



These are the minutes of the Texas Transportation Commission Audit Subcommittee quarterly meeting held on June 29, 2016, at 125 E. 11<sup>th</sup> Street, Austin, Texas 78701. The meeting convened at 1:05 p.m. with the following members present:

**Audit Subcommittee Members:**

Jeff Austin, III	Commissioner, Audit Subcommittee Chair
J. Bruce Bugg, Jr.	Commissioner, Audit Subcommittee Member

**Administrative Staff:**

Benito Ybarra	Chief Audit and Compliance Officer
James Bass	Executive Director
Jeff Graham	General Counsel
Brian Ragland	Chief Financial Officer
Rich McMonagle	Chief Administrative Officer

A sign-in sheet listing others in attendance is on file with TxDOT's Internal Audit Division.

A public notice of this meeting containing all items on the proposed agenda was filed in the office of the Secretary of State at 09:21 a.m. on June 21, 2016, as required by Chapter 551 of the *Texas Government Code*, referred to as "The Open Meetings Act."

**Commissioner Austin** opened the meeting and invited opening remarks. **Commissioner Bugg**, referring to the recognition Mr. Ybarra received from the American Association of State Highway and Transportation Officials (AASHTO), expressed the commissioners' pride in the work that Mr. Ybarra has done and the professional recognition he has earned. **Commissioner Austin** echoed the remarks.

**Item 1. Approval of Minutes from the March 30, 2016, Meeting**

The Minutes were presented by Benito Ybarra, Chief Audit and Compliance Officer, and approved by the Audit Subcommittee.

**Item 2. Legislative Implementation Update**

**a. Legislative Implementation Update - State**

Trent Thomas, Director of the State Legislative Affairs Section (SLA), presented the recurring update on the implementation of state legislation. TxDOT is well on track to completing the agency's 84<sup>th</sup> Legislative Session Implementation Plan. Most of the remaining open items require third party input. Regarding the previously discussed highway designation items, eight out of ten now have identified funding and TxDOT is working on the agreements. SLA will also be sending letters to legislators updating them on the two pending items from the 84<sup>th</sup> Legislative Session and the five pending items from the 83<sup>rd</sup>. There are no pending bills from prior sessions. **Commissioner Austin** reiterated his recommendation that highway designation bills be made subject to a sunset provision.

Responding to **Commissioner Bugg's** question whether HB20 will be fully implemented by December 15, 2016, Mr. Thomas said that he expects it to be.

**Commissioner Austin** commended Mr. Thomas for the work done and the update provided.

### b. Legislative Implementation Update - Federal

Ryan Granger, Congressional Liaison in the Federal Affairs Section of the Government Affairs Division, provided the recurring update regarding federal legislation and mandates. While the volume of federal bills impacting TxDOT is much smaller compared to state legislation, those that do affect TxDOT have a large implementation impact.

Since the last subcommittee meeting in March, TxDOT has submitted three applications under the Fixing America's Surface Transportation Act of 2015 (FAST Act) and is working on a submission under the Advanced Transportation and Congestion Management Technologies Deployment section of the FAST Act. In addition, TxDOT is exploring partnerships with the City of Austin, the City of San Antonio, and two Regional Mobility Authorities. On June 30, the Traffic Operations Division will submit the annual Highway Safety Plan; the plan was approved by the Transportation Commission during its May meeting.

Mr. Granger next provided an overview of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21). Referring to the previously discussed MAP-21 provision regarding the interoperability of toll tags across states, he reported that no state or toll agency is currently in a position to meet the October 1 deadline for implementation. TxDOT is working to stay on track for implementation including the installation of Triple Protocol Readers. When asked by **Commissioner Austin**, Mr. Granger confirmed that the readers have not been installed yet. **Commissioner Austin** then addressed the Transportation Policy Advisor from the Governor's Office, Chuy Gonzalez, that this, at some point, may involve action by the Governor's Office as it relates to other States.

Referring to the tracking sheet for the Water Resources Reform and Development Act (WRRDA), Mr. Granger reported that since the last subcommittee meeting in March, the Army Corps of Engineers (Corps) has announced that guidance related to the Water Infrastructure Finance Authority (WIFIA) section cannot be issued until appropriations are received. In June, the Corps issued guidance relating to the operations and maintenance of some projects.

**Commissioner Austin** thanked Mr. Granger for the update.

### Item 3. Compliance Division Update

Benito Ybarra offered an overview of three areas of activity by the Compliance Division (CMP).

#### a. Change Order Evaluation

CMP has reviewed change orders from the third quarter of FY16, including supplemental agreements. Having selected 30 of the 1,398 change orders, the review found that six of the 30 had insufficient documentation or incorrect approvals or both; however, all of the examined change orders were allowable and reasonable.

