



John Keel, CPA
State Auditor

A Report on

**State of Texas Compliance with
Federal Requirements for
Selected Major Programs at the
Department of Transportation for
the Fiscal Year Ended
August 31, 2011**

February 2012
Report No. 12-020



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Overall Conclusion

With the exception of certain non-compliance detailed in this report, the State of Texas complied in all material respects with the federal requirements for the Highway Planning and Construction Cluster of federal programs in fiscal year 2011.

The State of Texas also complied in all material respects with the federal requirements for the Airport Improvement Program and for the Formula Grants for Other Than Urbanized Areas Program in fiscal year 2011.

As a condition of receiving federal funding, U.S. Office of Management and Budget (OMB) Circular A-133 requires non-federal entities that expend at least \$500,000 in federal awards in a fiscal year to obtain Single Audits. Those audits test compliance with federal requirements in 14 areas, such as allowable costs, procurement, reporting, and monitoring of non-state entities (subrecipients) to which the State passes federal funds. The requirements for 1 of those 14 areas vary by federal program and outline special tests that auditors are required to perform, such as tests of quality assurance programs. The Single Audit for the State of Texas included (1) all high-risk federal programs for which the State expended more than \$86,555,601 in federal funds during fiscal year 2011 and (2) other selected federal programs.

From September 1, 2010, through August 31, 2011, the State of Texas expended \$57.5 billion in federal funds for federal programs and clusters of programs. The State Auditor's Office audited compliance with requirements for selected major programs at the Department of Transportation (Department), which spent \$2,812,182,775 in Highway Planning and Construction Cluster funds, \$45,858,424

The Highway Planning and Construction Cluster of Federal Programs

The Highway Planning and Construction Cluster of federal programs, which includes programs administered by the Federal Highway Administration, provides funds to assist state transportation agencies in the planning, design, development, improvement, and replacement of public roads and bridges, including the National Highway System.

The Airport Improvement Program

The Airport Improvement Program, which is administered by the Federal Aviation Administration, provides funds to assist sponsors of public-use airports in the development of a nationwide system of airports to meet the needs of civil aeronautics.

The Formula Grants for Other Than Urbanized Areas Program

The Formula Grants for Other Than Urbanized Areas Program, which is administered by the Federal Transit Administration, provides funds to improve, initiate, and continue public transportation service in rural areas and to provide technical assistance for rural transportation providers.

This audit was conducted in accordance with Single Audit Act Amendments of 1996 and Office of Management and Budget Circular A-133.

For more information regarding this report, please contact James Timberlake, Audit Manager, or John Keel, State Auditor, at (512) 936-9500.

in Airport Improvement Program funds, and \$50,051,772 in Formula Grants for Other Than Urbanized Areas Program funds during fiscal year 2011.

Key Points

The Department had a material weakness and material non-compliance in its subrecipient monitoring for the Highway Planning and Construction Cluster of federal programs (see text box for definitions of finding classifications).

The Department did not communicate required award information for all subrecipients tested, including information on requirements related to the American Recovery and Reinvestment Act. Additionally, the Department did not have standardized processes to ensure that its district offices performed adequate during-the-award monitoring of subrecipients. As a result, the Department did not always monitor its subrecipients to ensure they complied with federal requirements related to (1) collecting certified payrolls as required by the Davis-Bacon Act and (2) procurement and suspension and debarment.

Finding Classifications

Control weaknesses are classified as either significant deficiencies or material weaknesses:

- A **significant deficiency** indicates control weaknesses, but those weaknesses would not likely result in material non-compliance.
- A **material weakness** indicates significant control weaknesses that could potentially result in material non-compliance with the compliance area.

Similarly, compliance findings are classified as either non-compliance or material non-compliance, where material non-compliance indicates a more serious reportable issue.

The Department complied in all material respects with requirements for the remaining areas auditors tested for the Highway Planning and Construction Cluster of federal programs. However, for four of the remaining areas tested, auditors identified certain significant deficiencies and non-compliance.

The Department did not always comply with Davis-Bacon Act, reporting, and quality assurance requirements. Specifically:

- The Department did not have a standardized process for tracking the certified payrolls that contractors are required to submit. As a result, the Department did not always ensure that its contractors submitted required payroll certifications in fiscal year 2011. Those certifications serve as evidence that the contractors paid their employees prevailing wage rates in compliance with the Davis-Bacon Act.
- The Department had a significant backlog in the project completion reports (referred to as "PR-20" reports) that it must submit to the Federal Highway Administration. Additionally, the Department implemented a process to submit reports required by the Federal Funding Accountability and Transparency Act, but it did not always submit accurate and complete reports.

The Department did not always ensure that it tested all materials as required by its quality assurance program; it also did not always ensure that certified testers conducted those tests. In addition, the automated application the Department uses to administer its quality assurance program, SiteManager, does not prevent the same individual from both conducting and reviewing those tests.

Auditors also identified weaknesses in segregation of duties for the Department's Federal Project Authorization and Agreement System. Specifically, the Department did not have adequate segregation of duties related to code development and moving code into the production environment; this could result in unauthorized changes to this system.

The Department complied in all material respects with all requirements tested for the Airport Improvement Program.

Although the Department complied in all material respects, auditors identified non-compliance related to the Department's collection of certified weekly payrolls required by the Davis-Bacon Act.

The Department complied in all material respects with all requirements tested for the Formula Grants for Other Than Urbanized Areas Program. However, auditors identified certain non-compliance.

The Department did not always submit required financial reports by the due date. Additionally, the Department reported non-federal share amounts that were not supported by its accounting records.

The Department did not always communicate required award information to its subrecipients. It also did not always monitor its subrecipients to ensure that they complied with federal requirements related to (1) allowable costs, (2) real property acquisitions, and (3) the Davis-Bacon Act.

Auditors followed up on 12 findings from prior fiscal years for the Highway Planning and Construction Cluster of federal programs, the Airport Improvement Program, the Formula Grants for Other Than Urbanized Areas Program, and the Highway Safety Cluster of federal programs.

The Department fully implemented recommendations for four findings from prior fiscal years.

The State Auditor's Office reissued eight findings from prior fiscal years as fiscal year 2011 findings in this report. Those eight findings were related to the Highway Planning and Construction Cluster of federal programs and the Formula Grants for Other Than Urbanized Areas Program.

Summary of Management's Response

Management generally concurred with the audit findings. Specific management responses and corrective action plans are presented immediately following each finding in this report.

Summary of Information Technology Review

The audit work included a review of general and application controls for key information technology systems related to selected major programs at the Department. As discussed above, auditors identified issues involving segregation of duties for the Federal Project Authorization and Agreement System.

Summary of Objectives, Scope, and Methodology

With respect to the Highway Planning and Construction Cluster of federal programs, the Airport Improvement Program, and the Formula Grants for Other Than Urbanized Areas Program, the objectives of this audit were to (1) obtain an understanding of internal controls, assess control risk, and perform tests of controls unless the controls were deemed to be ineffective and (2) provide an opinion on whether the State complied with the provisions of laws, regulations, and contracts or grants that have a direct and material effect on the programs identified above.

The audit scope covered federal funds that the State spent for the Highway Planning and Construction Cluster of federal programs, the Airport Improvement Program, and the Formula Grants for Other Than Urbanized Areas Program at the Department from September 1, 2010, through August 31, 2011. The audit work included control and compliance work at the Department.

The audit methodology included developing an understanding of controls over each compliance area that was material to the Highway Planning and Construction Cluster of federal programs, the Airport Improvement Program, and the Formula Grants for Other Than Urbanized Areas Program at the Department. Auditors conducted tests of compliance and of the controls identified for each compliance area and performed analytical procedures when appropriate. Auditors assessed the reliability of data the Department provided and determined that the data provided was reliable for the purposes of expressing an opinion on compliance with the provisions of laws, regulations, and contracts or grants that have a direct and material effect on the programs identified above.

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Independent Auditor's Report

*State of Texas Compliance with
Federal Requirements for Selected
Major Programs at the Department of
Transportation for the Fiscal Year
Ended August 31, 2011*



John Keel, CPA
State Auditor

Report on Compliance with Requirements that Could Have a Direct and Material Effect on
The Highway Planning and Construction Cluster of Federal Programs,
The Airport Improvement Program, and
The Formula Grants for Other Than Urbanized Areas Program and on
Internal Control Over Compliance in Accordance with
U.S. Office of Management and Budget Circular A-133
Independent Auditor's Report

Compliance

We have audited the State of Texas's (State) compliance with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) *Circular A-133 Compliance Supplement* that could have a direct and material effect on the Highway Planning and Construction Cluster of federal programs, the Airport Improvement Program, and the Formula Grants for Other than Urbanized Areas Program for the year ended August 31, 2011. Compliance with the requirements of laws, regulations, contracts, and grants applicable to the Highway Planning and Construction Cluster, the Airport Improvement Program, and the Formula Grants for Other Than Urbanized Areas Program is the responsibility of the State's management. Our responsibility is to express an opinion on the State's compliance based on our audit.

Except as discussed in the following paragraph, we conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on the Highway Planning and Construction Cluster of federal programs, the Airport Improvement Program, and the Formula Grants for Other Than Urbanized Areas Program occurred. An audit includes examining, on a test basis, evidence about the State's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the State's compliance with those requirements.

This audit was conducted as part of the State of Texas Statewide Single Audit for the year ended August 31, 2011. As such, the Highway Planning and Construction Cluster of federal programs, the Airport Improvement Program, and the Formula Grants for Other Than Urbanized Areas Program were selected as major programs based on the State of Texas as a whole for the year ended August 31, 2011. The State does not meet the OMB Circular A-133 requirements for a program-specific audit and the presentation of the Schedule of Program Expenditures does not conform to the OMB Circular A-133 Schedule of Expenditures of Federal Awards. However, this audit was designed to be relied on for the State of Texas opinion on federal compliance, and in our judgment, the audit and this report satisfy the

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intent of those requirements. In addition, we have chosen not to comply with a reporting standard that specifies the wording that should be used in discussing restrictions on the use of this report. We believe that this wording is not in alignment with our role as a legislative audit function.

As identified below and in the accompanying Schedule of Findings and Questioned Costs, the State did not comply with certain compliance requirements that are applicable to the Highway Planning and Construction Cluster of federal programs. Compliance with such requirements is necessary, in our opinion, for the State to comply with requirements applicable to that program.

Agency	Cluster or Program	Compliance Requirement	Finding Number
Department of Transportation	Highway Planning and Construction Cluster and Highway Planning and Construction Cluster - ARRA	Procurement and Suspension and Debarment Subrecipient Monitoring Special Tests and Provisions - R3 - Subrecipient Monitoring	12-144

In our opinion, except for the noncompliance described above, the State complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on the Highway Planning and Construction Cluster, the Airport Improvement Program, and the Formula Grants for Other Than Urbanized Areas Program for the year ended August 31, 2011. However, the results of our auditing procedures also disclosed other instances of noncompliance with those requirements, which are required to be reported in accordance with OMB Circular A-133 and which are described in the accompanying Schedule of Findings and Questioned Costs as items:

Agency	Cluster or Program	Compliance Requirement	Finding Number
Department of Transportation	Highway Planning and Construction Cluster	Davis-Bacon Act	12-142
		Reporting	12-145
		Special Tests and Provisions - Quality Assurance Program	12-146
	Airport Improvement Program	Davis-Bacon Act	12-147
	Formula Grants for Other Than Urbanized Areas Program	Reporting	12-148
		Subrecipient Monitoring	12-149

Internal Control Over Compliance

The management of the State is responsible for establishing and maintaining effective internal control over compliance with the requirements of laws, regulations, contracts, and grants applicable to the Highway Planning and Construction Cluster, the Airport Improvement

Program, and the Formula Grants for Other Than Urbanized Areas Program. In planning and performing our audit, we considered the State’s internal control over compliance with requirements that could have a direct and material effect on the Highway Planning and Construction Cluster, the Airport Improvement Program, and the Formula Grants for Other Than Urbanized Areas Program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the State’s internal control over compliance.

