



John Keel, CPA
State Auditor

A Report on

**State of Texas Compliance with
Federal Requirements for the
Highway Planning and
Construction Cluster at the
Department of Transportation
for the Fiscal Year Ended
August 31, 2014**

February 2015

Report No. 15-024



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Overall Conclusion

The State of Texas complied in all material respects with the federal requirements for the Highway Planning and Construction Cluster in fiscal year 2014.

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 \$500,000¹ in federal awards in a fiscal year to obtain annual Single Audits. Those audits test compliance with federal requirements in up to 14 areas that may have a material effect on a federal program at those non-federal entities. Examples of types of compliance areas include 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 \$73,923,376 in federal funds during fiscal year 2014 and (2) other selected federal programs.

From September 1, 2013, through August 31, 2014, the State of Texas expended \$49.1 billion in federal funds. The State Auditor's Office audited compliance with requirements for the Highway Planning and Construction Cluster at the Department of Transportation (Department), which spent \$3.14 billion in funds from that cluster during fiscal year 2014.

The Highway Planning and Construction Cluster

The Highway Planning and Construction Cluster of federal programs, which includes programs administered by the Federal Highway Administration, provides funds to assist states in the planning and development of an integrated, interconnected transportation system and for the replacement of public roads and bridges.

¹ Title 2, Code of Federal Regulations, Section 200, supersedes OMB Circular A-133 and, for fiscal years beginning on or after December 26, 2014, increases the Single Audit threshold to \$750,000 in federal expenditures in a fiscal year.

Key Points

The Department complied in all material respects with requirements for the Highway Planning and Construction Cluster.

Although auditors identified findings at the Department, it is important to note that no finding was material to the federal cluster audited. While that indicates that the State of Texas complied in all material respects with the requirements tested, the Department should correct certain non-compliance and significant deficiencies, which are summarized below (see text box for definitions of reportable finding classifications).

The Department did not always comply with requirements related to the Davis-Bacon Act, procurement and suspension and debarment, reporting, subrecipient monitoring, quality assurance, and utilities.

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 2014. Those certifications are evidence that the contractors paid their employees prevailing wage rates in compliance with the Davis-Bacon Act.

The Department did not maintain documentation of the prequalification statements it issued to the potential bidders (prequalification statements identify the periods and dollar amounts of the potential bidders' bidding capacity).

The Department did not always submit required Federal Funding and Accountability Transparency Act reports because it did not have an effective process to identify federal subawards that were subject to the reporting requirements.

The Department did not consistently (1) include all required elements in its subaward agreements, (2) obtain Data Universal Numbering System (DUNS) numbers for subrecipients, (3) assess subrecipients' compliance with Central Contractor Registration system or System for Award Management registration requirements, and (4) issue all required letters of authority to document its assurance that all preliminary engineering and designs meet specifications and that subrecipients are capable of proceeding to the construction phase of the project. In addition, the Department was unable to provide evidence that it provided a letter of concurrence showing that it approved subrecipients' procurement policies and contractor selection.

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 did not always comply with the quality assurance program that the Federal Highway Administration approved. The Department could not always provide evidence that certified testers conducted required tests. In addition, the automated system the Department uses to administer its quality assurance program, SiteManager, did not prevent the same individual from both conducting and reviewing those tests.

The Department was not always able to provide evidence of a utility agreement or support for utility relocation work performed on construction projects.

The Department did not always maintain appropriate segregation of duties for its key information technology systems related to the Highway Planning and Construction Cluster.

The Department did not appropriately restrict access to SiteManager, the Electronic Project Records System, the Electronic Time Sheet Application, the Right of Way Information System, and the Federal Aid Funding Obligation System. Specifically, the Department did not immediately remove former contractor employees' individual account access to production application or database servers. In addition, current employees had inappropriate access based on their job functions, and the Department did not remove former employees' access when their employment was terminated. In addition, developers had access to make modifications to the production database or application environment.

Auditors followed up on 10 findings from prior fiscal years for the Highway Planning and Construction Cluster and the Formula Grants for Other Than Urbanized Areas Program.

For the Highway Planning and Construction Cluster, the Department implemented corrective action for two findings from the prior fiscal year. One finding from the prior fiscal year was no longer valid because the Department replaced its Federal Project Authorization and Agreement System with a new system as of July 2014. The State Auditor's Office reissued five findings from prior fiscal years as fiscal year 2014 findings in this report.

The Department implemented recommendations for two findings from the prior fiscal year related to 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 the Department's key information technology systems related to the Highway Planning and Construction Cluster. As discussed above, auditors identified issues at the Department involving segregation of duties for several Department systems.

Summary of Objectives, Scope, and Methodology

With respect to the Highway Planning and Construction Cluster, the objectives of the audit were to (1) obtain an understanding of internal controls over compliance, assess the control risk of noncompliance, and perform tests of those controls unless 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 Highway Planning and Construction Cluster.

The audit scope covered federal funds that the State spent for the Highway Planning and Construction Cluster at the Department from September 1, 2013, through August 31, 2014. The audit work included control and compliance tests at the Department.

The audit methodology included developing an understanding of controls over each compliance area that was direct and material to the Highway Planning and Construction Cluster. Auditors' sampling methodology was based on the American Institute of Certified Public Accountants' audit guide entitled *Government Auditing Standards and Circular A-133 Audits* dated February 1, 2014. Auditors conducted tests of compliance and of the controls identified for each direct and material compliance area and performed analytical procedures when appropriate. Auditors assessed the reliability of data the Department provided and determined that the data was sufficiently 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 cluster identified above.

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Independent Auditor's Report

*State of Texas Compliance with
Federal Requirements for
the Highway Planning and Construction
Cluster at the
Department of Transportation
for the Fiscal Year Ended
August 31, 2014*

**Report on Compliance for the Highway Planning and Construction Cluster, and Report on
Internal Control Over Compliance Required by OMB Circular A-133**

Independent Auditor's Report

The Honorable Greg Abbott, Governor
The Honorable Dan Patrick, Lieutenant Governor
The Honorable Joe Straus III, Speaker of the House of Representatives
and
Members of the Legislature, State of Texas

Report on Compliance for the Highway Planning and Construction Cluster

We have audited the State of Texas's (State) compliance with the types of compliance requirements described in the *OMB Circular A-133 Compliance Supplement* that could have a direct and material effect on the Highway Planning and Construction Cluster for the year ended August 31, 2014. The State's major federal program at the Department of Transportation is identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

Management's Responsibility

Management is responsible for compliance with the requirements of laws, regulations, contracts, and grants applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on the State's compliance for the Highway Planning and Construction Cluster based on our audit of the types of compliance requirements referred to above. Except as discussed in the following paragraph, we conducted our audit of compliance in accordance with auditing standards generally accepted in the United State 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 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.

This audit was conducted as part of the State of Texas Statewide Single Audit for the year ended August 31, 2014. As such, the Highway Planning and Construction Cluster was selected as a major program based on the State of Texas as a whole for the year ended August 31, 2014. The State does not meet the OMB Circular A-133 requirements for a program-specific audit and the presentation of the Schedule of Federal 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 intent of those requirements.

We believe that our audit provides a reasonable basis for our opinion on compliance for the Highway Planning and Construction Cluster. However, our audit does not provide a legal determination of the State's compliance.

Opinion on the Highway Planning and Construction Cluster

In our opinion, the State complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on the Highway Planning and Construction Cluster for the year ended August 31, 2014.

Other Matters

The results of our auditing procedures disclosed instances of noncompliance, 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	Compliance Requirement	Finding Number
Department of Transportation	CFDA 20.205 - Highway Planning and Construction Cluster	Davis-Bacon Act	2014-132
	CFDA 20.205 - Highway Planning and Construction Cluster - ARRA		
	CFDA 20.205 - Highway Planning and Construction Cluster	Procurement and Suspension and Debarment	2014-134
	CFDA 20.205 Highway Planning and Construction Cluster	Real Property Acquisition Relocation Assistance	2014-135
	CFDA 20.205 - Highway Planning and Construction Cluster - ARRA	Special Tests and Provisions - Use of Other State or Local Government Agencies	
		Special Tests and Provisions - Utilities	
	CFDA 20.205 Highway Planning and Construction Cluster	Reporting	2014-136
	CFDA 20.205 - Highway Planning and Construction Cluster	Subrecipient Monitoring	2014-137
	CFDA 20.205 - Highway Planning and Construction Cluster - ARRA	Special Tests and Provisions - R3 - Subrecipient Monitoring	
CFDA 20.205 Highway Planning and Construction Cluster	Special Tests and Provisions - Quality Assurance Program	2014-138	
CFDA 20.205 - Highway Planning and Construction Cluster - ARRA	Special Tests and Provisions - Project Extensions		

Our opinion on the Highway Planning and Construction Cluster is not modified with respect to these matters.

The State’s response to the noncompliance findings identified in our audit is described in the accompanying schedule of findings and questioned costs. The State’s response was not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

Report on Internal Control Over Compliance

Management of the State is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the State’s internal control over compliance with the types of requirements that could have a direct and material effect on the Highway Planning and Construction Cluster to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for the Highway Planning and Construction Cluster 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.