**Commissioner Austin** sought further clarification regarding the phrase "TxDOT convenience." Mr. Ybarra responded that the term means that the need for a change order was determined by TxDOT.

Responding to a follow up question by **Commissioner Austin**, Mr. Ybarra confirmed that the monetary value of change orders remains at about 2%, which compares well with other states, where that rate can be as high as 12% and that the average for other states is at around 7%.

**Commissioners Austin** and **Bugg** sought further clarification regarding “TxDOT convenience” as the largest category of change orders. Jeff Graham, TxDOT General Counsel, replied that it is a contract term that means that something is not required by a given contract but desirable because of engineering, safety, performance, or cost savings reasons. The term should not be understood as implying that a change was made without a good reason.

Addressing the Executive Director, James Bass, **Commissioner Bugg** asked that, going forward, a change of terminology be considered.

Returning to the issue of missing or incorrect documentation, **Commissioner Austin** asked what was being done to educate staff. Mr. Ybarra replied that the CMP review process and the resulting reports that are disseminated to the districts, serve an important education function.

b. Summary of Investigations

Benito Ybarra presented a summary of the investigative activities for the third quarter of fiscal year 2016. The number of allegations received has decreased significantly from the prior quarter and when compared to the same quarter last year. The substantiation rate is at 52% which is above industry norm. Current trends show that 85% of cases relate to the misuse of state resources and employee misconduct. When asked by **Commissioner Austin**, Mr. Ybarra stated that the value in the cases of misuse of state resources varies greatly; an average amount would be at around \$5,000.

c. Phishing Awareness Campaign

Earlier in this fiscal year, information security and confidentiality was discussed in the Audit Subcommittee. In partnership with the Information Management Division (IMD), CMP implemented an awareness tool whereby a replica of a phishing email was sent to all TxDOT employees. 12.5% of the recipients of the email clicked on the email – this compares to an average baseline of 15.9%, which is to say that TxDOT did considerably better than average but there remains the need for on-going training and awareness campaigns. **Commissioners Austin** and **Bugg** underscored the need for continued vigilance and diligence.

Recipients who clicked on the replica phishing email received an automated “You’ve Been Hooked” response. **Commissioner Bugg** suggested that, as a service to all employees, the automated response be shared with everyone at TxDOT with a message saying “Don’t let this happen to you.”

**Commissioner Austin** emphasized that information security is of greater concern than the previously discussed contract issues. Addressing General Counsel Graham, **Commissioner Austin** asked if the discussion could be expanded to include the recent technology breaches regarding electronic signage. Mr. Graham counseled that those technology breaches could only be discussed if they were related to phishing awareness. Mr. Bass added that there has been communication with contractors

highlighting the need for necessary and appropriate precautions. Mr. Ybarra indicated that CMP has almost completed a related project and that an update will be provided.

#### **Item 4. Internal Audit Division Update**

##### **a. Management Action Plans (MAP) Status**

Craig Otto, Director of the Internal Audit Division, presented the recurring update on the progress of resolving the 43 MAP Follow-Ups assigned as part of the FY16 Audit Plan. Of those, 33 have been closed, the others are in progress. Open MAPs will be included in the FY17 Audit Plan.

**Commissioner Austin** asked that when the subcommittee discusses the FY17 Audit Plan, there be a prior years' comparison of the rate at which MAPs received responses and were resolved.

##### **b. Audit Report: Post Implementation Review PeopleSoft - Inventory**

Craig Otto introduced the audit report for Post Implementation Review PeopleSoft - Inventory. The overall engagement assessment was "*unsatisfactory*." Mr. Otto added that this was the second consecutive inventory audit that received an unsatisfactory rating and that TxDOT as a whole needs to increase its focus on inventory management and control.

**Commissioner Austin** thanked Mr. Otto for the update and report.

#### **Item 7. Executive Session**

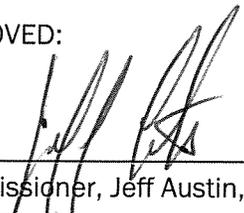
An Executive Session was not deemed necessary.

#### **Closing Comments**

There being no closing comments, **Commissioner Austin** stated that this concluded the agenda for the day. The next Audit Subcommittee meeting will be held on August 24, 2016, in Austin. **Commissioner Austin** asked that the meeting be held in the afternoon to accommodate his travel schedule. The Commissioners thanked all for attending the meeting.

The meeting was adjourned at 1:48 p.m.

APPROVED:

  
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Commissioner, Jeff Austin, III, Chair  
Texas Transportation Audit Subcommittee