Our consideration of internal control over compliance was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in the State’s internal control over compliance that might be significant deficiencies or material weaknesses, and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as discussed below, we identified certain deficiencies in internal control over compliance that we consider to be material weaknesses and other deficiencies that we consider to be significant deficiencies.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. We consider the following deficiencies in internal control over compliance which are described in the accompanying Schedule of Findings and Questioned Cost to be material weaknesses:

Agency	Cluster or Program	Compliance Requirement	Finding Number
Department of Transportation	Highway Planning and Construction Cluster and Highway Planning and Construction Cluster - ARRA	Procurement and Suspension and Debarment Subrecipient Monitoring Special Tests and Provisions - R3 - Subrecipient Monitoring	12-144

A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance. We consider the following deficiencies in internal control over compliance which are described in the accompanying Schedule of Findings and Questioned Costs to be significant deficiencies:

Agency	Cluster or Program	Compliance Requirement	Finding Number
Department of Transportation	Highway Planning and Construction Cluster	Davis-Bacon Act	12-142
		Period of Availability of Federal Funds	12-143
		Reporting	12-145
		Special Tests and Provisions - Quality Assurance Program	12-146
	Airport Improvement Program	Davis-Bacon Act	12-147
	Formula Grants for Other Than Urbanized Areas Program	Reporting	12-148
		Subrecipient Monitoring	12-149

Schedule of Program Expenditures

The accompanying Schedule of Program Expenditures for the Highway Planning and Construction Cluster, the Airport Improvement Program, and the Formula Grants for Other Than Urbanized Areas Program (Schedule) of the State for the year ended August 31, 2011, is presented for purposes of additional analysis. This information is the responsibility of the State's management and has been subjected only to limited auditing procedures and, accordingly, we express no opinion on it. However, we have audited the Statewide Schedule of Expenditures of Federal Awards in a separate audit, and the opinion on the Statewide Schedule of Expenditures of Federal Awards is included in the *State of Texas Federal Portion of the Statewide Single Audit Report for the Fiscal Year Ended August 31, 2011*.

The State's responses to the findings identified in our audit are described in the accompanying Schedule of Findings and Questioned Costs. We did not audit the State's responses and, accordingly, we express no opinion on the responses.

This report is intended for the information and use of the Governor, the Members of the Texas Legislature, the Legislative Audit Committee, the management of the State, KPMG LLP, federal awarding agencies, and pass-through entities. However, this report is a matter of public record, and its distribution is not limited.

John Keel, CPA
State Auditor

February 21, 2012

**Schedule of Program Expenditures for
The Highway Planning and Construction Cluster,
The Airport Improvement Program, and
The Formula Grants for Other Than Urbanized Areas Program
For the Year Ended August 31, 2011**

Schedule of Program Expenditures Highway Planning and Construction Cluster			
Agency	Pass-through to Non-state Entity	Direct Expenditures	Totals
Department of Transportation			
Other than American Recovery and Reinvestment Act	\$151,345,018	\$1,882,610,403	\$2,033,955,421
American Recovery and Reinvestment Act	119,577,779	658,649,575	778,227,354
Total for Highway Planning and Construction Cluster	\$270,922,797	\$2,541,259,978	\$2,812,182,775
Note: Federal expenditures for the Highway Planning and Construction Cluster at state entities not included in the scope of this audit totaled \$8,011,117 for the year ended August 31, 2011.			

Schedule of Program Expenditures Airport Improvement Program			
Agency	Pass-through to Non-state Entity	Direct Expenditures	Totals
Department of Transportation			
Other than American Recovery and Reinvestment Act	\$1,007,036	\$37,559,480	\$38,566,516
American Recovery and Reinvestment Act	0	7,291,908	7,291,908
Total for Airport Improvement Program	\$1,007,036	\$44,851,388	\$45,858,424
Note: Federal expenditures for the Airport Improvement Program at state entities not included in the scope of this audit totaled \$2,203,831 for the year ended August 31, 2011.			

**Schedule of Program Expenditures
Formula Grants for Other Than Urbanized Areas Program**

Agency	Pass-through to Non-state Entity	Direct Expenditures	Totals
Department of Transportation			
Other than American Recovery and Reinvestment Act	\$36,774,769	\$1,532,282	\$38,307,051
American Recovery and Reinvestment Act	11,744,721	0	11,744,721
Total for Formula Grants for Other Than Urbanized Areas Program	\$48,519,490	\$1,532,282	\$50,051,772
Note: Federal expenditures for Formula Grants for Other Than Urbanized Areas Program at state entities not included in the scope of this audit totaled \$17,594 for the year ended August 31, 2011.			

Schedule of Findings and Questioned Costs

*State of Texas Compliance with
Federal Requirements for Selected
Major Programs at the Department of
Transportation for the Fiscal Year
Ended August 31, 2011*

Summary of Auditor's Results

Financial Statements

Issued under separate cover. See State Auditor's Office report entitled *State of Texas Financial Portion of the Statewide Single Audit Report for the Fiscal Year Ended August 31, 2011*.

Federal Awards

Internal Control over major programs:

Material weakness(es) identified? Yes

Significant deficiency(ies) identified? Yes

Major programs with Significant Deficiencies:

CFDA Number	Name of Federal Program or Cluster
Cluster	Highway Planning and Construction Cluster
20.106	Airport Improvement Program
20.509	Formula Grants for Other Than Urbanized Areas Program

Major programs with Material Weaknesses:

CFDA Number	Name of Federal Program or Cluster
Cluster	Highway Planning and Construction Cluster

Type of auditor's report issued on compliance for major programs: See below.

Qualified:

CFDA Number	Name of Federal Program or Cluster
Cluster	Highway Planning and Construction Cluster

Unqualified:

CFDA Number	Name of Federal Program or Cluster
20.106	Airport Improvement Program
20.509	Formula Grants for Other Than Urbanized Areas Program

Any audit findings disclosed that are required to be reported in accordance with Section 510(a) of OMB Circular A-133? Yes

Identification of major programs:

CFDA Number	Name of Federal Program or Cluster
Cluster	Highway Planning and Construction Cluster
20.106	Airport Improvement Program
20.509	Formula Grants for Other Than Urbanized Areas Program

Dollar threshold used to distinguish between type A and type B programs: \$86,555,601

Auditee qualified as low-risk auditee? No

Section 2:

Financial Statement Findings

Issued under separate cover. See State Auditor's Office report entitled *State of Texas Financial Portion of the Statewide Single Audit Report for the Fiscal Year Ended August 31, 2011*.

Section 3:

Federal Award Findings and Questioned Costs

This section identifies significant deficiencies, material weaknesses, and instances of non-compliance, including questioned costs, as required to be reported by Office of Management and Budget Circular A-133, Section 510(a).

Department of Transportation

Reference No. 12-142

Davis-Bacon Act

(Prior Audit Issues 11-142 and 10-82)

Highway Planning and Construction Cluster

Award years – Multiple

Award number – NH 2010(086)

Type of finding – Significant Deficiency and Non-Compliance

When required by the Davis-Bacon Act, the U.S. Department of Labor’s (DOL) government-wide implementation of the Davis-Bacon Act, or by federal program legislation, all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of \$2,000 financed by federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the DOL (Title 40, United States Code (USC), Sections 3141--3147).

Questioned Cost: \$ 0

U.S. Department of
Transportation – Federal
Highway Administration

Non-federal entities shall include in construction contracts that are subject to the Davis-Bacon Act a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and the DOL regulations (Title 29, Code of Federal Regulations (CFR), Sections 5.5-5.6). In addition, contractors or subcontractors are required to submit to the non-federal entity weekly, for each week in which any contract work is performed, a copy of the payroll and a statement of compliance (certified payrolls) (Title 29, CFR, Sections 3.3-3.4). This reporting is often done using optional form WH-347, which includes the required statement of compliance (Office of Management and Budget No. 1215-0149).

The Department of Transportation (Department) was not always able to provide documentation showing that it collected certified weekly payrolls from its contractors. **For 1 (2 percent) of 60 projects tested, the Department did not ensure that contractors submitted all weekly certified payrolls for fiscal year 2011.** Specifically, the Department could not provide two certified payrolls for that project during the period tested. The total federal amount expended on that project, including payroll and non-payroll costs, was \$1,464,177.

For the error identified, the contractor provided certified weekly payrolls using the Electronic Project Records System (EPRS). EPRS provides reports that show any gaps in the submission of weekly certified payrolls, which allows the Department to follow up on any missing submissions. The Department asserted that the individual who was responsible for monitoring the project was no longer working for the Department and, as a result, the Department was unable to determine whether it obtained the certified payrolls that it could not provide to auditors.

The Department does not have a standardized process for tracking certified payrolls that contractors submit. Each area office within each Department district office determines its own method for ensuring that contractors submit payroll certifications. As of December 28, 2011, the Department's 25 district offices had a total of 89 area offices. Of the 60 projects tested:

- For 23 (38.3 percent) of the 60 projects, area offices used the EPRS system, which allows users to detect missing payrolls by creating missing payroll reports for each vendor for the project.

TRANSPORTATION, DEPARTMENT OF

- For 23 (38.3 percent) of the 60 projects, area offices used a tracking sheet to monitor whether contractors had submitted all weekly certified payrolls.
- For 14 (23.3 percent) of the 60 projects, area offices did not have formal, documented processes to ensure that contractors submitted weekly certified payrolls.

When contractors do not consistently submit required certified payrolls, the Department cannot ensure that contractor and subcontractor employees are properly classified and being paid the appropriate wage rate in accordance with the Davis-Bacon Act.

Recommendations:

The Department should:

- Establish and implement formal, documented controls to ensure that contractors submit all required certified payrolls.
- Maintain documentation of its receipt of all certified payrolls.

Management Response and Corrective Action Plan:

The Department will continue to evaluate controls to ensure certified payrolls are submitted and maintained by all districts. The Department was able to provide documentation for approximately 700 certified payrolls requested as part of the 60 projects tested.

The Electronic Project Records System (EPRS) is an online program offered by the Department to allow contractors to submit payrolls electronically rather than submit a hard copy. The use of EPRS by contractors is encouraged but not mandatory. Additional controls to ensure compliance with the intent of the Davis-Bacon Act include:

- *Preconstruction meetings with contractors to advise them of contract labor requirements and obligations including the Davis-Bacon Act*
- *Periodic labor interviews during the project with randomly selected employees to ensure contractor compliance with labor laws including the use of a standardized labor review form to document results*
- *Payroll reviews to ensure contractor employees are compensated at prevailing rates*
- *Use of the Department's project management system, SiteManager, to schedule key dates and checklist events including labor interviews, payroll reviews and certified payroll submissions*
- *Interim/Final project audits conducted by field personnel, district offices and divisions which includes reviewing all project payroll records*
- *New contractors receive training related to state and federal requirements including provisions of the Davis-Bacon Act.*

The Construction Division plans to send an audit action memo to district engineers reminding them of Davis-Bacon Act requirements and procedures for compliance.

Implementation Date: May 2012

Responsible Person: John Obr

TRANSPORTATION, DEPARTMENT OF

Reference No. 12-143

Period of Availability of Federal Funds

(Prior Audit Issues 11-143 and 10-81)

Highway Planning and Construction Cluster

Award years – Multiple

Award numbers – Multiple

Type of finding – Significant Deficiency

Agencies shall maintain internal control over federal programs that provides reasonable assurance that agencies are managing federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements (Office of Management and Budget Circular A-133, Subpart C, Section 300 (b)).

Questioned Cost: \$ 0

U.S. Department of
Transportation – Federal
Highway Administration

The Department of Transportation (Department) uses the Federal Project Authorization and Agreement (FPAA) system to process and track project approvals from the Federal Highway Administration. The FPAA system details when federal funds are authorized, which is the starting point for the period of availability of federal funds. The Department must obtain approval from the Federal Highway Administration prior to starting construction work on a project and expending federal funds (Title 23, Code of Federal Regulations, Section 630.106).

The Department did not appropriately restrict access to the FPAA system. Specifically, two programmers had access to move code into the production environment of FPAA. In general, programmers should not have access to migrate code changes to the production environment. Allowing programmers inappropriate access increases the risk of unauthorized changes and does not allow for adequate segregation of duties.

The Department's Finance Division manages the FPAA system. In fiscal year 2011, the Department made only one change to the FPAA system, and different individuals developed and moved that change to the production environment.

Recommendation:

The Department should establish and enforce change management procedures for systems the Finance Division manages, including eliminating programmers' access to migrate code changes to the production environment.

Management Response and Corrective Action Plan:

The Department is in the process of replacing the FPAA system. The new system is currently undergoing system testing by end users and scheduled for full implementation by April 2012. Database and code updates in the new system will be managed by the Department's Information Technology Division. Under the IT Division, controls are present to ensure programmers cannot migrate code into the production environment.

The Finance Division has removed access for one of the programmers mentioned. In addition, end users of the FPAA systems have been asked to notify Finance Automation of any unusual results or data in the FPAA system until the new system is implemented.

