

An Audit Report on

Texas National Research Laboratory Commission



Office of the State Auditor
Lawrence F. Alwin, CPA

February 1995

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OFFICE OF THE STATE AUDITOR

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Members of the Legislative Audit Committee:

The Texas National Research Laboratory Commission is managing \$914 million in assets and expending funds in a manner which protects state interests during the termination of the State's portion of the Superconducting Super Collider (Super Collider) Project. Additionally, they are actively involved in finding uses for Super Collider facilities which will provide the most benefit to the State in terms of jobs, scientific advancement, and medical benefits for Texas residents.

The Commission is currently working with the United States Department of Energy to assume responsibility for the thousands of items of personal property awarded to the State as a result of the settlement between the State of Texas and the United States Government. The Commission plans to inventory property items and enter them into the State Property Accounting System. They plan to identify surplus property for disposal after decisions are made about how the Super Collider facilities are to be used.

The Commission is pursuing a course of action which could save the State \$3.7 million in land acquisition costs. They are advocating dismissal of as many contested land lawsuits as is possible. The Commission's projected costs indicate that dismissal will be less costly than pursuing land acquisition in the contested cases.

The Commission's expenditure of General Obligation and Lease Revenue Bond proceeds was in compliance with statute and the restrictions of each respective bond issue. Bond proceeds had been correctly deposited and were being managed by the Commission through the Texas State Treasury and the Texas Safekeeping Trust Company. There was evidence that the Commission considered statute and bond restrictions before authorizing expenditure of proceeds.

The \$260,000 of state funds provided to a not-for-profit foundation was used in compliance with statute and bond restrictions.

The Commission accurately reported expenditures. All purchases and expenditures examined were in compliance with statute and bond restrictions.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence F. Alwin".

Lawrence F. Alwin, CPA
State Auditor

LFA/rmn/enclosure

Key Points Of Report

An Audit Report On Texas National Research Laboratory Commission

February 1995

Key Facts and Findings

- The Texas National Research Laboratory Commission is managing \$914 million in assets and expending funds in a manner which protects state interests during the termination of the State's portion of the Superconducting Super Collider Project. The \$914 million includes \$510 million in land, facilities, and equipment and \$211 million in cash received in the settlement with the United States Government over cancellation of the Super Collider project. It also includes \$151 million in bond proceeds, \$41.7 million in debt service funds, and \$600,000 in personal property assets.
- The Commission issued \$500 million in bonds for construction and operation of the Super Collider, of which \$493.6 million is still outstanding. The \$243.6 million in General Obligation Bonds is an obligation of the State and is managed by the Texas Public Finance Authority. The \$250 million in Lease Revenue Bonds is managed by the Commission. Debt service payments on the Lease Revenue Bonds are made from funds appropriated to the Commission for lease payments. Future legislative appropriations will be required for debt service related to both bond issues.
- The Commission is currently involved with termination of the Super Collider project and finding beneficial uses for Super Collider facilities.
 - The \$510 million in land, facilities, and equipment, including computers, received as a result of the settlement between the State of Texas and the United States Government are subject to potential deterioration and/or obsolescence and loss of value unless timely decisions are made regarding their future use.
 - The State could keep a \$65 million contribution from the Federal Government if a decision is made to finish construction of a Regional Medical Technology Center.
 - The Commission estimates the State can save \$3.7 million by dismissing contested land acquisition cases. Conversely, if the State continues with land acquisition, it could take from 6 to 12 years and \$24.5 million to settle the contested cases.

Contact:

Paul H. Hagen, CPA (479-4760)

This audit was conducted in accordance with Government Code Section 321.0133.

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Executive Summary

The Texas National Research Laboratory Commission (Commission) is managing \$151 million in bond proceeds, \$41.7 million in debt service funds, and over \$600,000 in personal property and is expending their funds in a manner which protects state interests during the termination of the State's portion of the Superconducting Super Collider (Super Collider) Project. They also are managing \$510 million in land, facilities, and equipment and \$211 million in cash from the settlement between Texas and the United States Government for cancellation of the Super Collider project.

The Commission Is Currently Involved With Termination Of The Super Collider Project And Finding Beneficial Uses For Super Collider Facilities

The Commission is currently working with the United States Department of Energy to accept the thousands of items of personal property awarded to the State as a result of the settlement between the State of Texas and the United States Government. This settlement was agreed upon following cancellation of the Super Collider project by the United States Congress in October 1993. The Commission plans to inventory property items and enter them into the State Property Accounting System. They plan to identify surplus property for disposal after decisions are made about how the Super Collider facilities are to be used.

