

These are the minutes of the Texas Transportation Commission Audit Subcommittee quarterly meeting held on July 11, 2022 at 125 E. 11<sup>th</sup> Street, Austin, Texas 78701. The meeting convened at 10:00 a.m. with the following members present:

**Texas Transportation Commission Audit Subcommittee:**

Laura Ryan Commissioner, Audit Subcommittee Chair  
Robert Vaughn Commissioner, Audit Subcommittee Member

**Administration Staff:**

Marc Williams, P.E. Executive Director  
Benito Ybarra Chief Audit and Compliance Officer  
Jeff Graham General Counsel  
Rich McMonagle Chief Administrative Officer  
Lance Simmons, P.E. Chief Engineer  
Mary Anne Griss Chief of Staff  
Stephen Stewart Chief Financial Officer  
Anh Selissen Chief Information Officer  
Quincy Allen, P.E. Director of District Operations

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 10:18 a.m. on July 1, 2022, as required by Government Code, Chapter 551, referred to as “The Open Meetings Act.”

**Item 1. Safety Briefing**

The meeting began with the Chief Audit and Compliance Officer Benito Ybarra providing instruction and guidance on procedures for the meeting.

**Item 2. Consider approval of the Minutes of the May 25, 2022, Audit Subcommittee meeting**

This item was presented by Laura Ryan, Audit Subcommittee Chair. Commissioner Robert Vaughn made a motion to approve, Chair Ryan seconded the motion. The audit subcommittee approved the minutes of the May 25, 2022 Audit Subcommittee meeting by a vote of 2 – 0.

**Item 3. Internal Audit Division Update**

**a. Management Action Plan (MAP) Certification Process Update**

This item was presented by Craig Otto, Director of the Internal Audit Division. Director Otto began the discussion covering the new self-certification process for the treatment of priority level 3 and 4 Management Action Plans (MAPs). The new self-certification process demonstrates accountability for the MAP owner’s ability to work through their own internal control assessment process to mitigate risks and allows the Internal Audit division’s resources to focus on resolution of higher priority risks. Commissioner Vaughn asked for an example of management action items that would fall under the new self-certification process to which Director Otto responded that actions addressing lower risks which may include policy or procedure updates, or missing authorizations with low exception rates.

**b.1. Internal Audit Report – Professional Engineering Budget Management**

This item was presented by Craig Otto, Internal Audit Division Director. Director Otto presented the Professional Engineering Budget Management audit rated an enterprise-level priority 2. The ~\$1.2B allocated for professional engineering services are not being managed optimally to allow the achievement of spend targets. The first finding in the Professional Engineering Budget Management audit identified that budgetary planning and execution led to unanticipated spend rates. Spend rate activity led to strategy changes over the last 16 months in attempt to stay on budget. The ~\$634M cumulative expenditure through June 2022, is lower than projections. The Texas Department of Transportation

(TxDOT) does not pay invoices until services are completed, and untimely invoicing from vendors is responsible for some of the variances. The second finding of the Professional Engineering Budget Management audit identified incomplete information in the sub-ledger system, PSCAMS, which support timely decision-making throughout the year. Executive Director, Marc Williams, stated the overspending from last fiscal year caused too much constraint this year and stressed he is addressing this matter internally with the divisions and externally with the American Council of Engineering Companies (ACEC). Commissioner Vaughn asked for clarification on invoicing, when TxDOT pays the consultant, and if the contracts are setup on a draw basis. Stephen Stewart, Chief Financial Officer, explained the contracts are deliverable-based and sometimes vendors will not submit an invoice until all deliverables are completed. Commissioner Vaughn asked if more specificity within the contracts can be added to address timely invoicing. Chief Stewart stated more clarification upfront and other mechanisms to adjust throughout the contract are options to consider. Lance Simmons, Chief Engineer, highlighted the extent of time it can take to complete some of the deliverables and shared there is an interest to explore prorated payments on deliverables as a possible solution. Director Otto highlighted the need for districts to track costs as the services are completed throughout the fiscal year instead of waiting for invoice payment. Chair Ryan expressed concern that the existing process disconnections may impact TxDOT's ability to meet increased funding and accelerated project delivery targets and should be addressed at a higher level. Executive Director Williams emphasized the continued focus on holding districts accountable to manage their budgets and the complexity to manage the compounded impacts on the overall portfolio. Chair Ryan expressed the need for processes to be reviewed for today's needs and to right-size the approach. She expressed the potential to establish a job responsibility to liaison between the Construction and Professional Engineering Procurement Services (PEPS) divisions and to incorporate innovations to improve the process. Commissioner Vaughn added the suggestion to tighten details within TxDOT contracts for invoicing. Chair Ryan asked if vendors have to pay penalties for late invoicing since TxDOT must pay late fees for delayed payments to which General Counsel, Jeffrey Graham, stated that if any vendor completes service for the state, it is statutorily required to pay them, even if after the biennium.