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. *A significant deficiency in internal control over compliance* is a deficiency, or 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.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, we identified certain deficiencies in internal control over compliance, as described in the accompanying schedule of findings and questioned costs, that we consider to be significant deficiencies:

Agency	Cluster	Compliance Requirement	Finding Number
Department of Transportation	CFDA 20.205 - Highway Planning and Construction Cluster	Activities Allowed or Unallowed	2014-131

Agency	Cluster	Compliance Requirement	Finding Number
	CFDA 20.205 - Highway Planning and Construction Cluster	Davis-Bacon Act	2014-132
	CFDA 20.205 - Highway Planning and Construction Cluster - ARRA		
	CFDA 20.205 - Highway Planning and Construction Cluster	Period of Availability of Federal Funds	2014-133
	CFDA 20.205 - Highway Planning and Construction Cluster	Procurement and Suspension and Debarment	2014-134
	CFDA 20.205 - Highway Planning and Construction Cluster	Real Property Acquisition Relocation Assistance	2014-135
	CFDA 20.205 - Highway Planning and Construction Cluster - ARRA	Special Tests and Provisions - Use of Other State or Local Government Agencies	
		Special Tests and Provisions - Utilities	
	CFDA 20.205 Highway Planning and Construction Cluster	Reporting	2014-136
	CFDA 20.205 Highway Planning and Construction Cluster	Subrecipient Monitoring	2014-137
	CFDA 20.205 - Highway Planning and Construction Cluster - ARRA	Special Tests and Provisions - R3 - Subrecipient Monitoring	
	CFDA 20.205 Highway Planning and Construction Cluster	Special Tests and Provisions - Quality Assurance Program	2014-138
	CFDA 20.205 - Highway Planning and Construction Cluster - ARRA	Special Tests and Provisions - Project Extensions	

Schedule of Federal Program Expenditures

The accompanying Schedule of Federal Program Expenditures for the Highway Planning and Construction Cluster of the State for the year ended August 31, 2014, 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, 2014*.

John Keel, CPA
State Auditor

February 20, 2015

**Schedule of Federal Program Expenditures for
the Highway Planning and Construction Cluster
For the State of Texas
For the Year Ended August 31, 2014**

Schedule of Federal Program Expenditures Highway Planning and Construction Cluster			
Agency	Federal Pass- through to Non-state Entity	Federal Direct Expenditures	Totals
Department of Transportation			
Other than American Recovery and Reinvestment Act	\$318,738,996	\$2,792,804,628	\$3,111,543,624
American Recovery and Reinvestment Act	\$2,043,564	\$28,589,096	\$30,632,660
Totals for Highway Planning and Construction Cluster	\$320,782,560	\$2,821,393,724	\$3,142,176,284
<p>Note 1: This schedule of federal program expenditures is presented for informational purposes only. For the State's complete Schedule of Expenditures of Federal Awards, see the <i>State of Texas Federal Portion of the Statewide Single Audit Report for the Fiscal Year Ended August 31, 2014</i>.</p> <p>Note 2: Federal expenditures for the Highway Planning and Construction Cluster at state entities not included in the scope of this audit totaled \$9,974,142 for the year ended August 31, 2014.</p>			

Schedule of Findings and Questioned Costs

*State of Texas Compliance with
Federal Requirements for
the Highway Planning and Construction
Cluster at the
Department of Transportation
for the Fiscal Year Ended
August 31, 2014*

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 Year Ended August 31, 2014*.

Federal Awards

Internal Control over major programs:

Material weakness(es) identified? No

Significant deficiency(ies) identified? Yes

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

Unmodified

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

Dollar threshold used to distinguish between type A and type B programs: \$73,923,376

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 Year Ended August 31, 2014*.

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. 2014-131

Activities Allowed or Unallowed

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 Employee Time Sheet Application (ETSA) system to capture employee timesheet information and help ensure that it obtains required approvals from management. **The Department did not appropriately restrict access to the ETSA system.** Specifically:

- The individual accounts to the production application server for five former contractor employees were not removed immediately upon those individuals' terminations.
- The individual accounts to the production database server for one current employee of another state agency, nine former contractor employees, three former Department employees, and two former personnel that the Department could not identify were not removed immediately upon those individuals' terminations.

The Department's periodic user access review process was not effective in identifying and removing inappropriate access. Specifically, the Department has an automated process to notify responsible personnel of changes in the status of users' employment; however, the Department does not have a process to help ensure that it reviews and modifies access as necessary.

Access to the production environment should be restricted to current and appropriate personnel, based on job functions, to help ensure that adequate controls are in place and appropriate segregation of duties exists. Allowing inappropriate access to systems increases the risk of inappropriate changes to data.

Recommendations:

The Department should:

- Strengthen its periodic review process to help ensure that it identifies and removes inappropriate access in a timely manner.
- Limit user access to current personnel and current contractor personnel, and ensure that access is appropriate based on job function.

Management Response and Corrective Action Plan:

- *ETSA has been removed from production and is scheduled to be decommissioned.*
- *Access to ETSA has been limited to 6 essential administrators.*
 - *Access levels have been verified on each account with access and appropriate access has been granted.*

Implementation Date: February 2015

Responsible Persons: Aaron Hix and Marc Yoder

Reference No. 2014-132

Davis-Bacon Act

(Prior Audit Issues 2013-156, 13-134, 12-142, 11-142, and 10-82)

Highway Planning and Construction Cluster

Highway Planning and Construction Cluster - ARRA

Award years – 2010, 2012, and 2013

Award numbers – IM 0356(438), BR 2010(786), NH 2013(887), NH 2013(889), STP 2013(176), STP 2013(275), STP 2012(145), and STP 2012(453)

Type of finding – Significant Deficiency and Non-Compliance

When required by the Davis-Bacon Act, the U.S. Department of Labor’s governmentwide implementation of the Davis-Bacon Act, the American Recovery and Reinvestment Act, or 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 U.S. Department of Labor (Title 40, United States Code, Sections 3141-3142).

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

Non-federal entities shall include in their construction contracts subject to the Davis-Bacon Act a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and U.S. Department of Labor regulations (Title 29, Code of Regulations (CFR), Part 5, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction). That includes a requirement for the contractor or subcontractor to submit to the non-federal entity on a weekly basis, for each week in which any contract work is performed, a copy of the payroll and a statement of compliance (certified payrolls) signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract (Title 29, CFR, Sections 5.5). That reporting can be done using Optional Form WH-347, which includes the required statement of compliance (U.S. Office of Management and Budget No. 1215-0149).

For 8 (13 percent) of 60 construction projects tested, the Department of Transportation (Department) did not ensure that contractors submitted certified payrolls in accordance with federal regulations for fiscal year 2014. Specifically, the Department could not provide 25 certified weekly payrolls for the period tested, did not ensure that contractors signed the statements of compliance, and did not ensure that the statements of compliance submitted included all required information. The total amount of federal funds expended on those 8 projects, including payroll and non-payroll costs, was \$17,062,162.

The Department did not have a standardized process for its district offices to track certified payrolls that contractors submit. Each area office within each Department district office determined its own method for ensuring that contractors submitted certified payrolls, including ensuring that the statements of compliance were complete and

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signed by the contractors. Not having a standardized process increases the risk that the Department may not identify the contractors that have not submitted weekly certified payrolls. When the Department does not collect certified payrolls from its contractors, it cannot ensure that contractor and subcontractor employees are properly classified and being paid prevailing wage rates in accordance with the Davis-Bacon Act.

General Controls

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)).

The Department of Transportation (Department) uses the Electronic Project Records System (EPRS) to process and track weekly payroll submissions by contractors. **The Department did not appropriately restrict access to the EPRS system.** Specifically:

- The Department's information technology services provider is responsible for managing two local administrator accounts on the production application server and does not know which personnel have access to those accounts.
- The individual accounts to the production application server for four former contractor employees and one former Department employee were not removed immediately upon those individuals' terminations.
- The individual accounts to the production database server for one current employee of another state agency and eight former contractor employees were not removed immediately upon those individuals' terminations.

The Department's periodic user access review process was not effective in identifying and removing inappropriate access. Specifically, the Department has an automated process to notify responsible personnel of changes in users' employment; however, the Department does not have a process to ensure that it reviews and modifies access as necessary.

Access to the production environment should be restricted to current and appropriate personnel, based on job functions, to help ensure adequate controls are in place and appropriate segregation of duties exists. Allowing inappropriate access to systems increases the risk of inappropriate changes to data.

Recommendation:

The Department should:

- Enhance its monitoring to ensure that its contractors submit all required certified payrolls.
- Strengthen its periodic review process to help ensure that it identifies and removes inappropriate access in a timely manner.
- Limit user access to current personnel and current contractor personnel, and ensure that access is appropriate based on job functions.

Management Response and Corrective Action Plan:

Construction Division:

Due to various system compatibility issues, CST abandoned the previous idea of requiring all contractors and subcontractors to submit certified payrolls through EPRS.

CST staff attended a Department of Labor training conference in March of 2014, at which LCP Tracker presented data on its software program for collecting 100% of payrolls. The Department has entered into contract with software consulting firm B2GNow, which has been working with the Office of Civil Rights in designing modules to suit other Department needs. B2GNow has partnered with LCP Tracker, and over the past year, CST has hosted a

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series of meetings and demonstrations, the most recent of which occurred January 28, 2015. Several more demonstrations need to take place before the product is ready for rollout.

Implementation Date: December 2015

Responsible Person: John F. Obr

CST will meet with TxDOT IT Security and NTT Data, the responsible parties for user security, to determine an action plan and implement the recommended changes.