Implementation Date: April 2012

Responsible Persons: Mark Pollard and Mark Evans

Reference No. 12-144

Procurement and Suspension and Debarment
Subrecipient Monitoring
Special Tests and Provisions – R3 – Subrecipient Monitoring
(Prior Audit Issues 11-144, 10-84, and 09-80)

Highway Planning and Construction Cluster
Highway Planning and Construction Cluster – ARRA
Award years – Multiple
Award numbers – Multiple
Type of finding – Material Weakness and Material Non-Compliance

The Department of Transportation (Department) is required by the Office of Management and Budget (OMB) Circular A-133, Section .400, to monitor subrecipients to ensure compliance with federal rules and regulations, as well as the provisions of the contracts or grant agreements. In addition, the Department is responsible for the construction of all federal aid projects, and it is not relieved of such responsibility by authorizing performance of the work by a local public agency or other federal agency. State transportation departments are responsible for ensuring that such projects receive adequate supervision and inspection to ensure that projects are completed in conformance with approved plans and specifications (Title 23, Code of Federal Regulations, Section 635.105(a)).

Questioned Cost: \$ 0
U.S. Department of
Transportation – Federal
Highway Administration

Pre Award Monitoring

At the time of the award, pass-through entities must identify to subrecipients the applicable compliance requirements and the federal award information, including the Catalog of Federal Domestic Assistance (CFDA) title and number, the federal award name and number, the name of the federal awarding agency, and whether the award is research and development (OMB Circular A-133, Section .400(d), and OMB Circular A-133 Compliance Supplement, Part 3, Section M).

Federal rules require that, when a non-federal entity enters into a covered transaction with an entity at a lower tier, the non-federal entity must verify that the entity is not suspended or debarred or otherwise excluded from federal contracts. This verification may be accomplished by checking the Excluded Parties List System (EPLS), collecting a certification from the entity, or adding a clause or condition to the covered transaction with that entity (Title 2, Code of Federal Regulations, Section 180.300). Covered transactions include all nonprocurement transactions (that is, subawards to subrecipients) irrespective of award amount (Title 2, Code of Federal Regulations, Sections 180.220 and 180.970).

Additionally, the Department is required to determine that its subrecipients have adequate project delivery systems for projects approved under Title 23 of the United States Code (USC) (Title 23, USC, Section 106(g)(4)). The Department's rules in the Texas Administrative Code also require the Department to determine whether its subrecipients have adequate project delivery systems to manage contracts in a timely manner, consistent with federal, state, and department regulations, standards, and specifications (Title 43, Texas Administrative Code, Section 15.52). The Department uses an Advance Funding Agreement Special Approval Transmittal Form to ensure that subrecipients have the required project delivery systems.

Auditors tested 60 Department project agreements with subrecipients and identified issues in all of the agreements tested. Specifically:

- For 37 (71 percent) of 52 of agreements tested for which the subrecipients were not metropolitan planning organizations, the Department did not complete the Advance Funding Agreement Special Approval Transmittal Form to verify that the subrecipients had the capability to perform the work proposed and to manage the work according to standards.
- For 38 (63 percent) of the 60 agreements tested, the Department did not require the subrecipients to certify that they were not suspended or debarred.

- For 54 (90 percent) of the 60 agreements tested, the Department did not properly identify federal award information to the subrecipients.
- For 1 (2 percent) of the 60 agreements tested, the Department did not notify the subrecipient of Single Audit requirements.
- For 1 (2 percent) of the 60 agreements tested, the Department did not notify the subrecipient of OMB A-87 Cost Principles.
- For 1 (2 percent) of the 55 agreements tested that were subject to requirements for local government training, the Department did not ensure that at least one of the subrecipient's staff attended training on local government project procedures required as part of its agreement (the Department implemented that training to ensure that subrecipients were aware of project and grant requirements).

While the Department uses a standard template for agreements with subrecipients, that template did not consistently identify the federal award title and number, the CFDA title and number, the federal awarding agency, or the compliance requirements. However, the template referred to the master advanced funding template agreement, which requires subrecipients to comply with federal requirements and provides other information regarding allowable costs and other requirements.

The Department's agreement template also requires the subrecipient to refrain from conducting business with other entities that are suspended or debarred; however, the template did not consistently require subrecipients to certify that they are not suspended or debarred. Agreements dated after September 23, 2009, however, contained language requiring the subrecipient to certify it was not suspended or debarred.

Not ensuring that subrecipients have adequate project delivery systems increases the risk that the Department could award federal funds to subrecipients that cannot effectively manage subawards in compliance with federal guidelines. Inadequate identification of federal awards by the Department may lead to improper reporting of federal funding on a subrecipient's schedule of expenditures of federal awards (SEFA). Additionally, when the Department does not verify that subrecipients are not suspended or debarred, this increases the risk the Department could enter into an agreement with an entity that is not eligible to receive federal funding. Incomplete communication of federal compliance requirements in the Department's agreements increases the risk that subrecipients will not follow federal guidelines related to administering subrecipient awards and increases the risk that subrecipients lack the proper understanding of local government project procedures to administer and manage a project. In fiscal year 2011, the Department passed-through \$270,922,797 in federal funds (including Recovery Act funds) to subrecipients.

Subrecipients of Recovery Act Funding

The American Recovery and Reinvestment Act (Recovery Act) of 2009 required recipients to (1) maintain records that identify adequately the source and application of Recovery Act funds; (2) separately identify the federal award number, the CFDA number, and the amount of Recovery Act funds to each subrecipient, at the time of the subaward and disbursement of funds; and (3) require their subrecipients to include, on their SEFAs, information to specifically identify Recovery Act funds (Title 2, Code of Federal Regulations, Section 176.210).

Recipients of Recovery Act funds are also required to ensure that subrecipients of Recovery Act funds maintain active registrations in the Central Contractor Registration (CCR) and obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number (Title 2, Code of Federal Regulations, Section 176.50, and Recovery Act, Section 1512(h)). This information is needed to allow the recipient to properly monitor subrecipient expenditures of Recovery Act funds and for oversight by the federal awarding agencies, offices of inspector general, and the U.S. Government Accountability Office.

For 17 (94 percent) of 18 project agreements with subrecipients tested, the Department did not comply with Recovery Act requirements with respect to its subrecipients. Specifically:

- For 1 (6 percent) of the 18 agreements, the Department did not obtain a correct DUNS number for its subrecipient.
- 14 (78 percent) of the 18 agreements did not contain evidence that the Department notified the subrecipients of all required award information.

- 6 (33 percent) of the 18 agreements did not contain evidence that the Department communicated reporting requirements associated with Recovery Act awards to the subrecipients.
- 6 (33 percent) of the 18 agreements did not contain evidence that the Department ensured that the proposed budgets separately identified Recovery Act funds.

While the Department uses a standard template for award agreements with subrecipients, the template did not consistently identify the federal award title number, the CFDA title and number, the federal awarding agency, or Recovery Act requirements. Additionally, at the time of audit testing, the Department did not have a consistent process to verify a subrecipient's DUNS prior to award.

Inadequate identification of Recovery Act awards by the Department may lead to improper reporting of federal funding in a subrecipient's SEFA. In fiscal year 2011, the Department passed-through \$119,577,779 in Recovery Act funds to subrecipients.

During-the-award Monitoring

The Department does not have standardized processes to ensure adequate during-the-award monitoring of subrecipients by its district offices. Auditors tested documentation of during-the-award monitoring for 60 subrecipients. That documentation included reviews of invoices for allowability, period of availability, and reporting. Auditors identified the following issues at the Department's district offices:

- For 1 (3 percent) of 34 of subrecipients tested for which Davis-Bacon Act requirements applied, the Department was unable to provide evidence that it monitored its subrecipients' compliance with Davis-Bacon Act requirements.
- For 21 (40 percent) of 53 of subrecipients tested for which procurement requirements applied, the Department was unable to provide evidence that it approved its subrecipients' procurement policies and procedures or vendor selection.

Through its *Local Government Project Procedures Manual*, the Department provides monitoring guidelines to its district and regional offices for the monitoring of subrecipients. However, implementation of the guidelines and creation of processes for monitoring are determined by the region and district level staff. In addition, the Department does not have a standard process for reviewing each district office's procedures and activities related to subrecipient monitoring.

By not providing direct oversight or review of monitoring procedures and activities at each district office or region, the Department is not able to ensure that sufficient monitoring occurs. This also increases the risk the Department would not detect non-compliance by subrecipients administering federally funded projects.

Additionally, the Department did not always correctly identify subrecipients in its accounting system. Specifically, auditors identified two projects that should have been identified, but were not identified, as subrecipients in the Department's accounting system, the Financial Information Management System (FIMS). While the Department has a process to review and track subrecipient projects, it did not identify and flag those two projects in FIMS. Department management asserted that this occurred because of the inaccurate identification of one of the projects and delayed project setup for the other project. Auditors identified \$41,838 in expenditures for those two projects. Not correctly identifying and tracking all subrecipients increases the risk that the Department could fail to sufficiently monitor subrecipient expenditures.

Recommendations:

The Department should:

- Ensure that existing award documentation and award documentation templates with subrecipients include all required award notification and information according to federal requirements, including CFDA title and number, federal award name and number, whether the award is research and development, name of the federal awarding agency, and applicable compliance requirements.
- Ensure that all subrecipients certify that they are not currently suspended or debarred.

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- Ensure that at least one member of each subrecipient's staff attends the local government project procedures training.
- Develop and implement a process to notify its subrecipients, at the time of the award, of the requirement to provide appropriate identification of Recovery Act funds in their SEFAs.
- Develop and implement a process to verify that all subrecipients that receive Recovery Act funds are registered with the CCR and have obtained a DUNS number.
- Develop and implement a standardized process for conducting during-the-award monitoring of subrecipients statewide.
- Develop and implement a standardized process for reviewing district offices to ensure that they properly monitor subrecipient compliance with federal requirements, including compliance with the Davis-Bacon Act.
- Ensure that it correctly identifies and tracks all subrecipients.

Management Response and Corrective Action Plan:

The Department is establishing a Local Government Projects Office under the direction of the Department's Deputy Executive Director. The office will direct and oversee the administration of state and federally funded projects and programs developed and delivered by local governments. The Department is currently in the process of hiring a director for this office.

As of August 2011, the Contract Services Division has established new templates that include all required information to meet federal requirements. As of the end of December 2011, the Division implemented corrective action on past contracts including amending agreements with subrecipients to include required information. The Contract Services Division will work with the new Local Government Projects Office to ensure all project agreements with subrecipients contain necessary information and provisions.

The Finance Division will increase the frequency of procedures performed to verify the accuracy of subrecipient designations in FIMS. Interim procedures performed will now be included as part of the year-end financial close-out process. For the Highway Planning and Construction cluster the Department reported approximately \$270 million in federal expenditures to non-state entities.

Implementation Date: August 2012

Responsible Person: John Barton

Reference No. 12-145

Reporting

(Prior Audit Issues 11-145 and 10-83)

Highway Planning and Construction Cluster

Award years – Multiple

Award numbers – Multiple

Type of finding – Significant Deficiency and Non-Compliance

PR-20 Reports

The Office of Management and Budget (OMB) Circular A-133 Compliance Supplement requires the Department of Transportation (Department) to submit a PR-20, Voucher for Work Under Provisions of the Federal-Aid and Federal Highway Acts, as Amended (OMB No. 2125-0507). The PR-20 is required by the Federal Highway Administration (FHWA) to report the total expenditures for a project that received federal aid. The report should be completed and submitted promptly after the close-out of a project.

Questioned Cost: \$ 0

U.S. Department of
Transportation - Federal
Highway Administration

The Department has a significant backlog of PR-20 reports it must still submit to the FHWA. As of August 31, 2011, the Department had not submitted PR-20 reports for 1,423 projects that had been closed for more than 90 days. The projects for which the Department must still submit PR-20 reports date back to December 2002. Auditors identified this issue in the prior two audit periods, and the Department began implementing a corrective action plan to reduce the backlog of reports in fiscal year 2010. Department management asserted that the Department focused on submitting PR-20 reports for American Recovery and Reinvestment Act (Recovery Act) projects before other projects in fiscal year 2011 due to the higher visibility and limited period of availability associated with Recovery Act projects. In fiscal year 2011, the Department submitted 1,077 PR-20 reports. The FHWA relies on the Department to submit PR-20 reports to close out funding and records on federally funded projects. Auditors tested a sample of 25 PR-20 reports the Department submitted during fiscal year 2011 and did not identify any compliance errors.

Transparency Act Reporting

The Federal Funding Accountability and Transparency Act (Transparency Act) requires prime recipients of federal awards made on or after October 1, 2010, to capture and report subaward and executive compensation data regarding their first-tier subawards that exceed \$25,000. The prime recipient is required to report subaward information through the Federal Funding Accountability and Transparency Subaward Reporting System (FSRS) by the end of the month following the month in which the subaward was signed (Title 2, Code of Federal Regulations (CFR), Chapter 170).

