Internal Audit Report

Rail Project Management

TxDOT Office of Internal Audit
Objective
To evaluate the contract management and oversight of state wide rail projects and programs, specifically, Railroad Safety Agreements and Construction & Maintenance Agreements.

Opinion
Based on the audit scope areas reviewed, control mechanisms are unreliable in addressing risk factors and exposures considered significant relative to impacting financial reporting reliability, operational execution, and regulatory compliance. The organization's system of internal controls does not provide reasonable assurance that key goals and objectives will be achieved. Control gap corrections are pervasive and resulting in material negative impacts to the organization. Progress can be made within 2 quarters in addressing the highest risk areas.

<table>
<thead>
<tr>
<th>Finding</th>
<th>Title</th>
<th>Control Design</th>
<th>Operating Effectiveness</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finding 1</td>
<td>Rail Management Contract Process</td>
<td>X</td>
<td>X</td>
<td>Unsatisfactory</td>
</tr>
<tr>
<td>Finding 2</td>
<td>Signature Authority</td>
<td></td>
<td></td>
<td>Needs Improvement</td>
</tr>
</tbody>
</table>

Management concurs with the above findings and prepared management action plans to address deficiencies.

Control Environment
The Rail Safety Section of the Traffic Operations Division is the office of primary responsibility for developing agreements between TxDOT and the railroads. This section recently moved under new management as part of a restructuring effort. Rail projects are managed by both the Rail Safety Section and the districts, but neither accepts total responsibility of project management.
### Summary Results

<table>
<thead>
<tr>
<th>Finding</th>
<th>Scope Area</th>
<th>Evidence</th>
</tr>
</thead>
</table>
| 1       | Contract Management| For 41 projects reviewed, railroad companies had sent a total of 237 invoices. When District, Division, and Finance files were reviewed, copies of invoices were missing as follows:  
- 237 of 237 (100%) invoices were missing from the Division files  
- 136 of 237 (58%) invoices were missing from the District files:  
  - 101 invoices were found in the District files; however, not all files had complete information as noted:  
    - 51 of 101 (51%) invoices had no documented approval for payment  
    - 10 of 101 (10%) invoices received were missing supporting documentation showing the invoice expense had actually incurred  
- 30 of 237 (13%) invoices were missing from Finance files:  
  - Supporting documentation was sufficient for invoices found in the Finance files. |
| 2       | Contract Management| Invoices are being approved for payment by railroad coordinators that do not have signature authority:  
- 41 of 101 (41%) District invoices were approved by staff that did not have signature authority. Those invoices totaled $1,376,464.  
  - 9 individuals among the 8 Districts reviewed had approved invoices without having signature authority  
  - None of the approved invoices were deemed inappropriate |

### Audit Scope

Eight Districts were visited and 41 different projects (25 Rail Safety projects and 16 Construction & Maintenance Agreements) were reviewed during the audit. Districts visited were selected based on the total monetary volume of their rail contracts. The Bryan, Dallas, Ft. Worth, Houston, San Antonio, Pharr, and Waco Districts were visited because they all had over $2.5 million in rail contracts. The Paris District was also visited with rail contracts that totaled $655,074.
In each of the Districts visited, a sample of rail contracts was reviewed. An effort was made to include rail projects with a payment on or after October 1, 2013 because of the new invoice approval process implemented at that time.

The audit was performed by Julie Atchison, Catherine Edwards, Milan Hawkins and Suzy Oviedo (Engagement Lead). The audit was conducted during the period from October 24, 2013 to December 13, 2013. The scope included all active railroad safety projects and Construction & Maintenance railroad agreements at the time of the audit.

Methodology
The methodology(s) used to complete the objectives of this audit included:

- Interviewing District Railroad Coordinators, Rail Division personnel, and Finance personnel
- Reviewing rail project files at the selected Districts and the Division
- Reviewing rail payment information in Finance
- Analyzing documents to determine the contract process, where project documentation was held, and who was managing the contract
- Reviewing documents to determine compliance with contract requirements and state and federal regulations

Background
This report is prepared for the Texas Transportation Commission, TxDOT Administration and Management. The report presents the results of the Rail Project Management Audit, which was conducted as part of the Fiscal Year 2014 Audit Plan.

The Rail Safety Section, Districts, and Finance work together to ensure rail projects are selected, overseen, completed, and paid properly.

The Rail Safety Section of the Traffic Operations Division administers several different types of rail projects, including the Rail Safety projects and Construction & Maintenance (C&M) projects. Rail Safety projects are projects that help improve the safety of rail crossings. C&M projects are TxDOT projects, completed by the Construction Division, where a road construction project includes work on a railroad crossing. The railroad company does the work on the railroad crossing or track.