#### b.2. Internal Audit Report – Grant Management - Aviation

This item was presented by Craig Otto, Director of the Internal Audit Division. Director Otto began the presentation explaining the Grant Management Aviation audit rated an enterprise-level priority 2. The audit reviewed state block grants from the Federal Aviation Administration (FAA) with the objective to verify appropriate use of federal funds to deliver airport improvement projects. This audit had five total findings. The first finding in the Grant Management Aviation audit identified payments were authorized without proper documentation. The second finding in the Grant Management Aviation audit identified a lack of documentation to ensure compliance with the FAA's Buy American program for materials both manufactured and used in the United States. The third finding in the Grant Management Aviation audit found project materials not meeting specification were authorized for payment without substantiation for the resolution. Director Otto explained MAPs have been established to remediate the final two findings. Commissioner Vaughn expressed the exception rates are very high and asked about historical trends. Director Otto stated the FAA was nonresponsive to their requests and has not audited this program to provide historical information. Chair Ryan asked for clarification if TxDOT knows how the failed materials were remedied and what range of impacts those failed materials might have on airports. Director Otto clarified that the materials most likely go into a runway based on the material types audited and Chief Audit and Compliance Officer, Benito Ybarra, also explained that the grant funds are allocated for the improvement of the airports and would most likely be materials used for those improvement efforts. Chair Ryan asked if TxDOT can validate, even without documentation, if the remedies were implemented. Aviation Division Director, Dan Harmon, explained if materials fail, they consult with FAA Engineering for advisement on how to remedy. Some of the specifications of the FAA are setup as pass/fail and some are gradated. If gradated, further testing will determine if the materials need to be replaced. Director Harmon confirmed sub-standard materials are not left in the ground. Chair Ryan asked how TxDOT knows if remedies were completed to which Director Harmon explained that samples are

selected and tested to ensure it meets specifications.

### **Item 3. Compliance Division Update**

#### **a. Fiscal Year 2023 Compliance Work Plan**

This item was presented by Kristin Alexander, Director of the Compliance Division. Director Alexander explained the annual risk assessment is based on guides and frameworks by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and the Association of Certified Fraud Examiners (ACFE) with a focus on fraud, compliance, and third-party risks. Another focus of the annual risk assessment is on TxDOT's commitments within the Federal Highway Administration (FHWA) Stewardship Agreement and what controls are in place to ensure follow through with those commitments. Director Alexander explained that construction contractor payments and subrecipient expenditures continue to be a large area of third-party risks due to volume of payments. Conflicts of interest and falsification of quality assurance or quality control data are the top fraud related risks. Lastly, environmental, civil rights programs with disadvantaged business enterprises (DBE) and financial planning are the identified compliance risks related to the FHWA Stewardship Agreement. Director Alexander highlighted a few planned activities within the FY23 work plan. External audits are planned with two Metropolitan Planning Organizations (MPO). The Houston Galveston Area Council (HGAC) MPO is a top priority due to its outstanding actions from a previous audit along with the volume of federal funding they receive. Additionally, local government audits are planned to review internal control processes. The compliance division advisory engagements include assisting the civil rights division with a risk assessment to modernize their processes related to addressing risks, performing SOX key control testing, continued pre-award review of Traffic Safety grants, and grant management training for districts and divisions. Director Alexander continued by presenting planned compliance engagements for FY23 that include creating third-party dashboards, an information technology security third-party risk program, FHWA Stewardship Agreement compliance, contract risk analysis, allowable payment reviews, detection activities, and implementation review of legislature bills and riders. Planned outreach activities continue to include trainings, conference attendance, industry engagement, and updates to TxDOT's website. Chair Ryan asked about for more details regarding the project monitoring modernization engagement within the advisory services portion of the work plan. Director Alexander explained a district requested support in determining modernization with field processes to ensure more timely data entry and efficiency. Chair Ryan asked if the planned audit with HGAC MPO is based on outstanding actions from previous years and Director Alexander confirmed it was one component along with the need to address current concerns.