Additionally, recipients must report all required elements established in the Office of Management and Budget's *Open Government Directive- Federal Spending Transparency and Subaward and Compensation Data Reporting* (August 27, 2010), Appendix C, including the subaward date, subawardee Dun and Bradstreet Data Universal Numbering System (DUNS) number, amount of subaward, subaward obligation or action date, date of report submission, and subaward number.

The Department did not always report accurate and complete information as required by the Transparency Act. Specifically:

- For 1 (7 percent) of the 14 subaward projects tested for which the Department was required to submit reports, the Department did not submit the required report to FSRS. The Department did not identify that this subaward met the requirements established by Title 2 CFR, Chapter 170; as a result, it did not submit the report.
- For 2 (15 percent) of the 13 subaward projects tested for which the Department submitted the required reports, the Department did not report all required information accurately. For one project, the Department reported an incorrect subrecipient name and DUNS number that was not supported by its award documentation. For the other project, the Department reported the incorrect DUNS number because it did not correctly verify information provided by the subrecipient.

The Department relies on the federal award identification numbers (FAIN) on the USASpending.gov Web site to identify awards that are subject to Transparency Act requirements. Using that information, Department staff cross-reference the FAIN to an award number to determine which projects have associated subawards that are subject to Transparency Act reporting. However, that process does not ensure that the Department reports on all subawards subject to Transparency Act requirements, including those that may not be in USASpending.gov.

Not reporting all required subawards to FSRS or reporting inaccurate information decreases the reliability of information provided to the awarding agency and other intended users of that information.

Recommendations:

The Department should:

- Reduce the backlog of PR-20 reports it must submit to FHWA.
- Develop and implement a process to ensure that it submits all reports required by the Transparency Act.
- Report required Transparency Act information accurately.

Management Response and Corrective Action Plan:

Reporting PR-20

The Department continues to implement its corrective action plan. In addition management requested a review by internal audit to assist in identifying potential areas for improvement. Management is currently evaluating recommendations made by internal audit including prioritization of project close-out and benchmarking.

The Department anticipates improved performance during FY2012 with the reduced number of ARRA projects and additional personnel dedicated to federal project closeout. As of management response, the oldest project for which the Department must submit a PR-20 report is June 2007.

Implementation Date: Currently implemented.

Responsible Person: Brian Ragland

Transparency Act Reporting

The Department will continue to work with the Federal Highway Administration to properly report under the Federal Transparency Act. As noted by the SAO, reporting requirements began in fiscal year 2011 (October 1, 2010) and the Department has been working with the FHWA to resolve technical issues that have arisen at both the FHWA and Department. One issue the Department encountered was submitting reports for which no FAIN existed for the project. A FAIN was necessary so the Department could accurately report into FHWA systems (FSRS). The Department now notifies the FHWA of instances when a FAIN is not located for a project in FSRS.

Implementation Date: August 2012

Responsible Person: John Obr

Reference No. 12-146

Special Tests and Provisions – Quality Assurance Program

(Prior Audit Issues 11-146, 10-87, and 09-81)

Highway Planning and Construction Cluster

Award years – Multiple

Award numbers –STP 2009(485)ES, STP 2011(301), STP 2010(624)MM, NH 2010(849), STP 2002(141)ESTE, STP 2009(124), STP 2011(623)ES, CM 2009(732), STP 2009(516)ES, NH 2010(913), STP 2011(362), IM 353(275), and NH 2011(742)

Type of finding – Significant Deficiency and Non-Compliance

Control Weaknesses in SiteManager

Agencies shall maintain internal control over federal programs that provides reasonable assurance that the institutions are managing federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements (Office of Management and Budget Circular A-133, Subpart C, Section 300 (b)).

Questioned Cost: \$ 0
U.S. Department of
Transportation - Federal
Highway Administration

The Department of Transportation (Department) uses SiteManager as its system of record for quality assurance testing on its highway construction projects. However, **SiteManager does not have sufficient controls to ensure that (1) only certified testers are able to enter and sign off on test records and (2) a tester does not also sign off as the reviewer.**

For 48 (22 percent) of 216 quality assurance samples tested, the tester and reviewer were the same individual. Management at Department district offices attributed those errors to limited resources and reductions in staff levels. Not segregating testing and reviewing responsibilities increases the risk that the Department may not detect project deficiencies that could cost time and money to correct.

Quality Assurance Program

Each state transportation department must develop a quality assurance program that will assure that the materials and workmanship incorporated into each federal-aid highway construction project on the National Highway System conform with the requirements of the approved plans and specifications, including approved changes. The program must meet the criteria in Title 23, Code of Federal Regulations, Section 637.207, and be approved by the U.S. Department of Transportation's Federal Highway Administration (FHWA) (Title 23, CFR, Section 637.205). Sampling and testing must be performed by qualified laboratories, and qualified sampling and testing personnel must be used in the acceptance decision (Title 23, CFR, Section 637.209).

The Department did not always comply with its quality assurance program approved by the FHWA. Specifically:

- **For 6 (10 percent) of 60 highway construction projects tested, the Department did not comply with the testing requirements for each type of material as specified in the Department's *Guide Schedule for Sampling Testing*.** For 4 of the 6 projects, the Department did not perform 11 tests listed on its sampling checklist. For the remaining two projects, the sampling checklist did not list all required material tests; as a result, the Department did not perform three required tests.
- **Quality assurance tests for 9 (15 percent) of 60 projects tested were conducted by an individual who was not a certified tester.** Due to the limitations within SiteManager discussed above, the Department does not have sufficient controls to ensure that only qualified personnel complete quality assurance sampling testing.

Recommendations:

The Department should:

- Implement controls to ensure that there is appropriate segregation of duties between personnel conducting quality assurance sample testing and personnel reviewing that testing.
- Implement controls to ensure that only qualified personnel perform quality assurance sample testing.
- Implement policies and procedures to ensure that its sampling checklists identify all the required tests prior to construction.
- Perform quality assurance sampling for all required tests as documented on its sampling checklist.

Management Response and Corrective Action Plan:

The Construction Division will continue to work with the districts to ensure proper quality assurance (QA) procedures are followed. The FHWA approved QA program is accessible on-line to all responsible personnel and incorporates the Department's project management system, SiteManager, to ensure required tests are performed in accordance with Departmental policy. In addition the Department has developed additional tools such as the Inspector Development Program (IDP) which provides inspectors with the resources needed to perform daily QA activities in the field. Part of the IDP includes inspectors certifying acknowledgement of sampling and testing requirements

The Construction Division has sent an audit action memo to all district engineers notifying them of issues identified by the State Auditor's Office. This memo highlights available tools and procedures to address reported issues.

The Construction Division also plans to discuss with the Department's Information Technology Division about improving controls within SiteManager to restrict the same individual from signing-off as tester and reviewer.

Implementation Date: March 2012

Responsible Person: John Obr

Reference No. 12-147

Davis-Bacon Act

CFDA 20.106 – Airport Improvement Program

Award years – Multiple

Award numbers – 3-48-SBGP-37-2006, 3-48-SBGP-41-2007, 3-48-SBGP-49-2008, 3-48-SBGP-54-2009, 3-48-SBGP-57-2009, and 3-48-SBGP-66-2009

Type of finding – Significant Deficiency and Non-Compliance

When required by the Davis-Bacon Act, the U.S. Department of Labor's (DOL) government-wide implementation of the Davis-Bacon Act, or by federal program legislation, all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of \$2,000 financed by federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the DOL (Title 40, United States Code (USC), Sections 3141-3144).

Questioned Cost: \$ 0

U.S. Department of
Transportation - Federal
Aviation Administration

Non-federal entities shall include in construction contracts that are subject to the Davis-Bacon Act a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and the DOL regulations (Title 29, Code of Federal Regulations (CFR), Sections 5.5-5.6). In addition, contractors or subcontractors are required to submit to the non-federal entity weekly, for each week in which any contract work is performed, a copy of the payroll and a statement of compliance (certified payrolls) (Title 29, CFR, Sections 3.3-3.4). This reporting is often done using optional form WH-347, which includes the required statement of compliance (Office of Management and Budget No. 1215-0149).

The Department of Transportation (Department) was not always able to provide documentation showing that it collected certified weekly payrolls required by the Davis-Bacon Act. Specifically, for 2 (20 percent) of 10 projects tested, the Department could not provide one of the required weekly certified payrolls for the quarter tested. The total federal amount expended on the projects associated with those payrolls in fiscal year 2011, including payroll and non-payroll costs, was \$1,969,350.

These errors occurred because the Department did not always accurately complete the tracking spreadsheet it uses to ensure that contractors submit all certified weekly payrolls. For one project, the tracking spreadsheet, which lists the date of each required report and the date that the report was submitted, did not list all weeks for which certified payrolls should have been submitted; as a result, the Department did not collect certified payrolls for those weeks. For the remaining project, the tracking spreadsheet showed that the Department received the certified payroll; however, the Department could not locate the certified payroll.

When contractors do not consistently submit certified payrolls, the Department cannot ensure that contractors and subcontractors properly classify and pay their employees the appropriate wage rate in accordance with the Davis-Bacon Act.

Additionally, for 3 (30 percent) of 10 projects tested, the Department did not record the date on which it received the required certified payrolls. The Department relies on the tracking spreadsheet to ensure that it collects the required certified payrolls. As a result, when the Department does not complete its tracking spreadsheet correctly, it cannot ensure that contractors submit required payroll certifications and comply with the Davis-Act Act.

Recommendations:

The Department should:

- Maintain documentation of its receipt of certified payrolls.
- Record on its tracking spreadsheet the dates on which certified payrolls should be submitted and the dates on which it receives certified payrolls.

Management Response and Corrective Action Plan:

The two missing reports were acquired from the contractors, and presented to the auditor, showing that no work was performed for the week. While the tracking spreadsheet was missing the date of receipt of three reports, all three reports were received by the Division and were on file. The Division was utilizing temporary employees to receive and track payroll compliance reports. The Division is in the process of hiring a full time employee who will be trained to thoroughly track certified payroll compliance reports. Additionally, we will add a column to our tracking spreadsheet representing dates the reports are due. Furthermore, grant managers will monitor their projects on the tracking spreadsheet to ensure proper tracking and compliance with Davis Bacon requirements.

Implementation Date: March 2012

Responsible Person: David Fulton

Reference No. 12-148

Reporting

(Prior Audit Issue 10-91)

CFDA 20.509 – Formula Grants for Other Than Urbanized Areas

Award years – Multiple

Award numbers - TX-18-X031-02, TX-18-X033-01, TX-18-X032-01, TX-86-X002-01, and TX-86-X003-00

Type of finding – Significant Deficiency and Non-Compliance

Recipients are responsible for managing, monitoring, and reporting performance and financial information for each project, program, subaward, function, or activity supported by the award. Recipients use the *Financial Status Report* SF-269 or SF-269A to report the status of funds for non-construction projects (Title 2, Code of Federal Regulations (CFR), Section 215.52). The *Federal Financial Report* SF-425 is used to report expenditures under federal awards, as well as cash status. Reporting instructions for the SF-425 report specify that the recipient's share of expenditures be based on actual cash disbursements or outlays, including payments to subrecipients and contractors. Additionally, according to the reporting instructions, entities should submit quarterly reports no later than 30 days after the end of each reporting period.

Questioned Cost: \$ 0

U.S. Department of
Transportation - Federal Transit
Administration

The Department of Transportation (Department) did not submit 2 (25 percent) of 8 SF-425 reports tested by the required due dates. The Department asserted that it submitted those reports late because of changes in the procedures and forms it used to submit those reports.

Additionally, for all three SF-425 reports tested that had matching requirements, the Department reported non-federal share amounts that were not supported by its accounting records. The Department was unable to support the amounts it reported as its non-federal share of expenditures because it did not consistently track the local amount of the non-federal share. Instead, the Department determined the non-federal share of expenditures by multiplying its federal outlays by the required match percentage. While the Department changed its process for monitoring subrecipients to include collecting information on local amount of the non-federal share, it did not always carry that information forward to its SF-425 reports.

Recommendations:

The Department should:

- Submit reports by the required due date.

TRANSPORTATION, DEPARTMENT OF

- Develop and implement a process to track and report non-federal amounts related to actual non-federal costs incurred by subrecipients.

