



**Report
to
The LEGISLATIVE FINANCE COMMITTEE**



Department of Transportation
Review of the Statewide Transportation Improvement Program
June 5, 2009

Report #09-07

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June 5, 2009

Mr. Gary Giron, Secretary
Department of Transportation
1120 Cerrillos Road
Santa Fe, NM 87504

Dear Secretary Giron,

On behalf of the Legislative Finance Committee (committee), I am pleased to transmit the Review of the Department of Transportation's (department) Statewide Transportation Improvement Program (STIP). The purpose of the review is to examine the project management of the STIP and identify best practices used in other states.

The review team evaluated the department's policies, procedures, processes and rules and funding for the FY08–FY11 STIP. We interviewed key personnel, examined documents, and analyzed data provided by your staff. The performance measures for the department were reviewed, and limited research of similar agencies in other states was performed to identify highway transportation best practices.

The report will be presented to the committee on June 5, 2009. Discussions were held with your staff to address any concerns before the exit conference, which was conducted May 22, 2009.

The committee expects a corrective action plan from the departments within 30-days from the date of the hearing. Staff will continuously monitor your progress.

I believe that this report addresses issues the committee asked us to review and hope the New Mexico Department of Transportation will benefit from our efforts. Thank you for your cooperation and assistance.

Sincerely,

A handwritten signature in blue ink that reads "David Abbey".

David Abbey, Director

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There are \$252.6 million (\$169.2 state and \$83.4 local) of ARRA funds available for highway infrastructure projects.

ARRA fund allocations to the districts were not equally distributed.

Policies and procedures to document the STIP project selection and prioritization process is still lacking.

Approximately \$48 million is pending Federal Highway Administration reimbursement.

Mesa/Koch's "buy-back" offer of \$35 million may not be cost beneficial to the state.

The New Mexico Department of Transportation (Department) is responsible for planning, organizing and providing for the safe and efficient transport of the public and transportation sources throughout the State. It is the State Transportation Commission's (Commission) duty to establish the policies necessary for achieving the Department's goals. The Department's overall program management and transportation project delivery are accomplished through distinct functional areas of the Office of Infrastructure Divisions Program Management Division.

The purpose of the review of the Department's Statewide Transportation Improvement Program (STIP) was to examine the process for selecting and prioritizing projects, funding and project management.

Key Findings

American Recovery And Reinvestment Projects. The Commission approved several STIP projects for the American Recovery and Reinvestment Act (ARRA). With the available funds, each district prioritized and selected their top two projects. Currently there are nine ARRA projects estimated at \$179.1 million and the Department has awarded contracts for the majority of the projects.

Status of SHARE DOT Project. The SHARE system continues to negatively impact the Department billings to Federal Highway Administration (FHWA). Since the SHARE system was implemented, it has been difficult for FHWA to review documents. As result, FHWA reimbursements have been delayed. The Department is working on system changes and it appears the Department is on track for the June 30, 2009 FHWA final test date.

The Department completed a 100 percent review of the project files and FHWA federal billings for FY07. The review indicated there were reimbursements in 2008 and 2009 that included invoices from FY07 approximating \$40 million. As a result, the independent auditing firm recalled the FY07 financial statement audit and will reissue the FY07 audit report. In addition, suspense accounts receivable has an approximate balance of \$13.1 million as of April 30, 2009.

NM 44 (US 550) Warranty. The 20-year warranty for NM44 (US 550) that cost \$62 million is under review for a possible "buy-back" to the state. The warranty has been properly managed and tracked by the Department. The evaluation of Mesa/Koch's proposal is in progress. The Department is planning to meet in mid-June to negotiate with Mesa/Koch.

Documentation for change orders has improved since the previous LFC review.

Nine amendments to the STIP were processed between June 2007 and February 2009 resulting in approximately 560 program changes.

The Department restructured the Program and Infrastructure Divisions that resulted in streamlining some of the STIP processes.

CMB could not provide an inventory of completed design projects without manually reviewing each contract file.

Status of Inactive Obligations. The Department has made process improvements in the inactive obligations process. Previously the process for administering inactive obligations was decentralized and is now administered by the Department's Financial Control Division (FCD). There were 143 inactive projects in September 2008 representing \$46.9 million when FCD assumed responsibility for the division. As of April 30, 2009, there were 87 inactive projects representing \$34.1 million.

STIP Database and Amendments. All Metropolitan Planning Organizations (MPOs) submit project changes for the STIP database to the Districts with the exception of Mid-Region Council of Governments. The Mid-Region Council of Governments has not consistently submitted their Transportation Improvement Program (TIP) data timely and in the format consistently used by other MPOs. As a result, there is unnecessary administrative burden on the Department staff and project approvals would be delayed.

Estimating Process Needs Improvement. Estimates are completed to ensure sufficient funds are allocated to complete a project. The estimating process at the conceptual level is difficult. This is a common issue in the highway construction community. The Department recognizes that inflation, oil and concrete price increases, etc. have influenced estimates. Although the Department has tools in place that should improve estimates for similar projects in the future, it appears the data available is not being compiled and analyzed.

Management Control Issues

Design Engineering Procurement Process. The design engineering procurement process needs improvement and internal controls are not consistently followed. The Department spent \$77.7 million for design engineering services between FY05 and FY08. Documentation needed to support and ensure the Department obtained a fair and reasonable price was not evident. Although, there was some documentation to support project hours were negotiated, but not the overhead rate and fee. In addition, there is not a standard process for conducting negotiations and it is not clear who is responsible for negotiations.

Contract Management Bureau Communication with Inspector General. Miscommunication between the department's Contract Management Bureau (CMB) and Office of Inspector General (OIG) has caused inefficiencies in audit tracking. CMB and OIG maintain separate lists of completed overhead rate audits. However, the lists are neither comprehensive nor reconciled. The LFC identified instances where the overhead rates varied between the two offices that caused unnecessary expenditures and overpayment of \$88 thousand to one contractor.

The OIG standard audit program needs to be revised to include specific audit steps for evaluating contractor's indirect cost.

The Department has a well established and recognized technician training certification program.

Inspector General Audit Process. The audit procedures the OIG uses to conduct indirect cost audits are not always consistent or standard. In addition, the frequency of indirect cost audits established has not been maintained and results in decreased effectiveness. Some audits included evidence of a detail review and others did not. LFC staff identified at least on instance where less than adequate review of indirect cost by OIG resulted in an overhead rate 44 percent higher than what it should have been. The estimated cost impact is approximately \$90 thousand on a contract value of \$775 thousand. The OIG indicated the time frame to complete an indirect cost audit is nine to twelve weeks. LFC analysis indicated over a two-year period the average completion time was 52 weeks.

Performance Measures. The performance measure process needs improvement. The Department's monitoring plans were incomplete. Performance measure definitions were not always specific and clear. Established target setting was not adequately documented and measure results were inconsistently reported.

Key Recommendations

- Develop detailed procedures, methodologies and documentation standards to support the selection, prioritization and reprogramming of STIP projects to ensure the critical needs of the transportation system are addressed.
- Provide bi-weekly update on the amounts billed and payments received from FHWA.
- Ensure the economic analysis of the warranty "buy back" offer is thorough and conclusive.
- Develop a management report comparing the final construction cost to the engineer's estimate on highway construction projects. The information would improve the estimating process; limit the risk of higher bid prices and provide performance measure data that could demonstrate improvement in the engineer's estimate.
- Develop a standard process and procedures for negotiating professional service contracts, to include detailed documentation for the overhead rate and profit/fee. Include best practices from surrounding and comparable states. In addition, centralize all negotiation documentation within the permanent contract file retained at the department's general office.
- Review and perform a comprehensive update of the OIG standard audit program to include specific procedures for auditing indirect costs as outlined in the *AASHTO Uniform Accounting and Audit Guide*.



- Ensure the indirect costs are evaluated thoroughly including review of the supporting documentation. In addition, explore surrounding and comparable state overhead rate audit processes and review for division applicability.
- Review and update all monitoring plans to include accurate measure definitions and detailed methodology to ensure validity and reliability for performance measures.

BACKGROUND INFORMATION

Background. The New Mexico Department of Transportation (Department) is responsible for planning, organizing and providing for the safe and efficient transport of the public and transportation sources throughout the State. Section 67-3-14 NMSA 1978 provides that the New Mexico State Transportation Commission (Commission) set policy. The Commission consists of six members, one from each state transportation district, appointed by the governor with the advice and consent of the senate. In addition, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) of the United States Department of Transportation (USDepartment) administer the federal regulations that guide state and local transportation decision making.

The Code of Federal Regulations (CFR) requires each state to carry out a continuing, comprehensive and inter-modal statewide transportation planning process, including the development of a 20-year statewide transportation plan and transportation improvement program (STIP) to facilitate the efficient, economic movement of people and goods in all areas of the state. The planning process must include data collection and analysis, consideration of the state's transportation needs and strategies, and coordination of activities to the extent appropriate with: Metropolitan Planning Organizations (MPOs); Indian tribal governments; environmental organizations; resource and permit agencies; and public transit operators. MPOs are designated in accordance with regulations for each metropolitan area and are responsible for developing a transportation plan for that area.

The Department develops New Mexico's 20-year transportation plan and four-year STIP in accordance with federal regulations. The Department's STIP project selection and prioritization is based on budget considerations, public involvement, objective data evaluation and comparison to established criteria, and the professional judgment of the Department's engineers and other technical staff. With the exception of MPO-selected projects, which are required to be included in the STIP, the Department's six District Engineers select projects within their Districts. The Commission then approves New Mexico's STIP prior to submission to FHWA for final approval.

Governor Richardson's Investment Partnership (GRIP) is a \$1.6 billion statewide transportation expansion and infrastructure improvement project. While the GRIP provides a special funding mechanism for projects referred to as "GRIP projects", these projects use federal funds for their associated debt payment, must comply with STIP regulations and are therefore considered STIP projects.