Implementation Date: August 2015

Responsible Person: John F. Obr

Information Technology Division:

- *To strengthen TxDOT's periodic access controls review process to help ensure that inappropriate access to the EPRS system is identified and removed:*
 - *ITD will contact the individual business application owner to remind the business to complete annual access controls to remove all legacy accounts.*
 - *NTT DATA application delivery manager to work with the application business owner to define frequency of review and what assistance ITD can provide.*
 - *ITD will remove access to application based on business application owner reviews.*
 - *IT Security will remove user access and the request will be tracked to closure in TxDOTNow.*
- *The business application owner reviews of access controls will ensure access is limited to current personnel and contractor personnel and is based on job function.*
 - *NTT DATA application delivery manager to work with the business application owner to review access and document appropriateness to job function.*
 - *A process to automate the access control review task is being established.*

Implementation Date: May 2015

Responsible Persons: Aaron Hix and Marc Yoder

Reference No. 2014-133

Period of Availability of Federal Funds

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 Aid Funding Obligation System (FAFOS) to process and track project approvals from the Federal Highway Administration.

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FAFOS 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 beginning work on any federal aid project (Title 23, Code of Federal Regulations, Section 630.106).

The Department did not appropriately restrict access to the FAFOS system. Specifically:

- Five developers had administrative access to the production application environment, and one of those five developers also had individual account access to make modifications to the production database.
- Developers used a shared account that existed on the production database. That account gave developers access to make modifications to the production database.
- Individual accounts to the production Web application server and the production database server for five former contractor employees were not removed immediately upon those individuals' terminations.
- Individual accounts to the production database for three former contractor employees and one former Department employee were not removed immediately upon those individuals' terminations. Access to the production database and the production database server for one employee of another state agency was not removed immediately upon that individual's termination.

The Department's periodic user access review process was not effective in identifying and removing inappropriate access. Specifically, the Department has an automated process to notify responsible personnel of changes in the status of users' employment; however, the Department does not have a process to ensure that it reviews and modifies access as necessary.

In fiscal year 2014, the Department made 14 changes to FAFOS and, based on audit testing of 4 of those changes, the same individual made the change and migrated the change to the production environment. Five developers responsible for developing changes for FAFOS also implemented those changes in the production environment. Access to deploy code into production is not appropriately restricted through segregation of duties controls established as part of the Department's change management process.

Access to the production environment should be restricted to current and appropriate personnel, based on job functions, to help ensure that adequate controls are in place and appropriate segregation of duties exists. A developer with access to migrate changes to any production system or environment increases the risk of unauthorized changes to production applications and data and does not allow for adequate segregation of duties. In general, developers should not have access to migrate changes to the production environment. Allowing inappropriate access to systems increases the risk of inappropriate changes to data and does not allow for proper segregation of duties.

The issues discussed above affected all awards for the Highway Planning and Construction Cluster on the State's Schedule of Expenditures of Federal Awards.

Recommendations:

The Department should:

- Strengthen its periodic review process to help ensure that it identifies and removes inappropriate access in a timely manner.
- Properly segregate duties so that developers do not have access to any production environment.
- Limit user access to current personnel and current contractor personnel, and ensure that access is appropriate based on job functions.

Management Response and Corrective Action Plan:

- *To strengthen TxDOT's periodic access controls review process to help ensure that inappropriate access to the FAFOS system is identified and removed:*

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- *ITD will contact the individual business application owner to remind the business to complete annual access controls to remove all legacy accounts.*
 - *NTT DATA application delivery manager to work with the application business owner to define frequency of review and what assistance ITD can provide.*
- *ITD will remove access to application based on business application owner reviews.*
 - *IT Security will remove user access and the request will be tracked to closure in TxDOTNow.*
- *The business application owner reviews of access controls will ensure access is limited to current personnel and contractor personnel and is based on job function.*
 - *NTTDATA application delivery manager to 'work with the business application owner to review access and document appropriateness to job function.*
 - *A process to automate the access control review task is being established.*
- *Application developer access to the production FAFOS environment will be limited to read only access.*
 - *Implementation process of migrating new application code into production will be improved to restrict developers to access production database.*
 - *Developer Access role will be added into FAFOS application to restrict administrative access to developers.*
- *TxDOT has established a Change Advisory Board to ensure all controlled changes to production databases are vetted and approved prior to implementation.*

Implementation Date: August 2015

Responsible Persons: Aaron Hix, Marc Yoder, Bob Dority, and David Sellar

Reference No. 2014-134

Procurement and Suspension and Debarment

Highway Planning and Construction Cluster

Award years – 2008, 2009, 2010, and 2011

Award numbers – HP 2008(828), STP 2010(090)ESTE, STP 2009(703)ES, BR 1102(297), and NH 2012(038)

Type of finding – Significant Deficiency and Non-Compliance

In accordance with Title 49, Code of Federal Regulations (CFR), Section 18.36, grantees and subgrantees will use their own procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in that CFR. All procurement transactions must be conducted in a manner providing full and open competition.

Questioned Cost: \$ 0

U.S. Department of
Transportation – Federal
Highway Administration

The Texas Administrative Code (TAC) requires prequalification of potential bidders by submission of a confidential questionnaire to the Department of Transportation (Department). The Department will make its examination and determination based on the information submitted and advise the potential bidder of its approved bidding capacity (Title 43, TAC, Section 9.12(b)). The Department will provide a prequalification statement to the potential bidder advising the potential bidder of the length of time it is qualified to provide bids and the bidding capacity it may not exceed.

For 5 (8 percent) of 62 procurements tested, the Department did not maintain documentation of the prequalification statements it issued to the potential bidders that identified the periods and dollar amounts of the potential bidders' bidding capacity. According to the Department, that occurred because (1) the five associated projects existed before the Department began documenting information for archiving purposes and (2) the Department had shred documentation and did not comply with its retention schedule, did not save or create documentation, or filed documentation incorrectly.

Not maintaining documentation showing that potential bidders are qualified to bid on highway improvement contracts increases the risk that the Department could enter into an agreement with a contractor that does not have the financial capacity or technical experience to successfully complete the requirements of the project.

Recommendation:

The Department should maintain documentation of its verification that potential bidders are prequalified to bid on highway improvement contracts.

Management Response and Corrective Action Plan:

It has been CST's policy to retain these pre-qualification documents according to the current retention schedule. The missing documents are the direct result of misfiling and mislabeling archived file boxes that were sent to permanent storage.

Beginning in spring 2013, CST's Contractor Prequalification Branch went paperless in its processes including the acceptance, review, documentation approval, and storage of these pre-qualification documents. Each examiner was assigned additional responsibility to review and scan each completed submission and verify the accuracy of the electronic version before shredding the hard copies. When the final approved bidding capacity letters are signed and sent to the Contractor, a final check is made to ensure all required financial and other documentation is included in the electronic file and is legible. There will be no further manual filing or manual retention of these documents, which should reduce or eliminate future findings.

Implementation Date: Ongoing

Responsible Person: John F. Obr

Reference No. 2014-135

**Real Property Acquisition Relocation Assistance
Special Tests and Provisions – Use of Other State or Local Government Agencies
Special Tests and Provisions - Utilities**
(Prior Audit Issue 2013-162)

**Highway Planning and Construction Cluster
Highway Planning and Construction Cluster - ARRA
Award years – 2009, 2010, and 2013
Award numbers – HP 2009(919), CM 2011(288), and STP 2013(512)
Type of finding – Significant Deficiency and Non-Compliance**

Utility agreements, permits, and supporting documentation define the conditions and provisions for accomplishing and reimbursing utility companies for utility relocation work that was required due to a project funded by the federal aid highway program. The utility agreement must specify the terms and amounts of any contribution or repayments made or to be made by the utility and must be supported by plans, specifications (when required), and itemized cost estimates of the work agreed upon. The utility agreement must be approved by the Federal

Questioned Cost: \$75,655

U.S. Department of
Transportation – Federal
Highway Administration

Highway Administration (FHWA) prior to the utility incurring any costs or conducting any work that would be eligible for reimbursement (Title 23, Code of Federal Regulations, Section 645.113).

For 1 (20 percent) of 5 utility relocations tested, the Department of Transportation (Department) did not have an agreement to support all utility relocation work performed on the construction project. Specifically, the Department did not have an agreement that covered work performed on the sewer lines. As a result, auditors were unable to determine (1) whether the Department coordinated with the appropriate utilities prior to FHWA construction authorization, (2) whether the costs associated with the utility relocation work were allowable, and (3) whether the utility relocation work was performed in accordance with an approved agreement. Therefore, auditors considered the utility relocation cost of \$75,655 that was associated with award STP 2013(512) to be a questioned cost.

For 2 (3 percent) of 60 plans, specifications and estimates packages tested, the Department was unable to provide evidence of a utility agreement in the plans, specifications and estimates packages for construction projects. By not properly maintaining utility agreements, the Department may not adequately monitor utility relocation work to ensure compliance with federal requirements.

Other Compliance Requirements

Although general control weaknesses described below apply to Real Property Acquisition Relocation Assistance and Special Tests and Provisions – Use of Other State or Local Government Agencies, auditors identified no compliance issues regarding those compliance requirements.

General Controls

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)).

The Department of Transportation (Department) uses its SiteManager system as the system of record for *Daily Work Reports* that it uses to document the day-to-day operations of onsite construction and to calculate and generate monthly pay estimates to contractors. **The Department did not appropriately restrict access to the SiteManager system.** Specifically:

- The Department’s information technology services provider is responsible for managing a local administrator account on three production application servers and does not know which personnel have access to that account.
- The individual accounts to three production application servers for five former contractor employees were not removed immediately upon those individuals’ terminations.
- The individual accounts to the production database server for one current employee of another state agency and eight former contractor employees were not removed immediately upon those individuals’ terminations.
- One current Department employee had inappropriate access based on that employee’s job functions.

