



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

RICK SNYDER
GOVERNOR

KIRK T. STEUDLE
DIRECTOR

February 24, 2011

Mr. John Nixon
State Budget Director
Department of Management and Budget
111 South Capitol, 6th Floor
Lansing, Michigan 48909

Dear Mr. Nixon:

In accordance with the State of Michigan, Financial Management Guide, Part VII, enclosed is a summary table identifying our responses and corrective action plan to address the recommendations in the Office of the Auditor General's Performance Audit of Road and Bridge Construction Project Monitoring. This audit covered the period of October 1, 2006 through June 30, 2009.

Questions regarding the summary table or corrective action plan should be directed to Gregory C. Johnson, Chief Operations Officer, at 517-373-4656, or Douglas J. Witte, Acting Commission Auditor, at 517-373-2384.

Sincerely,

Signature Redacted

Kirk T. Steudle
Director

Enclosure

Performance Audit of Road and Bridge Construction Project Monitoring
Michigan Department of Transportation
Corrective Action Plan
October 1, 2006 through June 30, 2009

1. **Audit Recommendations the agency has complied with:**

FINDING

4. Monitoring of Claims

RECOMMENDATION

We recommend that MDOT develop a centralized process for monitoring contractor claims processed by TSCs and regional offices.

AGENCY RESPONSE

We concur with the recommendation. MDOT maintains a central office review (COR) historical information Web site available to all MDOT employees. This Web site provides the written decisions of all COR claims since 1997 and can be used by construction personnel to research previous claims decisions. The development of a statewide database has also been identified as an information technology need for MDOT and will be completed when funding is identified. In the interim, the regions have been directed to maintain a spreadsheet with pertinent information regarding the resolution of all claims within the region. A template spreadsheet has been developed for use and is available on MDOT's intranet. Specific instructions for use and submittal to the Construction and Technology Division, Construction Contracts Unit are included in Bureau of Highway Instructional Memorandum 2008-02. On February 18, 2010, a review of the claims tracking spreadsheets, focusing on the time frames of the claims process, was conducted. This process will be reviewed and revised on an annual basis to ensure compliance.

In 2009, MDOT conducted a review of contractor claims heard at the central office for calendar year 2008. This review focused on the content of the claims to help identify potential weaknesses in contract documents, including plans, proposals, and specifications, and current MDOT processes and procedures. The review for the calendar year 2009 claims was conducted in June 2010. MDOT reported on the findings from 2008 and 2009 in a memorandum dated September 23, 2010 (Subject: COR Tracking History 2008 and 2009). This review will be done on an annual basis and information shared with MDOT employees.

FINDING

5. Incentive Payments

RECOMMENDATION

We recommend that MDOT review and approve incentive payments in accordance with its procedures.

AGENCY RESPONSE

We concur with the recommendation. While the TSC Manager may not have reviewed the incentive payments as required, current procedures do require review and approval of all construction work items, including incentive payments, by a delegated employee other than the inspector submitting the work for payment.

MDOT revised the Final Estimate Package Memorandum, Form 1105, in February 2010. This revision requires the TSC Manager to certify they have reviewed and approved the incentive/disincentive determination.

2. Audit Recommendations the agency agrees with and will comply:

FINDING

1. Contract Modification Approvals

RECOMMENDATION

We recommend that MDOT improve its control procedures to ensure that it obtains required SAB and STC approvals for all contract modifications that exceed specified financial approval limits.

We also recommend that MDOT take the necessary actions to review and submit all prior contract modifications identified by MDOT's OCA to SAB and STC for approval.

AGENCY RESPONSE

We concur with the recommendation. Subpart a.(1) and subpart a.(2) of the finding included four projects for which payments were made on overruns without SAB approval and one project for which payments were made on overruns without STC approval, respectively. Once the contract work was complete, MDOT requested approval for additional contract dollars for the noted overruns in accordance with current guidelines. The STC and SAB have approved these requests.

Subpart a.(3) and subpart a.(4) of the finding included a project that was closed during the audit period, although the contract modifications for that project were approved and processed prior to June 2002, which was prior to the audit period and prior to implementation of MDOT's new contract modification review procedure. In response to the prior audit of the Construction and Technology Division by MDOT's Office of Commission Audits, in September 2005, changes to the procedures for monitoring contract modifications were made by the Construction and Technology Division, Construction Contracts Unit. The changes required a review of all contract modifications received by the unit to help ensure that proper approvals were obtained. Since the extras on the project were processed prior to the new review process, they are not reflective of our current practice. The extras for this project are \$5,039,891 of the \$5.4 million reported in the finding.

In December 2009, the Bureau of Finance and Administration's Contract Services Division initiated the use of a daily overrun report to provide notice of projects in overrun status prior to releasing payment. In addition, the Bureau of Finance and Administration's Contract Services Division worked with programmers to provide Construction and Technology Division with the data to produce an extra/adjustment item report for each active project. The first version of the report is in production and being tested. The report gives notification of a project, where extra/adjustment items of work exceed the limits of 6% contract amount and/or when this type of individual item exceeds \$100,000.00.

A new enhancement to the Field Manager software is to be released as version 4.7. This version will help identify contract modifications that exceed STC and/or SAB limits for overruns, extra work and adjustments. This version will be available beginning in late 2010, with implementation in all offices occurring during the winter of 2010 and 2011. It is expected that full implementation will be achieved by June 1, 2011. The program enhancements will allow the managers to know exactly what their contract status value is relative to the SAB and STC contract modification thresholds.

MDOT will review and enhance current procedures to ensure compliance with all requirements. An initial meeting was held on June 30, 2010, and implementation will begin by April 1, 2011.