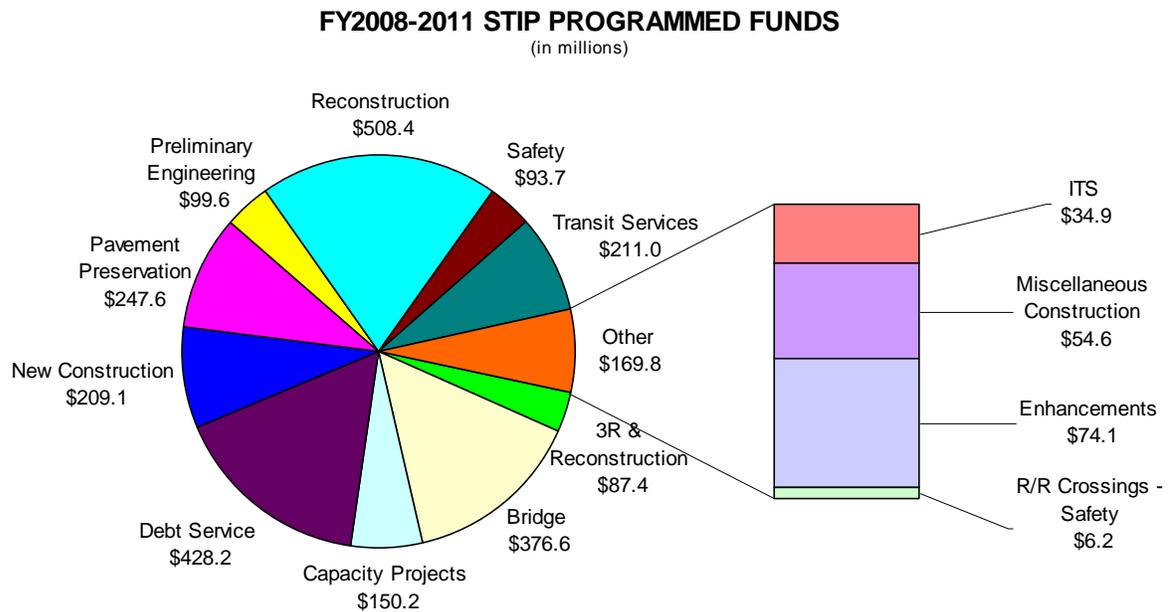
Transportation Advocate. The American Association of State Highway and Transportation Officials (AASHTO) is a nonprofit, nonpartisan association representing highway and transportation Departments in all 50 states, the District of Columbia, and Puerto Rico. AASHTO is a voice for transportation and catalyst for organizational and technical excellence. Its mission is to advocate for transportation-related policies and provide technical services to support states in their efforts to efficiently and safely move people and goods.

Fiscal Impact. All transportation programs and projects included in the STIP are funded through legislative appropriations from federal funds, state road fund revenues, and are financed through bonds, and to a limited extent, public-private partnerships. The state road fund revenue comes primarily from state gasoline and special fuels taxes.

Typical projects include:

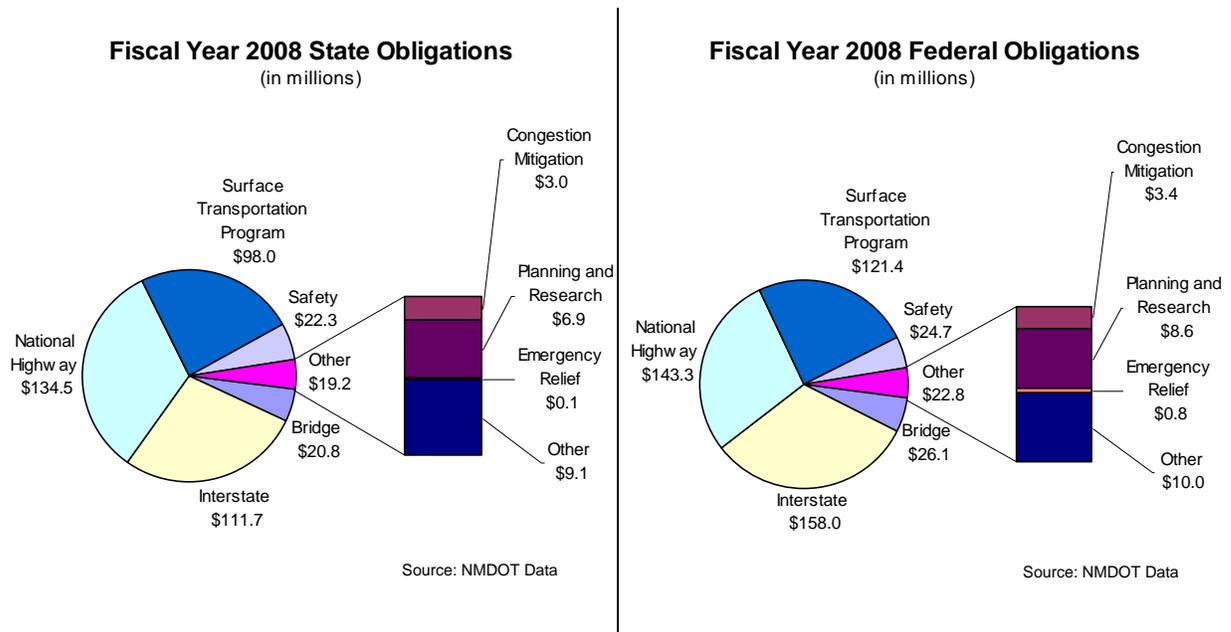
- preserving, rehabilitating and reconstructing pavements,
- fixing or replacing bridges and culverts,
- screening overpasses or rock-slide areas,
- rail road crossings safety,
- installing remote video cameras that show traffic conditions, and
- funding public transportation for the elderly, disabled and automobile dependent.

The table below shows funding allocations amount the various programs/projects. The programmed amount includes the state matching funds.



Source: NMDOT Data

The federal funds obligated by the department include a certification to FHWA that the state match is available. The graph below illustrates the state and federal obligations for FY08.



Objectives.

- Identify the criteria for selecting and prioritizing projects.
- Identify funding source and determine if funds are managed properly.
- Evaluate the project oversight and determine if the project was managed effectively and efficiently.
- Determine if completed projects were properly closed out and project outcome benefited New Mexico taxpayers.
- Review best practices in surrounding states for STIP, including applicable performance measures.

Scope and Methodology.

- Review applicable laws, rules, regulations, and Legislative Finance Committee (LFC) files,
- Examine agency policies and procedures,
- Evaluate information obtained from outside sources, including internet searches, and other states,
- Assess design engineering, project management, outcomes and completion,
- Review LFC *Road Planning and Financing* January 2005 report and
- Interview agency staff and project managers.

Authority for Review. The committee is authorized under the provisions of Section 2-5-3 NMSA 1978 to examine the laws governing the finances and operation of Departments, agencies and institutions of New Mexico and all of its political subdivisions, the effect of laws on the proper functioning of these governmental units, and the policies and costs of governmental units as related to the laws. Pursuant to its statutory authority, the committee may conduct performance reviews and inquiries into specific transactions affecting operating policies and costs of governmental units and their compliance with state laws.

Review Team.

Manu Patel, Deputy Director for Program Evaluation
Brenda D. Fresquez, Program Evaluator/Team Lead
Donna K. Hill-Todd, Program Evaluation Manager
Lawrence Davis, Program Evaluator
John Ketchens, Program Evaluator

Exit Conference. The contents of this report were discussed during the exit conference on May 22, 2009 with the Secretary Gary Giron, Chief Engineer Max Valerio, Deputy Chief Engineer Tammy Haas, State Construction Engineer Joe Garcia, Operations Manager Earnest Archuleta, Comptroller Greg Geisler, Inspector General Art Gottlieb, and Deputy Inspector General Julie Atencio and the LFC review team.

Report Distribution. This report is intended for the information of the Office of the Governor, the Department of Transportation, Office of the State Auditor, and the Legislative Finance Committee. This restriction is not intended to limit distribution of this report, which is a matter of public record.



Manu Patel, CPA
Deputy Director for Program Evaluation

FINDINGS AND RECOMMENDATIONS

STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM

American Recovery And Reinvestment Projects. On February 17, 2009, the US President signed into law the American Recovery and Reinvestment Act (ARRA), to help stimulate the nation's economy, create and preserve jobs for the American public, assist the unemployed and uninsured, and provide state budget relief by making investments in education, energy, health care, housing, science, and transportation. The Federal Highway Administration's (FHWA) notice to the State of New Mexico for the \$252.6 million apportionment of highway infrastructure investments funds states the funds are available for obligation immediately and through September 30, 2010. Any amounts not obligated by the State by September 30, 2010, shall lapse.

The State Transportation Commission (Commission) approved several STIP projects for the ARRA funding. The approved projects were all part of GRIP I, and were authorized by the Legislature. Each District engineer and commissioner prioritized their projects as listed in Appendix A. The LFC *Road Planning and Financing* report dated January 17, 2005 indicated that STIP planning and prioritization policies and procedures did not exist. The Department still has not developed or established policies and procedures to provide guidance, set standards and document the decision making process for selecting and prioritizing STIP projects.

Of the \$252.6 million apportionment, \$169.2 million can be used by the Department on projects of its discretion and \$83.4 million for local projects. Of the \$83.4 million for local projects, there are 57 projects estimated at \$66.8 million shown in Appendix B, which leaves approximately \$16.6 million for additional local projects that the Department is reviewing.

With the available ARRA funds, the top two projects within each district were selected as shown in the table below. The Commission attempted to distribute the ARRA funds equally to all six districts after taking earmark funding into account. However, these allocations were not equally distributed, with District 5 and District 6 receiving \$37.6 million and \$44.2 million, respectively. As of this writing, the Department has awarded contracts for the majority of the projects with three projects bids pending, estimated at \$179.1 million.

Table 1. ARRA Projects
(in millions)

District	Control Number	Description	ARRA Estimated Funds	High Priority Projects (Earmarks)	NMDOT Engineer's Estimate	ARRA Contract Award Amount	Total Contract Award
1	ESG18a2	I-10, Texas State Line West MP 144-164	10.0	40.0	50.0		
Subtotal			10.0	40.0	50.0		
2	ESG7032	US 62/180, MP 16-26 Texas State Line to Carlsbad	22.0	3.6	25.6	15.8	19.5
2	ESG2132	NM 128, MP 22-38.5 east of Loving	11.0	10.4	21.4	8	18.3
Subtotal			33.0	14.0	47.0	16.6	37.8
3	ESG4013	I-40 Paseo del Volcan West Central Interchange Albuquerque	24.3	13.4	37.7	14.8	28.2
Subtotal			24.3	13.4	37.7	14.8	28.2
4	ESG4034	US 64 MP 378-390 Raton to Clayton	30.0		30.0		
Subtotal			30.0		30.0		
5	ESG1955 ⁽¹⁾	US 84/285 MP 186-188 Pojoaque to Espanola	25.6		15.0	13.7	13.7
					10.6		
5	ESG1945	US 84/285 MP 187 to MP 189; Pojoaque to Espanola	12.0		12.0	9.5	9.5
Subtotal			37.6		37.6	23.2	23.2
6	ESG5b66	US 491 Tohatchi to Shiprock MP 59-67	31.2		31.2		
6	ESG5b07	US 491 Tohatchi North, MP 15-29 SB	13.0		13.0	11.0	11.0
Subtotal			44.2		44.2	11.0	11.0
Total			179.1	67.4	246.5	72.8	100.2

Source: NMDOT

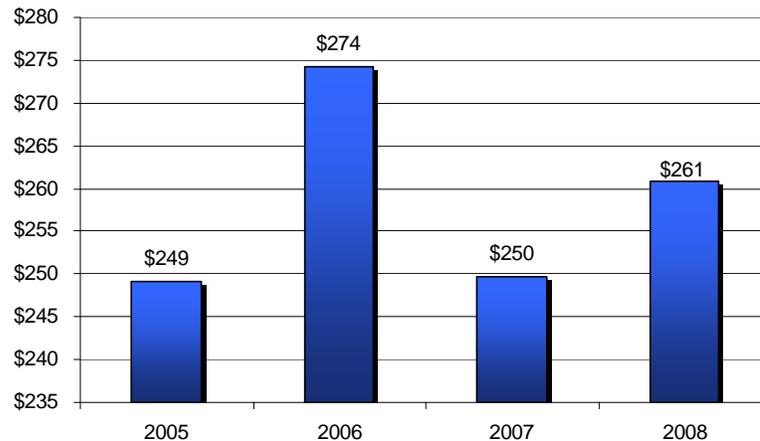
(1) The initial estimate of \$25.6 million has been reduced by \$10.6 million; the engineer estimate prior to bid opening was \$15 million.