Since the railroad company is doing the construction work for a C&M project, a C&M Agreement is signed with the railroad company. The agreement is negotiated by the Rail Safety Section, with the assistance of the District and the Construction Division. The agreement includes all of the terms and conditions for the construction of the project, maintenance of the joint highway-rail facilities, and the approved plans, specifications and estimates to accomplish the work.

When it is a Rail Safety project, the Rail Safety Section selects, with the help from the Districts, which crossings will obtain the safety improvements. Once those selections are made, the Division works with the District to develop the project estimation, plans, and the agreement.
In either Rail Safety projects or C&M Agreements, the District where the project is occurring is primarily responsible for overseeing the construction and progress of the work. The District relies on District Railroad Coordinator to handle all responsibilities for the rail projects, including reviewing the rail invoices to ensure the charges in the invoice are correct and supportable. These District Railroad Coordinators may also have other duties in the District.

The rail invoices are sent by the railroad to the Finance Division for payment processing. Finance receives all the invoices related to Rail Safety projects and C&M Agreements. Once the invoice is received, Finance sends the invoice to the railroad coordinator in the District where the project was conducted to obtain approval for payment. Once approval for payment is received, Finance pays the railroad company.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards and in conformance with the International Standards for the Professional Practice of Internal Auditing. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Recommendations to mitigate risks identified were provided to management during the engagement to assist in the formulation of the management action plans included in this report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The Office of Internal Audit transitioned to Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control – Integrated Framework version 2013 in December 2013.

A defined set of control objectives was utilized to focus on reporting, operational, and compliance goals for the identified scope areas. Our audit opinion is an assessment of the health of the overall control environment based on (1) the effectiveness of the enterprise risk management activities throughout the audit period and (2) the degree to which the defined control objectives were being met. Our audit opinion is not a guarantee against reporting misstatement and reliability, operational sub-optimization or non-compliance, particularly in areas not included in the scope of this audit.
Finding No. 1: Rail Management Contract Process

Condition
There is not a rail project document records retention process in place which identifies records that must be kept and responsibility for their retention. The Rail Safety Section, Districts, and Finance had incomplete files for the railroad projects reviewed. Work orders, authorizations, invoices, and master contracts for some projects were not available in the District or Division files. Invoices were also not always available from Finance records with some invoices having insufficient support for payment.

Effect/Potential Impact
Without clearly defined roles and responsibilities surrounding the retention of key documents, the following impacts to contract and program oversight could occur:

- Project work and funds can be mismanaged without reference to the contract and agreements
- Project overruns can occur
- Final audits/reviews cannot be completed

Criteria
The Rail Safety Section is considered the office of primary responsibility when administering federal and state transportation dollars for rail work. As the office of primary responsibility, the Rail Safety Section should be the primary office of public record for guaranteeing a standard overall contract management process. They should ensure documentation is complete and maintained as required by federal and state rail project laws, regulations, and guidance. These laws, regulations, and guidance provide requirements on several items including: compliance requirements for documents and specifications, reimbursement eligibility criteria, invoice verification and storage, and audit requirements.

Cause
Districts, the Rail Safety Section, and Finance have not developed a process that clearly defines roles and responsibilities or adopted standard contract management procedures to ensure rail project files are complete and have proper documentation. The lack of clearly defined roles and responsibilities has led to individuals with differing qualifications, responsibilities, and authority to have segmented ownership of the rail project contract process.

In addition, not having clearly defined roles and responsibilities has led to not having a process that provides assurance that invoices have the required supporting documentation prior to approval for payment.

For Construction & Maintenance (C&M) Agreements, the Construction Division has also not clearly defined documentation and retention requirements.

Evidence
During the audit, 8 Districts were visited and 41 different projects (25 Rail Safety projects and 16 Construction & Maintenance Agreements) were reviewed. These 41 projects had an
estimated budget of $10,357,742. Documents were reviewed at the Districts, the Rail Safety Section, and the Finance Division, with incomplete project records being identified.

**Overall Results (project results includes Rail Safety and C&M Agreements)**

- For the 41 projects, railroad companies submitted a total of 237 invoices. When District, Division, and Finance files were reviewed, copies of invoices were missing:
  - 237 of 237 (100%) were missing from the Division files
  - 136 of 237 (58%) were missing from the District files
  - 30 of 237 (13%) were missing from Finance
- For the 101 invoices found in the District files, not all files had supporting documentation or a documented approval:
  - 51 of 101 (51%) invoices had no documented approval for payment
  - 10 of 101 (10%) invoices received were missing supporting documentation showing the invoice expense had actually incurred
- 29 of 41 (71%) projects did not have documented evidence of TxDOT oversight of the contractor (i.e., such as diary entries).