Management Response and Corrective Action Plan:

The Public Transportation Division (PTN) will continue to improve on its reporting procedures. During fiscal 2011 the Federal Transit Administration (FTA) amended its reporting requirements including data to be submitted and report format. In response, the Division updated its reports and procedures based on new guidance causing slight delays. New report formats and procedures are currently in place and all future reports will be submitted by required due dates.

The Division will continue to improve on its data collection process. The Division has implemented procedures to collect non-federal share of expenditures data for new grants. The Division is currently developing procedures to collect this information for active prior year grants.

Implementation Date: June 2012

Responsible Person: Cheryl Mazur

Reference No. 12-149

Subrecipient Monitoring

(Prior Audit Issues 10-92 and 10-93)

CFDA 20.509 – Formula Grants for Other Than Urbanized Areas

CFDA 20.509 – Formula Grants for Other Than Urbanized Areas- ARRA

Award years – Multiple

Award numbers – TX-18-X031-02, TX-18-X033-01, TX-18-X032-01, TX-86-X001, and TX-86-X003-00

Type of finding – Significant Deficiency and Non-Compliance

The Department of Transportation (Department) is required by Office of Management and Budget (OMB) Circular A-133, Section .400, to monitor subrecipients to ensure compliance with federal rules and regulations, as well as the provisions of the contracts or grant agreements. The Department monitors 38 rural transit districts and several intercity bus providers to ensure that they comply with the requirements for the Formula Grants for Other Than Urbanized Areas program. Monitoring is accomplished through the Department's 24 district public transportation coordinators who oversee various federal programs within their jurisdictions. Public transportation coordinators perform numerous duties, including quarterly on-site visits, annual compliance on-site reviews, reviews of financial records, approval of monthly invoices, tracking procurement activities, reviews of reports, issuance of improvement action plans when deficiencies are noted, discussion of problems encountered or need for technical assistance, and monitoring of compliance with federal regulations and provisions of grant agreements.

Questioned Cost: \$42,655

U.S. Department of
Transportation - Federal Transit
Administration

Pre-award Documentation

At the time of the award, pass-through entities must identify to subrecipients the applicable compliance requirements and the federal award information, including the Catalog of Federal Domestic Assistance (CFDA) title and number, the federal award name and number, the name of the federal awarding agency, and whether the award is research and development (OMB Circular A-133, Section .400(d), and OMB Circular A-133 Compliance Supplement, Part 3, Section M).

For 2 (20 percent) of 10 subrecipient agreements tested, the Department did not notify its subrecipients of the federal award number in its project grant agreements. This occurred because the Department issued those awards using a

template that did not include that information. In July 2010, the Department corrected its template to include the federal award number, and agreements that auditors tested after that date communicated all required award information.

Inadequate identification of federal awards could lead to improper reporting of federal funding on a subrecipient's schedule of expenditures of federal awards (SEFA).

Subrecipients of American Recovery and Reinvestment Act Funding

The American Recovery and Reinvestment Act (Recovery Act) of 2009 required recipients to (1) maintain records that identify adequately the source and application of Recovery Act funds; (2) separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the federal award number, the CFDA number, and the amount of Recovery Act funds; and (3) require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding (Title 2, Code of Federal Regulations, Section 176.210).

The Department did not always notify its subrecipients, at the time of disbursement, of required Recovery Act information. Specifically, **for 3 (60 percent) of 5 subrecipients tested, the Department did not notify its subrecipients of the federal award number, CFDA number, and the amount of Recovery Act funds provided at each disbursement.** This occurred because the Department used an outdated request for reimbursement form to communicate award information to the subrecipients, and that form did not include the required Recovery Act information. In September 2010, the Department created a new form that included all required information, and auditors did not identify compliance errors after the Department's implementation of the new form.

Inadequate identification of Recovery Act awards could lead to improper reporting of federal funding in a subrecipient's SEFA.

During-the-award Monitoring

The Department is required to monitor local project activity and to ensure compliance with federal requirements by all subrecipients (Federal Transit Administration Circular C_9040.1f, Page II-3). The Department monitors its subrecipients' compliance with federal requirements through several methods. As part of its monitoring process, the Department's public transportation coordinators conduct monthly invoice reviews to ensure that subrecipients comply with matching, cash management, period of availability, and program income requirements. Those reviews do not include a review for the allowability of items that subrecipients purchase with federal funds; however, the Department conducts quarterly on-site visits that include a limited review of transactions for allowable costs and activities.

The Department also conducts annual compliance reviews of its subrecipients. Those reviews cover nine program areas. In addition, public transportation coordinators are expected to review subrecipients' real property acquisitions to verify that an appraisal was performed prior to a subrecipient's purchase of real property.

During fiscal year 2011, the Department did not consistently conduct during-the-award monitoring activities for all subrecipients. Specifically:

- For 1 (10 percent) of 10 of subrecipients tested, the Department did not perform an annual compliance review for fiscal year 2011. That subrecipient received less than \$500,000 in federal funds during fiscal year 2011; as a result, it was exempt from the requirement to obtain a Single Audit as specified in OMB Circular A-133, Section .200. Because the subrecipient was not required to obtain a Single Audit, it was particularly important for the Department to conduct an annual compliance review at this subrecipient to monitor the subrecipient's compliance with federal requirements.
- For 1 (10 percent) of 10 of subrecipients tested, the Department did not conduct required quarterly on-site visits for three consecutive quarters. As a result, the Department did not properly monitor this subrecipient for compliance with allowable costs requirements
- For the only subrecipient tested that acquired real property during fiscal year 2011, the Department did not verify that the subrecipient obtained an appraisal prior to purchasing the real property. Specifically, the Department did not verify that an appraisal was performed or ensure that an appraisal was reviewed by a state certified appraiser. The subrecipient purchased the property for \$42,655.

- For 2 (29 percent) of 7 of subrecipients tested, the Department could not provide evidence that it monitored the subrecipients' compliance with requirements of the Davis-Bacon Act.

While the Department has developed processes to monitor its subrecipients through annual compliance reviews and quarterly on-site visits, it has not consistently implemented those processes. Additionally, the Department has not established a standardized process to monitor its subrecipients' compliance with requirements for real property acquisitions or with the Davis-Bacon Act.

When the Department does not consistently conduct quarterly and annual on-site visits at subrecipients, this increases the risk that subrecipient noncompliance could go undetected.

Recommendations:

The Department should:

- Include the federal award number in award documentation it provides to all subrecipients.
- Communicate required Recovery Act information at the time of disbursement of funds.
- Conduct annual compliance reviews for all subrecipients.
- Conduct quarterly on-site monitoring visits for all subrecipients.
- Develop and implement a standard monitoring process to ensure subrecipient compliance with requirements for real property acquisition and the Davis-Bacon Act.

Management Response and Corrective Action Plan:

As reported by the SAO, the Division has established new contract templates as of July 2010 that includes all required information. The Division will review active grants awarded prior to July 2010 and communicate additional information to grantees.

As reported, the Division has procedures to monitor subrecipients through annual compliance reviews and quarterly on-site visits. Field staff has received additional training and guidance to ensure consistent application of monitoring procedures.

The Division will evaluate controls in place to monitor compliance with real property acquisition and the Davis-Bacon Act. Currently a procurement checklist form is used to monitor compliance.

Implementation Date: June 2012

Responsible Person: Cheryl Mazur

Summary Schedule of Prior Year Audit Findings

Federal regulations (OMB Circular A-133) state, “the auditee is responsible for follow-up and corrective action on all audit findings.” As part of this responsibility, the auditee reports the corrective action it has taken for the following:

- Each finding in the 2010 Schedule of Findings and Questioned Costs.
- Each finding in the 2010 Summary Schedule of Prior Audit Findings that was not identified as implemented or reissued as a current year finding.

The Summary Schedule of Prior Audit Findings (year ended August 31, 2011) has been prepared to address these responsibilities.

Department of Transportation

Reference No. 11-142

Davis-Bacon Act

(Prior Audit Issue 10-82)

Highway Planning and Construction Cluster

Award years – Multiple

Award numbers – Federal project HP 2008(045), STP 2009(699)ES, STP 2006(572)MM, and STP 2006(438)MM

Type of finding - Significant Deficiency and Non-Compliance

When required by the Davis-Bacon Act, the U.S. Department of Labor’s (DOL) government-wide implementation of the Davis-Bacon Act, or by federal program legislation, all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of \$2,000 financed by federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the DOL (Title 40, United States Code (USC), Sections 3141-3144, 3146, and 3147 (formerly Title 40, USC, Sections 276a to 276a-7)).

Initial Year Written: 2009
Status: Partially Implemented

U.S. Department of
Transportation – Federal
Highway Administration

Non-federal entities shall include in construction contracts that are subject to the Davis-Bacon Act a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and the DOL regulations (Title 29, Code of Federal Regulations (CFR), Sections 5.5-5.6). In addition, contractors or subcontractors are required to submit to the non-federal entity weekly, for each week in which any contract work is performed, a copy of the payroll and a statement of compliance (certified payrolls) (Title 29, CFR, Sections 3.3-3.4). This reporting is often done using optional form WH-347, which includes the required statement of compliance (Office of Management and Budget No. 1215-0149).

The Department of Transportation (Department) was not always able to provide documentation showing that it collected certified payrolls from its contractors. **For 4 (8 percent) of 50 projects tested, the contractors did not always submit payroll certifications for fiscal year 2010.** The total value of those four projects, including payroll and non-payroll costs, was \$7,471,792.

For three of the four projects discussed above, the contractors were supposed to submit certified payrolls using the Department’s automated system, the Electronic Project Records System (EPRS). The Department can use EPRS to identify any unreported payroll certifications, but personnel in the Department’s district offices did not consistently monitor EPRS information. For the fourth project discussed above, the contractor was required to submit certified payrolls through a manual process. According to management at a Department district office, a new district staff person became responsible for monitoring payroll certification submittals and determined that this contractor had

not submitted payroll certifications for six months. The contractor subsequently submitted payroll certifications for all six months on one certification.

The Department does not have a standardized process for tracking certified payrolls that contractors submit. Each area office within each district office determines its own method for ensuring that contractors submit payroll certifications. As of December 8, 2010, the Department's 25 district offices had a total of 101 area offices.

When contractors do not consistently submit required payroll certifications, the Department cannot ensure that contractor and subcontractor employees are properly classified and being paid the appropriate wage rate in accordance with the Davis-Bacon Act.

In addition, the insufficient wage report that the Department can generate from EPRS does not identify contractor timesheets that report more than eight hours of "regular time" pay per day. By not including that information in the report, the Department could be unaware of instances in which contractors are not paying employees overtime rates based on the prevailing wages for that area.

Corrective Action:

This finding was reissued as current year reference number: 12-142

Reference No. 11-143

Period of Availability of Federal Funds

(Prior Audit Issue 10-81)

Highway Planning and Construction Cluster

Award years – Multiple

Award numbers – Multiple

Type of finding – Significant Deficiency

Agencies shall maintain internal control over federal programs that provides reasonable assurance that agencies are managing federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements (Office of Management and Budget Circular A-133, Subpart C, Section 300 (b)).

Initial Year Written: 2009
Status: Partially Implemented

U.S. Department of
Transportation – Federal
Highway Administration

The Department of Transportation (Department) uses the Federal Project Authorization and Agreement (FPAA) system to process and track project approvals from the Federal Highway Administration. The FPAA system details when federal funds are authorized, which is the starting point for the period of availability of federal funds. The Department must obtain approval from the Federal Highway Administration prior to starting construction work on a project and expending federal funds (Title 23, Code of Federal Regulations, Section 630.106).

The Department did not appropriately restrict access to the FPAA system. Specifically, two programmers had access to move code into the production environment of FPAA. In general, programmers should not have access to migrate code changes to the production environment. Allowing programmers inappropriate access increases the risk of unauthorized changes and does not allow for adequate segregation of duties.

The Department's Finance Division manages the FPAA system, and that division does not enforce the same change management processes that the Department enforces for enterprisewide systems. The Department asserted that there were no changes made to the FPAA system in fiscal year 2010.

Corrective Action:

This finding was reissued as current year reference number: 12-143

Reference No. 11-144

**Procurement and Suspension and Debarment
Subrecipient Monitoring
Special Tests and Provisions – R3 – Subrecipient Monitoring**
(Prior Audit Issues 10-84 and 09-80)

**Highway Planning and Construction Cluster
Highway Planning and Construction Cluster - ARRA
Award years – Multiple
Award numbers – Multiple
Type of finding – Material Weakness and Material Non-Compliance**

Initial Year Written: 2008 Status: Partially Implemented U.S. Department of Transportation – Federal Highway Administration

The Department of Transportation (Department) is required by Office and Management and Budget (OMB) Circular A-133, Section .400, to monitor subrecipients to ensure compliance with federal rules and regulations, as well as the provisions of the contracts or grant agreements. In addition, the Department has the responsibility for the construction of all federal aid projects, and it is not relieved of such responsibility by authorizing performance of the work by a local public agency or other federal agency. State transportation departments are responsible for ensuring that such projects receive adequate supervision and inspection to insure that projects are completed in conformance with approved plans and specifications (Title 23, Code of Federal Regulations, Section 635.105(a)).