In addition, **the Department did not appropriately restrict access to Right of Way Information System (ROWIS).** The Department uses ROWIS as the system of record for all right of way transactions across the state. Specifically:

- The individual accounts to the production database server for five former contractor employees were not removed immediately upon those individuals’ terminations.
- The individual accounts to the production database for three former contractor employees were not removed immediately upon those individuals’ terminations.
- Access to the production database and the production database server for one employee of another state agency was not removed immediately upon that individual’s termination.

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- Developers used a shared account that existed on the production database. That account gave developers access to make modifications to the production database.

The Department's periodic user access review process was not effective in identifying and removing inappropriate access. The Department has an automated process to notify responsible personnel of changes in the status of users' employment; however, the Department does not have a process to ensure that it reviews and modifies access as necessary. Access to the production environment should be restricted to current and appropriate personnel, based on job functions, to help ensure that adequate controls are in place and appropriate segregation of duties exists. A developer with access to migrate changes to any production system or environment increases the risk of unauthorized changes to production applications and data and does not allow for adequate segregation of duties. Allowing inappropriate access to systems increases the risk of inappropriate changes to data.

Recommendations:

The Department should:

- Ensure that its executed utility agreements support all utility relocation work as specified in the construction contracts.
- Ensure that all plans, specifications and estimate packages on construction projects have executed utility agreements.
- Strengthen its periodic review process to help ensure that it identifies and removes inappropriate access in a timely manner.
- Ensure that developers do not have access to any production environment.
- Limit user access to current personnel and current contractor personnel, and ensure that access is appropriate based on job functions.

Management Response and Corrective Action Plan:

Right of Way Division:

For the \$75,655 identified as a questioned cost:

TxDOT required the relocation of both water and sanitary sewer facilities in the City of Brownwood. TxDOT entered into a reimbursement agreement for the city to relocate its water lines without being included in the highway contract. The sanitary sewer lines were to be included in the highway contract under an Advanced Funding Agreement which was not secured as indicated by the district. Since neither a Standard Utility Agreement nor an Advanced Funding Agreement was executed, we will work with the city and the district to verify the city's property interest to identify the financial responsibility and appropriate action to be taken for the relocation of the sanitary sewer relocation.

The ROW Division has requested and now receives a copy of all executed Advanced Funding Agreements for utilities being included in the highway contract. This will assist ROW personnel to know when non-reimbursable relocations are included in the highway contracts and assure the appropriate agreements are executed.

Additionally, the ROW Division is now training all ROW agents in the basics of utility accommodation policies to be able to monitor activities and identify when utilities are included in transportation projects.

Implementation Date: August 2015

Responsible Person: John Campbell

In the two cases in which TxDOT was unable to provide evidence of utility agreements or utility coordination in the plans, specifications, and estimates packages, this evidence is documented on the ROW, Utility, & Encroachment Certifications which the districts could not locate. For one project, the district believed it would not require a

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certification since it was a traffic signal project. The certification for the other project has not been located in that district.

In the past year, the section responsible for lettings has been relocated from the Design Division to the Finance Division. In this transition, ROW Certifications have been retained at the district and not always forwarded to the Finance Division. The relevant Department divisions will work together to revisit the protocols for distribution and retention of the certifications. Additionally, ROW will notify or remind all districts of the importance of the ROW Certifications and documenting the utility coordination process even when utilities are not relocated. ROW Agents now being trained in the utility process will be relied upon for assistance in preparing and submitting the ROW Certifications.

Implementation Date: February 2015

Responsible Person: John Campbell

Information Technology Division:

- *To strengthen TxDOT's periodic access controls review process to help ensure that inappropriate access to the ROWIS and SiteManager systems is identified and removed:*
 - *ITD will contact the individual business application owners to remind the business to complete annual access controls to remove all legacy accounts.*
 - *NTT DATA application delivery manager to work with the application business owners to define frequency of review and what assistance ITD can provide.*
 - *ITD will remove access to applications based on business application owner reviews.*
 - *IT Security will remove user access and the request will be tracked to closure in TxDOTNow.*
- *The business application owner reviews of access controls will ensure access is limited to current personnel and contractor personnel and is based on job function.*
 - *NTT DATA application delivery manager to work with the business application owner to review access and document appropriateness to job function.*
 - *A process to automate the access control review task is being established.*
- *Application developer access to the production SiteManager and ROWIS environments will be limited to read only access to ensure compliance.*
- *TxDOT has established a Change Advisory Board to ensure all controlled changes to the production environment are vetted and approved prior to implementation.*
 - *The controlled changes review process will ensure no unauthorized changes are made to production databases and the access controls periodic review process will ensure access is limited to current personnel and contractor personnel and is based on job function.*

Implementation Date: May 2015

Responsible Persons: Aaron Hix, Marc Yoder, and Bob Dority

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Reference No. 2014-136

Reporting

(Prior Audit Issues 2013-159, 13-137, and 12-145)

Highway Planning and Construction Cluster

Award year – 2013

Award number – PL 0011(049)

Type of finding – Significant Deficiency and Non-Compliance

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 first-tier subawards of \$25,000 or more. Prime recipients are to report subaward information no later than the end of the month following the month in which the obligation was made (Title 2, Code of Federal Regulations, Chapter 170, Appendix A).

Questioned Cost: \$ 0

U.S. Department of
Transportation – Federal
Highway Administration

For 1 (33 percent) of the 3 federal award identification numbers (FAIN) tested, the Department of Transportation (Department) did not submit Transparency Act reports for 25 subawards within the required time frame. The Department submitted those 25 Transparency Act reports 19 days late. That FAIN was an award for the 2014 Metropolitan Planning Organization Unified Planning Work Program.

That error occurred because the Department’s process to identify subawards that are subject to Transparency Act reporting requirements was not sufficient to identify the subawards. In addition, the Department does not have documented policies and procedures for Transparency Act reporting.

Not submitting all required Transparency Act reports timely decreases the reliability and availability of information for the awarding agency and other users of that information.

Recommendation:

The Department should develop and implement a process to ensure that it identifies all of its subawards that are subject to Transparency Act reporting requirements and that it submits all required Transparency Act reports in a timely manner.

Management Response and Corrective Action Plan:

Construction Division:

This obligation award was made in September 2013—prior to CST’s Corrective Application Plan implemented December 2013. This award (FY2014 MPO Unified Planning Work Program) has several subrecipients, and it took additional time to obtain the required information to submit the report. TPP administers this work program and has agreed to take on reporting for this function.

Implementation Date: Complete

Responsible Person: John F. Obr

Transportation, Planning & Programming Division:

Beginning with FY15, TPP will take responsibility for the annual reporting of the MPO Unified Planning Work Program into FSRS as required by the Transparency Act. A process will be developed that will ensure timely reporting for this function.

Implementation Date: August 2015

Responsible Person: Peggy Thurin

Reference No. 2014-137

Subrecipient Monitoring

Special Tests and Provisions – R3 – Subrecipient Monitoring

(Prior Audit Issues 2013-158, 13-136, 12-144, 11-144, 10-84, and 09-80)

Highway Planning and Construction Cluster

Highway Planning and Construction Cluster – ARRA

Award years – See below

Award numbers – See below

Type of finding – Significant Deficiency and Non-Compliance

The Department of Transportation (Department) is required by U.S. Office of Management and Budget (OMB) Circular A-133, Section .400, to monitor the provisions of contracts or grant agreements. Additionally, 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 (CFR), 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 for research and development (OMB Circular A-133, Section .400(d)).

For American Recovery and Reinvestment Act (Recovery Act) subawards, the Department must identify to subrecipients the requirement to register in the Central Contractor Registration (CCR) system, including obtaining a Data Universal Numbering System (DUNS) number, and maintain the currency of that information (Section 1512(h) of Recovery Act and Title 2, CFR, Section 176.50(c)). (The CCR system is now part of the System for Award Management (SAM).)

Beginning October 1, 2010, an agency may not make a non-Recovery Act award to an entity until it has obtained a DUNS number for that entity (Title 2, CFR, Sections 25.110 and Appendix A to 2 CFR Part 25).

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)(A)). The Department uses a letter of authority to document its assurance that all preliminary engineering and designs meet specifications and that the subrecipient is capable of proceeding to the construction phase of the project.

The Department did not consistently include all required elements in its subaward agreements, obtain DUNS numbers for subrecipients, assess subrecipients' compliance with CCR or SAM registration requirements, or issue all required letters of authority. Specifically:

- Thirteen (22 percent) of 60 subaward agreements tested did not contain all required elements, including CFDA title and number, award name, name of awarding federal agency, or whether the award was for research and development. Those subaward agreements were on prior Department subaward agreement templates that did not contain all required federal award information.
- For both Recovery Act subaward agreements tested, the Department did not assess subrecipient compliance with CCR or SAM registration requirements. The Department did not have a process to verify subrecipient registration with the CCR or SAM system prior to making a subaward with Recovery Act funds.
- For 18 (53 percent) of 34 subaward agreements tested for which the Department was required to obtain a DUNS number, the Department did not obtain a DUNS number from those subrecipients prior to issuing an award. The

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Department asserts that, in October 2013, it implemented a process to identify DUNS numbers before issuing subawards. It awarded the 18 subaward agreements without DUNS numbers prior to October 2013.

- For 1 (2 percent) of 46 subaward agreements tested, the Department did not issue a letter of authority to indicate that preliminary engineering and designs met specifications and that the subrecipient was approved to proceed to the construction phase of the project.