Recommendations. The Department should

- Develop written, standardized detailed processes, procedures and methodologies for selecting and prioritizing transportation projects included in the STIP.
- Establish documentation standards to support the selection, prioritization and reprogramming of projects in the STIP.

Status of SHARE Department Project. The SHARE system continues to negatively impact the Department billings to FHWA. The Department has been unable to timely provide FHWA all supporting documentation for reimbursement requests since the state went live on the Statewide Human Resources, Accounting and Management Reporting (SHARE) system. The Department's ability to drill down to the necessary information as it used to do with its old accounting system is not possible with SHARE. Instead, various queries have to be run to extract the required information since detailed reports are not available. Further no audit trail is available when data is extracted using queries. FHWA is closely auditing all department billings, especially debt service. Although, FHWA has not identified any significant issues with the bills, and no batches have been denied, FHWA remains concerned. A summary of FHWA reimbursements by fiscal year are shown in the following chart.

Federal Billings by State Fiscal Year (in millions)



Source: NMDOT Data

The Department's Funding Control Unit completed a review of 100 percent of the project files and FHWA federal billings for FY07 to ensure completeness and accuracy of federal billings and collections. The internal audit indicated that FHWA reimbursements in 2008 and 2009 included invoices from FY07 approximating \$40.4 million. The completion of the 100 percent internal audit indicates that the pool of expenditures eligible for reimbursement was underestimated at the time of FY07 annual financial audit because the Department's accounting system did not completely capture all FHWA eligible expenditures. The Department disclosed and provided the additional information relating to the financial data to its independent audit firm and is working with the audit firm to address this issue. Based on this information indicating unbilled accounts receivable of \$40.4 million for FY07, the auditing firm notified the Department that they are recalling the FY07 report dated September 2, 2008 due to the material impact to FY07 financial statement. The auditing firm will reissue revised financial statements and related auditors' report for the fiscal year ended June 30, 2007.

FHWA has reimbursed the state \$221.8 million in FY09. To address FHWA concerns, the Department is working on system changes using the Wyoming Department of Transportation programming code. It appears the Department is on track for the June 30, 2009 FHWA final test date. The Department recently received approval from FHWA to transmit billings for February 18, 2009 and March 4, 2009 and has received payment of \$3.1 and \$8.5 million respectively. The billings for March 11, 2009 through May 6, 2009 amounting to \$48.2 million are pending FHWA reimbursements. The automated labor billing is scheduled for implementation in fall 2009. Automating this process will eliminate duplicate time entry, use People Soft – delivered functionality and address some of the department's payroll issues.

The LFC *Review of the Federal Suspense Accounts Receivable* dated May 7, 1993 disclosed a suspense account balance as of May 5, 1993 at approximately \$8.8 million. As of April 30, 2009, the Department has approximately \$13.1 million in suspense accounts receivable.

Recommendations. The Department should

- Continue to keep LFC informed on progress being made to resolve federal billing and system modification issues.
- Provide bi-weekly update of amounts billed and payments received from FHWA.
- Provide monthly update of progress being made to reduce the amounts in suspense accounts receivable.

Status of Warranty for NM44 (US550). In July 1998 the New Mexico Department of Transportation (DOT) contracted with Mesa PDC, L.L.C. (Mesa or PDC), a company owned by Koch Materials Company of Wichita, Kansas, for professional services to design and manage construction expanding New Mexico Highway 44 between San Ysidro and Bloomfield from two to four lanes (Figure 1). Mesa's contract included a 20-year limited performance warranty of the pavement and a ten year limited performance warranty of the structures.



Figure 1 (source: NM 44: A Case History of Long-Term Warranted Performance)

Total costs of the Highway 44 project was \$323.8 million which included \$46.3 million for project design and construction management, \$215.0 million for construction, and the \$62 million for the performance warranties. The Department continues to review the warranty purchase for NM44. In January 2000, NM44 was re-designated US550 as part of the National Highway System. The 20-year warranty for US550 cost the state \$62 million. On December 2, 2008, representatives from Koch met with Department management to present the US550 warranty agreement transfer proposal and the “buy-back” offer of approximately \$35 million. The Department formed a team to guide the evaluation of the “buy-back” process. The Department recently awarded a contract to Parsons Brinkerhoff, a world's leading planning, engineering, and program and construction management organizations, for the warranty transfer study to determine the economic benefit of the offer. The Department management expects to have the evaluation results to participate in negotiations in mid-June 2009.

The Department continues to adequately monitor both the financial and technical aspects of the professional services and performance warranties. Construction was substantially completed November 21, 2001. The pavement warranty is in its eighth year (November 21, 2008 – November 20, 2009) and has a liability limit of \$118.4 million. The structures warranty is in its ninth year (October 16, 2008 – October 15, 2009) also known as bridge and drainage structures and erosion control features and has a liability limit of \$1.3 million. The contractor provides a detailed quarterly report that identifies the following for the pavement and structures warranties:

- Warranty work performed
- Results of performance
- Expenditures
- Other issues (i.e., performance bond details, status of plans for low bid rehab project, insurance certification update, etc.)
- List of companies working on the project
- Supporting spreadsheets, payment requests, inspection reports, etc.

The following table provides the warranty reimbursement by fiscal year.

Table 2. US 550 Warranty Reimbursed

Fiscal Year	Invoice Amount (Closed)
FY04	\$130,428.38
FY05	\$717,706.00
FY06	\$5,620,984.67
FY07	\$1,625,797.04
FY08	\$304,074.98
FY09 (12/1/08)	\$980,574.60
Total	\$9,379,565.67

Source: Department Warranty Engineer

The LFC report on the US550 structure and pavement warranties issued on October 4, 2004 reported that the performance warranties were probably not worth the \$62 million the Department paid. Assuming Mesa invests the \$62 million at different rates of return over the life of the 20-year pavement warranty, it could generate millions of dollars more for Mesa than the cost of repairs as shown in the following table.

Table 3. Impact Of Mesa Investing \$62 Million
(in millions)

Annual Rate of Return	Net Gain to Mesa for Expenditures @ \$77.2	Net Gain (Loss) to Mesa Expenditures @ \$114.0
3.6%	\$20.7	(\$24.5)
6.0%	\$69.0	\$9.0
8.6%	\$58.8	\$84.4

Source: LFC Analysis

Note: Calculations are affected by the timing of expenditures for repairs and maintenance.

Based on the October 4, 2004 LFC analysis, Mesa would have earned an estimated \$33.5 million in investment income at a six percent rate of return after paying the \$9.4 million for structure and pavement repair costs in the first eight fiscal years. Assuming a six percent rate of return on the \$62 million investment by Mesa, the following table provides a summary of Mesa’s financial resources available under this warranty agreement:

Table 4. Mesa Financial Resources from \$62 Million Investment
(in millions)

	Amount
Initial warranty payment	\$62.0
Investment earning at 6 percent	\$33.5
Total resources available	\$95.5
Repair costs to warranties	(\$9.4)
Net balance	\$86.1

Source: LFC Analysis

Based on preliminary analysis shown above, the “buy back” offer of approximately \$35 million by Mesa would not be cost beneficial for the state. The Department should consider both the financial resources analysis and estimated future repair costs in negotiations prior to releasing Mesa from its warranty obligations. Any settlement less than \$100 million does not appear to be beneficial for the state.

Recommendations. The Department should

- Ensure the economic analysis of the warranty “buy back” offer is thorough and conclusive.
- Certify that the final negotiations and decision have a positive financial impact upon the Department and all New Mexicans.

Status of Inactive Obligations. Process improvements were made in the inactive obligations process. The process for administering the inactive obligation was decentralized before the current fund control director took over the process. The Department’s Programs and Infrastructure Financial Control Division (FCD) and staff have taken full responsibility for administering the process and have made substantial progress. There were 143 inactive projects in September 2008 representing \$46.9 million when FCD assumed responsibility for the division. As of April 30, 2009, there were 87 inactive projects representing \$34.1 million:

- 52 projects are Recreation Trials & Pooled funds (not managed by the Department)
- 11 projects are pending billing
- 24 are pending action

A total of 14 projects were closed in April. Funding control found that a lot of these issues did not reside within the Department. Rather they resided with local governments. Local governments were not requesting reimbursement on a timely basis so the Department sent out letters informing them they had 30 days to request a reimbursement or the funds would be considered for withdrawal. According to 63 CFR 630.106 (4), the state shall review on a quarterly basis, inactive projects (for the purpose of this subpart “inactive project” means a project for which no expenditures have been charged against Federal funds for the past 12 months) with unexpended Federal obligations.

STIP Database and Amendments. The FY08-FY11 STIP was established in June 2007. The Department presents for approval quarterly and out-of-cycle amendments first to the Commission and then to FHWA. The Department is currently evaluating the amendment process to determine where improvements can be made. Nine amendments were processed between June 2007 and February 2009 and as a result there were approximately 560 program changes approved.

All six districts use a subset of the STIP database for managing their program. There are five Metropolitan Planning Organizations (MPOs) in New Mexico that include Farmington, Las Cruces, Santa Fe, El Paso and the Mid-Region Council of Governments of New Mexico (MRCOG). There are four MPOs that submit data to the districts in the required format for the STIP database, one MPO does not. MRCOG, of which District 3 is a part, does not use a subset of the STIP database nor submit their program changes to District 3. Instead, MRCOG uses its own project-tracking database and extracts data into two data files which it sends to the department’s general office. The department’s general office reformats the data to upload MRCOG’s Transportation Improvement Program (TIP) projects into the STIP database so that the Department can present a comprehensive STIP to the Commission and FHWA.

In November 2008, FHWA expressed concern to the MRCOG that it was not using the STIP database and that District 3 had not provided timely financial information to the Commission on three consecutive amendments. The MRCOG process was a factor in untimely submittal of extracts to the department’s general office and as a result, the information was not timely for District 3 and caused delays in the FHWA approval process. There is a possibility that in the future FHWA will have to approve program changes for the five districts and leave District 3 out until it can submit complete standardized information. MRCOG's resistance to submitting data on a consistent and timely basis as well as in a standard format results in unnecessary, administrative burden on the Department staff and as a result, projects may be delayed. In addition to having its own data entry process, MRCOG also has impacted District 3’s ability to submit timely and accurate information on amendments.