Pre-award Monitoring

At the time of the award, pass-through entities must identify to subrecipients the applicable compliance requirements and the federal award information, including the Catalog of Federal Domestic Assistance (CFDA) title and number, the federal award name and number, the name of the federal awarding agency, and whether the award is research and development (OMB Circular A-133 Compliance Supplement, Part 3, Section M).

Additionally, federal rules require that, when a non-federal entity enters into a covered transaction with an entity at a lower tier, the non-federal entity must verify that the entity is not suspended or debarred or otherwise excluded from federal contracts. This verification may be accomplished by checking the Excluded Parties List System (EPLS), collecting a certification from the entity, or adding a clause or condition to the covered transaction with that entity (Title 2, Code of Federal Regulations, Section 180.300). Covered transactions include all nonprocurement transactions (that is, subawards to subrecipients) irrespective of award amount (Title 2, Code of Federal Regulations, Sections 180.220 and 180.970).

Auditors tested 41 agreements executed between 1998 and 2010 and identified exceptions in all of the agreements tested. Specifically:

- For 38 (93 percent) of 41 subrecipient agreements tested, the Department did not properly identify federal award information to the subrecipient.
- For 32 (78 percent) of 41 subrecipient agreements tested, the Department did not require the subrecipient to certify that it was not suspended or debarred.

- For 2 (5 percent) of 41 subrecipient agreements tested, the Department did not notify the subrecipient of the requirement that invoices or requests for funds must be for expenses already incurred.
- For 4 (10 percent) of 41 subrecipient agreements tested, the Department did not notify the subrecipient of Single Audit requirements.
- For 5 (12 percent) out of 41 subrecipient agreements tested, the Department did not include an approved budget that listed allowed activities and costs.
- For 1 (2 percent) of 41 subrecipient agreements tested, the Department did not notify the subrecipient of OMB A-87 cost principles.
- For 1 (25 percent) of 4 subrecipient agreements signed after September 2009, the Department did not ensure that at least one of the subrecipient's staff had attended training on the local government project procedures required as part of its funding agreement, which the Department implemented to ensure that subrecipients are aware of project and grant requirements.

The Department did not properly identify federal award information and compliance requirements to the subrecipient consistently. While the Department uses a standard template for award agreements with subrecipients, the template did not consistently include identification of the federal award title and number or the CFDA title and number. The template also did not consistently identify the name of the federal awarding agency or compliance requirements. The template does, however, refer to the master advanced funding template agreement, which requires the subrecipient to comply with federal compliance requirements and provides other specific information regarding allowable costs and other requirements.

The template the Department used requires the subrecipient to refrain from doing business with other entities that are suspended or debarred; however, it does not require the subrecipient to certify that it is not suspended or debarred. Award templates dated after September 23, 2009, contained language that required the subrecipient to certify that it was not suspended or debarred.

Inadequate identification of federal awards by the Department may lead to improper reporting of federal funding on a subrecipient's Schedule of Expenditures of Federal Awards (SEFA). Additionally, when the Department does not verify that subrecipients are not suspended or debarred, this increases the risk that the Department will enter into an agreement with an entity that is not eligible to receive federal funding. Incomplete communication of federal compliance requirements in the Department's award documents increases the risk that subrecipients will not follow federal guidelines related to administering subrecipient awards.

Subrecipients of Recovery Act Funding

The American Recovery and Reinvestment Act (Recovery Act) of 2009 required recipients to (1) maintain records that identify adequately the source and application of Recovery Act funds; (2) separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the federal award number, the CFDA number, and the amount of Recovery Act funds; and (3) require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding (Title 2, Code of Federal Regulations, Section 176.210).

Recipients of Recovery Act awards are also required to ensure that the subrecipients that receive Recovery Act funds maintain active registrations in the Central Contractor Registration (CCR) and obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number (Title 2, Code of Federal Regulations, Section 176.50, and Recovery Act, Section 1512(h)). This information is needed to allow the recipient to properly monitor subrecipient expenditures of Recovery Act funds and for oversight by the federal awarding agencies, offices of inspector general, and the U.S. Government Accountability Office.

The Department did not consistently comply with Recovery Act requirements with respect to its subrecipients. Specifically, for seven Recovery Act subrecipient awards tested:

- 5 (71 percent) did not contain evidence that the Department verified that subrecipients had obtained a DUNS number or were registered with CCR prior to award.
- 6 (86 percent) did not contain evidence that the Department, at the time of the award, notified the subrecipients of the requirement to include appropriate identification of Recovery Act funds in their SEFAs.
- 1 (14 percent) did not contain evidence that the Department ensured that the budget proposed to the subrecipient separately identified Recovery Act funds.
- 5 (71 percent) did not contain evidence that the Department separately identified to each subrecipient, and documented at the time of disbursement of funds, the Federal award number, CFDA number, and the amount of Recovery Act funds.

While the Department uses a standard template for award agreements with subrecipients, that template does not include identification of the federal award title and number, CFDA title and number, or name of the federal awarding agency. Additionally, at the time of testing, the Department did not have a process to ensure that subrecipients were registered with CCR and had obtained a DUNS number, or to notify subrecipients of required Recovery Act award notifications at time of disbursement of funds.

Inadequate identification of Recovery Act awards by the Department may lead to improper reporting of federal funding on a subrecipient's SEFA. During fiscal year 2010 the Department passed-through \$21,920,542 in Recovery Act funds to subrecipients.

During-the-award Monitoring

The Department does not have standardized processes to ensure adequate during-the-award monitoring of subrecipients by its district offices. As a result, there are different levels and types of monitoring across the district offices.

District offices provided documentation of their during-the-award monitoring for 47 subrecipients tested. This documentation included reviews of invoices for allowability, period of availability, and reporting. However, auditors identified the following issues at the district offices:

- For 7 (27 percent) of 26 subrecipients tested for which Davis-Bacon Act requirements applied, the Department was unable to provide evidence that it monitored the subrecipients' compliance with Davis-Bacon Act requirements.
- For 2 (7 percent) of 27 subrecipients tested for which quality assurance requirements applied, the Department was unable to provide evidence that it monitored the subrecipients' compliance with quality assurance requirements.

Although the Department provides monitoring guidelines to district and regional offices for the monitoring of subrecipients through its *Local Government Project Procedures Manual*, implementation of the guidelines and processes for monitoring are determined by the region and district level staff. In addition, the Department does not have a standard process for reviewing each district office's procedures and activities related to subrecipient monitoring.

By not providing direct oversight or review of monitoring procedures and activities used in each district office or region, the Department is not able to ensure that sufficient monitoring occurs at the statewide level. This also increases the risk that the Department would not detect non-compliance by subrecipients administering federally funded projects.

Corrective Action:

This finding was reissued as current year reference number: 12-144

Reference No. 11-145

Reporting

(Prior Audit Issue 10-83)

Highway Planning and Construction Cluster

Highway Planning and Construction Cluster - ARRA

Award years – Multiple

Award numbers – Multiple – ARRA 2010(669) and ARRA 2010(578)

Type of finding – Significant Deficiency and Non-Compliance

Recovery Act Section 1512 Reports

Section 1512 of the American Recovery and Reinvestment Act (Recovery Act) requires that recipients submit quarterly reports to the federal government. Information required to be submitted includes (1) the amount of Recovery Act funds received; (2) the amount of Recovery Act funds received that were expended; (3) a detailed list of all projects or activities for which Recovery Act funds were expended; (4) an estimate of the number of jobs created or retained; and (5) detailed information on any subcontracts or subgrants awarded by the recipient, including the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282) (Recovery Act Section 1512(c)).

Initial Year Written: 2009
Status: Partially Implemented

U.S. Department of
Transportation - Federal
Highway Administration

Two (4 percent) of 51 Recovery Act Section 1512 reports tested at the Department of Transportation (Department) were not supported by applicable accounting records. For these reports, Department staff incorrectly transposed two Department project numbers with two federal project numbers in the database it uses to create the reports. As a result, the Department underreported the amount of Recovery Act funds spent by \$29,994.

Quarterly reports are submitted to the federal government to comply with Recovery Act Section 1512 reporting requirements and provide transparency regarding Recovery Act funds spent. When the Department submits an inaccurate report, this decreases the reliability of the information intended for the federal government and the general public.

PR-20 Reports

Office of Management and Budget (OMB) Circular A-133 Compliance Supplement requires the Department to submit a PR-20, Voucher for Work Under Provisions of the Federal-Aid and Federal Highway Acts, as Amended (OMB No. 2125-0507). The PR-20 is required to report the total expenditures for a project that received federal aid from the Federal Highway Administration (FHWA). The report should be completed and submitted promptly after the close-out of a project.

The Department has a significant backlog of PR-20 reports it must submit to the FHWA. Auditors identified this issue in the prior audit period, and the Department implemented a corrective action plan to reduce the backlog of reports. In fiscal year 2010, the Department submitted 1,455 PR-20 reports, a significant increase from the 600 PR-20 reports it submitted in fiscal year 2009. However, as of August 31, 2010, the Department had not submitted

PR-20 reports for 1,147 projects that had been closed for more than 90 days. The projects for which the Department must still submit PR-20 reports date back to September 1992. The FHWA relies on the Department to submit PR-20 reports to close out funding and records on funded projects. Auditors tested a sample of 25 PR-20 reports the Department submitted during the year and did not identify any compliance errors.

Corrective Action:

This finding was reissued as current year reference number: 12-145

Reference No. 11-146

Special Tests and Provisions – Quality Assurance

(Prior Audit Issues 10-87 and 09-81)

Highway Planning and Construction Cluster

Award years – Multiple

Award numbers – Multiple

Type of finding – Material Weakness and Material Non-Compliance

Control Weaknesses in SiteManager

Agencies shall maintain internal control over federal programs that provides reasonable assurance that the institutions are managing federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements (Office of Management and Budget Circular A-133, Subpart C, Section 300 (b)).

Initial Year Written: 2008
Status: Partially Implemented

U.S. Department of
Transportation – Federal
Highway Administration

The Department of Transportation (Department) uses SiteManager as its system of record for quality assurance testing on its highway construction projects.

However, **SiteManager does not have sufficient controls to ensure that (1) only certified testers are able to enter and sign off on test records and (2) a tester does not also sign off as the reviewer.**

For 39 (23 percent) of 171 quality assurance samples tested, the tester and reviewer were the same individual. Department staff assert that, due to staff sizes and resource requirements, the Department is unable to ensure that each test is performed and signed off on by separate individuals. Not segregating these duties or allowing uncertified testers to complete test records may result in insufficient quality assurance testing or deficiencies in projects that cost the Department time and money to correct.

Additionally, **Department staff can turn off the “sample deficiency indicator” in SiteManager without documenting a justification in SiteManager.** Staff had turned off this indicator for 3 (8 percent) of 40 projects tested. The Department provided auditors with justification for turning off the indicator for these three projects, but this information was not included in SiteManager and Department management was not monitoring this information. The indicator tracks deficiencies in quality assurance testing and notifies project management each time an estimate is created in SiteManager when sample testing deficiencies exist. The indicator also prevents final payment to contractors if there are any testing deficiencies outstanding on a project. When the indicator is turned off for a project, SiteManager no longer tracks deficiencies in sample testing for that project.

Quality Assurance Program

Title 23, Code of Federal Regulations (CFR), Chapter 205, requires that each state transportation department “shall develop a quality assurance program which will assure that the materials and workmanship incorporated into each federal-aid highway construction project on the [National Highway System] NHS are in conformity with the requirements of the approved plans and specifications, including approved changes. The program must meet the criteria in Title 23, CFR 637, Chapter 207, and be approved by the [Federal Highway Administration] FHWA.”

Additionally, Title 23, CFR 637, Chapter 209, requires that only qualified personnel conduct sampling and testing to be used in the acceptance decision.