Inadequate identification of federal awards to subrecipients could lead to inaccurate reporting of federal funding on subrecipients' schedules of expenditures of federal awards. Not obtaining DUNS numbers or not verifying that subrecipients are registered with the CCR system or SAM prior to making a subaward could lead to inaccurate federal reporting. Not ensuring that preliminary engineering and designs meet specifications could lead to unforeseen complications or unplanned expenditures during the construction phase or after construction has been completed.

During-the-award Monitoring

Federal aid contracts must be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting the criteria of responsibility established by the state transportation department in accordance with Title 23, CFR, Section 635.110. Awards must be made within the time established by the state transportation department and subject to the prior concurrence of the U.S. Department of Transportation's division administrator (Title 23, CFR, Section 635.114).

The Department requires subrecipients to obtain approval of its procurement method before a project can begin construction. The subrecipient is required to submit a competitive bid, a written cost-effect justification, or an emergency condition for approval. The Department provides a formal letter of concurrence as evidence of its approval of the procurement process.

For 3 (7 percent) of 42 projects tested that were subject to procurement requirements, the Department was unable to provide evidence that it provided a letter of concurrence showing that it approved those subrecipients' procurement policies and contractor selection. Those three projects were pass-through, toll-financed projects and during the time period in which the associated agreements were developed, the agreements did not contain a requirement for the Department to provide formal letters of concurrence on a subrecipient's contractor selection; however, the Department was still responsible for ensuring that proper procurement procedures were followed. By not providing a formal letter of concurrence, the Department is unable to demonstrate that it awarded federal-aid contracts to the lowest responsive bidder meeting the criteria of responsibility that the Department established.

After auditors brought the issues that are discussed above to its attention, the Department provided documentation of a review it performed on those subrecipients after construction and before the Department reimbursed the subrecipients for those costs. During that review, the Department reviewed the procurement process related to its contractor selection. For one of those subrecipients, the Department noted that it had not provided a formal concurrence to the subrecipient before construction.

The issues discussed above affected the following awards:

<u>Award Number</u>	<u>Award Year</u>	<u>Award Number</u>	<u>Award Year</u>
CM 1102(104)	2011	STP 1102(498)SRS	2011
NH 1102(012)	2011	STP 1102(506)SRS	2011
PL 0011(048)	2013	STP 2000(591)TE	2002
PL 0011(049)	2014	STP 2002(109)ESTE (ARRA)	2005
PTF 2007(601)	2010	STP 2007(721)MM	2007
PTF 2007(913)	2008	STP 2009(705)ES (ARRA)	2010

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<u>Award Number</u>	<u>Award Year</u>	<u>Award Number</u>	<u>Award Year</u>
PTF 2008(247)	2008	STP 2011(231)TE	2011
PTF 2008(469)	2008	STP 2011(702)SRS	2011
PTF 2009(886)	2009	STP 2012(019)SRS	2012
PTF 2009(889)	2009	STP 2012(265)SRS	2012
PTF 2012(125)	2012	STP 2012(267)SRS	2012
STP 1102(109)SRS	2011	STP 2012(268)SRS	2012
STP 1102(110)SRS	2011	STP 2012(479)SRS	2012
STP 1102(279)SRS	2011	STP 2013(197)MM	2013
STP 1102(496)SRS	2011	STP 2013(705)MM	2013

Recommendations:

The Department should:

- Communicate all required information to subrecipients.
- Consistently obtain a DUNS number from each subrecipient prior to making a subaward.
- Develop and implement procedures to verify that Recovery Act subrecipients are registered with the CCR or SAM system prior to making a subaward.
- Consistently monitor subrecipients to determine whether they can manage projects in a manner that is consistent with federal, state, and Department regulations, standards, and specifications.
- Consistently monitor subrecipients for compliance with procurement requirements.

Management Response and Corrective Action Plan:

Contract Services Office:

We are continuing our ongoing efforts to identify and update funding agreements that were executed 5 or more years ago without the current required information and for which federal funding is still being authorized. In addition, we have updated all applicable contract templates to refer specifically to principals.

Implementation Date: Ongoing

Responsible Person: Kenneth Stewart

Construction Division:

The TxDOT RADS reporting infrastructure could no longer support the continuation of a subrecipient notification once TxDOT concluded ARRA reporting and stopped recording distributions expenditures in TXRADS.

Implementation Date: Complete

Responsible Person: John F. Obr

The only on-going ARRA project that has a subrecipient was let in December of 2012. The subrecipient is the City of Austin. CST will check SAM each month to verify that the subrecipient maintains a DUNS number for 90 days after the submission of the Statement of Cost (the signal to TxDOT the project is accepted and complete) and will keep verification of this check on file.

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Implementation Date: *Ongoing*

Responsible Person: *John F. Obr*

Finance Division:

We agree with the finding and have implemented the following process to address

On October 29, 2013 the Letting Management Section of TxDOT's Finance Division sent an email to the Right of Way (ROW) Division and the 25 Districts informing them that a Data Universal Numbering System (DUNS) identification number and the zip code including the additional 4 digits would be required for all projects where a sub-recipient is involved before federal authorization could be requested. Lines for the DUNS and Zip Code +4 were added to the Engineer's Estimate form which is submitted by the Districts when requesting federal authorization of projects let by local entities. A shared email account titled FIN_FPAA-Requests is used for Districts and Divisions to submit requests for federal authorizations for the design phase of projects and for projects that do not go through a letting process. The email requests are to include the DUNS and Zip +4 when a subrecipient is participating in a project. If the information is not included in the email or on the Engineer's Estimate form, Letting Management Staff contacts the requestor and does not proceed with preparing the Federal Project Authorization and Agreement (FPAA) until it is made available. Letting Management Staff checks the SAM website to verify the entity is registered and the DUNS number provided is accurate. The DUNS and Zip +4 are then included in the State Remarks field on the FPAA when submitted to FHWA for authorization.

Implementation Date: *November 2013*

Responsible Persons: *Alison McMillan and John Stott*

Local Government Project Office:

In recent years, TxDOT has developed multiple tools to improve performance of subrecipients and TxDOT's monitoring of them. These include a Local Government Project Procedures document, a Summary of Best Practices Workbook for Local Government Projects, and LG project development checklists. During calendar year 2014, TxDOT conducted 24 LGPP training classes throughout the state on use of these tools to 461 students, including TxDOT, LG, and LG consultant personnel. District personnel regularly monitor subrecipient performance and review their documentation. Local Government Project Office personnel periodically perform field and documentation review of the districts. The Office of Internal Audit conducts annual audits and frequently includes elements of subrecipient monitoring in their audit plans.

Implementation Date: *December 2014*

Responsible Person: *David Millikan*

DEPARTMENT OF TRANSPORTATION

Reference No. 2014-138

Special Tests and Provisions – Quality Assurance Program

Special Tests and Provisions – Project Extensions

(Prior Audit Issues 2013-161, 13-138, 12-146, 11-146, 10-87, and 09-81)

Highway Planning and Construction Cluster

Highway Planning and Construction Cluster - ARRA

Award years – 2009 and 2013

Award numbers – NH 2009(750), STP 2013(385), IM 0356(442), STP 2013(181), and IM 0305(084)

Type of finding – Significant Deficiency and Non-Compliance

Each state transportation department must develop a quality assurance program that will ensure that the materials and workmanship incorporated into each federal-aid highway construction project on the National Highway System conforms 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 (CFR), 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).

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

The Department of Transportation (Department) did not always comply with its approved quality assurance program. For 3 (5 percent) of the 60 quality assurance samples reviewed, auditors could not determine whether the tests were performed by an individual who was certified to perform those tests. The Department did not maintain documentation of the certification for those testers.

In addition, for 2 (3 percent) of the 60 quality assurance samples reviewed, the tester and reviewer were the same individual. The Department uses SiteManager as its system of record for quality assurance testing on its highway construction projects. SiteManager does not have sufficient edit checks 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 on the same quality assurance sample.

Not segregating testing and reviewing responsibilities and having potentially unqualified personnel perform sample testing increases the risk that the Department may not detect project deficiencies that could affect safety and increase costs.

Other Compliance Requirements

Although general control weaknesses described below apply to Special Tests and Provisions – Project Extensions, auditors identified no compliance issues regarding that compliance requirement.

General Controls

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)).

The Department of Transportation (Department) uses its SiteManager system as the system of record for *Daily Work Reports* that it uses to document the day-to-day operations of onsite construction and to calculate and generate monthly pay estimates to contractors. **The Department did not appropriately restrict access to the SiteManager system.** Specifically:

- The Department's information technology services provider is responsible for managing a local administrator account on three production application servers and does not know which personnel have access to that account.
- The individual accounts to three production application servers for five former contractor employees were not removed immediately upon those individuals' terminations.

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- The individual accounts to the production database server for one current employee of another state agency and eight former contractor employees were not removed immediately upon those individuals' terminations.
- One current Department employee had inappropriate access based on that employee's job functions.

The Department's periodic user access review process was not effective in identifying and removing inappropriate access. The Department has an automated process to notify responsible personnel of changes in the status of users' employment; however, the Department does not have a process to ensure that it reviews and modifies access as necessary.

Access to the production environment should be restricted to current and appropriate personnel, based on job functions, to help ensure that adequate controls are in place and appropriate segregation of duties exists. Allowing inappropriate access to systems increases the risk of inappropriate changes to data.

Recommendations:

The Department should:

- Implement controls to ensure that only qualified personnel perform quality assurance sample testing.
- Implement appropriate segregation of duties among the personnel who conduct quality assurance sample testing and personnel who review that testing.
- Strengthen its periodic review process to help ensure that it identifies and removes inappropriate access in a timely manner.
- Limit user access to current personnel and current contractor personnel, and ensure that access is appropriate based on job functions.