MDOT will also consult with the Department of Attorney General Transportation Division for advice and with the SAB for guidance as to the course of action needed for addressing the contract modifications that have not been approved as required. An initial meeting with the Department of Attorney General Transportation Division was held on November 5, 2010.

FINDING

2. Monitoring of Consultants

RECOMMENDATION

We again recommend that MDOT improve its monitoring of consultants hired to perform engineering and project monitoring services on road and bridge construction projects.

AGENCY RESPONSE

We concur with the recommendation. Consultants now attend the preconstruction meeting with MDOT and the contractor, and attend regularly scheduled progress meetings with the contractor and MDOT during the life of the project. Current MDOT procedures require service vendor performance evaluations for each contract or authorization, if an authorization was issued under an indefinite delivery service contract. Many MDOT contracts are indefinite delivery services master contracts that may contain numerous independent and individual authorizations. The Contract Services Division payment technicians are required to verify that a performance evaluation is completed prior to making the final contract

payment. However, there are times when final contract invoices are not marked as final and, therefore, the payment technicians are not aware of the final invoice to ensure that the evaluation was completed.

The Construction and Technology Division, in coordination with the Bureau of Finance and Administration Contract Services Division will review and strengthen procedures to ensure required meetings are being held and documented, and to ensure timely completion of consultant evaluations as required. An initial meeting was held on June 30, 2010, and in September 2010, a statewide team consisting of central office and region personnel was organized to address this finding. Team meetings took place in December 2010 and January 2011 to review and evaluate alternatives and options. In February 2011 the statewide team is scheduled to meet with the team sponsors to present recommendations and receive feedback and concurrence on action items and the implementation plan. Implementation will begin by April 1, 2011.

FINDING

3. Final Estimate Reviews

RECOMMENDATION

We again recommend that MDOT complete final estimate reviews of all construction projects in accordance with established procedures.

AGENCY RESPONSE

We concur with the recommendation. The purpose of the final estimate review is to verify that proper inspection, measurement, testing, documentation, and payment of items have been performed on a project before processing the final estimate. The intent is to review a sample of each type of measurement and each type of work to ensure proper procedures are followed. The different types of measurement with examples of corresponding units include linear (foot, yard, mile, station), area (square foot, square yard, acre), volume (cubic foot, cubic yard), weight (pound, ton), "each" items, "dollar" items, and lump sum items. The different types of work include, but are not limited to earthwork items, removal items, pavement items (both hot mixed asphalt and concrete), bridge items, traffic control items, extra work items, and force account items. In general, 10 pay items should result in a sampling of each different type of measurement and type of work and will verify the proper inspection, measurement, testing, documentation and payment of the work item reviewed, and all work items with similar types of measurement and types of work. For projects with more than 100 individual pay items, it is not necessary to review more than 10 items to gain a level of confidence that proper procedures have been followed. Overall, it may not be necessary to always review 10% of the pay items, on all projects, to provide assurance that proper procedures have been followed.

We will review and modify the current procedures for completing final estimate reviews to reflect the current practices to ensure that proper procedures have been followed. An initial meeting was held on June 30, 2010, and in September 2010, a statewide team consisting of central office and region personnel was organized to address this finding. Team meetings took place in December 2010 and January 2011 to review and develop revisions to the current processes and procedures. In February 2011 the statewide team is scheduled to meet with the team sponsors to present the recommended process and procedure revisions. Implementation will begin by April 1, 2011.

FINDING

6. Road and Bridge Warranties

RECOMMENDATION

We recommend that MDOT ensure that all roads and bridges with warranties are timely inspected and that all necessary corrective actions are performed and adequately documented.

AGENCY RESPONSE

We concur with the recommendation. The SWAD produces monthly reports that list warranties requiring final inspections, warranties requiring interim inspections, warranty inspections due within the next 3 months, and warranties that have expired within the last 3 months (and whether these have had final inspections performed).

In addition, the SWAD has the capability to send e-mail reminders to the Regions/TSCs informing them of warranties approaching expiration with no final inspection completed. Six of the seven regions are currently using this feature. As of May 5, 2010, MDOT strengthened its procedures to require the Regions/TSCs to utilize the automated e-mail reminder function.

When the SWAD was developed, the decision was made to not allow the Region/TSC users to enter inspection dates after a warranty has expired. It was deemed that this was important to the integrity of the database and to avoid the potential for entering a false inspection date after the warranty expired. An unforeseen consequence was that when a warranty inspection was done in a timely manner but was not entered into the database prior to the warranty expiration date, the user was not able to enter this date. MDOT does have the ability to get the correct information entered by working with its information technology support staff.

MDOT will review and strengthen current procedures to ensure accurate and timely entry of final inspection dates into the SWAD database. MDOT will also continue to communicate to the Region/TSCs the importance of entering this final inspection date prior to the warranty expiring and also continue to let them know that we can still get this information entered after the expiration date of the warranty. MDOT will also evaluate current practices

and strengthen its procedures to ensure inspections are performed, and that inspection dates and corrective action performed are entered into the database in a timely manner. MDOT will also develop procedures to follow if the warranty has expired before the inspection date has been entered.

In September 2010, a team consisting of central office personnel experts was organized to address this finding. Team meetings took place in December 2010 to discuss the alternatives and identify possible enhancements. Input was also gathered from region personnel. In addition, the team is working with the Department of Technology, Management, and Budget on possible software enhancements to the SWAD database. In February 2011, the team is scheduled to meet with the team sponsors to present recommendations and receive feedback and concurrence on action items and the implementation plan. Implementation will begin by April 1, 2011.

3. **Audit Recommendations the agency disagrees with:**

N/A