The Department did not always comply with the quality assurance program approved by the FHWA. Specifically:

- **Quality assurance tests for 1 (3 percent) of 40 projects tested did not comply with the requirements for each type of material as specified in the Department's *Guide Schedule for Sampling and Testing*.** This quality assurance test included a blank test documented in SiteManager and a project in SiteManager for which the required test could not be found.
- **Quality assurance tests for 6 (15 percent) of 40 projects tested were conducted by an individual who was not a certified tester.**

Additionally, **documentation for 15 (9 percent) of 171 quality assurance samples tested was not located in SiteManager.** The Department's district offices rely on SiteManager to document the results of material sampling and testing. However, district offices did not consistently retain documentation of the testing information after entering data into SiteManager. District offices still use manual methods, in conjunction with SiteManager, to document quality assurance testing, and sometimes the manually documented tests are not entered into SiteManager. Not documenting all tests in SiteManager may result in insufficient quality assurance testing.

Corrective Action:

This finding was reissued as current year reference number: 12-146

Reference No. 11-147

Procurement and Suspension and Debarment

CFDA 20.106 - Airport Improvement Program

Award year – September 1, 2009 to August 31, 2010

Award numbers – 3-48-SBGP-46-2008, 3-48-SBGP-41-2007, 3-48-SBGP-45-2007, 3-48-SBGP-36-2006, 3-48-SBGP-37-2006, 3-48-SBGP-54-2009

Type of finding – Significant Deficiency and Non-Compliance

Federal rules require that, when a non-federal entity enters into a covered transaction with an entity at a lower tier, the non-federal entity must verify that the entity is not suspended or debarred or otherwise excluded from federal contracts. This verification may be accomplished by checking the Excluded Parties List System (EPLS), collecting a certification from the entity, or adding a clause or condition to the covered transaction with that entity (Title 2, Code of Federal Regulations, Section 180.300). Covered transactions include procurement contracts for goods and services that are expected to equal or exceed \$25,000 and all non-procurement transactions (that is, subawards to subrecipients) irrespective of award amount (Title 2, Code of Federal Regulations, Sections 180.210 and 180.220).

Initial Year Written: 2010 Status: Implemented U.S. Department of Transportation - Federal Aviation Administration
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For 7 (18 percent) of 40 procurements tested, the Department of Transportation (Department) did not verify that the vendor or contractor was not suspended or debarred from federal procurements. These seven procurements were design contracts, and the Department's standard contract template for design/engineer/consultant contracts did not include a clause for vendor certification of suspension and debarment status.

In 2009, the Department redesigned its standard contract template to include a suspension and debarment clause. However, the Department did not verify that vendors or contractors on its pre-existing design/engineer/consultants contracts were not suspended or debarred. Contracts for the seven procurements noted above were issued prior to the

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redesign of the contract template. Auditors reviewed the EPLS and verified that the vendors for the seven procurements were not currently suspended or debarred. The value of the seven contracts totaled \$1,270,115.

When the Department does not verify that contractors are not suspended or debarred, this increases the risk that it will enter into an agreement with an entity that is not eligible for federal procurements.

Corrective Action:

Corrective action was taken.

Reference No. 11-148

Reporting

(Prior Audit Issues 10-90 and 09-77)

CFDA 20.106 – Airport Improvement Program

CFDA 20.106 – Airport Improvement Program - ARRA

Award year – September 1, 2009 to August 31, 2010

Award number – 3-48-SBGP-39-2005, 3-48-SBGP-058-2009 (ARRA), 3-48-SBGP-059-2009 (ARRA), 3-48-SBGP-060-2009 (ARRA), 3-48-SBGP-061-2009 (ARRA), 3-48-SBGP-062-2009 (ARRA), 3-48-SBGP-063-2009 (ARRA),

Type of finding – Significant Deficiency and Non-Compliance

Standard Form 272 and 425 Reports

The Federal Aviation Administration’s (FAA) *Airport Improvement Program Handbook* (Handbook) and Program Guidance Letters (PGL) provide specific guidance for the administration of Airport Improvement Program block grants. According to this guidance, prior to October 1, 2009, grantees were required to submit the Standard Form 272 (SF-272) quarterly for each block grant and submit a final SF-272 when grants were completed (Handbook, Sections 1301 and 1314(a), and PGL 05-02). Effective October 1, 2009, the FAA replaced the SF-272 report with the SF-425 report (PGL 10-01).

Initial Year Written:	2008
Status:	Implemented

U.S Department of Transportation - Federal Aviation Administration
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One (13 percent) of 8 reports tested was not adequately supported by data in the Department of Transportation’s (Department) accounting system. The Department did not include one of its draws in the reported amounts. While Department management reviewed this report prior to submission, this review was not sufficient to detect the omission. As a result, the Department understated its cash draws by \$161,482. The Department corrected this error when auditors brought it to the Department's attention.

The Department transitioned to the SF-425 report in October 2009 as required by the FAA. Auditors did not identify any exceptions in SF-425 reports tested for fiscal year 2010.

Recovery Act Section 1512 Reports

Section 1512 of the American Recovery and Reinvestment Act (Recovery Act) requires that recipients submit quarterly reports to the federal government. Information required to be submitted includes (1) the amount of Recovery Act funds received; (2) the amount of Recovery Act funds received that were expended; (3) a detailed list of all projects or activities for which Recovery Act funds were expended; (4) an estimate of the number of jobs created or retained; and (5) detailed information on any subcontracts or subgrants awarded by the recipient, including the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282) (Recovery Act Section 1512(c)).

For each of the six Recovery Act reports the Department submitted for the period ending June 30, 2010, the Department listed the airports to which it passed funding as subrecipients. However, in September 2010, the

Department determined that those airports were not subrecipients, and it reclassified the expenditures associated with those airports as direct expenditures. It did not submit corrected reports to the FAA.

Quarterly reports are submitted to the federal government to comply with Recovery Act Section 1512 reporting requirements and provide transparency regarding Recovery Act funds spent. Failure to make necessary corrections decreases the reliability of the information intended for the federal government and the general public.

Corrective Action:

Corrective action was taken.

Reference No. 11-149

Special Tests and Provisions – Revenue Diversion

CFDA 20.106 - Airport Improvement Program

Award year – September 1, 2009 to August 31, 2010

Award numbers – Multiple

Type of finding – Significant Deficiency and Non-Compliance

In February 2009, the Federal Aviation Administration (FAA) concurred on a policy for the Department of Transportation (Department) to monitor general aviation airport sponsors for revenue diversion. That policy requires the Department to monitor annual financial reports (AFR) and airport sponsor self-certification forms submitted by the airport sponsors. To monitor AFRs, the Department stated that it would (1) request copies of sponsor AFRs in the sponsor agreements, (2) review 25 percent of AFRs on a random basis, (3) notify the FAA if it identifies potential revenue diversion based on its AFR review, and (4) follow up as directed by the FAA. To monitor self-certification forms, the Department stated that it would (1) send self-certification forms to 25 percent of sponsors, (2) review returned forms, (3) notify the FAA if it identifies potential revenue diversion, and (4) follow up as directed by the FAA.

Initial Year Written: 2010
Status: Implemented

U.S. Department of
Transportation - Federal
Aviation Administration

The Department did not consistently monitor its airport sponsors in accordance with its FAA-approved policy. Specifically, for 3 (9 percent) of 32 airport sponsors tested that were listed as submitting an AFR, the Department could not provide evidence that it received or reviewed the AFRs. For each of these three airport sponsors, the Department received an Office of Management and Budget Circular A-133 audit report or letter certifying that an A-133 audit was not required, but it did not receive an AFR.

The Department tracks its receipt and review of AFRs using a spreadsheet, but that spreadsheet contained errors. Specifically, for 3 (10 percent) of the 29 AFRs tested that the Department received, the Department did not document its review of the AFRs on the spreadsheet. As a result, **auditors could not verify whether the Department had reviewed 25 percent of AFRs as required by its monitoring policy.**

In addition, for 2 (15 percent) of the 13 airport sponsors tested, the Department did not review the self-certification forms because the airport sponsors did not return the forms the Department sent to them. While the Department's agreement may not specifically require receipt and review of the forms it sends out, it is reasonable to assume that this is the intent of the self-certification requirement. The Department also did not consistently use its monitoring spreadsheet to track its review of sponsor airport self-certification forms. Specifically, for 2 (18 percent) of the 11 self-certification forms tested that the Department received, the Department did not document its receipt and review of the forms in its monitoring spreadsheet. As a result, **auditors could not determine whether the Department reviewed self-certification forms from 25 percent of airport sponsors as required by its monitoring policy.**

Insufficient monitoring for revenue diversion poses a risk that airport sponsors could be diverting revenue from airport activities toward unallowable activities. By not reviewing information related to revenue diversion as required by its monitoring agreement with the FAA, the Department may be unable to detect revenue diversion and report it to the FAA as its agreement requires.

Corrective Action:

Corrective action was taken.

Reference No. 10-88

Subrecipient Monitoring

Highway Safety Cluster

Award years - Multiple

Award numbers - Multiple

Type of finding - Significant Deficiency and Material Non-Compliance

Award Identification

At the time of the award, pass-through entities must identify to subrecipients the applicable compliance requirements and the federal award information, including the Catalog of Federal Domestic Assistance (CFDA) title and number, the award name and number, and the name of federal awarding agency (Office of Management and Budget (OMB) Circular A-133 Compliance Supplement, Part 3, Section M). Additionally, when a non-federal entity enters into a subaward agreement, the non-federal entity must verify that the entity is not suspended or debarred or otherwise excluded from federal contracts. This verification may be accomplished by checking the Excluded Parties List System (EPLS), collecting a certification from the entity, or adding a clause or condition to the covered transaction with that entity (Title 2, Code Federal Regulations, Section 180.300).

Initial Year Written:	2009
Status:	Implemented
U.S. Department of Transportation - National Highway Safety Traffic Administration	

For all 40 subrecipients tested for the Highway Safety Cluster, the Department of Transportation (Department) did not provide the CFDA title and number, the award name and number, the name of the federal agency, or the applicable compliance requirements to subrecipients at the time of award. The Department's standard grant agreement for fiscal year 2009 did not contain CFDA-related information.

For 4 (10 percent) of the 40 subrecipients tested for the Highway Safety Cluster, the Department also did not notify the subrecipient of OMB Circular A-133 audit requirements or verify that the subrecipient was not suspended or debarred from federal procurements. These four awards were for incentive grants awarded to law enforcement agencies for their participation in safety belt and impaired driving enforcement efforts. The Department's standard award agreement for this type of award did not contain clauses regarding OMB A-133 audit requirements or suspension and debarment.

In fiscal year 2009, the Department reported \$26,569,288 in federal pass-through to local entities. Not communicating the required award information and federal requirements to subrecipients increases the risk that subrecipients may not be informed and not comply with federal requirements. The absence of clear communication related to the federal award also increases the potential for misreporting of federal awards by the Department and the subrecipients on the Schedule of Expenditures of Federal Awards.

A-133 Single Audit Monitoring

According to OMB Circular A-133, Compliance Supplement Part 3, Section M, the Department must ensure that subrecipients expending federal funds of \$500,000 or more obtain an OMB Circular A-133 Single Audit and provide a copy of the audit report to the Department. The Department is required to review the audit report and to issue a management decision, if applicable. OMB Circular A-133, March 2009 Compliance Supplement Part 3, Section M, requires the Department to issue a management decision on audit findings within six months after receipt of a subrecipient's audit report. In cases of continued inability or unwillingness of a subrecipient to obtain the required audits, the Department must take appropriate action using sanctions.

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Twenty-nine (76 percent) of 38 subrecipients tested either did not have an A-133 Single Audit on record with the Department for fiscal year 2008 when an audit was required or did not have confirmation on file that the audit was not required. According to the Federal Audit Clearinghouse, 8 (28 percent) of these 29 subrecipients had submitted an A-133 Single Audit report for fiscal year 2008. The audit report for one of these entities contained a finding related to the data collection form not being submitted in a timely manner to the OMB-designated federal clearinghouse. The Department was not aware of the issue because it did not obtain the audit report from the subrecipient. The Department did not have a process to ensure that it maintained a log of audit reports received or audit findings that required follow-up. Additionally, the Department did not have a sanction policy for subrecipients of Highway Safety Cluster awards that do not adhere to A-133 Single Audit requirements. Weak monitoring results in diminished oversight and increases the potential of program funds not being spent as intended.

Corrective Action:

Corrective action was taken.

Reference No. 10-91

Reporting

CFDA 20.509 - Formula Grants for Other Than Urbanized Areas

Award year - October 1, 2008 to September 30, 2009

Award number - TX-18-X028-02, TX-18-X029-04, TX-18-X030-01, and TX-18-X031-02

Type of finding - Significant Deficiency and Non-Compliance

Recipients are responsible for managing, monitoring, and reporting performance for each project, program, subaward, function, or activity supported by the award. Recipients use the *Financial Status Report* (FSR) SF-269 (Office of Management and Budget (OMB) No. 0348-0039) or SF-269A (OMB No. 0348-0038) to report the status of funds for all non-construction projects and for construction projects when the FSR is required in lieu of the SF-271 (Title 49, Code of Federal Regulations, Section 18.41). Federal Transit Administration Circular 9040.1F requires recipients to submit an FSR annually on an accrual basis documenting costs incurred and available balances.