Management Response and Corrective Action Plan:

Construction Division:

Since September 2013, SiteManager has included a control to ensure that only certified testers perform testing; however, the testing of the QM samples in question was performed and reported in CST's internal laboratory information management system (LIMS). We are exploring implementation of a similar tester control in LIMS.

Implementation Date: Ongoing

Responsible Person: John F. Obr

CST implemented changes to SiteManager in May and September of 2013 to address segregation of duties. Under the sample option, users have the option to enable sample authorization while recording test data in Excel, which provided a loophole. This omission in the Excel plug has been coded and tested but not yet distributed. CST's request to update the SiteManager terminal servers to the latest version of Excel is pending with IT.

Implementation Date: February 2015

Responsible Person: John F. Obr

CST will meet with TxDOT IT Security and NTT Data, the responsible parties for user security, to determine an action plan and implement the recommended changes.

Implementation Date: August 2015

Responsible Person: John F. Obr

Information Technology Division:

- *To strengthen TxDOT's periodic access controls review process to help ensure that inappropriate access to the SiteManager system is identified and removed:*
 - *ITD will contact the individual business application owner to remind the business to complete annual access controls to remove all legacy accounts.*
 - *NTT DATA application delivery manager to work with the application business owner to define frequency of review and what assistance ITD can provide.*
 - *ITD will remove access to application based on business application owner reviews.*
 - *IT Security will remove user access and the request will be tracked to closure in TxDOTNow.*
- *The business application owner reviews of access controls will ensure access is limited to current personnel and contractor personnel and is based on job function.*
 - *NTT DATA application delivery manager to work with the business application owner to review access and document appropriateness to job function.*
 - *A process to automate the access control review task is being established.*

Implementation Date: May 2015

Responsible Persons: Aaron Hix, Marc Yoder, and Bob Dority

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 2013 Schedule of Findings and Questioned Costs.
- Each finding in the 2013 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, 2014) has been prepared to address these responsibilities.

Department of Transportation

Reference No. 2013-155

Activities Allowed or Unallowed

Allowable Costs/Cost Principles

Real Property Acquisition and Relocation Assistance

(Prior Audit Issue 13-133)

Highway Planning and Construction Cluster

Highway Planning and Construction Cluster - ARRA

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)).

SiteManager Application

The Department of Transportation (Department) uses *Daily Work Reports* to document the day-to-day operations of construction on site. The Department’s SiteManager application is the system of record for those reports, which the Department uses to calculate and generate monthly pay estimates to contractors. According to the Department’s *Estimate Manual*, someone other than the inspector should review *Daily Work Reports* for accuracy and authorize those reports.

Initial Year Written: 2012
Status: Implemented

U.S. Department of
Transportation – Federal
Highway Administration

During fiscal year 2013, the Department did not have an edit check in SiteManager that required someone other than the inspector to review and authorize *Daily Work Reports*. The Department asserted that it added that edit check to SiteManager in May 2013. However, SiteManager did not record the authorizer’s user ID until the Department implemented an additional change to SiteManager in September 2013. Therefore, for fiscal year 2013, auditors were unable to verify whether someone other than the inspector reviewed and authorized *Daily Work Reports*. A lack of segregation in duties for the *Daily Work Report* approval process could result in inaccurate monthly estimates and inaccurate payments to contractors.

Right of Way Information System

The Department uses its Right of Way Information System (ROWIS) as the system of record for right of way transactions across the state. **However, the Department did not appropriately restrict access to ROWIS.** Specifically, one programmer had access to both authorize transactions within ROWIS and submit approved transactions to the accounting system for payment. In general, programmers should not have access to approve transactions or submit them for payment. Allowing programmers inappropriate access increases the risk of unauthorized or fraudulent transactions. However, in fiscal year 2013, the programmer did not approve any transactions within ROWIS or submit any transactions to the accounting system for payment.

The issues discussed above affected all awards for the Highway Planning and Construction Cluster on the State’s Schedule of Expenditures of Federal Awards.

Corrective Action:

Corrective action was taken.

Reference No. 2013-156

Davis-Bacon Act

(Prior Audit Issues 13-134, 12-142, 11-142, and 10-82)

**Highway Planning and Construction Cluster
Highway Planning and Construction Cluster - ARRA**

Award years – 2009, 2010, 2011, and 2012

Award numbers – HP 2009 (919), IM 0204 (280), STP 2010(558)ES (ARRA), STP 2013(089), HP 2009(753), STP 2012(064), and STP 2009(485)ES (ARRA)

Type of finding – Significant Deficiency and Non-Compliance

When required by the Davis-Bacon Act, the U.S. Department of Labor’s government wide implementation of the Davis-Bacon Act, the American Recovery and Reinvestment Act, or 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 U.S. Department of Labor (Title 40, United States Code, Sections 3141-3142).

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

Non-federal entities shall include in their construction contracts subject to the Davis-Bacon Act a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and U.S. Department of Labor regulations (Title 29, Code of Regulations (CFR), Part 5, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction). That includes a requirement for the contractor or subcontractor to submit to the non-federal entity on a weekly basis, 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 5.5 and 5.6). That reporting can be done using Optional Form WH-347, which includes the required statement of compliance (U.S. Office of Management and Budget No. 1215-0149).

For 7 (12 percent) of 60 projects tested, the Department of Transportation (Department) did not ensure that contractors submitted all certified payrolls for fiscal year 2013. Specifically, for those 7 projects the Department could not provide 42 certified payrolls for the period tested. The total federal amount expended on those 7 projects, including payroll and non-payroll costs, was \$198,234,854.

The Department did not have a standardized process for tracking certified payrolls that contractors submitted. Each area office within each Department district office determined its own method for ensuring that contractors submitted certified payrolls. Not having a standardized process increases the risk that the Department may not identify the contractors that have not submitted weekly certified payrolls. When the Department does not collect certified payrolls from its contractors, it cannot ensure that contractor and subcontractor employees are properly classified and being paid prevailing wage rates in accordance with the Davis-Bacon Act.

Corrective Action:

This finding was reissued as current year reference number 2014-132.

Reference No. 2013-157

Period of Availability of Federal Funds

(Prior Audit Issues 13-135, 12-143, 11-143, and 10-81)

Highway Planning and Construction Cluster
Highway Planning and Construction Cluster - ARRA
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: No longer valid 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 make code changes and then migrate those code changes into the production environment for the FPAA system. In general, programmers should not have access to migrate code changes that they make to the production environment. Allowing programmers inappropriate access increases the risk of unauthorized changes and does not allow for adequate segregation of duties.

In fiscal year 2013, the Department did not make any changes to the FPAA system.

The issue discussed above affected all awards for the Highway Planning and Construction Cluster on the State's Schedule of Expenditures of Federal Awards.

Corrective Action:

As of July 2014, the Federal Aid Funding Obligation System (FAFOS) replaced the FPAA system; therefore, this finding is no longer valid.

Reference No. 2013-158

Procurement and Suspension and Debarment

Subrecipient Monitoring

Special Tests and Provisions - R3 - Subrecipient Monitoring

(Prior Audit Issues 13-136, 12-144, 11-144, 10-84, and 09-80)

Highway Planning and Construction Cluster

Highway Planning and Construction Cluster – ARRA

Award years – See below

Award numbers – See below

Type of finding – Significant Deficiency and Non-Compliance

The Department of Transportation (Department) is required by U.S. Office of Management and Budget (OMB) Circular A-133, Section .400, to monitor the provisions of contracts or grant agreements. Additionally, 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 (CFR), Section 635.105(a)).

Initial Year Written: 2008
Status: Partially Implemented

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 for research and development (OMB Circular A-133, Section .400(d)).

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 and its principals are not suspended or debarred or otherwise excluded from federal contracts. That 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. Covered transactions include all nonprocurement transactions irrespective of award amount (Title 2, CFR, Section 1200).

For American Recovery and Reinvestment Act (Recovery Act) subawards, the Department must identify to subrecipients the requirement to register in the Central Contractor Registration (CCR) system, including obtaining a Data Universal Numbering System (DUNS) number, and maintain the currency of that information (Section 1512(h) of Recovery Act and Title 2, CFR, Section 176.50(c)). The Department also must separately identify to each subrecipient and document at the time of disbursement of funds, the federal award number, the CFDA number, and the amount of Recovery Act funds (Title 2, CFR, Section 176.210).

Beginning October 1, 2010, an agency may not make a non-Recovery Act award to an entity until it has obtained a DUNS number for that entity (Title 2, CFR, Sections 25.105 and 25.205).

The Department did not consistently include all required elements in its subaward agreements and did not consistently obtain subrecipient DUNS numbers or assess subrecipient compliance with CCR system requirements. Specifically:

- For 9 (15 percent) of 58 subaward agreements tested, the agreements did not contain all required elements, including the CFDA title and number, award name and number, name of awarding federal agency, or whether the award was for research and development. The Department has subaward agreement templates that identify federal award information and applicable compliance requirements; however, it did not consistently use the current templates when it made new subawards.

