



CITY OF SAN ANTONIO

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January 20, 2010

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Mayor and Council Members:

SUBJECT: Audit Report on Capital Improvements Management Services'
(CIMS) Requested Audit of TxDOT Construction Projects – S. Flores
and 281/410

We are pleased to send you the audit report on CIMS' Requested Audit of TxDOT Construction Projects – S. Flores and 281/410. This audit began in August 2009 and concluded with an exit meeting with department management in December 2009. Management's verbatim response is included in Appendix D of the report. CIMS should be commended for their cooperation and assistance during this audit.

The Office of the City Auditor is available to discuss this report with you individually at your convenience.

Respectfully submitted,

Park E. Pearson, CPA
City Auditor
City of San Antonio

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CITY OF SAN ANTONIO
OFFICE OF THE CITY AUDITOR



Capital Improvements Management Services Requested Audit

TxDOT Construction Projects – S. Flores and 281/410

Project No. AU09-016

January 20, 2010

Executive Summary

As requested by CIMS management, we conducted an audit of two Texas Department of Transportation (TxDOT) construction projects. The first project is the rehabilitation of S. Flores Street from Durango to Franciscan Avenue. The second, a drainage project near Interstate 410 and Nacogdoches, which is part of the larger 281/410 interchange project. The audit objectives and conclusions follow:

1) Is TxDOT's payment request of \$1.1 million for the S. Flores Street Project valid?

Yes, TxDOT's payment request of \$1.1 million for work performed on the S. Flores Street Project is valid. The City paid TxDOT the amount due on October 28, 2009.

2) What is the City's outstanding financial exposure on the 281/410 project?

As of August 17, 2009, the date of the most complete data for this project, \$195,897 was in the City's project escrow account at TxDOT. We identified \$50,093 in potential charges not yet billed to the project. When billed, these charges will reduce the City's escrow balance. The City may incur additional charges as TxDOT finalizes the project. However, TxDOT could not provide a specific date for finalizing the project. The City is entitled to receive remaining escrowed funds subsequent to TxDOT finalizing the project.

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Background

On July 27, 2009, Capital Improvements Management Services (CIMS) requested an Agreed Upon Procedures audit of two construction projects managed by TxDOT.

The City entered into an Advance Funding Agreement¹ (AFA) with TxDOT for both of these projects.

The first project, S. Flores Street, was completed in 2003. This project consisted of street rehabilitation of S. Flores from Durango to Franciscan Avenue, a distance of approximately 2 miles. The City agreed that TxDOT would fund 80% of the project's cost subject to a cap of \$1,489,162 based on the original project cost estimate. Anticipated project cost increased to \$2,182,826 when the contract was awarded. However, TxDOT's portion of the cost remained at \$1,489,162 as agreed in the AFA. The San Antonio Water System provided \$86,805 for certain aspects of the project. Per the contract with TxDOT, the City agreed to fund all remaining costs.

A number of change orders to the contract increased the final cost of the project to \$3,672,546. The most significant change order was necessary because during construction, workers discovered concrete ballast for trolley tracks beneath the street's surface. The ballast was approximately 2 feet deep, 7 feet wide and 1.4 miles long.

The second is a drainage project near Interstate 410 and Nacogdoches, which is part of the larger 281/410 interchange project. According to the AFA, the City is responsible for 80% of construction costs and TxDOT is responsible for 20% with no cap. TxDOT is also responsible for all design costs related to this project.

As of August 17, 2009, the City paid \$4,459,799 toward the cost of the 281/410 project. Although all major items of work on this drainage channel were completed on July 18, 2009 and there are no outstanding invoices due, TxDOT has not closed out the project.

¹ The AFA is the contract utilized by TxDOT, which stipulates the funding responsibilities between the parties involved.

Audit Scope and Methodology

S. Flores Project

The audit scope included all aspects of the S. Flores project including change orders, monthly cost estimates, TxDOT invoices, and key contract provisions regarding funding responsibilities.

We reviewed the AFA to determine TxDOT's and the City's financial responsibilities for project costs totaling \$3,672,546. The AFA stipulates that TxDOT will fund 80% of project costs subject to a cap of \$1,489,162. Project costs exceeding the cap are the responsibility of the City.

We reviewed all 17 change orders associated with the project to ensure each was appropriate and approved. This included determining that change order costs were not included in the base contract. We compared unit prices in the contract to the TxDOT billing system to ensure accurate unit prices were charged.

We reviewed TxDOT's allocation of overhead costs to the project. We compared actual overhead costs charged to the project to the estimated costs for reasonableness.

We also interviewed several TxDOT and City personnel involved in the S. Flores project.

The detailed Agreed Upon Procedures with CIMS Management for the S. Flores project are included at **Appendix A**.

