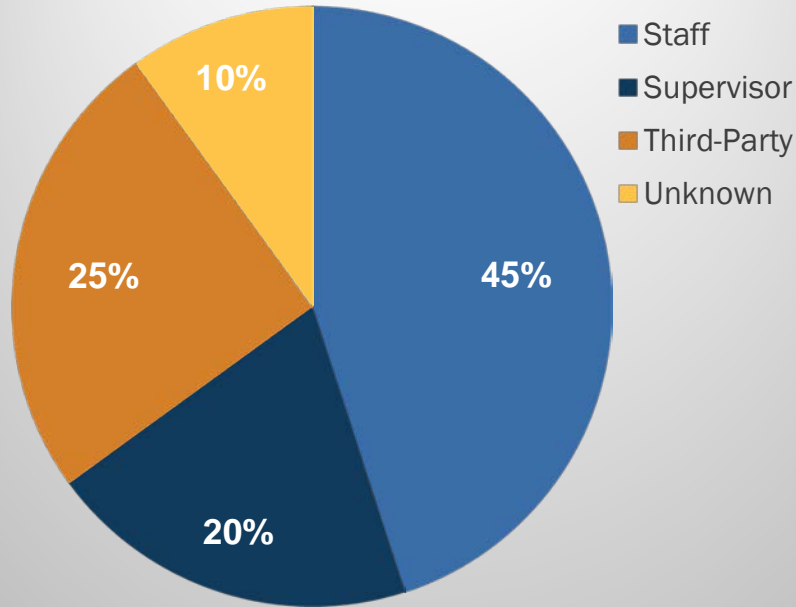
Highlights

- Decrease in new investigations from FY20 4th quarter
 - Number of allegations increased; increase related to management issues
- Substantiation rate remained at 40%
- Significant investigations:
 - Falsification of Material Testing Results by a Third-Party
 - Conflict of Interest

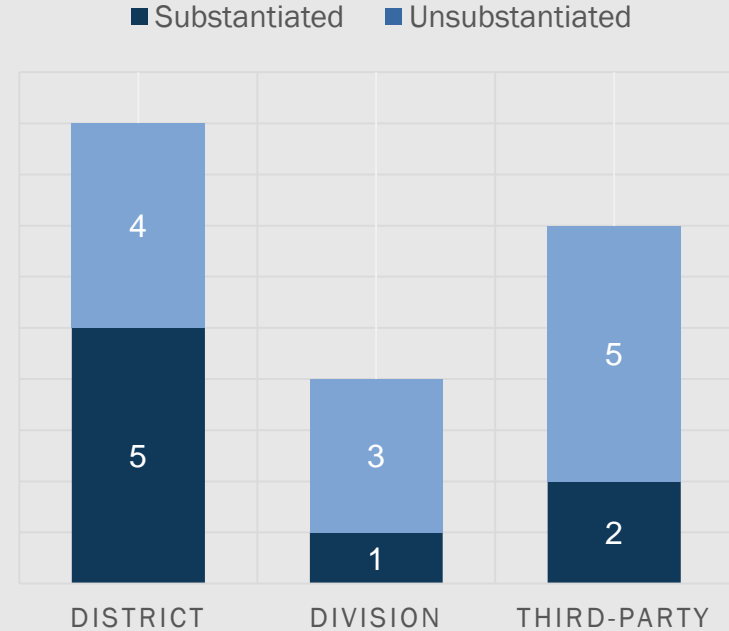
Summary of Investigations – Fiscal Year 2021, 1st Quarter