- For 4 (7 percent) of 58 subaward agreements tested, the Department could not provide documentation that it verified that the subrecipients were not suspended or debarred from participation in federal contracts. Additionally, for all 58 subaward agreements tested, the Department did not ensure that the subrecipients' principals were not suspended or debarred from participation in federal contracts and did not pass that requirement on to its subrecipients as required. The suspension and debarment clause in the Department's subaward agreement templates did not cover principals of subrecipients as required.
- For all 6 Recovery Act subaward agreements tested, the Department did not assess subrecipient compliance with CCR system requirements. The Department did not have a process to verify subrecipient registration with the CCR system prior to making a subaward with Recovery Act funds.
- For 3 (50 percent) of 6 Recovery Act projects tested, the Department did not separately identify to each subrecipient, and document at the time of disbursement of funds, the federal award number, the CFDA number, and the amount of Recovery Act funds. Those errors occurred because the Department's automated process to notify subrecipients does not make those notifications after the project completion date recorded in the Department's system.
- The Department did not obtain a DUNS number from its subrecipients prior to issuing the subaward for 24 (83 percent) of 29 subaward agreements tested for which that requirement applied. The Department has not established a process to obtain a DUNS number from each subrecipient prior to making a non-Recovery Act subaward.

Inadequate identification of federal awards to subrecipients could lead to inaccurate reporting of federal funding on a subrecipient's schedule of expenditures of federal awards. Not verifying that subrecipients or their principals are not suspended or debarred from federal contracts increases the risk that the Department could enter into awards with ineligible parties. Not obtaining DUNS numbers or not verifying that subrecipients are registered with the CCR system prior to making a subaward could lead to inaccurate federal reporting.

During-the-award Monitoring

Federal aid contracts shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting the criteria of responsibility as may have been established by the state transportation department in accordance with Title 23, CFR, Section 635.110. Award shall be within the time established by the state transportation department and subject to the prior concurrence of the U.S. Department of Transportation's division administrator (Title 23, CFR, Section 635.114).

The Department did not consistently conduct sufficient during-the-award monitoring of its subrecipients. **Specifically, for 1 (2 percent) of 44 projects tested that were subject to procurement requirements, the Department was unable to provide evidence that it approved the subrecipient's procurement policies and contractor selection.** The project was a pass-through, toll-financed project for which the agreement did not require the Department to provide formal letters of concurrence on the subrecipient's contractor selection. By not providing a formal letter of concurrence, the Department is unable to ensure that the federal-aid contract was awarded to the lowest responsive, responsible bidder.

Audits and Sanctions

The Department must ensure that each subrecipient expending \$500,000 or more in federal awards during the subrecipient's fiscal year obtain an OMB Circular A-133 Single Audit and provide a copy of the audit report to the Department within nine months of the end of the subrecipient's fiscal year end (OMB Circular A-133, Sections 320 and 400). In addition, the Department must issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and follow up to ensure that the subrecipient takes timely and appropriate corrective action on all audit findings (OMB Circular A-133, Section 400). In cases of continued inability or unwillingness of a subrecipient to obtain the required audits, the Department shall take appropriate action using sanctions (OMB Circular A-133, Section 225).

The Department did not consistently obtain the required subrecipient Single Audit reports or follow up on identified audit findings to issue a management decision. Specifically:

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- For 4 (7 percent) of 58 subawards tested for which the subrecipient was required to obtain a Single Audit, the Department did not provide a Single Audit report or a certification from the subrecipient that an audit was not required. Three of those subawards were with the same subrecipient.
- For 3 (75 percent) of 4 subawards tested with Single Audit findings, the Department did not issue a management decision and ensure that the subrecipient took appropriate and timely corrective action on audit findings. All three of those subawards were with the same subrecipient.

When the Department does not ensure that required audits are performed and does not follow up on deficiencies noted in Single Audit reports, the Department increases the risk that deficiencies could go unaddressed.

The issues discussed above affected the following awards:

<u>Award Number</u>	<u>Award Year</u>	<u>Award Number</u>	<u>Award Year</u>	<u>Award Number</u>	<u>Award Year</u>
50-13XF0004	2012	PTF 1102(055)	2011	STP 2010(368)MM	2010
50-13XF0009	2012	PTF 2008(311)	2008	STP 2010(840)MM	2010
CBI 2009(328)	2008	PTF 2008(413)	2008	STP 2011(223)TE	2012
CM 2007(555)	2007	PTF 2008(460)	2008	STP 2011(233)TE	2011
CM 2009(240)	2008	PTF 2008(533)	2013	STP 2011(381)MM	2010
CM 2009(242)	2008	PTF 2012(125)	2012	STP 2011(390)MM	2010
CM 2009(243)	2009	STP 1102(192)SRS	2012	STP 2011(446)MM	2010
CM 2009(336)	2008	STP 1102(200)MM	2011	STP 2011(612)SRS	2012
CM 2011(288)	2010	STP 1102(261)MM	2011	STP 2011(694)SRS	2012
CM 2012(132)	2011	STP 2002(124)TE	2008	STP 2011(925)SRS	2012
DMO 2004(424)ES (ARRA)	2012	STP 2002(125)TE	2010	STP 2011(929)SRS	2011
DMO 2007(208)	2012	STP 2002(128)ESTE (ARRA)	2010	STP 2012(244)SRS	2011
HP 1102(121)	2012	STP 2002(184)ESTE (ARRA)	2009	STP 2012(249)SRS	2011
HP 2006(867)	2006	STP 2003(559)ES (ARRA)	2009	STP 2012(286)SRS	2011
HP 2007(914)	2007	STP 2005(145)MM	2009	STP 2012(436)	2012
HP 2010(626)	2010	STP 2007(895)MM	2010	STP 97(253)ESTE (ARRA)	2010
HP 2011(783)	2011	STP 2008(560)MM	2010	STP2008(470)MM	2008
NH 2012(599)	2012	STP 2008(880)SRS	2008		
PL 0011(48)	2012	STP 2008(893)MM	2008		
PLD 1102(120)	2011	STP 2009(501)ES (ARRA)	2010		

Corrective Action:

This finding was reissued as current year reference number 2014-137.

Reference No. 2013-159

Reporting

(Prior Audit Issues 13-137 and 12-145)

Highway Planning and Construction Cluster

Award years – 2010 and 2011

Award numbers – STP 2011(226)TE, DMO 2012(224), STP 2011(229)TE, PTF 2010(544), STP 2012(249)SRS, and STP 2011(674)SRS

Type of finding – Significant Deficiency and Non-Compliance

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 first-tier subawards of \$25,000 or more. Prime recipients are to report subaward information no later than the end of the month following the month in which the obligation was made (Title 2, Code of Federal Regulations, Chapter 170).

Initial Year Written: 2011
Status: Partially Implemented

U.S. Department of
Transportation – Federal
Highway Administration

For 6 (21 percent) of the 29 subawards subject to Transparency Act reporting requirements tested, the Department of Transportation (Department) did not submit the required reports.

Those errors occurred because the Department's process to identify subawards that are subject to Transparency Act reporting requirements was not sufficient to identify the subawards. Not submitting all required Transparency Act reports decreases the reliability and availability of information for the awarding agency and other users of that information.

Corrective Action:

This finding was reissued as current year reference number 2014-136.

Reference No. 2013-160

Special Tests and Provisions – Project Extensions

Highway Planning and Construction Cluster - ARRA

Award year – 2009

Award numbers – STP 2009(104)ES and DMO 2007(383)ESTE

Type of finding – Significant Deficiency and Non-Compliance

Approval from the Federal Highway Administration (FHWA) is required for project extensions affecting project costs or the amount of liquidated damages, except for projects administered by the state department of transportation as identified by Title 23, United States Code, Section 106(c), which allow the state department of transportation to assume the responsibilities for design, plans, specifications, estimates, contract awards, and inspection of progress (Title 23, Code of Federal Regulations, Section 635.121).

Initial Year Written: 2013
Status: Implemented

U.S. Department of
Transportation – Federal
Highway Administration

The Department of Transportation (Department) uses change orders within SiteManager, its construction administration system, to obtain FHWA approval for a project extension. **However, for 2 (14 percent) of 14 major change orders tested, the Department was not able to provide documentation that it had obtained approval from the FHWA for the project extension that affected project costs or the amount of liquidated damages assessed.** Coordination with FHWA is essential for the review and approval of major change orders because the changes may affect the scope of work, project schedule, or project eligibility for federal aid.

Corrective Action:

Corrective action was taken.

Reference No. 2013-161

Special Tests and Provisions – Quality Assurance Program

(Prior Audit Issues 13-138, 12-146, 11-146, 10-87, and 09-81)

Highway Planning and Construction Cluster

Highway Planning and Construction Cluster - ARRA

Award years – See below

Award numbers – See below

Type of finding – Significant Deficiency and Non-Compliance

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 (CFR), 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).

Initial Year Written: 2008
Status: Partially Implemented

U.S. Department of
Transportation - Federal
Highway Administration

The Department of Transportation (Department) did not always comply with its approved quality assurance program. Specifically:

- For 2 (1 percent) of 235 quality assurance samples reviewed, for 2 (3 percent) of 60 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*. Not performing required quality assurance tests increases the risk that the Department may not detect project deficiencies that could affect safety and increase costs.
- For 30 (13 percent) of 226 quality assurance samples tested, auditors could not determine whether the tests were performed by an individual who was certified to perform those tests.

The Department uses SiteManager as its system of record for quality assurance testing on its highway construction projects. However, SiteManager does not have edit checks to prevent testers from reviewing and approving their own tests. Specifically:

- For 14 (6 percent) of the 223 quality assurance samples reviewed, the tester and reviewer recorded in SiteManager were the same individual.
- For 17 (8 percent) of the 223 quality assurance samples reviewed, the Department did not document the name of the individual who was the tester in SiteManager. As a result, auditors were unable to determine (1) whether the sample tests were conducted, reviewed, and approved by the same individual and (2) whether the individual who conducted the test was a certified tester.