Although the STIP approved by the FHWA and the Commission is all inclusive, the STIP available to the public on the Department’s website is incomplete and not in one central location because the MRCOG’s transportation projects are included only by reference. Based on the CFR 450.216 (b), the Department has included the TIP by reference. The CFR states the TIP may be included without change in the STIP, directly or by reference.

STIP Project Selection And Prioritization Policies And Procedures. According to the Department, transportation project selection and prioritization includes a combination of budget considerations, public involvement, objective data evaluation and the professional judgment of the district engineers and other technical staff. Projects are deleted from the STIP primarily due to budget issues or change in priority at the District. However, policies and procedures for project selection and prioritization are limited and need improvement. As previously stated, the Department has still not developed written standard procedures and methodologies to standardize and document project evaluation and prioritizing projects, as noted in the January 2005 LFC report. Current procedures are limited in providing specific guidance and set standards for documenting the decision making process. Although, design directive IDD-2006-02 – *Policy for Program Modifications to Production and Letting Schedule* established a protocol and required a form order for changes to take affect, the department has not updated the directive to reflect their current practices. In addition, The Department has drafted a revision to *Commission Policy 83 – Priority Determination for Highway Improvements* that does not reflect the changes/updates to some of the federal requirements. The Commission will preview the revision in May 2009 for approval at a later meeting. Currently, it appears that the documentation to support the amendments is limited to email correspondence, comments/descriptions included in the commission pre-view. As a result, the Department has not formulated, and implemented policy directives and procedures to support the commission policy and their current practices.

STIP processes streamlined for efficiency. In December 2007, the Department restructured the Program and Infrastructure Divisions and moved the responsibility for managing the STIP to the Office of Infrastructure. The restructuring has resulted in streamlining some of the STIP processes. Prior to the restructuring one individual was responsible for entering all project data into the STIP and managing fiscal constraint; this was time consuming and did not provide for internal controls ensuring the information was accurate.

Before implementing the process change the department's general office trained all District engineers responsible for STIP on operation of the database. Now each District is responsible for entering its STIP program into the STIP database and the department's general office reviews the data before updating the STIP. Additionally, each district is responsible for maintaining their targets (budgets) and fiscal constraints. The streamlined process improved internal controls and made the organization more efficient.

Recommendations. The Department should

- Consider establishing a requirement for all MPOs to submit their data to the Districts to ensure consistency and timely and accurate information for amendments.
- Obtain the Commission approval to finalize *Commission Policy 83* revisions, in order for the department to formulate and implement directives and procedures.
- Consider revising the Design Directive by the Chief Engineer to reflect current practices to ensure consistency in the amendment process.
- Establish a policy directive for minimum documentation standards to adequately support the selection, prioritization and reprogramming of transportation projects in the STIP.

Certification Training Program. New Mexico’s technician training certification program (training program) is unique. The training program is the first training partnership in the United States between contractors and a department of transportation. The Department along with the Associated Contractors of New Mexico and private laboratories has formed the technician training certification program. The training program was established to meet the 29 CFR 637 requirements that all states need a certification program for acceptance testing and inspection of all highway projects. The certification classes are facilitated by a program administrator who is the lead trainer (and a Department employee) and two other certified trainers. In 2008, 1,377 students were trained. Since certified technicians are required on most construction sites, it is imperative that technicians receive up-to-date training and are appropriately supervised by a certified trainer until the technician is certified. In 2006, the program administrator compared New Mexico to several other states. By far, New Mexico classes were more economical and varied. The training program has received many awards, had articles published about it, and is the preeminent training partnership of all the states. The training program management believes that due to the lack of territorial-type roadblocks that typically exist between contractors and state departments of transportation, the training program in New Mexico is unique.

The Department leases the training facility from the Associated Contractors of New Mexico for 45 cents per square foot. In addition to owning the facility, the Associated Contractors of New Mexico maintains the training database, provides the billing and collection services, gathers input from the construction industry, and hires the testing proctors (usually retired Department certified technicians). The training program has quadrupled in the last decade with added classroom and administrator responsibilities.

In addition to training, the program administrator is responsible for onsite periodic visits to provide “surprise” inspections. The program administrator instead conducts the onsite periodic visits on an as-needed (usually upon request) basis. Although, calls to provide a review or troubleshoot a project provide the opportunity to do an overall review, the visits are reactionary. Reacting to a request because of a project’s technical problem does not allow for proactively monitoring projects. Very few of the projects listed below from September 2006 through March 2, 2009 were initiated by the program administrator.

Table 5. TTCP Site Inspections (visits)

Fiscal Year	Date	District	Control Number	Project Description
2006	9/5/06	2	CN 2050	US 54, MP 41
2007	4/26/07	3	CN 3046 & G1243	I-40 at Tijeras
2007	8/2/07	6	CN G1416R	I-40 near Mesita
2007	10/12/07	4	CN G4054A	US 54, Raton to Clayton
2007	12/5/07	4	CN G4014	US 64/87, Raton
2008	7/1/08	3	CN G1213	AC-GRIP-IM-040-3(147)177
2008	11/17/08	4	CN G8034R2	I-40 at Montoya
2009	2/12/09	1	CN 4063	I-10, Las Cruces (FHWA Review),
2009	3/2/09	3	N/A	NMDepartment Hilltop Lab Review
2009	3/2/09	3	N/A	A.S. Horner Lab Review

Source: TTCP Program Administrator

In addition, there is no standard practice in place for how often site visits are conducted around the state.

Recommendations. The Program Administrator should develop a documented site visit schedule for a project to be visited each quarter of the year. The schedule for quarterly field visits should be designed around the annual training schedule and only available to management so that "surprise" visits are indeed a surprise. By conducting a few "surprise" visits every year, the contractor is more prone to stay on top of the project and not let issues fall through the cracks. Site visits also demonstrate having a standard quality control mechanism in place.

Estimating Process Needs Improvement. Throughout a project's development, estimates are completed to ensure that sufficient funds have been allocated to complete the proposed work. The estimating process at the conceptual level is difficult because there are no quantities or details. This is a common issue in the highway construction community.

The most common method used in developing estimates for transportation projects is historical or bid-based estimating. This method uses data from recently awarded contracts as a basis for the unit prices on the project being estimated. Data from previously awarded projects is typically stored in a database for three to five years to provide the historical data to the estimator. The more data available and organized by project type, size, and location, the better the estimate that can be produced. Unit prices are adjusted for the specific project conditions in comparison to the previous projects awarded. Adjustments are generally made based on the project location, size of the project, project risks, quantities, general market conditions, and other factors.

Estimator is construction project estimating software that is one of the tools the Department uses to prepare detail estimates. *Estimator* is currently used by 25 departments of transportation across the United States. *Estimator* streamlines the estimating process, distributed to the district offices and provides an avenue for exchange of data with consulting firms. *Estimator* can import bid-based item price data from the data warehouse and support multiple bid histories from which the user can choose. The bid-based method includes a weighted average of all awards using a two-year history for each item. If there is a new item, the Department can look at other states for more information.

The Department uses various resources for preparing estimates. For example, the Average Unit Bid (AUB) price list and the Asphalt Price Index track historical prices that provide a basis for estimates. The department tracks base course bid prices for DOT projects that show the latest trends. There are circumstances that affect prices, such as location, material availability, contractors already established near the project site and estimates are adjusted accordingly. Overall, using historical information should improve the estimating process for similar projects in the future. However, it is not clear if the Department has a comprehensive report that would assist management in improving the estimating process.

According to the Department, if it elects to award a project to a contractor that has a bid ten percent below or ten percent above the Department's estimate, the FHWA may request re-authorization of funds. Therefore, the Design Quality Assurance Unit reviews plans and estimates to ensure bid prices are within ten percent of the contractor's bid. However, in reviewing the Bid Summary Reports most of the time the engineer's estimate is not within the ten percent below or above the awarded contractor's bid. The Department recognizes that inflation, oil price increases, etc. have influenced the estimating variances. However, the Department does not appear to use the Bid Summary Report to analyze the engineer's estimate to improve the accuracy of the estimate and reduce the instances of variances.

In addition, the Department's performance measure *Percent of final cost over bid amount on highway construction projects*, does not take into consideration the engineer's initial estimate. The line item profile reports capture the engineer's estimate and the bids, including the awarded contractor that shows the percentage above or below the engineer's estimate by project. However, the Department does not appear to compile the information in a comprehensive report (by project type) for management to evaluate the accuracy and consistency of the engineer's estimate.

Although the department has tools in place that should improve estimates for similar projects in the future, it appears the data available is not being compiled and analyzed.

Recommendation. The Department should

- Perform analysis of the bid summary data, include bid averages, and identify items that have significant variances, determine the cause and what is needed to develop a reliable estimate.
- Develop a management report comparing the final construction cost to the engineer's estimate on highway construction projects. The information would improve the estimating process; limit the risk of higher bid prices and provide performance measure data that could demonstrate if there is improvement in the engineer's estimate.

MANAGEMENT CONTROL ISSUES

Design Engineering Procurement Process Needs Improvement. The Department spent approximately \$77.7 million for design engineering services between FY05 and FY08. According to the Department eleven (\$18.3 million) out of 138 design projects or eight percent of completed design projects were moved to construction between FY05 and FY08, which resulted in 19 construction projects valued at approximately \$276 million. During the review the Department could not provide completion dates for the design projects and a current inventory of completed design projects pending construction without manually reviewing each contract file.

Due to limitations in staff availability, the need for special skills, or the relative urgency of projects, the Department routinely uses consulting design engineers or others as professional services contracts. The majority of the design engineer contracts are for “on-call” services. Based on the information provided, 101 of 138 or 73 percent of design engineering contracts are Indefinite Delivery/Indefinite Quantity (ID/IQ) for “on-call services.” These represent various types of engineering services. The Department stated ID/IQ contracts are used for various components of design in order to better manage projects. For example, the Department has specialty contracts for drainage, bridge, surveying, hazardous material investigations, National Environmental Policy Act (NEPA), and others to assist with the internal design work load. Other contracts that will not move to construction pertain to corridor and planning studies. The Department stated that they need to follow their design process and location study procedures for complex projects like the I-25/Paseo del Norte interchange project.

The use of engineering consultants by state transportation agencies continues to be important in providing appropriate solutions to transportation needs. In 2008, AASHTO published a *Guide for Consultant Contracting* assessed current practices for both state and consultant practitioners. The guide is a reference for agencies to use in further developing their consultant program, organizing and training staff, selecting consultants and managing the consultant program. The guide outlines some processes that are in predominant use throughout the country. However, the Department has not obtained this guide to improve their process.