The Commission is actively involved in finding uses for Super Collider facilities which will provide the most benefit to the State. They have presented four potential uses to the United States Department of Energy.

The Commission Estimates The State Can Save \$3.7 Million By Dismissing Contested Land Acquisition Cases

The Commission is pursuing a course of action which they project could save the State \$3.7 million. They are advocating dismissal of as many contested land lawsuits as is possible. The Commission has projected costs which show that dismissal will be less costly than pursuing land acquisition in the contested cases.

Conversely, if land acquisition continues, there are 138 pending court cases resulting from 231 parcels of land yet to be acquired. Two Ellis County courts are available to try these cases, and these courts can handle from one to two cases per month. At this rate, if all cases go to trial, it could take from 6 to 12 years to try the 138 cases.

The Commission is Expending Bond Proceeds In Compliance With Bond Covenants And Related State Regulations

The Commission's expenditure of General Obligation and Lease Revenue Bond proceeds was found to be in compliance with statute and the restrictions of each respective bond issue. Bond proceeds had been correctly deposited and were being managed by the Commission through the Texas State Treasury and the Texas Safekeeping Trust Company.

Executive Summary

There was evidence that the Commission considered statute and bond restrictions before authorizing expenditure of proceeds.

State Funds Spent By A Not-For-Profit Foundation Were In Compliance With Statute And Bond Restrictions

The \$260,000 of state funds provided to the Foundation for American Scientific Leadership (Foundation) was used in compliance with statute and bond restrictions to pay costs associated with two contracts. One contract was for a public awareness campaign for the Super Collider, and the other contract was for an impact study for the Super Collider. These contracts were found to qualify as eligible undertakings of the Commission as defined in statute and bond restrictions.

The Commission's Reporting Of Expenditures Is Materially Accurate

The Commission accurately reported expenditures in the sample of purchase vouchers which were examined. All purchases and expenditures were in compliance with statute and bond restrictions and had been charged to the proper object code required by the Comptroller of Public Accounts.

Summary Of Management's Response

I have reviewed the Audit Report on the activities of the Commission in protecting the State's interests during termination of the

Superconducting Super Collider and concur with your findings.

Summary Of Audit Objective And Scope

The objectives of the audit were to determine if the Texas National Research Laboratory Commission is managing assets and expending funds in an efficient manner that protects the State's interests during termination of the Superconducting Super Collider (Super Collider) Project and to report our findings to legislative leadership.

To accomplish this, we focused on agency expenditures and the use of state funds by the Commission and the two not-for-profit foundations it created. Expenditures were analyzed to determine compliance with statute and bond restrictions on proceed use.

Issues and Recommendation

Section 1:

The Commission Is Currently Involved With Termination Of The Super Collider Project And Finding Beneficial Uses For Super Collider Facilities

The Commission is currently working with the United States Department of Energy to accept the thousands of items of personal property awarded to the State as a result of the settlement between the State of Texas and United States Government. This settlement became necessary when the Super Collider project was cancelled by the United States Congress in October 1993. The Commission plans to inventory property items and enter them into the State Property Accounting System. They plan to identify surplus property for disposal after decisions are made regarding how the Super Collider facilities are to be used.

Additionally, the Commission is actively investigating uses for Super Collider facilities which will provide the most benefit to the state in terms of jobs, scientific advancement, and medical or other types of benefits for Texas residents. In March 1994, the Commission received a \$6.0 million grant from the United States Department of Energy to develop proposals for alternate uses for the Super Collider facilities.

(The following two paragraphs were derived from the summary of an unpublished report provided by the Texas National Research Laboratory Commission.)

Special project teams of Super Collider Laboratory employees, augmented with faculty from Texas universities and other experts, studied four potential future uses of facilities, equipment, and land at the Super Collider site.