281/410 Project

The audit scope included the drainage project near Interstate 410 and Nacogdoches that is part of the larger 281/410 interchange project.

We reviewed the AFA to determine TxDOT's and the City's financial responsibilities for project costs totaling \$5,326,310. We also reviewed the high-level description of all project change orders to identify any potential future financial responsibilities of the City. Overhead cost allocations for TxDOT staff were also reviewed for reasonableness.

To determine balances due, we compared project costs to payments made by the City.

The detailed Agreed Upon Procedures with CIMS Management for the 281/410 project are included at **Appendix B**.

We relied on TxDOT system reports to review contractor expenses. We did not evaluate the system's general and application controls. We do not believe that the absence of testing general and application controls had an effect on the results of our audit.

We conducted this audit from August 2009 to November 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our audit results and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our audit results and conclusions based on our audit objectives. This was an Agreed Upon Procedures audit and did not include an evaluation of management controls.

Audit Results

A. S. Flores Project

TxDOT's payment request of \$1.1 million for work performed on the S. Flores Street Project is valid.

A number of change orders to the contract increased the final cost of the project to \$3,672,546. The most significant change order was necessary because during construction, workers discovered trolley ballast under the street's surface. This significantly increased project costs. As a result, TxDOT informed City staff on August 14, 2002 that all additional project costs would be the City's responsibility. The removal of the ballast and backfill required two change orders that increased project cost by \$1,040,591. We requested additional correspondence, including City acknowledgment of this notification through Information Technology Services Department and e-mail archives. However, this information was not available in the email archives.

In total, there were 17 change orders for this project. We determined that these change orders were appropriate and did not contain any duplicate charges.

We relied on documentation related to the S. Flores project from TxDOT because the City could not provide this information. Documentation dated January 19, 2005 explained that the City owed an additional \$1.1 million. See **Exhibit 1** for a summary of project costs and payments made to TxDOT.

Exhibit 1 – Summary of Project Costs and Payments

	Amount
Total Project Cost	\$ 3,672,546
Less TxDOT responsibility *	(1,489,162)
Less SAWS responsibility	(86,805)
Total COSA responsibility	<u>2,096,579</u>
Less amount previously paid	<u>(993,275)</u>
Total Due to TxDOT	<u>\$ 1,103,304</u>

* equals TxDOT cap

Source: TxDOT and City's Prior and Current Accounting System reports

The City paid TxDOT \$1,103,304 on October 28, 2009.

B. 281/410 Project

We identified \$50,093 in potential charges for the 281/410 project through October 6, 2009. This amount includes unbilled incurred costs under one completed change order for \$38,344 and an estimated contract amount of \$11,749. While we believe there is a remote probability of the City receiving an invoice for this latter amount, TxDOT would not confirm or deny any future financial exposure to the City because they have not closed out the project.

As is customary for TxDOT managed projects, the City made advanced payments to TxDOT based on project cost estimates. As of August 17, 2009, these payments totaled \$4,459,799. Actual project costs the City is responsible for totaled \$4,263,902. The difference of \$195,897 is the City's balance in an escrow account. **Exhibit 2** includes total TxDOT costs paid by the City and potential liabilities as of August 17, 2009.

**Exhibit 2 – Summary of 281/410 Project Costs and Payments
As of August 17, 2009**

	Amount
Total Project Costs	\$5,326,310
Less TxDOT Responsibility	<u>(1,062,408)</u>
Total City Responsibility to Date	4,263,902
Less Amount Previously Paid by City	<u>(4,459,799)</u>
Escrow Amount	<u>\$ (195,897)</u>
Potential Costs Not Yet Charged to Project as of October 6, 2009	<u>\$ 50,093</u>

Source: TxDOT and City's Accounting System reports

TxDOT could not provide a specific date for completion of the project close out-process. Completion of this process is necessary to determine any additional City financial exposure.

Appendix A – S. Flores Project Agreed Upon Procedures²

Objective:

Determine if additional payment request of \$1.1 million is valid.

Steps:

Determine total payments made to TxDOT for project.

- Obtain monthly payment applications from TxDOT.
- Obtain payment history for project from City records.
- Summarize monthly payment and compare to contract.
- Review support of payment applications and determine if it is adequate and accurate.
- Verify that payments made and current billings do not exceed total project costs.

Determine if change order items were appropriate and if they were included in base contract.

- Obtain bid packet for base bid and original contract.
- Obtain change order 'packet' for all change orders.
- Compare change order detail to original bid to determine if duplication exists.
- Review change orders for appropriateness.
- Interview Thomas Clark, TxDOT auditor, to discuss audit methodology for the S. Flores project audit to determine if change orders were audited and compared with the base bid.