Project Awards and Contract Negotiation Practices. The Department is following Request for Proposal process using qualification-based evaluation procedures to award professional service contracts for design engineering services. When a contractor is selected to provide design engineering services, it receives an award letter stating that the provisional rates may be granted until an overhead rate can be audited. In some cases, the letter states the contract overhead rate may be adjusted to reflect an audited rate. However, the Department does not retroactively adjust the rates thus revising the contract amount. Usually a provisional rate is an established temporary overhead rate applicable to a specified period (fiscal year) to allow interim reimbursement of incurred indirect costs under cost-reimbursement contracts and to determine progress payments under fixed-price contracts. According to the Contracts Management Bureau, the overhead rate adjustment is part of the amendment process and does not amend the original contract amount. As a result, there may be increases or decreases affecting the budget and risking unnecessary expenditures.

Documentation needed to support and ensure the Department obtained a fair and reasonable price was not within the central contract files, located at the department's general office. The project manager files contain evidence that hours, but not the overhead rate and fee were negotiated. In addition there is not a standard process for conducting negotiations nor is it clear who is responsible for conducting negotiations on behalf of the Department. Although, the Department stated project managers are responsible for negotiations and that they retain negotiation information, negotiations of overhead rates and fees were not evident in the central contract files or the project manager's files. The April 2006 *Contract Management Bureau's Procedures Manual* requires a team made up of the Professional Services Contract Management Unit Supervisor, Regional Design Manager, Project Development Engineer or Project Manager, and other section representatives, as required, to negotiate the contract scope, work schedule and fee for all professional engineering and land surveying services contracts. The Department's practice; however, does not support the established procedure. In addition, when asked, the Department stated they do not have a training program for conducting negotiations.

Based on the Federal Brooks Act and 23 CFR 172, contract awards should be qualification-based and at fair and reasonable price to the Government. In addition, Section 13-1-122 NMSA 1978, states the Department secretary or designee...shall negotiate a contract with the highest qualified business for the architectural, landscape architectural, engineering or surveying services at compensation determined in writing to be fair and reasonable.

A properly documented procurement file provides an audit trail from the initiation of the acquisition process to the award of the contract. The file provides the complete background, including the basis for the decisions, and supports actions taken, provides information for reviews and investigations, and furnishes essential facts in the event of litigation or legislative inquiries. A well-documented file is without need of interpretation from the contract administrator.

Enough information should be included in the procurement file so that a person versed in procurement practices can read the information and conclude that all actions taken relative to the procurement were appropriate and in the best interests of the Department and State of New Mexico.

It is important to maintain documentation that is appropriate for the value, nature, and complexity of the contract and adequate to establish the propriety of the transaction and the reasonableness of the price paid. A memorandum or procurement summary describe the most important aspects of the procurement history, which at minimum should include the following information:

- A statement of the purpose of the procurement.
- History of the procurement, including references to important documents with their dates and identifying numbers. These would include: advertisements of the procurement, RFP including the scope of work, technical evaluation of proposals, etc.
- Names and positions of each person who participated in the proposal evaluation and negotiations.
- An explanation of how the final price was negotiated. This explanation needs to reference the Pre-Negotiation Plan price objective (if a Plan was developed), the independent cost estimate (which should always be developed), and any advisory audits that may have been conducted.

- A discussion of important contract terms and conditions, such as insurance requirements, Disadvantaged Business Enterprise (DBE) program participation, Buy America provisions, etc.

Contract Management Bureau Communication With Inspector General. Miscommunication between the Department’s Contract Management Bureau (CMB) and Office of Inspector General (OIG) has caused inefficiencies in audit tracking and risk of unnecessary expenditures. The OIG is responsible for auditing professional services contractor’s indirect costs that result in overhead rates. Overhead rates are applied to an allocation base to recover the contractor’s indirect cost. According to 48 CFR, Chapter 1, Part 31 (Federal Acquisition Regulation) indirect costs are any costs not directly identified with a single contract but identified with two or more contracts. Indirect costs are generally referred to as overhead and general and administrative expense.

The department’s general office and OIG maintain separate lists of completed overhead rate audits. However, the lists are neither comprehensive nor reconciled. The LFC identified five instances in which the overhead rates varied for FY07 and FY08. For example, the OIG’s list for report number 07-15-06 showed an overhead a rate of 196 percent while the department’s general office indicated a rate of 188 percent. Alternatively, inverse examples were also observed. For example, the OIG’s list indicated a rate of 173 percent for report number 07-15-08 while the department’s general office showed a rate of 178 percent.

The example in the table below demonstrates what happened when the Department failed to adjust the initial contract value based on the OIG approved overhead rate of 128 percent in its February 10, 2005 audit. The initial contract was signed June 13, 2005. The Department applied the overhead rate of 136 percent instead of audited approved rate of 128 percent. As a result, there was \$88.5 thousand over expensed.

Table 6. Overhead Rate Cost Impact
(in thousands)

Cost Category	CMB	OIG	Unnecessary Expenditures
	Cost (OH @136%)	Cost (OH @128 %)	
Direct Labor	\$785,574	\$ 785,574	\$ 0
Overhead	\$1,080,562	\$1,005,534	\$75,028
Other Direct Expenses	\$1,401,934	\$1,401,934	\$0
Profit/Fee	\$223,040	\$ 215,133	\$7,907
Final Design Services	\$50,000	\$50,000	\$0
Gross Receipt Tax	\$239,025	\$ 233,427	\$5,598
Total	\$3,780,135	\$3,691,602	\$88,533

Source: NMDOT

Inspector General Audit Process. The Office of the Inspector General (OIG) uses a standard audit program; however, the program needs to be revised to include specific audit steps recommended in the American Association of State Highway and Transportation Officers’ *Uniform Audit and Accounting Guide*. Moreover, the procedures OIG uses to conduct audits are not always consistent or standard. The majority of sampled audits included procedures to verify the direct labor allocation base used when calculating the indirect cost rate. However, there were no work papers supporting the direct allocation base audit and a 2006 audit issued on February 9, 2007 had no work papers supporting the audit procedures.

OIG is required to conduct audits of the professional services contractor's direct labor costs, indirect costs, and overhead rates for any project over \$250,000. In reviewing a project, it appears that the OIG staff accepted without questioning the contractor's proposed indirect cost rate without an independent audit. The contractor's schedule of costs shows \$819.2 thousand of unallowable costs; however, a closer review of indirect costs shows unallowable cost should be \$827.3 thousand because entertainment and service charges are not allowable. Moreover, the LFC identified subcontractor, consultant and project costs totaling \$684.6 thousand that should not be included in the indirect cost pool and used for calculating the overhead rate. By including the \$684.6 thousand in the indirect cost pool, the contractor is over recovering their indirect expenses. In addition, fringe benefit expenses were not evaluated and there were expenses such as bonus pay and employee welfare that are potentially unallowable costs. Deducting those expenses from the indirect cost pool reduces the overhead rate. The rate used by the Department was 212 percent instead of 168 percent. Using the correct overhead rate could have saved the state money. The tables below show the summary of the accepted OIG rate, LFC analysis and the estimated cost impact.

Table 7a. Overhead Rate Calculation Comparison

OIG Accepted		LFC Analysis	
Total Expenses	\$5,677,822	Total Expenses	\$5,677,822
Less Direct Labor	(\$1,555,569)	Less Direct Salaries	(\$1,555,569)
Less Unallowable Costs	(\$819,005)	Less Unallowable Costs	(\$827,240)
		Less Unallocable Costs	(\$684,605)
Total Indirect Expenses	\$3,303,248	Total Indirect Expenses	\$2,610,408
OIG Rate Indirect expenses/Direct labor: \$3,303,248/\$1,555,569 = 212%		LFC Rate Indirect expenses/Direct labor: \$2,610,408/\$1,555,569 = 168%	

Source: OIG and LFC Analysis

Table 7b. Estimated Cost Impact
(in thousands)

	OIG	LFC	Difference
Indirect rate in percent	212	168	44
Total Contract Value	\$774,848	\$774,848	
Direct Labor	\$209,209	\$209,209	
Allowable Overhead Costs	\$443,523	\$351,471	\$92,052
Total estimated overpayment			\$92,052

Source: LFC Analysis

Note: LFC estimated direct labor at 27 percent (Direct Labor/Total Expenses)

Overhead Rate Audits. The frequency of indirect cost audits established among the Department divisions has not been maintained and resulted in decreased effectiveness. According to the *Contract Management Bureau's Manual*, the Contract Management Bureau must request the OIG to conduct an audit of the consultant's direct labor costs, indirect costs, and overhead rates (if an audit report has been prepared by the Department or another cognizant agency within the last two years, that report may be used in lieu of a new Department audit). OIG stated that the Contracts Management Bureau agreed to biannual audits. The OIG indicated that the average time frame for an overhead audit is nine to twelve weeks. However, based on an analysis of OIG

records over a two-year period, the average audit completion time was 52-weeks. According to 23 CFR 172, an audited indirect cost rate is valid for one year, defined to mean the annual accounting period for which financial statements are regularly prepared for the consultant.

In addition, according to the *Consultant Services Procedures Manual and Handbook*, “The contracting agencies shall prepare pre-negotiation audits to provide the necessary data to assure that the consultant has an acceptable accounting system, adequate and proper justification of the various rates charged to perform work and is aware of the FHWA's cost eligibility and documentation requirements.”

Recommendations. In conjunction with the OIG, the Department should evaluate the feasibility of conducting audits prior to the award. In addition, an active list should be created and maintained for overhead rate audits, ensure the list is accurate and that the Department is using the correct audited rate.

The Department should:

- Establish a management report to track design completion dates and an inventory of completed design projects.
- Obtain the 2008 AASHTO *Guide for Consultant Contracting*.
- Develop a standard process and procedures for professional service negotiations, to include detailed documentation, overhead rate and profit/fee. Include best practices from surrounding and comparable states.
- Ensure that the individuals participating in the negotiation team are trained.
- Centralize all negotiation documentation within the permanent contract file retained at the department’s general office.
- Consider retroactively adjusting costs previously invoiced at provisional rates to actual cost based on the audited rate.

In addition, the OIG should:

- Review and perform a comprehensive update of their standard audit program to include specific procedures for auditing indirect costs as outlined in the *AASHTO Uniform Accounting and Audit Guide*.
- Ensure the indirect costs are evaluated thoroughly including review of the supporting documentation.
- Explore surrounding and comparable state overhead rate audit processes and review for division applicability.

Project Monitoring, Close-out and Payments. Based on the most recent *Closed But Not Final* (CBNF) report, the average number of days to close a project was approximately 251 days versus the Department’s goal of 120 days that was a benchmark established by a previous administration. According to the State Construction Engineer, projects that appeared to be 100 percent complete were classified as “Not Closed”, because the contractor has not finished the final paperwork. Other projects that seemed to be complete, but remained on the report as “not closed” are shown in the following table with District Audit Supervisor explanations of the status.