SUBJECT OF INVESTIGATION

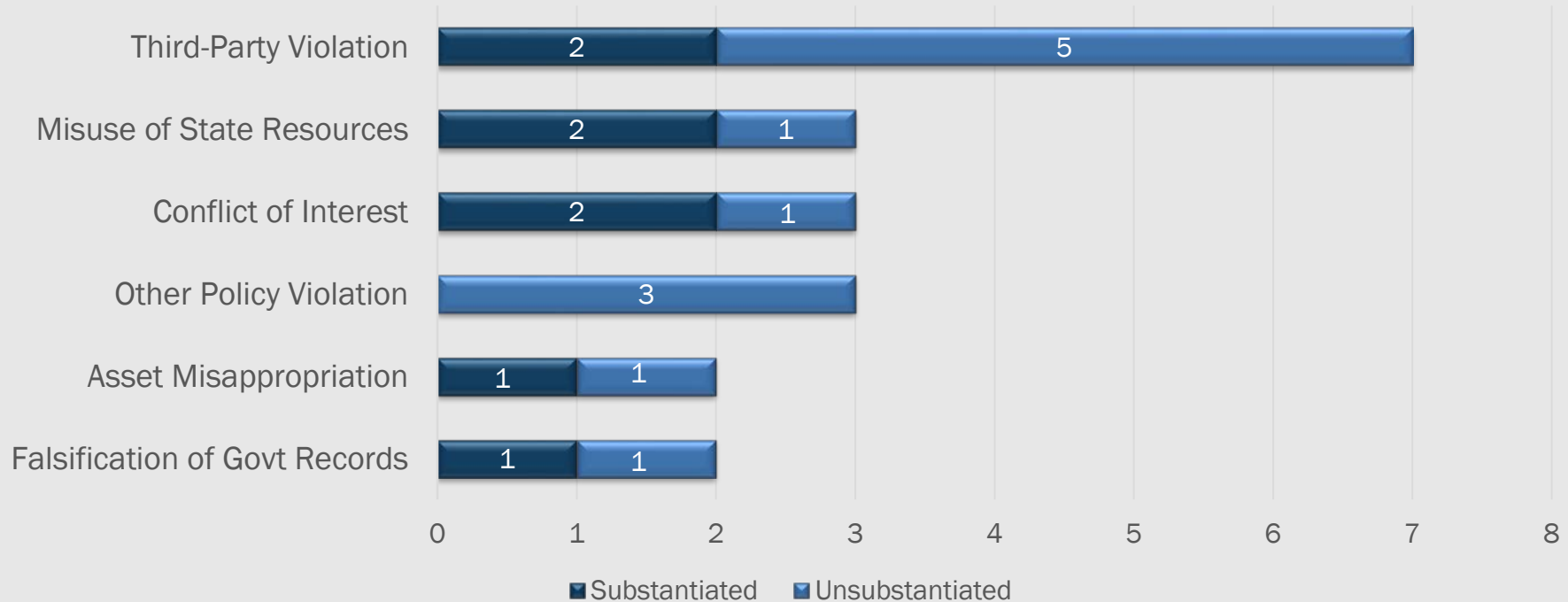


OUTCOME BY LOCATION





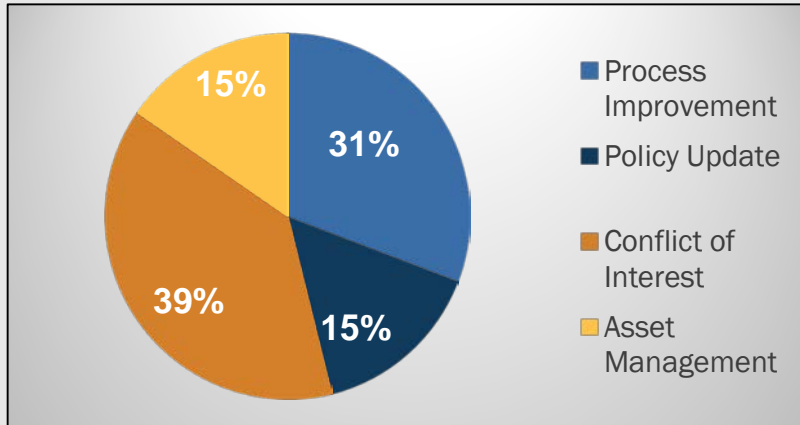
OUTCOMES BY ALLEGATION CATEGORY





Control and Compliance Recommendations

- 13 Recommendations
 - 5 related to Conflict of Interest
 - 4 related to process improvements
 - 2 recommended policy updates
 - 2 related to asset management



Compliance Campaign related to Conflict of Interest

- Special focus on relationships between supervisors and subordinates

Additional guidance to Districts on securing, tracking and inventorying minor equipment



