

These are the minutes of the Texas Transportation Commission Audit Subcommittee quarterly meeting held March 28, 2012 in Austin, Texas. The meeting opened at 10:01 a.m. with the following members present:

Audit Subcommittee Members:

Fred Underwood Commissioner, Audit Subcommittee Chair
Jeff Austin Commissioner, Audit Subcommittee Member

Administrative Staff:

Benito Ybarra Chief Audit Officer
John Barton, P.E. Deputy Executive Director

Registration sheets listing others in attendance are on file with the Texas Department of Transportation Audit Office.

A public notice of this meeting containing all items on the proposed agenda was filed in the office of the Secretary of State at 11:45 a.m. on March 15, 2012, as required by Chapter 551 of the Government Code, referred to as “The Open Meetings Act”.

Opening remarks were made by Commissioner Underwood.

Item 1. Approval of Minutes from November 16, 2011, Quarterly Meeting

The Minutes from the November 16, 2011, quarterly meeting were presented by Benito Ybarra, Chief Audit Officer and approved by Commissioners Underwood and Austin.

Item 2. Audit Restructuring Status

Benito Ybarra, Chief Audit Officer presented the *Audit Restructuring Status*. The restructuring in the Audit Office is 50% complete. Additional reorganization is necessary to assist in promoting a more effective, efficient and sustainable organizational structure.

Mr. Ybarra covered main five points: 1) Tony Chavez will be transferred April 2, 2012, from the Finance Division Internal Review to Internal Audit in a newly created position, Audit Section Director. A second Audit Section Director will be hired in the summer 2012. These new positions will provide support and manage multiple audits, ensure advisory services standards are followed, and provide feedback and performance evaluations. 2) An Investigations Team, headed by newly hired Anthony Thomas will perform continuous Fraud Risk Assessments, Pro-active Audits and perform all Investigations. Two additional Investigators will be hired by the end of the year. 3) Two Information Technology auditor positions are planned to be posted in April. 4) An Audit Pool structure was created to increase collaboration, mindshare and independence and seven Engagement Leads were assigned. 5) One vacancy remains open in External Audit and one vacancy has been filled. No structural change for External Audit is planned.

Mr. Ybarra introduced Mr. Chavez and Mr. Thomas, and the Leads; Carol Grimm, South Region; Suzy Oviedo, North Region; Doug Binnion, West Region; Jill Emery, East Region; Raymond Martinez, Donna Roberts and Karin Faltynek, Internal Audit/Austin to Commissioners Underwood and Austin.

Commissioners Underwood and Austin discussed details of staffing with Mr. Ybarra.

Item 3. Internal Audits Completed, 3rd Quarter of FY 2012

There were two audits reported this quarter.

Raymond Martinez, Engagement Lead, reported on *Dallas/Fort Worth Comprehensive Development Agreement Projects Audit (DFW CDA)*. The audit team included Cynthia Walker and Vivian Cohn.

Objective: The objective of this audit was to determine if the following DFW CDA project activities are being conducted in compliance with the existing CDA documents: Pre-construction, construction and payment controls. This audit also included compliance with the relevant regulations for these activities. The audit focused on the DFW Connector, LBJ IH-635 and NTE projects.

There were no findings. However, there was one observation in the construction area. Disadvantaged Business Enterprise (DBE) reporting for the DFW CDA projects weren't being reported to the Office of Civil Rights (OCR). This includes DBE commitments, payments and progress toward the DBE goals. This could result in the under reporting of DBE activity for the Department.

It was recommended by Mr. Martinez that the DFW CDA Program should work with OCR to define the roles, responsibilities and procedures pertaining to the DBE program to ensure compliance with DBE requirements.

John Barton, Deputy Executive Director, explained to Commissioners Underwood and Austin that some of the contracts and contractors are new, and are not familiar with the processes. However, Randy Redmond, CDA Program Director, reported on new steps established to ensure TxDOT's compliance with DBE requirements.

Donna Roberts, Engagement Lead, reported on the *Johnson Ferry Audit*. The audit was started by former TxDOT Auditor, Robert Manzo and closed by Dennis Olson, Staff Auditor.

The objective of the audit was to determine whether the contracts for the design and constructions of the Johnny Johnson ferry have been properly managed by TxDOT, since it was about two years behind.

Overall, the contracts for the design and construction of the Johnny Johnson ferry have been managed appropriately by TxDOT. However, two conditions related to vendor performance caused the majority of the increases in contract cost and delays. The initial subcontractor was unable to complete the system due to their bankruptcy, and eventually defaulted on the construction of the propulsion system.