Table 8. Status of Closed But Not Final Projects Report

District	Let Date	Contractor	District Status	Amended Status
1	10/14/98	J-H Supply Company, Inc.	Final Payment was made 09/09/2003	Moved to finalized category
1	03/19/99	Hale Contr. Co. Inc., J.R.	Pending Department decision on Finalization	Moved to Legal category
2	11/22/02	Hale Contr. Co. Inc., J.R.	Pending August 2009 hearing	Moved to Legal category
2	04/23/99	Liberty Mutual	Settled - No payment direction yet	Moved to Legal category
2	11/21/08	American Pavement Solutions, Inc.	Active project	Moved to Active project category
3	04/23/99	Kimo Constructors, Inc.	Final payment made on 05/16/00 - Delivered to Construction Bureau	Moved to Finalized project category
3	09/30/04	PTG/Twin Mountain	A landscape warranty is preventing the finalization of this project, this warranty will expire July 2009, at which time the project final will be processed.	Construction Bureau will issue direction to move this type of project to active category until warranty has expired
3	10/22/04	A.S. Horner, Inc. (NM Corp)	This project is pending legal issues with the contractor.	Moved to Legal category
4	03/18/05	A.S. Horner, Inc. (NM Corp)	Issues with Qwest and HMA issues	Moved to Legal category
4	09/15/06	Fisher Sand & Gravel Co.	Physical completion 12-2-08	Project will remain in CBNF until final by District & general office
4	09/16/05	W.W.C., Inc.	Sent to Santa Fe 02-25-09	Project finalized moved to appropriate category
5	09/16/05	Nielsons Skanska, Inc.	Pending change orders and project office submittal of the final to the audit section.	Project will remain in CBNF until final by District & general office
5	03/24/00	Weeminuche Construction Authority	Contractor paid, final package needs to be submitted to Construction Bureau.	Project will remain in CBNF until finalized by District & general office
5	12/15/06	Mountain States Constructors, Inc.	Pending the landscape warranty expiring in May 2009.	Construction Bureau will issue direction to move this type of project to active category until warranty has expired
6	05/17/02	W.W.C., Inc.	Final Estimate Paid March 3, 2009.	Project will remain in CBNF until final by District & general office
6	04/18/08	A.S. Horner, Inc. (NM Corp)	Active Project, Estimated Completion late April 2009.	Moved to Active project category
6	10/20/06	A.S. Horner, Inc. (NM Corp)	Final Audit Completed, Pending Claim Resolution.	Moved to Legal category

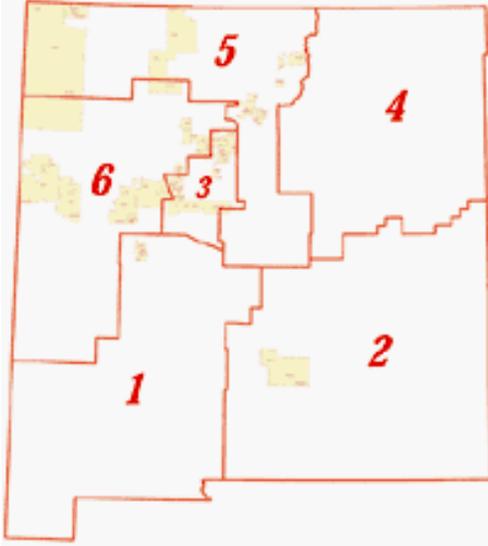
Source: State Construction Bureau

Several districts listed project status as being “Final”. However, the status for “final” is not defined or standardized. For example, it could mean *final* payment submitted to SHARE, *final* estimate paid, *final* packet submitted to the Construction Bureau, etc. There is not a list of standardized reason codes for the status of a project appearing on the CBNF report.

The *Closed But Not Final* report is also used by District construction engineers to monitor the progress of projects however, the District audit supervisors do not use this report; instead they track projects through other means. When an audit supervisor completes the review of a project, a letter is sent to the contractor notifying them that they have 30 days to review the enclosed documents, sign and return the document to the Department for final payment. If the contractor fails to respond within the 30 days, the Department has the authority to close out the project based upon the final payment identified. The Department has never closed a project if the contractor does not respond within the allotted time. However, according to one of the Audit Supervisors (and later verified with the State Construction Engineer), this implied action has never been acted upon. The language states:

Per Sub-section 109.10 of the Standard Specifications for Road and Bridge Construction, Edition of 2007, the contractor must approve and return the Department's Final Estimate within 30 days of receipt. Failure to do so provides the Department the remedy of accepting the work paying the balance due under the Final Estimate and closing the project, so we need your cooperation in this matter to expedite the Final Estimate.

Workflow of each district is unique. Some districts are more organized and efficient in their processes than others. For instance, District 4 automated the Source Book due to how spread out the projects are located in the rural areas. The Source Book was turned into an excel spreadsheet that is emailed instead of the manual, hand-written book used by the other districts. This concept was evaluated and rejected in District 3. Automation of this document improves efficiency because it eliminates hand written notes that can be illegible. To ensure consistency and accuracy, processes should be standardized across all districts for the Audit Supervisors and their teams. The information and map below show the district locations.

<p>District 1 – Deming and surrounding area</p> <p>District 2 – Roswell and surrounding area</p> <p>District 3 – Albuquerque and surrounding area</p> <p>District 4 – Las Vegas and surrounding area</p> <p>District 5 – Santa Fe and surrounding area</p> <p>District 6 – Grants/Milan and surrounding area</p>	
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Recommendations:

- Closed But Not Final Report: The District Audit Supervisors should use this report as a monitoring tool for outstanding projects. The Construction Bureau should ensure that a formal follow-up process is developed and implemented so the CBNF report is used as an effective management tool by the Districts' Audit teams.
- Complete the revisions of the procedure manuals to ensure that the Districts are operating consistently and in a timely manner. For instance, require all districts to automate the Source Book for accuracy and efficiency.

Status of Prior Year Findings and Recommendations. The January 2005 LFC review entitled *Road Planning and Financing* identified the following as major findings requiring immediate attention.

Finding 1. Up to \$25 million in corrective design and construction could be recovered if the Department notifies Mesa of a Section 12 claim by November 21, 2004.

Status. According to the Warranty Engineer, of the \$25 million in potential corrective design and construction claims, \$3.4 million was identified as due to the Department. The process took until January 2008. However, Mesa agreed only to pay \$2.8 million of the \$3.4 million.

Finding 2. The change order information provided by the Department for three of the nine projects selected did not match support documentation.

Status. Under the guidance of the Site Manager Database Analyst, the review team was able to independently retrieve, view and save Site Manager documents associated with individual change orders and related supporting documents.

Performance Measure Process Needs Improvement. Performance measures can be classified into two reporting groups: (1) agencies' internal measures (including measures used to meet federal reporting requirements); and (2) measures that are approved under the Accountability in Government Act (AGA). Key quarterly measures and General Appropriations Act (GAA) measures are all a subset of approved AGA measures. The following table reflects selected performance measures in the GAA that the LFC evaluated. An explanation of the performance measure rating criteria is shown in Appendix C.

Table 9. Department of Transportation Performance Measures

Department of Transportation Performance Measures		FY07 Actual	FY08 Actual	FY09 Target	FY09 1 st Quarter	FY09 2 nd Quarter	FY09 3 rd Quarter	Rating (Appendix C)
Quality	Ride quality index for new construction	4.0	4.0	4.3	4.2	4.1	4.1	
Quality	Percent of final cost over bid amount on highway construction projects	8.5%	5.5%	<6%	6%	4.73%	5.6%	
Explanatory	Percent of programmed projects let according to schedule	72%	91%	>85%	31%	94%	88%	
Efficiency	Maintenance expenditures per lane mile of combined system wide miles	\$2,495	\$2,635	\$3,500	\$912	\$514	\$397	

Source: FY09 3rd Quarter Good to Great Report and LFC analysis

Monitoring Plans – Several monitoring plans lack detailed information for data collection and analysis. The Department maintains monitoring plans for all GAA measures. However, measure definitions and detailed methodology for collecting and analyzing data for the majority of the selected measures is inadequate. For example, The *Ride quality index for new construction* monitoring plan does not capture the proper methodology used to validate or ensure data reliability. The monitoring plan states how the equipment is certified but lacks a detailed description of how the Department ensures that certifications, calibrations, calculations and measurements are validated.

Measure Definitions – Some measure definitions were not accurate. For instance, projects from the *Percent of programmed projects let according to schedule* are programmed to be let monthly. However, they are considered to be on schedule if they are let within the same state fiscal quarter. For example, if a project was scheduled to be let in January but was not let until the end of March, it would be considered “on schedule.” Also, the measure definition for the *Percent of final cost over bid amount on highway construction projects* needs to be clearly defined. The department’s general office stated they look at this performance measure on a programmatic basis. This performance measure was designed to look at the overall performance of all districts and not on an individual basis. The theory behind the current calculation focuses on large dollar project management. However, the detailed information describing the performance measures intent was not included within the monitoring plan.

According to the Texas Guide to Performance Measure Management, 2006 Edition, a performance measure definition includes all of the following:

- *Short definition* – Provides a brief explanation of what the measure is, with enough detail to give a general understanding of the measure.
- *Purpose/importance* - Explains what the measure is intended to show and why it is important.
- *Source/collection of data* – Describes where the information comes from and how it is collected.
- *Method of calculation* - Clearly and specifically describes how the measure is calculated.
- *Data limitations* - Identifies any limitations about the measurement data, including factors that may be beyond the agency’s control.
- *Calculation Type* - Identifies whether the data is cumulative or non-cumulative.
- *New measure* – Identifies whether the measure is new, has significantly changed, or continues without change from the previous year.
- *Target attainment* – Identifies whether actual performance that is higher or lower than targeted performance is desirable (e.g., a disease rate lower than targeted is desirable).

Performance Targets - Supporting documentation for established targets was not provided. The Department has not taken an active role in establishing performance targets. Targets should be result driven and used to make management decisions. Performance targets are essential to an agency’s strategic plan, goals and performance management. According to Department, most of the selected performance measure targets were established by the legislature. However, there was no evidence or documentation to support the established targets.

Data Accuracy and Reliability - Accuracy and reliability deficiencies were observed for three of the four selected performance measures. The majority of the data used to capture and calculate the Department's performance measures is electronic. However, timing issues and lack of documentation were the primary deficiencies observed that do not ensure accuracy and reliability. For example, the Department periodically removes or adds projects to the letting schedule and do not consider this for the accuracy of the performance measure. In addition, it appears the Department does not have a formal process for removing projects from the STIP letting schedule.

The Office of Quality Management (OQM) is the central location for performance measure compilation and reporting. OQM internal controls for measure verifications are limited to comparative analysis between prior quarter and year results, measure definition verification and ensuring that reported measures for HB2 are consistent. Currently, OQM does not perform in depth analysis to ensure the Department's measures are accurate and reliable.

Inconsistent Reporting - Eleven of seventeen or 65 percent of the reported GAA performance measures were inconsistently reported. Measure variances were observed between the information reported to the LFC and Department's *Good to Great* reports. The detail for these GAA performance measures are shown in Appendix D.