2021 Pre-Award Reviews

- Pre-Award reviews completed of prospective Traffic Safety Division grant recipients
- Evaluated entity's ability to successfully administer a federal grant in accordance with federal and state requirements:
 - Reviewed entity's grant management policies & procedures
 - Reviewed entity's grant program specific procedures
 - Analyzed entity's financial stability and financial management practices
 - Reviewed entity's Internal Compliance Program for compliance
 - Determined if entity has internal controls in place to manage, detect, and prevent fraud

Results

For the 16 prospective grant recipients, identified the following risks:

- 5 entities voluntarily withdrew from consideration as the entity was not yet equipped to administer a federal grant
- 7 entities did not have all written policies and procedures required by federal regulations and 1 entity did not have grant management specific policies and procedures.
- 3 entities had limited experience with Federal Awards
- 1 entity had negative working capital
- 1 entity was using an incorrect indirect cost rate

Made entity specific recommendations to Traffic Safety Division for during the award monitoring of each recipient

Annual Traffic Safety Pre-Award reviews provide assurance to TxDOT that prospective grant recipients are equipped to administer a federal grant.



Internal Audit Division Update

Craig Otto, Director, Internal Audit Division



a. Management Action Plan (MAP) Follow-Up Overview



MAP Highlights	FY 20 (As of 8/31/20)	FY 21 (As of 12/1/20)
Closed	100	124
Not Yet Due	67	64
Past Due	48	54



FY 21 Progress

Focus is on 32 MAP Follow-Up engagements (as of 12/1/20)

- 7 Follow-Up engagement completed
- 14 Follow-Up engagements in progress
 - 49 MAPs are being tested for closure

b. (1) Local Government Projects Pre-Award



2 Findings

Overall Engagement Assessment		Needs Improvement		
Findings				
	Title	Control Design	Operating Effectiveness	Rating
Finding 1	Direct State Cost Methodology and Classification of Charges	X	X	Needs Improvement
Finding 2	Local Government Project List Completeness and Accuracy	X	X	Needs Improvement

Local government (LG) project costs for TxDOT oversight (i.e., direct state cost) are estimated and established in advance funding agreements (AFA). These estimates can lead to an under/over allocation of LG costs that result in TxDOT retaining LG funds in excess of the amount required to oversee the project, or requiring the LG to provide additional funds.

1. A documented district estimation methodology for determining direct state costs does not exist. As a result, variances in these costs can create refunds and/or receivables for the LG with TxDOT.

Variances were identified by project phase, as follows:

- 0% to 153.06% for Preliminary Engineering (PE) phase oversight.
 - 0.16% to 15.84% for Construction (CNST) phase oversight
 - Of the 53 projects reviewed from 10 districts, 33 resulted in refunds (\$1.1M) owed to the LG that were retained by TxDOT from 399 days to 2,204 days (i.e., life of project) for an average of 1,289 days from the timing of deposit with TxDOT to refund to the LG.
2. A complete and accurate list of LG projects could not be determined. When comparing data from the enterprise resource planning system (ERP) and TxDOTConnect, differences within LG project details (i.e., project status and LG designation) were identified.
 - Review of the Active LG Project listing provided to FHWA in October 2020 for the 53 sampled completed LG projects identified 18 (34%) completed LG projects were inaccurately reported to an external party as active projects.
 - A 2013 audit engagement previously identified similar LG project tracking concerns.



Management Action Plans (MAPs)

MAP 1.1 (completion date: April 15, 2021)

- District Operations in coordination with the Transportation Programs Division (TPD) - Local Government Projects section will convene a work group of districts and divisions staff to evaluate current processes being used by the districts and historical costs to develop a documented methodology/framework for use by all districts for estimation of local government projects direct state costs.
- The work group will also evaluate and document processes for use by the districts for:
 - project initiation in TxDOTConnect to ensure appropriate phases of the project are established and available for use in the enterprise resource planning system.
 - tracking local government project expenditures for comparison to advance deposits. The expenditure tracking will aid district personnel in identifying changes in project costs that could impact the local government's participation timelier.
- Once developed, the TPD - Local Government Projects Section will communicate the guidance to all districts.