**Rail Safety Projects:**

25 projects and 103 invoices related to rail safety projects were reviewed at the Districts, at Rail Safety Section, and at Finance. The following was noted:

- 14 of 25 (56%) work authorizations were missing, which detail the dollar amount and the work to be done, in the Districts’ files
  - 1 work authorization was missing from the Rail Safety Section files
- 11 of 25 (44%) are missing a work order, which authorizes the railroad to begin work, in the Districts’ files
  - 2 work orders were missing from the Rail Safety Section files
- 4 of 25 (16%) railroad safety projects did not have a copy of the master contract in the Districts’ files
- 41 of 103 (40%) invoices were missing from Districts’ files
- 10 invoices were missing from Finance records

**Construction & Maintenance (C&M) Agreements:**

16 projects and 134 invoices related to C&M Agreements were reviewed at the Districts, at Rail Safety Section, and at Finance:

- 95 of 134 (71%) invoices were missing from Districts’ files
- 9 of 16 (56%) agreements had no project cost documentation in Districts’ files
- 20 invoices were missing from Finance records

Based on the audit results at the District level, the following impacts were quantified in dollars for each process:

- $2,727,270 in Work Authorizations were not documented
- $2,716,424 in Work Orders were not documented
- $1,815,355 in C&M Agreements were not documented
- $1,067,352 in Rail Safety project invoices were not accounted for in 7 of 8 Districts
- $377,652 of projects, with the railroad portion completed but not yet inspected, continued to pay out funds
- $173,433 of projects have overruns
Management Action Plan (MAP)

MAP Owner:
Darin Kosmak, Rail Safety Director, Traffic Operations Division (TRF)

MAP 1.1:
- The Districts will continue to be responsible for construction management, inspection, and oversight of work performed and completed by the railroad companies. Districts will continue to be responsible for review and approval of railroad invoices submitted to FIN by the railroad companies for payment. TRF will take a more active role in construction inspection, final acceptance, and certification of work completed by the railroad companies. TRF will assume full contract management responsibilities as the Office of Primary Responsibility (OPR) to ensure a complete project file is maintained for each rail-highway project. This includes ensuring documentation of review and approval of all railroad invoices is received from the Districts. TRF will utilize the Texas Railroad Information System (TRIMS) project management tool to maintain a signed copy of the contract (including the original paper copy), work authorizations, supplemental agreements, work orders, invoices, correspondence, and a record of events that may affect the work.

- New financial controls for review and approval of railroad invoices from Finance Division (FIN) to the responsible District office have already been established and are now in effect. In addition, FIN will copy TRF on all invoices submitted to the District for review and approval, and the District will provide TRF with a copy of the approved invoice to be retained in the TRIMS project record. TRF will provide additional training and oversight of District personnel responsible for review and approval of railroad invoices to ensure they have the appropriate training to review and approve the invoices for payment. The rail coordinators that will get training include those that have never used TRIMS, were part of this audit, and any new employees. We will continue to monitor to see if more training is needed and when new staff is brought on. This will be an ongoing process.

- New procedures, for the state’s contractor obtaining the Railroad Right of Entry (ROE) agreement and project reporting from contractor-to-District-to-FIN and TRF, are being piloted by the Construction Division (CST) and TRF through use of a new set of bid specifications. The new process will trigger notification of project completion so TRF can monitor and assist in the final acceptance of the railroad work by the District, and it will better ensure FIN and TRF are notified when construction projects are complete. As part of this effort, TRF will work with CST and the Districts to ensure the rail related project documents are maintained with the construction records.

- TRF will update and utilize policy and procedures manuals to train new and existing District railroad project coordinators in preparing project plans, specifications and estimates, issuing work authorizations, conducting inspections, verifying work performed meets agreement terms, coordinating project manager’s comments on work progression statements, and obtaining consensus for District approval of invoices before forwarding to FIN for payment. Training will also include final inspection and acceptance for final certification, final plan review, and preparing as-built plans.
• The Districts will continue to perform final inspection and acceptance of project work performed by railroad companies. TRF will provide management oversight, guidance, and support to the Districts in performing final inspection and acceptance of rail-highway projects for making final payment to the railroads. This includes monitoring the work for contract compliance and providing TRF personnel as needed for conducting final inspection and acceptance of the work to support final payment and project close-out. TRF will ensure final inspection is performed by the District on a timely basis by having TRF staff monitoring progress of work and current project schedule and having open communication with District staff to understand workload. The open communication will allow TRF staff to assist in conducting final inspection when District rail coordinators have too much work to conduct final inspections in a timely manner.