The Department provided revised monitoring plans for the four selected performance measures. Detailed methodology for collecting and analyzing data was included and sufficient. However, the performance measure definition for the *Percent of final cost over bid amount on highway construction projects* was not updated or included within the monitoring plan. In addition, the *Percent of programmed projects let according to schedule* did not include any information to address any reliability limitations or shortcomings of the data. As previously stated, project removals from the letting schedule are periodically discarded and not taken into consideration for the performance measure which can skew the calculation.

Recommendations. The Department needs to:

- Review and update all monitoring plans to include accurate measure definitions and detailed methodology to ensure validity and reliability of performance measures; using the *Maintenance expenditures per lane mile* as an example.
- Identify uncontrollable events that cause measure misrepresentation for the *Percent of programmed projects let according to schedule* performance measure and include this analysis within the Good to Great report.
- The Office of Quality Management (OQM) should assume an active role for the Department's performance measure compilation and reporting. OQM should perform in-depth analysis for all aspects relating to performance measures in an effort to ensure accuracy and reliability.



May 28, 2009

New Mexico Legislative Finance Committee
 Attn: Mr. Manu Patel, CPA
 Deputy Director for Program Evaluation
 325 Don Gaspar, Suite 101
 Santa Fe, NM 87501

Bill Richardson
 Governor

Re: Department of Transportation Report #09-07
 Review of Statewide Transportation Improvement Plan

Gary L.J. Girón,
 Cabinet Secretary

Dear Mr. Patel,

The Department has received and reviewed the performance review conducted by the Legislative Finance Committee’s Program Evaluation Team under your direction. While the review was originally intended to focus on the Statewide Transportation Improvement Plan (STIP), the report resulted in a more comprehensive review of several DOT business practice areas.

Commission

We have prepared the following responses and appropriate actions to your findings and targeted recommendation areas:

Johnny Cope
 Chairman
 District 2

1. American Recovery and Reinvestment Projects,

Roman Maes
 Commissioner
 District 5

Recommendations. The Department should

- Develop written, standardized detailed processes, procedures and methodologies for selecting and prioritizing transportation projects included in the STIP.
- Establish documentation standards to support the selection, prioritization and reprogramming of projects in the STIP

Jackson Gibson
 Commissioner
 District 6

Response & Follow up Action: *A Committee has been formed at the request of the Transportation Commission at the May 2009 meeting, to review and revise Commission Policy 83 Priority Determination for Highway Improvements in conjunction with Commission Policy 22 Statewide Transportation Improvement Program and Three Year Plan. The Committee will convene to implement that policy direction.*

Norman Assed
 Secretary
 District 3

Jim Franken
 Vice Chairman
 District 4

2. STIP Database and Amendments,

John Hummer
 Commissioner
 District 1

Recommendations: The Department should:

- Consider establishing a requirement for all MPOs to submit their data to the Districts to ensure consistency and timely and accurate information for amendments.

Response & Follow up Action: MPO's are already required to submit their data to the Districts in order for their amendments to be considered for approval by the State Transportation Commission as part of the established STIP process.

- Obtain the Commission approval to finalize *Commission Policy 83* revisions, in order for the department to formulate and implement directives and procedures.

Response & Follow up Action: A Committee has been formed at the request of the Transportation Commission at the May 2009 meeting, to review and revise *Commission Policy 83 Priority Determination for Highway Improvements in conjunction with Commission Policy 22 Statewide Transportation Improvement Program and Three Year Plan*. The Committee will convene to implement that policy direction.

- The Chief Engineer should consider revising the Design Directive to reflect current practices to ensure consistency in the amendment process.

Response & Follow up Action: The Department will review the Design Directive *IDD-2006-02 Policy for Program Modifications to the Production and Letting Schedule for changes with the review and revision of Commission Policy 83 and Commission Policy 22*.

- Establish a policy directive for minimum documentation standards to adequately support the selection, prioritization and reprogramming of transportation projects in the STIP.

Response & Follow up Action: The need for additional policy directives will be evaluated during the review and revision of *Commission Policy 83 and Commission Policy 22*.

3. Status of SHARE Department Project,

Recommendations: The Department should:

- Continue to keep LFC informed on progress being made to resolve federal billing and system modification issues.
- Provide bi-weekly update of amounts billed and payments received from FHWA.
- Provide monthly update of progress being made to reduce the amounts in suspense accounts receivable.

Response & Follow up Action: The Department can provide a monthly report but it should be noted that FHWA is not allowing the NMDOT to submit any Journal Entries as stated in the April 14, 2009 Suspension letter. A project goes into suspense when the expenditures are higher than the federal obligation normally due to change orders. With the WYDOT implementation the Department has modified internal procedures to expedite the request for additional Federal obligation in an attempt to reduce the number of projects that will go into suspense. Projects currently on the suspense will be difficult to clear until FHWA has approved an alternate method of modifying project data.

In addition the information reported within the findings under this section of the report are being noted to require the following modifications. Under the 2nd paragraph, regarding the internal audit reporting, whereby FHWA reimbursements in 2008 and 2009 included invoices from FY07 approximating being \$23 million should be revised to be \$40.4 million. Under the 3rd paragraph regarding FHWA reimbursements, the figure of \$204.8 million should be revised to \$221.8 million in FY 09. In addition and under the same paragraph, the billings for March 11, 2009 through May 6, 2009 pending FHWA reimbursements should be \$48.2 million rather than \$42.1 million.

4. Status of Warranty for NM 44 (US 550).
Recommendations: The Secretary should 1) Insure the economic analysis of the “buy back” is thorough and conclusive and 2) Certify that the final negotiations and decision has a positive financial impact upon the Department and all New Mexicans.
Response & Follow up Action: *The Department has hired an independent consulting firm, Parsons Brinkerhoff, to perform an economic and engineering analysis of Mesa’s “buy back” proposal. The analysis is expected to be completed by June 2009. This analysis in combination with the Department’s own analysis will be utilized to evaluate the soundness and value of Mesa’s proposal which will then allow the Department to make the most cost effective decision for the state of New Mexico in pursuing this proposal or requiring that Mesa continue to fulfill its obligations under the terms of the Performance Warranty for NM 44 (US 550).*
5. Status of Inactive Obligations.
While no formal recommendations were offered in this section of the report, the Department would like to offer the following clarification regarding Inactive Obligations. *Inactive Obligation are defined in 23 CFR 106 as projects with unexpended balances greater than \$500,000 and no activity for 12 months or more (Tier I); those projects with unexpended balances of \$50,000 to \$500,000 and no activity for 24 months or more (Tier II) and those projects with balances of less than \$50,000 and no activity for 36 months or more (Tier III). A project will maintain the same control number through out all phases of a project. This negatively impacts a project’s inactive status in cases where the right of way or design phase has been completed in a previous year and when the construction portion is obligated it automatically appears on the inactive report.*
6. Certification Training Program.
Recommendations: The Program Administrator should develop a documented site visit schedule for a project to be visited each quarter of the year. The schedule for quarterly field visits should be designed around the annual training schedule and only available to management so that "surprise" visits are indeed a surprise. By conducting a few “surprise” visits every year, the contractor is more prone to stay on top of the project and not let issues fall through the cracks. Site visits also demonstrate having a standard quality control mechanism in place.
Response & Follow up Action: *The Department will implement this recommendation in the upcoming federal fiscal year. Mr. Brian Legan whom has oversight responsibility over the Certification Training Program, will develop and keep this schedule on file for the Department. The Construction Bureau will coordinate this effort.*
7. Estimating Process Needs Improvement.
Recommendation:
- Perform analysis of the bid summary data, include bid averages, identify items that have significant variances and determine what is needed to develop a reliable estimate.
- Response & Follow up Action:** *The Department has created the Design Quality Assurance Unit to perform an analysis of the estimate in order to improve the Departments estimating of project prior to bid. The Design Quality Assurance Unit is developing cost estimating techniques for use in developing project estimates during the*

project development phase. A “Partnering Project Estimating Committee” comprising of NMDOT representatives in partnership with the New Mexico Chapter of American Council of Engineering Companies (ACEC) and the Associated Contractors of New Mexico (ACNM) have been conducting regular meetings in an effort to better understanding the costing factors and trends of major high cost items.

This “Partnering Project Estimating Committee” is also working on fine tuning a procedure to evaluate Risk into Near Market Project Estimating. A similar proposed research project has also been submitted to the Department’s Research Committee in 2009. A proposed research subject is labeled Contractor Bid Deviation Analysis. The goal of this research project is to analyze contractor’s bids and the statistical products of those bids such as percent difference among sets of contractors bidding on a given project. Another goal is to determine the standard deviation, mean, and these statistics relative to the area of the state that the projects are located. Also being analyzed is how these compare to other states bid data.

- Develop a management report comparing the final construction cost to the engineer’s estimate on highway construction projects. The information would improve the estimating process; limit the risk of higher bid prices and provide performance measure data that could demonstrate if there is improvement in the engineer’s estimate.

Response & Follow up Action: It is realized that current estimation of project costs for letting purposes are not as accurate as desired. It is also true that this inaccuracy is a nation wide problem as the nature of the construction business is competition amongst contractors resulting in efforts to “low ball” bids in many cases in an effort to keep active and productive. Many times the Engineer’s Opinion of Probable Cost (EOPC) ends up in the middle of the high and low bids.

The volatility of the materials which make up the bulk of the necessary items for highway construction also adds to the difficulty in crystal balling future material costs when oil and concrete prices are high then alternately when they fall due to supply and demand fluctuations.

The Departments participation in the Partnering Project Estimating Committee and the ongoing work being conducted by this committee will assist the department in addressing our concerns with our estimating process.

8. Design Engineering Procurement Process Needs Improvement.

Recommendations: In conjunction with the OIG, the Department should evaluate the feasibility of conducting audits prior to the award. In addition, an active list should be created and maintained for overhead rate audits, ensure the list is accurate and that the Department is using the correct audited rate. The Department should:

- Establish a management report to track design completion dates and an inventory of completed design projects.

Response & Follow up Action: The Department will consider this recommendation.

- Obtain the 2008 AASHTO Guide for Consultant Contracting

Response & Follow up Action: *The Department will consider this recommendation.*

- Develop a standard process and procedures for professional service negotiations, to include detailed documentation, overhead rate and profit/fee. Include best practices from surrounding and comparable states.

Response & Follow up Action: *The Department will evaluate the process and procedures contained in our Contract Management Bureau's Procedures Manual and update the section on professional service negotiations as necessary.*

- Ensure that the individuals participating in the negotiation team are trained

Response & Follow up Action: *The Department will evaluate the process and procedures contained in our Contract Management Bureau's Procedures Manual and update the section on professional service negotiations as necessary. The Department's Contract Management Bureau will conduct training sessions on negotiations and the information in the Procedures Manual.*

- Centralize all negotiation documentation within the permanent contract file retained at the department's general office.