The four potential projects for use of Super Collider assets which were evaluated were: the use of LINAC (Linear Accelerator) facilities and equipment for proton cancer therapy and medical radioisotope production; research and development in superconductivity and cryogenics; high performance computing and information technology; and the potential restoration of the Blackland Prairie at the Super Collider site. These investigations were completed and subjected to a national peer review by the U.S. Department of Energy in December of 1994. The Department of Energy concluded that, with the exception of a \$65 million contribution from the U.S. Government for a Regional Medical Technology Center, no funds are available to implement the other activities suggested by the study. This \$65 million contribution is being held in a true escrow trust and is tied to completion of the Regional Medical Technology Center. Failure to approve completion of the Center could result in return of the \$65 million to the Federal Government. The Department of Energy also concluded that difficult decisions will need to be made in the near future because of potential deterioration and/or obsolescence of computers and related equipment. Additionally, the Department of Energy concluded that a major problem and opportunity now confronting the Commission is to find ways to obtain funding and support for these new potential uses.

Section 2:

The Commission Estimates The State Can Save \$3.7 Million By Dismissing Contested Land Acquisition Cases

The Commission is pursuing a course of action which they project could save the State \$3.7 million by advocating dismissal of as many contested land lawsuits as possible. This estimated savings could occur if 78 of the 138

Issues and Recommendation

pending land acquisition court cases are dismissed. The savings would be realized from reduced legal fees, jury verdicts, and interest payments, as well as amended trial pleadings, and the return of funds already paid through the registry of the court. The Commission's calculations appear reasonable.

The Commission was responsible for acquiring the land to construct the Super Collider. In order to build the Super Collider, approximately 1,394 parcels of land were required. Of these 1,394 required parcels, 1,163 parcels have been acquired, and acquisition is pending on 231. There are 138 pending court cases (referenced above) resulting from these 231 parcels of land to be acquired. As of October 1994, the status of these 138 cases included:

- 1) two cases ready for closing
- 2) eighty-nine objections to the awards offered by a special commission of landowners
- 3) forty cases in various phases of jury trial
- 4) seven appeals of court judgments

Two Ellis County courts are available to try these cases, and these courts can handle from one to two cases per month. At this rate, if all cases go to trial, it could take from 6 to 12 years to try the 138 cases.

The Commission has projected costs of \$24.5 million to continue with land acquisition. Nevertheless, the law does not require the State to continue with acquisition of undisturbed land condemned under eminent domain proceedings. In seeking dismissal, the State will be liable for the court costs and expenses incurred by landowners as they fought condemnation awards for their property. By dismissing qualifying cases, the cost to the State could be reduced to approximately \$20.8 million, a potential savings of \$3.7 million. The State has already

paid \$13 million of the \$20.8 million projected cost with dismissals, and the Commission has a \$10.4 million balance of funds available for future payments.

Section 3:

The Commission Is Expending Bond Proceeds In Compliance With Bond Covenants And Related State Regulations

The Commission's expenditure of General Obligation and Lease Revenue Bond proceeds was found to be in compliance with statute and the restrictions of each respective bond issue. Bond proceeds had been correctly deposited and were being managed by the Commission through the Texas State Treasury and the Texas Safekeeping Trust Company. There was evidence that the Commission considered statute and bond restrictions before authorizing expenditure of proceeds.

Bond proceeds held by the Texas State Treasury as of December 31, 1994, are in Figure 1 on the following page.

Issues and Recommendation

Figure 1

BOND PROCEEDS		
Account	General Obligation Bonds	Lease Revenue Bonds
Project Account		\$105,646,485
Earnings Account	\$7,405,939	2,726,799
Interest Account		8,667,389
Rental Reserve		12,830,385
Treasury Pool	13,500,000	
Total	\$20,905,939	\$129,871,058

The Commission does not receive state appropriations for its operation; Commission operations are funded by bond proceeds. The Legislature does, however, appropriate money for debt service on the bond issues.

The Commission's enabling statute, Government Code, Chapter 465, Article 465.022, authorized them to issue, sell, and deliver \$500 million of General Obligation Bonds and \$500 million of Lease Revenue Bonds. The Commission actually issued and sold \$250 million in General Obligation Bonds and \$250 million in Lease Revenue Bonds.

Additionally, the enabling statute authorized bond proceeds to be used to carry out eligible undertakings related to the acquisition of land, the construction of Super Collider facilities, development and operation of the Super Collider, and for research grants to colleges and universities.

General Obligation Bonds

General Obligation Bond proceeds were used in accordance with statute and bond restrictions. A sample of 17 purchase

vouchers were reviewed to ensure bond proceeds were being expended as required by statute and bond restrictions. All expenditures complied with statutory and bond restrictions.

The General Obligation Bond Resolution authorizes the Commission to use bond proceeds in any manner appropriate to fund undertakings related to a Super Collider research facility sponsored or authorized by the United States Government. The General Obligation Bond Official Statement essentially contains identical wording.