MAP 1.2 (completion date: July 15, 2021)

- The Transportation Programs Division - Local Government Project Section in conjunction with the District Operations work group and Financial Management Division (established in MAP 1.1) will evaluate options for enhancements needed to TxDOTConnect to provide for local government project tracking and monitoring of direct state costs for project oversight during each appropriate phase of the project.
- If enhancements are identified to be needed, the Local Government Project Section will provide recommendations to the TxDOTConnect team.



Management Action Plans (MAPs), continued

MAP 1.3 (completion date: September 15, 2021)

Local Government Project Section will follow-up on system enhancement recommendations with the project development and management (PDM) system team to determine:

- if recommended enhancements can be added to PDM, and
- an estimated timeframe for completion and release of enhancements.

MAP 2.1 (completion date: April 15, 2021)

- The Transportation Programs Division (TPD) – Local Government Project Section will develop and document guidance, on the LGP webpage and in the LGP Toolkit, in coordination with the TxDOTConnect team, districts, and divisions to define project stages for local government projects including the activity trigger for project status changes and the party responsible for making the update in TxDOTConnect.
- The District Operations work group defined in MAP 1.1 will document processes for utilizing TxDOTConnect for tracking the phases of LG projects and monitoring the accuracy of information in TxDOTConnect based on the procedures and guidance developed in MAP 1.1.
- Once developed, the TPD - Local Government Projects Section will communicate the guidance to all districts.

b. (2) Maintenance Project Payment Review and Approval



1 Finding

Overall Engagement Assessment		Needs Improvement		
Findings				
	Title	Control Design	Operating Effectiveness	Rating
Finding 1	Documentation to Support Routine Maintenance contract (RMC) Payments	X	X	Needs Improvement

Contracted routine maintenance payments made for FY 2020 was \$654.9M and included payment for goods and service such as flex pavement structure repairs, cut and restoration of asphalt pavement, and hot-mix asphalt repairs. Seven of the 25 districts' processes were sampled and evaluated.

Payments made for contracted routine maintenance work are supported with retained documentation and reviewed and approved prior to payment.

- 225 of 724 (31%) line items (\$6.4M) did not have documentation retained to validate quantities paid to the contractor or had quantities paid that were inaccurately calculated.
 - 186 of 225 (83%) line items (\$4.2M) from seven districts did not have documentation retained to support line item quantities paid.
 - 39 of 225 (17%) line items (\$2.2M) from seven districts inaccurate calculations performed (\$35.5K net underpayment to contractors).



Management Action Plans (MAPs)

MAP 1.1 (completion date: January 15, 2021)

The Maintenance Division will:

- conduct a meeting with district contract personnel via WebEx by January 15, 2021 to:
 - present the results of the audit engagement and reiteration of 1) DWR reviews by recordkeepers prior to payment and at project closeout, and 2) monthly spot check reviews.
 - discuss policy additions/changes to be updated in the Maintenance Contract Manual.
- update the Maintenance Contract Manual and training materials to include requirements to retain payment supporting documentation within SiteManager, document measurement calculations to support quantities paid within the DWR, and provide a measurement calculation example.

MAP 1.2 (completion date: February 15, 2021)

For the 39 inaccurate calculation exceptions identified, districts will document and process payment adjustments via a supplemental estimate within the construction/maintenance contract management system. District staff will contact the Financial Management Division – Accounts Payable Central Section to verify the date to be used in the supplemental estimate to ensure accurate calculation of interest.

MAP 1.3 (completion date: May 15, 2021)

Upon notification from the Maintenance Division, the districts will:

- conduct meetings with district maintenance contract personnel (i.e., Inspectors, Recordkeepers, Maintenance Section Supervisors, Area Engineers) by February 15, 2021 to:
 - present the results of the audit engagement and reiteration of 1) DWR reviews by recordkeepers prior to payment and 2) monthly spot check reviews by maintenance section supervisors and contract specialist.
 - communicate updated policies to district maintenance contract personnel with direction to implement the established policies.
- develop and document a process for monthly spot check reviews by maintenance section supervisors and district maintenance office, and review of DWRs to include payment support and accuracy during project closeout procedures by the project auditor.



Executive Session



Performance Evaluation of Chief Audit and Compliance Officer



Adjourn