#### **b. Grant Management Best Practices**

This item was presented by Kristin Alexander, Director of the Compliance Division. Director Alexander began by explaining the objective was to identify best practices within grant management to improve consistency within the divisions and key programs that manage grant subrecipients. To highlight a few best practices: Traffic Safety division (TRF) uses a five year review spreadsheet to track subgrantees' historical financials and deliverables, Transportation Planning and Programming division (TPP) has an interagency contract to provide onboarding training to new board members to MPOs, Public Transportation division (PTN) performs training and technical support for grant subrecipients, Transportation Programs division's (TPD) local government project group requires training to anyone that will be working on a project. Overall, Director Alexander stated grant subrecipients lack understanding of compliance requirements related to cost allowability, proper supporting documentation, appropriate procurement approvals, and timeliness of reimbursement requests. TxDOT and subrecipients must modernize grant management processes to develop operational efficiencies. Director Alexander highlighted the need to evaluate subrecipient grant performance to ensure they are meeting the performance needs of the grant and moving the needle towards TxDOT's objectives. Commissioner Vaughn asked if the manuals or policies are prepared by TxDOT and how often federal guidance is updated. Director Alexander specified the federal guidance is not updated often but TxDOT has not reviewed them annually or timely. Commissioner Vaughn asked if the manuals and policies are

forwarded to the grantee and Director Alexander explained the links to the online manuals are provided to the subrecipients but there is potentially a need for less technical guidance on the reasons why charges are allowable or other helpful training. Chair Ryan asked if the manuals and policies are all digital to which Director Alexander confirmed.

c. Action Plan Follow-Up

This item was presented by Kristin Alexander, Director of the Compliance Division. Director Alexander began by highlighting outstanding action item follow-ups from the last Audit Subcommittee meeting. The compliance division is working with the PEPS division to ensure the incomplete action items are resolved from the audit of HVJ South Central Texas – M&J Inc. Additionally, the items identified as management action items from TxDOT's comprehensive financial report audit related to toll were reviewed. A permanent solution for post-payment deferred revenue has been completed and the target implementation is on track for the end of August 2022.

d. Analysis of Positions Allocated by the 86<sup>th</sup> and 87<sup>th</sup> Legislature

This item was presented by Kristin Alexander, Director of the Compliance Division. Director Alexander explained the analysis of the positions allocated by the 86<sup>th</sup> and 87<sup>th</sup> legislatures identified TxDOT did not establish a process to ensure the allocated new full-time equivalents (FTE) were used in accordance with what was requested even though all FTEs were used for valid state purposes. One recommendation is to request position numbers based on functional categories instead of specific job titles, which proved to be more adequate in TxDOT's 87<sup>th</sup> legislative request. Additionally, Director Alexander recommended TxDOT establish a process to track how the FTEs are used at the district and division levels and how the positions evolve over time to ensure they continue to meet strategic need. Lastly, TxDOT should create a process to track the rationale for when positions are reclassified and establish consistency between job titles and job functions. Chair Ryan asked if the job titles have responsibilities listed and if a query can be run to better understand functional spread statewide. Chief Ybarra stated no, but asked if Rich McMonagle, Chief Administrative Officer to verify. Chief McMonagle stated at this time it was not possible without a considerable amount of sorting and analysis to track functions to job titles. Chair Ryan stated for the continuity of government TxDOT needs to respond to the needs of today and the future without relying on a functional allocation process built many years ago. Chief McMonagle described a study performed by a consultant company several years ago that determined approximately 300 FTEs per biennium would be needed for TxDOT to meet the needs of the accelerated project and funding goals. Chair Ryan asked if the analysis from that study was based on information from many years ago, and suggested TxDOT determine how to connect FTE needs to long-term strategic needs especially for new skillsets and positions projected to be needed over the next five years. Executive Director Williams explained TxDOT is continuing to evolve; exploring district positions and division positions being housed within districts. Overall, Executive Director Williams expressed a need to monitor the oversight functions needed for project delivery areas and how overuse of engineering functions to augment contract oversight functions can erode the engineering skills needed for internal project development.

**Item 6. Executive Session**

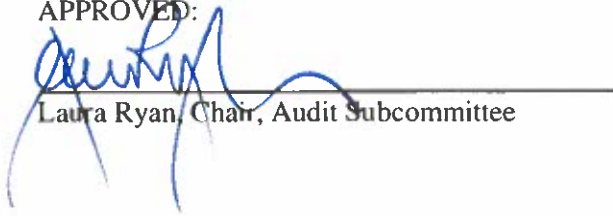
Pursuant to Government Code Section 551.071, consultation with and advice from legal counsel regarding any item on the agenda.

Chair Ryan noted there will be no Executive Session at this time.

July 11, 2022

Chair Ryan adjourned the meeting of the July 11, 2022 Audit Subcommittee at 11:08 a.m.

APPROVED:



A handwritten signature in blue ink, appearing to read 'Laura Ryan', is written over a horizontal line. The signature is stylized and extends above and below the line.

Laura Ryan, Chair, Audit Subcommittee