• TRF will ensure all changes to the rail-highway contract management process (including those listed above) will be communicated and done in all districts.

Completion Date:  
August 15, 2014

MAP Owner:  
John F. Obr, P.E., Director, Construction Division (CST)

MAP 1.2:  
CST, in conjunction with the Rail Safety Section (RSS), will issue a memo identifying the need to maintain project documents related to rail in a single location. The memo will provide guidance on what records to include.

Completion Date:  
Action Completed

MAP Owner:  
Paul Campbell, Director of Payments Management  
Bryce Bayles, Voucher Processing Manager

MAP 1.3:  
We will assist the Rail Safety Section in addressing the identified issues, as applicable, to the invoice and payment processing areas.

Completion Date:  
August 15, 2014
Finding No. 2: Signature Authority

Condition
Invoices are being approved for payment by Railroad Coordinators who do not have delegated or approved signature authority forms on file. In addition, authorized approvers in two Districts could not be verified due to missing documentation of approvals.

Effect/Potential Impact
- $1,376,464 of invoices had been approved for payment by staff that did not have signature or delegated signature authority. No inappropriate payments were identified.
- Unauthorized personnel approving contractor payments could result in erroneous payments.

Criteria
Per TxDOT policy, only individuals that have signature authority or that were delegated signature authority can approve invoices for payment. Authority to approve payments can be given by submitting a signature authority delegation document to Contract Services and to Finance.

Cause
Coordination did not exist between the Division and the Districts to assure the appropriate personnel were approving invoices. The Rail Safety Division relies on the Railroad Coordinators in the Districts to review and approve the invoices even though the Rail Safety Division cannot directly delegate this authority to District personnel.

Evidence
A total of 41 projects were selected for testing. From those projects, there were 101 invoices (representing $3,161,851 of payments) reviewed in our testing noting the following:
- 41 of 101 (41%) invoices (representing $1,376,464 of payments) were approved by unauthorized personnel
  - 9 individuals among the 8 Districts reviewed had approved invoices without having proper delegated or signature authority
  - None of the approved invoices were deemed inappropriate

Management Action Plan (MAP)

MAP Owner:
Darin Kosmak, Rail Safety Director, Traffic Operations Division (TRF)

MAP 2.1:
The Traffic Operations Division (TRF) will coordinate through Finance Division, Contract Services, and the District Engineers to update the delegation of signature authority for approving railroad company invoices. It is our recommendation that the responsibility for review and approval of railroad invoices remain with the District responsible for the construction, inspection, and final certification that the work is complete. TRF will update policy/procedures manuals and training materials for new District railroad coordinators to ensure delegation of signature authority is continued in the future.

Completion Date:
August 15, 2014
Observations and Recommendations

Audit Observation (a): Rail Inspections

TxDOT should have timelier inspections for projects that have been finished to ensure any potential safety issues are addressed before the rail crossing is operational. Once a rail project is finalized, the rail company notifies TxDOT that the project is ready for final inspection and makes the rail operational. In one project, the final inspection was not completed until six months after the project was complete. When the final inspection was done, it was discovered that the crossing gate in the project was not built to plan specification. The plan was updated to reflect where the gate was built because the placement of the crossing gate met minimum federal safety requirements and the crossing passed inspection.

Between the time that the railroad company notified TxDOT of the final inspection and TxDOT completed it, the department paid the railroad company an additional $96,680 for work that was ultimately not done to TxDOT specifications.

Effect/Potential Impact:
TxDOT has paid $215,428 of $225,091 (96% of the total estimated project cost), yet the deficiencies noted during the joint final inspection remained unresolved for some time. Retainage is no longer withheld: therefore, TxDOT would have to ask for payment to be returned until the issue is resolved with the Railroad Company.

Audit Recommendation:
Since retainage is no longer held, TxDOT should explore other options such as incorporating “acceptance of project work” as a criterion for payment to ensure that payments are not made to projects that have not been properly inspected or have passed inspection and ensure inspections are done on a timelier manner.
### Closing Comments

The results of this audit were discussed with the Rail Safety Section. We appreciate the assistance and cooperation received from the Traffic Operations Division, Bryan, Dallas, Ft. Worth, Houston, San Antonio, Pharr, Paris, and Waco Districts contacted during this audit.