A second subcontractor completed the construction of the system. This caused an estimated increase of \$1.6 million and a 12 month delay. Four hundred tons of ballast had to be added to the ferry due to flaws in the design; causing the propeller to be too high in the water. The ferry buoyancy flaws caused an estimated increase of \$1.8 million and an 11 month delay.

William Mallini, Galveston Ferry Operations Manager and Quincy Allen, Houston Deputy District Engineer, were in attendance and discussed details regarding the contractors, delays and costs with Mr. Barton and the Commissioners

Ms. Roberts reported that a recommendation was made for the Houston District to coordinate with the Office of General Counsel for actions necessary to pursue recovery of damages.

The *District Audit Trends* report was presented by Benito Ybarra, Chief Audit Officer. In FY12 District auditors identified 109 findings, and they focused on district processes and activities.

Doug Binnion, West Regional Auditor, reported to the Commissioners the issues in the West Region and the causes of improper inventory and why reports were not being created.

Suzy Oviedo, North Regional Auditor reported on *Fuel Oversight* and the reasons of inconsistencies. Jill Emery, East Regional Auditor, also reported on fuel audits.

This is an ongoing analysis and will help determine best practices and potential to improve and/or focus additional audit resources.

Item 4. State Auditor's Office

Central Texas Turnpike System and Texas Mobility Fund Audits

Lisa Collier, Assistant State Auditor, introduced Ann Karnes, Assistant Project Manager for the State Auditor's Office (SOA). Ms. Karnes reported on the *Texas Mobility Fund Audits and the Central Texas Turnpike System*, dated December 12 and 29, 2011, respectively. The SAO concluded that the Department of Transportation's Texas Mobility Fund's and the Central Texas Turnpike System's basic financial statements for fiscal year 2011 were materially correct and presented in accordance with accounting principles generally accepted in the United States of America.

Reports were issued on internal control over financial reporting and on compliance and other matters as required by auditing standards. The procedures did not identify any material weaknesses in internal control over financial reporting or any noncompliance with laws or regulations that materially affected the financial statements. Ms. Karnes also reported that the major internal controls that were tested for the purpose of forming their opinion on the financial statements were operating effectively. No misstatements were identified or illegal acts found.

Commissioners Underwood and Austin, and Mr. Ybarra discussed the audits with Ms. Collier and Ms. Karnes.

Item 5. Office of Compliance and Ethics Coordination

Suzanne Mann presented the report and modernization of the *Compliance and Ethics Office (OCE) Coordination*.

Ms. Mann reported that the modernization team included Beverly West, OCE, Benito Ybarra, CAO, Pete Garcia, OCR, Joanne Wright, OGC and Ms. Mann who led the team.

The Sunset Bill from the last legislative session revised the Transportation Code to require the commission to establish a compliance office with duties including: to prevent and detect serious breaches of department policy, fraud, waste and abuse of office by overseeing, delegating, monitoring and reviewing investigation occurring on department property or involving department employees; to report to the commission on the number, type and outcome of investigations, and trends and recommendations; to oversee the operation of TxDOT Watch (hotline), and to develop ethics training for the commission and department employees.

The image of the office has been negative, but work is being done to change the image into a more positive light. One of the first changes was changing the name from Internal Compliance Office to Office of Compliance and Ethics.

Each of the OCE responsibilities under the statute is designed to enhance our workforce, promote an organizational culture which encourages ethical conduct as the standard and is committed to compliance with the law.

Ms. Mann and Mr. Ybarra discussed the procedures for investigation, routing complaints and reporting to the commission with Commissioners Underwood and Austin and reported on the outreach initiatives which included updating the current web-based employee ethics training and new ethics training, based on revised Ethics Policy for all employee levels. Other new media for training will be newsletters and posters, expanding the OCE website to include FAQs, field visits to the districts/divisions/offices/regions by the OCE and the Audit Office. The office also plans to develop ethics training for TxDOT's business partners (contractors, subcontractors, DBEs, etc.).

The office is currently working on a centralized system for tracking and reporting activities related to complaints and investigations which could be captured by OCE, the Audit Office and the Human Resources Division to provide communication, analysis and reporting capabilities. The Office of Compliance and Ethics is committed in meeting their goals.

Closing Comments:

Commissioner Underwood stated that the next Audit Subcommittee meeting will be held May 30, 2012. The members thanked all for attending the meeting.

The meeting adjourned at 11:48 a.m.

APPROVED:

Commissioner Fred Underwood, Chair
Texas Transportation Audit Subcommittee