Lease Revenue Bonds

Lease Revenue Bond proceeds were used in accordance with statute and bond restrictions. Two contracts with outside firms were reviewed to ensure bond proceeds had been expended as required by statute and bond restrictions. Additionally, grants to colleges and universities for research were reviewed for compliance.

Lease Revenue Bond proceed use is authorized for any undertaking, whether or not capital in nature, that is necessary to the

Issues and Recommendation

fulfillment of offers made in the Super Collider siting proposal, or is necessary or desirable to effect the siting, development, and operation of the Super Collider. Additionally, the Lease Revenue Bond Official Statement authorized up to 20 percent of the proceeds to be spent on research grants, educational expenditures, administrative costs, or other tangible property.

The two contracts were for eligible undertakings as defined in statute and bond restrictions. One contract was for a public awareness/education program deemed necessary to effect the development and operation of the Super Collider. This program was carried out nationwide because the Commission believed there was a general lack of knowledge and understanding about the national benefits of the Super Collider. The second contract was for a socioeconomic impact study to educate surrounding communities about the economic benefits arising from construction and operation of the Super Collider which would offset potential tax base losses. This study was deemed necessary by both the Commission and the United States Department of Energy.

Finally, grants to colleges and universities were examined to ensure that the Commission had not exceeded proceed spending restrictions in the Lease Revenue Bond Official Statement. The Commission expended approximately \$39 million of the \$50 million which was authorized for research grants.

The examination of a grant to one of the universities revealed that award of the grants was based upon the merit of research proposals submitted by the colleges and universities. These proposals were judged by a volunteer group of scientists who chose the top proposals related to construction and operation of the Super Collider. Participating colleges and universities were required to

submit reports regarding their progress and final recapitulations of results.

Section 4:

State Funds Spent By A Not-For-Profit Foundation Were In Compliance With Statute And Bond Restrictions

The \$260,000 of state funds provided to the Foundation for American Scientific Leadership (Foundation) was used in compliance with statute and bond restrictions to pay the costs associated with two contracts. One contract was for a public awareness campaign for the Super Collider, and the other contract was for an impact study for the Super Collider. These contracts were found to qualify as eligible undertakings of the Commission as defined in statute and bond restrictions.

The Commission's enabling statute authorized formation of one or more corporations under the Texas Non-Profit Corporation Act. The Commission created two not-for profit corporations, the Foundation for American Scientific Leadership and the Committee for Construction of the SSC, Incorporated. The Foundation for American Scientific Leadership was the only one of these two not-for-profit corporations which received state money.

Statute also allows the Commission to donate money or other property to one or more of those corporations and to enter agreements with one or more of those corporations as they consider appropriate. Furthermore, statute authorizes the Commission to prepare information of public interest describing the Superconducting Super Collider project and the functions of the Commission. The

Issues and Recommendation

Commission is directed to make the information available to the public and appropriate state agencies.

As a result of the contract for a public awareness campaign, teams of people met with and briefed local media personnel and community leaders in 26 cities in 12 states on the progress and economic development benefits of the Super Collider. Media kits were distributed to media personnel for their use in publicizing the Super Collider.

Information from the contract for the impact study was used to educate surrounding counties and communities about the economic benefits of the Super Collider. This served to diminish local fears about partial loss of their tax base from construction of the Super Collider.

In addition to the \$260,000 of state funds provided to the Foundation, Commission members were successful in raising \$258,650 from private firms and individuals for use in improvement of science education and scientific research and to disseminate information regarding the impact and importance of science education and scientific research.

Commission members also were successful in raising over \$800,000 in donations from private sources for the second not-for-profit corporation, the Committee for Construction of the SSC, Inc. This money was used for promotion of the development of the Super Collider through programs, services, and media campaigns and to disseminate information regarding the impact and importance of development of the Super Collider.

Both not-for-profit corporations have ceased operation.

Section 5:

The Commission's Reporting Of Expenditures Is Materially Accurate

At the time of purchase, the Commission accurately reported all expenditures in the sample of purchase vouchers which were examined. Nevertheless, during the process of disposal of property and equipment, a piece of software previously capitalized with an item of hardware was separated from the hardware and was retained by the Commission. The price of the software required capitalization and entry onto the agency property inventory. However, following separation from the hardware, the Commission did not individually capitalize or enter the software onto the agency property inventory. Agency personnel corrected the error during the audit.