Determine if State cap should have been increased after bids came in higher than estimates.

- Interview TxDOT personnel regarding this issue.
- Interview Jim Clements, COSA Project Manager, regarding this issue.
- Interview Ruben Guerrero, COSA Capital Programs Manager, regarding this issue to gain insight on the TxDOT billing process.
- Determine if TxDOT notification to COSA of the change order overages and COSA responsibility exist.
- Determine if TxDOT notification that State cap had been met exist.

Determine if TxDOT Cost Allocation Methodology for staff overhead is appropriate.

- Obtain copy of TxDOT Cost Allocation Methodology for project overhead in place at the time AFA (contract) was signed.
- Determine if Cost Allocation Methodology was followed for this project.

Determine if and when COSA was notified of cost overruns. Also, determine if COSA is responsible for cost overruns.

- Obtain schedule of monthly status meetings.
- Obtain agendas and minutes of monthly status meetings.
- Obtain any correspondence from TxDOT regarding cost overruns on project.
- Analyze data received and develop timeline of project with focus on budget to actual costs and who knew what when.
- Review AFA to determine party responsible for cost overruns.

² Agreed to by City Auditor and CIMS management

Appendix B – 281/410 Project Agreed Upon Procedures³

Objective:

Determine the City's financial exposure for outstanding change orders.

Steps:

Determine if change order items were appropriate and if they were included in base contract, and if they were billed correctly to the City.

- Obtain bid packet for base bid and original contract.
- Obtain change order 'packet' for all change orders for which City has responsibility. This includes completed and outstanding change orders.
- Compare change order detail to original bid to determine if duplication exists.
- Review change orders for appropriateness.
- Interview Thomas Clark, TxDOT auditor, to discuss audit methodology and results of the 281/410 project audits (at 30/60/90% completion) to determine if change orders were audited and compared with base bid.
- Compare change order costs to pay applications and payments.
- Review outstanding change orders and determine City's potential financial exposure.

Determine if TxDOT Cost Allocation Methodology for staff overhead is appropriate.

- Obtain copy of TxDOT Cost Allocation Methodology for project overhead in place at the time AFA (contract) was signed.
- Determine if Cost Allocation Methodology was followed for this project.

Determine total payments made to TxDOT for project.

- Obtain monthly payment applications from TxDOT.
- Obtain payment history for project from City records.
- Summarize monthly payment and compare to contract.
- Review support of payment applications and determine if it is adequate and accurate.
- Verify that payments made and current billings do not exceed total project costs.

³ Agreed to by City Auditor and CIMS management

Appendix C – Staff Acknowledgement

Barry Lipton, CPA, DABFA, Deputy City Auditor
Denis Cano, CPA, CIA, CISA, Audit Manager
Kevin Barthold, CPA, CIA, CISA, Auditor in Charge
Sylvia Esparza, Auditor
Rosalia Vielma, Auditor

Appendix D – Management Response



CITY OF SAN ANTONIO
SAN ANTONIO TEXAS 78263-3066

January 4, 2010

Barry Lipton, CPA, DABFA
Deputy City Auditor
San Antonio, Texas

RE: Management's Acknowledgment of the Report for the CIMS Requested Audit of TxDOT Construction Projects – S. Flores and 281/410

Here are our comments to the subject report.

Fully Agree (provide detailed comments)

Management Response and Acknowledgment:
The CIMS department sincerely appreciates the time and resources the Office of the City Auditor dedicated to this special audit request. The majority of the work on these projects was completed prior to the City Manager's reorganization of capital projects to the newly created CIMS department. The information gathered during these audits is helpful in providing the necessary background information that will aid CIMS in closing out these old projects. CIMS' efficient and effective management of projects is critical to our department's success. The audit results will play a significant role in helping CIMS identify and re-evaluate the effectiveness and efficiency of affected policies and procedures. Our concurrence and detailed comments on the audit conclusions of the two projects follows.

S. Flores Project
We concur with the audit conclusion that the \$1.1million request from TxDOT for work performed on this project is valid. The agreed upon procedures utilized by the audit team provided CIMS with the necessary confidence to determine that the additional funding request from TxDOT was not the result of duplicated costs or misappropriated funds.

281/410 Project
We concur with the audit conclusion. With major work completed July 2009 and no outstanding invoices, we would not reasonably expect to incur additional costs above and beyond the funds already in escrow. As mentioned in the audit results, completion of the project close-out process is necessary to determine additional City financial exposure. However, TxDOT has not provided a specific date for project-close out completion.

Sincerely,

 _____ Pat DiGiovanni Deputy City Manager City Manager's Office	 _____ Michael S. Frisbie Director Capital Improvements Management Services
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