Initial Year Written: 2009 Status: Partially Implemented

U.S. Department of Transportation - Federal Transit Administration
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For 5 (83 percent) of 6 FSRs tested for the Formula Grants for Other Than Urbanized Areas program, the Department of Transportation (Department) reported non-federal share amounts that were not supported by its accounting records. The Department did not use or have accounting records to determine non-federal outlays and the non-federal share of unliquidated obligations. The Department serves as a pass-through for this program and did not track the local source amount of the non-federal share. The Department is capable of tracking the state source amount of the non-federal share; however, it did not use state accounting records to determine the non-federal amounts it reported on its FSRs. The Department determined non-federal outlay and unliquidated obligation amounts by multiplying the federal outlay amounts by the mandated matching requirements, instead of using actual non-federal costs incurred.

Corrective Action:

This finding was reissued as current year reference number: 12-148

TRANSPORTATION, DEPARTMENT OF

Reference No. 10-92

Subrecipient Monitoring

CFDA 20.509 - Formula Grants for Other Than Urbanized Areas

CFDA 20.509 - Formula Grants for Other Than Urbanized Areas - ARRA

Award year - October 1, 2008 to September 30, 2009

Award numbers - TX-18-X029-00, TX-18-X030-02, TX-18-X031-02, TX-18-X032-00, and TX-86-X001-01 (ARRA)

Type of finding - Material Weakness and Material Non-Compliance

The Department of Transportation (Department) as a pass-through entity is responsible for monitoring subrecipients' use of federal awards. The Department currently monitors 39 rural transit districts and several intercity bus providers to ensure they comply with the requirements for the Formula Grants for Other Urbanized Areas program. Monitoring is accomplished through the Department's 25 district public transportation coordinators who oversee various federal programs within their jurisdictions. Public transportation coordinators perform numerous duties including quarterly on-site visits, annual compliance on-site reviews, review of financial records, approval of monthly invoices, tracking of procurement activities, reviews of reports, issuance of improvement action plans when deficiencies are noted, discussion of problems encountered or need for technical assistance, and monitoring of compliance with federal regulations and provisions of grant agreements.

Initial Year Written: 2009 Status: Partially Implemented U.S. Department of Transportation - Federal Transit Administration

Pre-award Documentation

At the time of the award, pass-through entities must identify to subrecipients the applicable compliance requirements and the federal award information, including the Catalog of Federal Domestic Assistance (CFDA) title and number, the award name and number, and the name of federal awarding agency (Office of Management and Budget (OMB) Circular A-133 Compliance Supplement, Part 3, Section M). However:

- For all 41 subrecipient agreements tested, the Department did not include the federal award number on the award documentation it provided to the subrecipient. The Department uses a standard template for subrecipient awards, but it did not include the federal award number in that template.
- For 6 (15 percent) of 41 subrecipient agreements tested, the Department also did not notify subrecipients of the federal awarding agency's name; for 4 of those 6, it also did not include the CFDA number for the grant. These subrecipient agreements were all for intercity bus providers. The standard agreement for this type of subrecipient did not contain the awarding agency's name or CFDA number.

These issues increase the risk of subrecipients misreporting program expenditures on their schedule of expenditures of federal awards.

During the Award Monitoring

The Department monitors its subrecipients compliance with federal requirements through several methods. As part of the monitoring process, the Department's Public Transportation Coordinators conduct monthly invoice reviews to ensure matching, cash management, period of availability, and program income requirements are being met. The review does not include a review for the allowability of items purchased with federal funds. However, the Department does conduct quarterly on-site visits, which include a limited review of transactions for allowable costs and activities. Additionally, the Department conducts an annual compliance review of its subrecipients, which includes nine program areas. A review of Charter Services and School Bus Operations to ensure compliance with applicable federal regulations related to this Special Test.

Public Transportation Coordinators perform additional duties, which include monitoring and documenting the subrecipients compliance with federal procurement guidelines multiple times throughout the year and performing biannual equipment inventories.

TRANSPORTATION, DEPARTMENT OF

The Department does not consistently conduct annual compliance reviews and other periodic monitoring, including review of Charter Services or school bus operations. Specifically:

- For 8 (20 percent) of 41 subrecipients tested, the Department did not perform an annual compliance review or annual review of Charter Services and School bus operations for fiscal year 2009.
- For 15 (42 percent) of 36 subrecipients tested, auditors could not verify that the Public Transportation Coordinator had performed its required biennial equipment inventory due to insufficient documentation.
- For 3 (16 percent) of 19 subrecipients tested, the Department's Public Transportation Coordinator did not document the procurement of equipment by subrecipients to ensure compliance with federal requirements. Total cost of the three pieces of equipment was \$164,368.

The Department does not consistently perform quarterly on-site reviews to determine the allowability of the subrecipient's costs. Specifically:

- For 6 (15 percent) of 41 subrecipients tested, the Department did not perform any quarterly on-site reviews to review allowable costs for fiscal year 2009.
- For 2 (5 percent) of the 41 subrecipients tested, the Department did not perform its required second quarter review for allowable costs.
- Additionally, the Department's process for reviewing allowable costs in its quarterly review is to select two expenditures, to review for allowability. However, the Department does not perform a monthly review of all expenditures of the subrecipient.

The Department does not consistently review monthly invoices to determine its subrecipient's compliance with matching, cash management, program income, and period of availability requirements. Specifically:

- For 13 (32 percent) of 41 subrecipients tested, the federal match amount on monthly invoices could not be verified due to lack of supporting documentation.
- For 12 (32 percent) of 37 subrecipients tested, the program income amount on monthly invoices could not be verified due to lack of supporting documentation.
- For 1 (3 percent) of 41 subrecipients tested, farebox revenue was not subtracted from operating expense prior to determining the federal share amount for reimbursement. This resulted in an overcharge of \$1,312 to the federal share of operating expenses on the monthly invoice causing the miscalculation of the federal match amount.
- For 1 (2 percent) of 41 subrecipients tested, the subrecipient charged 70 percent of operating assistance expenses to the 5311 Rural and Small Areas program instead of the required 50 percent. This resulted in an overcharge of \$4,052 to the federal share of operating expenses on the monthly invoice.
- For 1 (2 percent) of 41 subrecipients tested, the subrecipient charged \$5,476 of expense incurred by the 5307 Large Urban Cities program to the 5311 Rural and Small Areas program. The total invoice amount of \$6,200 also was miscoded as well. The \$6,200 were operating expenses, however, the Public Transportation Coordinator charged the operating expenses to the administrative account since the operating account was fully expended.

By not reviewing monthly invoices for match and program income requirements, the Department could be charging the incorrect amount of federal funds to the 5311 program and subrecipients could profit at the federal government's expense. In addition, by not properly conducting on-site visits both quarterly and annually, the Department is increasing the risk of significant non-compliance with federal rules and regulations including non-compliance with allowable activities and special tests and provisions. Furthermore, the Department by not verifying subrecipients are following federal procurement guidelines and performing inventory of purchased equipment with federal funds could result in the subrecipient purchasing unallowable items or disposing of vehicles without the Department's approval and knowledge. Each of the issues identified above may also bring sanctions and recoup future payments to the Department.

Corrective Action:

This finding was reissued as current year reference number: 12-149

Reference No. 10-93

Subrecipient Monitoring

Special Tests and Provisions - R3, Subrecipient Monitoring-Applicable to all Major Programs with Expenditures of ARRA Awards

CFDA 20.509 - Formula Grants for Other Than Urbanized Areas – ARRA

Award year - October 1, 2008 to September 30, 2009

Award number - TX-86-X001-01 and TX-86-X002-00

Type of finding - Significant Deficiency and Non-Compliance

Initial Year Written: 2009
Status: Partially Implemented

U.S. Department of
Transportation - Federal
Transit Administration

The American Recovery and Reinvestment Act (ARRA) of 2009 required recipients to separately identify to each subrecipient--and document at the time of sub-award and at the time of disbursement of funds--the federal award number, Catalog of Federal Domestic Assistance (CFDA) number, and amount of ARRA funds. In addition, recipients must require their subrecipients to (1) agree to maintain records that identify adequately the source and application of ARRA awards; (2) separately identify to each subrecipient and document at the time of subaward and disbursement of funds, the federal award number, CFDA number, and amount of ARRA funds; and (3) provide identification of ARRA awards in their schedule of expenditures of federal awards (SEFA) and require subrecipients to do the same (Title 2, Code of Federal Regulations, Section 176.210). Recipients of ARRA awards also are required to ensure subrecipients that receive ARRA funds maintain active registrations in the Central Contractor Registration (CCR) and obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number (Title 2, Code of Federal Regulations, Section 176.50). This information is needed to allow the recipient to properly monitor subrecipient expenditures of ARRA funds and for oversight by the federal awarding agencies, offices of inspector general, and the Government Accountability Office.

The Department of Transportation (Department) did not consistently comply with ARRA requirements with respect to its subrecipients for the Formula Grants for Other Than Urbanized Areas program. Specifically:

- For all 45 ARRA project grant agreements tested, the Department did not notify the subrecipient of the federal award number at the time of the award. The Department's standard agreement for subrecipient awards did not contain the federal award number.
- For 39 (87 percent) of 45 ARRA project grant agreements tested, the Department did not notify the subrecipient at the time of award of the requirement that subrecipients provide identification of ARRA awards in their SEFAs. The Department executed the agreements prior to additional clarification from the U.S. Office of Management and Budget regarding ARRA requirements.
- For all five subrecipients who received ARRA disbursements during the fiscal year, the Department did not notify the subrecipient at the time of ARRA disbursement of the federal award number, CFDA number, amount of ARRA funds disbursed, requirement to maintain records that identify adequately the source and application of ARRA awards, and provide identification of ARRA awards in their SEFAs.

The Department was not aware of the ARRA requirement for pre-award identification and disbursement notification at the time of the initial execution of the ARRA grant agreements because it executed ARRA grant agreements prior to guidance being established for ARRA disbursement requirements. During fiscal year 2009, the Department executed 47 ARRA project grant agreements and passed through \$982,277 to five ARRA subrecipients.

Corrective Action:

This finding was reissued as current year reference number: 12-149

Appendix

Objectives, Scope, and Methodology

Objectives

With respect to selected major programs at the Department of Transportation (Department), the objectives of this audit were to (1) obtain an understanding of internal controls, assess control risk, and perform tests of controls unless the controls were deemed to be ineffective and (2) provide an opinion on whether the State complied with the provisions of laws, regulations, and contracts or grants that have a direct and material effect on the selected major programs at the Department.

Scope

The audit scope covered federal funds that the State spent for selected major programs at the Department from September 1, 2010, through August 31, 2011. The audit work included control and compliance work at the Department.

Methodology

The audit methodology included developing an understanding of controls over each compliance area that was material to selected major programs at the Department. Auditors conducted tests of compliance and of the controls identified for each compliance area and performed analytical procedures when appropriate. Auditors assessed the reliability of data the Department provided and determined that the data provided was reliable for the purposes of expressing an opinion on compliance with the provisions of laws, regulations, and contracts or grants that have a direct and material effect on the selected major programs at the Department.

Information collected and reviewed included the following:

- Department expenditure, procurement, reporting, cash revenue, required matching, program income, subrecipient, quality assurance testing, and project approval data.
- Federal notices of award and award proposals.
- Transactional support related to expenditures, procurement, and revenues.
- Department-generated reports and data used to support reports, revenues, and other compliance areas.

- Information system support for Department assertions related to general controls over information systems that support the control structure related to federal compliance.

Procedures and tests conducted included the following:

- Analytical procedures performed on expenditure data to identify instances of non-compliance.
- Compliance testing for samples of transactions for each direct and material compliance area.
- Tests of design and effectiveness of key controls and tests of design of controls to assess the sufficiency of the Department's control structure.
- Tests of design and effectiveness of general controls over information systems that support the control structure related to federal compliance.

Criteria used included the following:

- The Code of Federal Regulations.
- Office of Management and Budget Circulars A-87, A-102, and A-133.
- The American Recovery and Reinvestment Act.
- Federal notices of award and award proposals.
- Department Policies and Procedures.

Project Information

Audit fieldwork was conducted from August 2011 through December 2011. Except as discussed above in the Independent Auditor's Report, we conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

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