A list of all Commission expenditures from the inception of the agency was reviewed for potentially questionable purchases or expenditures which needed explanation. A sample of purchase vouchers was judgmentally selected for review which related to the questionable purchases and expenditures. Review of the sample vouchers revealed that all purchases and expenditures were in compliance with statute and bond restrictions. All expenditures had been charged to the proper object codes required by the Comptroller of Public Accounts.

Additionally, all items of personal property had initially been appropriately capitalized.

Recommendation:

As the agency continues to downsize, it should exercise care to ensure that items of personal property which are retained are properly capitalized and entered onto the property inventory, particularly those items of computer hardware and software. Property

Issues and Recommendation

items still in the Commission's possession should be reviewed to determine if additional items should be capitalized and inventoried.

Management's Response:

An inventory is currently under way to identify all assets that will be in the Commission's possession. A bar-code system is being utilized to identify, monitor and help control asset use, location and assigned responsibility. Use of the State Property Accounting system and a property manager/accountant should facilitate proper recording and tracking.

Appendix

Appendix 1:

Audit Objectives, Scope, And Methodology

Objectives

The objectives of the audit were:

1. To determine if the Texas National Research Laboratory Commission is managing assets and expending funds in an efficient manner that protects the State's interests during termination of the State's portion of the Superconducting Super Collider (SSC) Project.
2. To report to legislative leadership about the actions taken by the Texas National Research Laboratory Commission to terminate the State's portion of the Superconducting Super Collider Project.

Scope

The audit focused on four primary issues:

- Are continued land acquisitions necessary, and are they resulting in increased costs above levels originally anticipated by Commission officials?
- Is the Commission expending bond proceeds in compliance with bond covenants and related state regulations?
- Have state funds been transferred to two not-for-profit foundations created by the Commission and then been spent for purposes not intended by state government?
- Is the Commission accurately reporting expenditures?

Methodology

Commission records dating back to the agency's inception in 1987 were examined to obtain the answers to the above questions.

In order to determine whether Commission land acquisition policies and planning were appropriate, we first developed a set of alternatives for land acquisition. Criteria were then developed for each alternative against which Commission and Attorney General actions regarding land acquisition were compared. The costs to pursue the various alternative actions were then estimated and a cost comparison performed.

The bond proceed use and expenditure reporting issues were related in that the Commission uses General Obligation bond proceeds for its daily operations and expenditures. In order to adequately test expenditures and bond proceed use, we first determined statutory and bond covenant restrictions on the expenditure of bond proceeds. Next, a list of all Commission expenditures from agency inception to the present were reviewed. A number of questions arose as a result of this review, and a sample of vouchers was judgmentally selected which related to the questions. The sample vouchers were then checked for mathematical accuracy, the proper capitalization of items purchased, use of the proper object code, and whether or not purchases were in compliance with statute and bond restrictions.

Grants to colleges and universities were also examined to determine the extent of controls on the award of grants and the deliverables which resulted from these grants.

State fund use by the two not-for-profit foundations established by the Commission was checked by reviewing Foundation bank accounts and expenditures. Statute and both corporation charters were reviewed to

Appendix

determine restrictions on fund raising and fund use by the foundations. Foundation expenditures, particularly those involving use of state funds, were checked to ensure compliance with statutory and charter restrictions.

Fieldwork was conducted between September 22, 1994, and December 16, 1994. The audit was conducted in accordance with applicable professional standards including:

- Generally Accepted Government Auditing Standards
- Generally Accepted Auditing Standards

The audit work was performed by the following members of the State Auditor's Office staff:

- Orin I. Knutson, CPA (Project Manager)
- Sid Stuewe, CPA (Quality Control)
- Kyle Kelly (Quality Control)
- Paul H. Hagen, CPA (Audit Manager)
- Deborah L. Kerr, Ph.D. (Audit Director)

Copies of this report have been distributed to the following:

Legislative Audit Committee

Honorable James E. "Pete" Laney, Speaker of the House, Chair
Honorable Bob Bullock, Lieutenant Governor, Vice Chair
Senator John Montford, Chair, Senate Finance Committee
Senator Kenneth Armbrister, Chair, Senate State Affairs Committee
Representative Robert Junell, Chair, House Appropriations Committee
Representative Tom Craddick, Chair, House Ways and Means Committee

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Texas National Research Laboratory Commission

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