SiteManager does not have edit checks 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 on the same quality assurance sample. Not segregating testing and reviewing responsibilities and having potentially unqualified personnel perform sample testing increases the risk that the Department may not detect project deficiencies that could affect safety and increase costs.

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The issues discussed above affected the following awards:

<u>Award Number</u>	<u>Award Year</u>	<u>Award Number</u>	<u>Award Year</u>
STP 2012(390)MM	2012	STP 2009(485)ES (ARRA)	2009
NH 2013(043)	2012	STP 2009(531)ES (ARRA)	2010
BR 2004(709)	2011	BR 2008(107)	2008
STP 2011(798)	2011	BR 2002 (923)	2009
BR 2010(983)	2010	STP 1102(412)	2011
BR 1102(517)	2010	STP 2013(018)	2012
STP 2009(880)MM	2009	BR 2011(019)	2012
NH 2012(197)	2011	STP 2012(035)	2011
IM 0355(150)	2012	STP 1102(408)	2011
NH 2012(351)	2012	STP 2010(089)ESTE (ARRA)	2009
STP 2010(897)MM	2010	STP 2012(060)	2011
STP 2012(064)	2011	CM 2005(79)	2010

Corrective Action:

This finding was reissued as current year reference number 2014-138.

Reference No. 2013-162

Special Tests and Provisions – Utilities

Highway Planning and Construction Cluster

Award year – 2011

Award number – NH 2011(937)

Type of finding – Significant Deficiency and Non-Compliance

Utility agreements, permits, and supporting documentation define the conditions and provisions for accomplishing and reimbursing utility companies for utility relocation work that was required due to a federal aid highway program funded project. The utility agreement shall specify the terms and amounts of any contribution or repayments made or to be made by the utility and shall be supported by plans, specifications when required, and itemized cost estimates of the work agreed upon. The utility agreement must be approved by the Federal Highway Administration (FHWA) prior to the utility incurring any costs or conducting any work that would be eligible for reimbursement (Title 23, Code of Federal Regulations, Section 645.113).

Initial Year Written: 2013 Status: Partially Implemented U.S. Department of Transportation - Federal Highway Administration

For 1 (2 percent) of 41 utility relocations tested, the Department of Transportation (Department) was unable to provide evidence of a utility agreement or support for the utility relocation work performed on the construction project. As a result, auditors were unable to determine (1) whether the Department coordinated with

the appropriate utilities prior to FHWA construction authorization, (2) whether the costs associated with the utility relocation work were allowable, (3) and whether the utility relocation work was performed in accordance with an approved agreement. Therefore, auditors considered that \$13,700 utility relocation to be a questioned cost. The Department asserted that a utility agreement existed, but it was unable to locate that agreement in its district office that supervised the utility work. By not properly maintaining utility agreements the Department may not adequately monitor utility relocation work to ensure compliance with federal requirements.

Corrective Action:

This finding was reissued as current year reference number 2014-135.

Reference No. 13-141

Eligibility

Subrecipient Monitoring

(Prior Audit Issues 12-149 and 10-92)

CFDA 20.509 – Formula Grants for Other Than Urbanized Areas

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

Award years – 2009 and 2010

Award numbers – TX-18-X032, TX-18-X033, TX-86-X001, TX-86-X002, and TX-86-X003

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 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 public transportation coordinators located within the Department’s 25 district offices, who oversee various federal programs within their jurisdictions. The Department is required to certify the eligibility of applicants and project activities, ensure compliance with federal requirements by all subrecipients, and monitor local project activity (Federal Transit Administration Circular C_9040.1f, page II-3).

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

During-the-award Monitoring

The Department is required to conduct on-site quarterly visits to review agency financial records that support requests for payment (Title 43, Texas Administrative Code, Section 31.48(c)(3)). Additionally, the Department’s grant’s management manual requires that on-site visits be documented using a PTN-126 form. During fiscal year 2012, the Department did not consistently conduct during-the-award monitoring for all subrecipients. Specifically:

- For 1 (3 percent) of 30 of subrecipients tested, the Department did not conduct required quarterly onsite visits. This error occurred because management in the Department’s Public Transportation Division incorrectly determined that quarterly onsite visits were not necessary for that for-profit subrecipient. As a result, the Department did not monitor that subrecipient for compliance with allowable costs requirements through onsite visits. However, the Department provided evidence that it reviewed that subrecipient’s invoices prior to payment.
- For 1 (11 percent) of 9 of subrecipients tested that were subject to the requirements of the Davis-Bacon Act, the Department could not provide evidence that it monitored the subrecipients’ compliance with the requirements of

the Davis-Bacon Act. The Department asserted that the coordinator responsible for monitoring that subrecipient was unaware of procedures for monitoring compliance with Davis-Bacon Act requirements.

- For 1 (3 percent) of 30 of subrecipients tested, the Department did not monitor supporting documentation to ensure that subrecipients' activities occurred within the period of availability established in the project grant agreement. The Department's review of the subrecipient's reimbursement request did not detect that the subrecipient submitted expenditures after the end of the period of availability established by the project grant agreement. However, those expenditures were for allowable activities that occurred within the period of availability for the federal award as a whole.
- For 3 (20 percent) of 15 subrecipients tested that were subject to procurement requirements, the Department could not provide evidence that it monitored the subrecipients' compliance with procurement requirements using its procurement checklist, which it requires for procurements exceeding \$25,000. For one of those projects, the Department asserted that the coordinator responsible for monitoring the subrecipient was unaware of the requirement. For the remaining two projects, the Department was unable to provide evidence that it monitored the projects using the required checklist.

When the Department does not consistently monitor its subrecipients, it is not able to ensure the most efficient use of federal transportation funds to develop, maintain, and improve transportation systems in non-urbanized areas.

Corrective Action:

Corrective action was taken.

Reference No. 13-142

Reporting

(Prior Audit Issues 12-148 and 10-91)

CFDA 20.509 - Formula Grants for Other Than Urbanized Areas

Award years – 2008, 2009, 2010, 2011, and 2012

Award numbers – TX-18-X031, TX-18-X032, TX-18-X033, TX-18-X034, and TX-18-X035

Type of finding – Significant Deficiency and Non-Compliance

SF-425 Reports

A grantee must submit a federal financial report for each active/executed grant (Federal Transit Administration Circular 5010.1D, page III-2(3)(a)(b)). The SF-425 report 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 must be based on actual cash disbursements or outlays, including payments to subrecipients and contractors.

Initial Year Written: 2009
Status: Implemented

U.S. Department of
Transportation - Federal Transit
Administration

For all three SF-425 reports tested for which matching requirements were applicable, the Department reported non-federal share amounts that were not supported by its accounting records. The Department determined the non-federal share of expenditures by multiplying its federal outlays by the required matching percentage. According to the Department, these errors occurred because the Federal Transit Administration directed the Department to provide the required match, and not the actual match, on its SF-425 reports. However, that practice resulted in the Department reporting amounts that were not based on actual cash disbursements or outlays as required.

Inaccurate reporting on financial reports decreases the reliability of information provided to funding agencies and other stakeholders.

Corrective Action:

Corrective action was taken.

Appendix

Objectives, Scope, and Methodology

Objectives

With respect to the Highway Planning and Construction Cluster, the objectives of the audit were to (1) obtain an understanding of internal controls over compliance, assess the control risk of noncompliance, and perform tests of those controls unless 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 Highway Planning and Construction Cluster.

Scope

The audit scope covered federal funds that the State spent for the Highway Planning and Construction Cluster at the Department of Transportation (Department) from September 1, 2013, through August 31, 2014. The audit work included control and compliance tests at the Department.

Methodology

The audit methodology included developing an understanding of controls over each compliance area that was direct and material to the Highway Planning and Construction Cluster.

Auditors selected non-statistical samples for tests of compliance and controls for each direct and material compliance area based on the American Institute of Certified Public Accountants' audit guide entitled *Government Auditing Standards and Circular A-133 Audits* dated February 1, 2014. In determining sample sizes for control and compliance test work, auditors assessed risk levels for inherent risk of noncompliance, control risk of noncompliance, risk of material noncompliance, detection risk, and audit risk of noncompliance by compliance requirement. Auditors selected samples primarily through random selection designed to be representative of the population. In those cases, results may be extrapolated to the population, but the accuracy of the extrapolation cannot be measured. In some cases, auditors used professional judgment to select additional items for compliance testing. Those sample items generally are not representative of the population and, therefore, it would be inappropriate to extrapolate those results to the population.

Auditors conducted tests of compliance and of the controls identified for each direct and material compliance area and performed analytical procedures when appropriate.

Auditors assessed the reliability of data that the Department provided and determined that the data was sufficiently 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 Highway Planning and Construction Cluster.

Information collected and reviewed included the following:

- Department data for expenditures, contractor payrolls, procurement, reporting, cash revenue, required matching funds, real property acquisitions, subrecipients, quality assurance testing, value engineering analysis, project extensions, project approvals, and utility adjustments.
- 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 related to general controls over information systems that affect 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 other 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.
- United States Code.
- U.S. Office of Management and Budget Circulars A-87, A-102, and A-133.
- The American Recovery and Reinvestment Act.

- The Federal Funding Accountability and Transparency Act.
- Federal notices of award and award proposals.
- Federal agency circulars, handbooks, and guidance.
- Department policies and procedures.

Project Information

Audit work was conducted from July 2014 through December 2014. 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 State, Local Governments, and Non-Profit Organizations*.

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The Honorable Greg Abbott, Governor

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