Response & Follow up Action: *The Contract Management Bureau will issue guidance on proper negotiation documentation required to be retained in the permanent contract file.*

- Consider retroactively adjusting costs previously invoiced at provisional rates to actual cost based on the audited rate.

Response & Follow up Action: *Thank you for the recommendation. The Department negotiates Professional Services contracts on a lump sum basis and the overhead rate at the time of negotiation is included in the basis of the lump sum fee. The overhead rate is part of the negotiated fee.*

In addition, the OIG should:

- Review and perform a comprehensive update of their standard audit program to include specific procedures for auditing indirect costs as outlined in the *AASHTO Uniform Accounting and Audit Guide*
- Ensure the indirect costs are evaluated thoroughly including review of the supporting documentation
- Explore surrounding and comparable state overhead rate audit processes and review for division applicability.

Response & Follow up Action: *OIG will work closely with the Contract Management Bureau to efficiently track and document the overall processes of overhead rate audits. OIG is also working internally to update the overhead rate audit program which will incorporate updates from the most current AASHTO Uniform Audit and Accounting Guide.*

9. Project Monitoring Close-out and Payments,

Recommendations:

- Closed But Not Final Report: The District Audit Supervisors should use this report as a monitoring tool for outstanding projects. The Construction Bureau should ensure that a formal follow-up process is developed and implemented so the CBNF report is used as an effective management tool by the Districts' Audit teams.

Response & Follow up Action: *The Department is in the process of implementing this recommendation. The report and its intended use will be included in the Office Procedure*

Manual currently being revised by the Construction Bureau. Anticipated completion date for Manual is the Fall 2009.

- Complete the revisions of the procedure manuals to ensure that the Districts are operating consistently and in a timely manner. For instance, require all districts to automate the Source Book for accuracy and efficiency.

Response & Follow up Action: *The Department is in the process of implementing this recommendation. The report and its intended use will be included in the Office Procedure Manual currently being revised by the Construction Bureau. Anticipated completion date for Manual is the Fall 2009.*

10. Status of Prior Year Findings and Recommendations,

The January 2005 LFC review entitled *Road Planning and Financing* identified the following as major findings requiring immediate attention.

Finding 1. Up to \$25 million in corrective design and construction could be recovered if the Department notifies Mesa of a Section 12 claim by November 21, 2004.

Status. *According to the Warranty Engineer, \$3.4 million was identified and claimed by the Department under the Professional Services Warranty under an established limit of \$25 million. The process took until January 2008 to negotiate and resolve. Upon successful negotiations, Mesa agreed to pay \$2.8 million of the \$3.4 million claimed by the Department. The balance was agreed to be eligible under the contract's Performance Warranty for Pavement and Structures.*

Finding 2. The change order information provided by the Department for three of the nine projects selected did not match support documentation.

Status. *Under the guidance of the Site Manager Database Analyst, the review team was able to independently retrieve, view and save Site Manager documents associated with individual change orders and related supporting documents.*

11. Performance Measure Process Needs Improvement,

Recommendations: The Department needs to:

- Review and update all monitoring plans to include detailed methodology, validity and reliability for performance measures; using the *Maintenance expenditures per lane mile* as an example.
- Identify uncontrollable events that cause measure misrepresentation for the *Percent of programmed projects let according to schedule* performance measure and include this analysis within the Good to Great report.
- The Office of Quality Management (OQM) should assume an active role for the Department's performance measure compilation and reporting. OQM should perform in-depth analysis for all aspects relating to performance measures in an effort to ensure accuracy and reliability.

Response & Follow up Action: *Monitoring Plans for the four example measures: Ride quality index for new construction; Percent of final cost over bid amount on highway construction projects; Percent of programmed projects let according to schedule; and Maintenance expenditures per lane mile of combined system wide miles, have been updated and submitted to the LFC. In the example of Maintenance expenditures per lane mile the department has recognized that the original intent of the measure- comparing*

budget allocated to number of miles maintained- does not give precise performance data. Additional maintenance measures are being developed that will better illustrate the cost and performance outcome for highway maintenance.

The Department is working closely with the Federal Highway Administration in development of the Stewardship and Oversight Agreement that contains a comprehensive dashboard of performance measures in key program areas. The development of these measures will aid in determining targets for the GAA. The Department agrees and will continue implementing the recommendations of LFC on performance measurement process improvement.

It was a pleasure working with your team of professionals and certainly believe that this review will assist us in improving our processes to promote quality and transparency within our organization.

Please let me know if my staff or I can provide you any additional information.

Sincerely,



Gary L.J. Girón
Cabinet Secretary

GLJG/MEV

xc: Chairman Johnny Cope, Transportation Commission
Robert Ortiz, Deputy Secretary of Operations
Domingo Sanchez, Deputy Secretary of Business Support
Max Valerio, Deputy Secretary of Programs & Infrastructure

APPENDIX A: ARRA Projects Approved by Transportation Commission

State Transportation Commission Approved Projects		
Corridor	Estimated Project Amount <small>(in millions)</small>	Target Bid Date
District 1		
I-10, from the I-25 Interchange to Texas State Line	\$50.00	May 2009
I-10, NM 404 Interchange Improvements	\$7.04	May 2009
NM 11, Columbus to Deming	\$3.50	May 2009
District 1 Subtotal	\$60.54	
District 2		
NM 128, MP 22-38.5	\$22.00	March 2009
US 62/180, MP 6-26	\$28.00	March 2009
US 380, Priest Gulch Bridge	\$2.30	September 2009
US 54, Tularosa to Vaughn MP 163-175	\$27.50	May 2009
US 54, Tularosa to Vaughn, MP 85-96	\$22.00	June 2009
US 62/180 MP 16-26 Southbound	\$20.00	March 2009
District 2 Subtotal	\$121.80	
District 3		
I-40 Paseo del Volcan/West Central Interchange MP 150-151	\$34.00	March 2009
I-25 Tramway to Bernalillo	\$70.00	April 2009
District 3 Subtotal	\$104.00	
District 4		
US 64 Raton to Clayton MP 378-390	\$30.00	April 2009
US 64 Raton to Clayton, Wetland Mitigation	\$.25	March 2009
US 64 Raton to Clayton MP 360-378	\$45.00	August 2009
District 4 Subtotal	\$75.25	
District 5		
US 84/285 MP 187 to MP 189	\$12.00	February 2009
US 84/285 MP 186-188	\$23.00	February 2009
US 84/285 MP 183 to MP 185	\$20.00	April 2009
US 84/285 Pojoaque Pueblo Interchange	\$10.00	April 2009
US 491 Tohatchi to Shiprock MP 67-75	\$30.00	May 2009
US 64, MP 141-148.7	\$24.20	February 2009
District 5 Subtotal	\$119.20	
District 6		
US 491 Tohatchi to Shiprock MP 15-75 Southbound	\$13.00	February 2009
US 491 Tohatchi to Shiprock MP 59-67	\$19.00	June 2009
US 491 Tohatchi to Shiprock MP 53-59	\$19.50	June 2009
US 491 Tohatchi to Shiprock MP 45-53	\$15.00	July 2009
US 491 Tohatchi to Shiprock MP 37-45	\$22.60	January 2010
US 491 Tohatchi to Shiprock MP 31-37	\$17.70	January 2010
US 491 Tohatchi to Shiprock MP 20-31 Northbound	\$31.70	January 2010
US 491 Navajo 9 to Tohatchi MP 15-20	\$7.40	No target bid date set
US 491 Navajo 9 to Tohatchi New Bridge MP 17	\$1.40	No target bid date set
District 6 Subtotal	\$147.30	
Total Estimated Cost	\$628.09	

Source: January 23, 2009 Press Release

APPENDIX B: Local Government ARRA Projects

District Summary (in millions)

District	ARRA Funds
1	\$8.2
2	\$5.9
3	\$28.5
4	\$7.8
5	\$10.1
6	\$6.3
Total	\$66.8

District One

CN/PN	Entity	County	Proposed Projects	Description	ARRA Funds
ES11150	Elephant Butte	Dona Ana	Enhancement project NM 195	landscaping and multiuse trail	\$ 100,000
ES11160	NMDOT (for Anthony)	Dona Ana	NM460/NM478 landscaping	roundabout to Acosta	\$ 250,000
ES11170	Sunland Park	Dona Ana	Bus shelters/waste receptacles	Various locations	\$ 71,000
				total	\$ 421,000
ESL1037	Bayard	Grant	NM 356 Roadway Improvements	NM 356	\$ 350,000
ESL1016	Hurley	Grant	Diaz Ave Roadway Improvements	End of Street / Cul du sac/East St.	\$ 390,000
ES11200	Lordsburg	Hidalgo	NM 494 (Motel Blvd) Roadway Improvements	TBD	\$ 400,000
ES11210	Mesilla, Town of	Dona Ana	Calle del Norte	Mill and Overlay total project cost \$1,100,000 project also on TPO list	\$ 500,000
				total	\$ 1,640,000
ES11220	Deming	Luna	Spruce Street Reconstruction	Reconstruction including sidewalk	\$ 850,000
ES11230	Las Cruces	Dona Ana	Del Rey Blvd/SandHill Arroyo Crossing	Arroyo Crossing - Bridge	\$ 2,000,000
ES11240	Silver City	Grant	Mill and Overlay of 12th Street	three phases	\$ 600,000
ES11250	Socorro	Socorro	California Street Roadway Improvements	End of California at I-25	\$ 864,000
ES11260	T or C	Sierra	US85 Overlay	State Route through Downtown	\$ 700,000
				total	\$ 5,014,000
ES11270	NMDOT	Dona Ana	NM 213 Road Improvements	Pavement Preservation	\$ 1,097,329
				total	\$ 1,097,329
				Total	\$ 8,172,329

District Two

CN/PN	Entity	County	Proposed Projects	Description	Stimulus Funds
ES21270	Alamogordo	Otero	Sidewalks ADA corridors city wide	Installation of sidewalks and ADA compliant corner ramps, driveway and alley aprons city wide to provide defined accessible corridors throughout the city.	\$ 249,747
ESL2028	Cloudcroft	Otero	Mexican Canyon Trestle (MCT) Stabilization	Existing contract will complete a structural evaluation, preservation of sound timbers, and replacement of decayed/missing timbers in bents 1-5.	\$ 249,747
ES21070	Eunice	Lea	Downtown Enhancement/ Beautification	Surface Rehabilitation, Lighting, Crosswalks, Landscaping, Etc.	\$ 249,747
ES21230	Hobbs	Lea	NM 18 Multi-Use Trail Project & Roadway Enhancement	10 foot wide concrete multi-use trail along NM 18 (Lovington Highway) along with landscaping, small shrubs and trees, pedestrian lighting and ADA intersection improvements.	\$ 249,747
ES04049	Portales	Roosevelt	US 70	US 70 thru Portales that is an Enhancement Project to include landscaping, sidewalks and ADA ramps.	\$ 249,747
total					\$ 1,248,735
ES21190	Alamogordo	Otero	9th Street Bridge Rebuild	Removal and replacement of bridge on 9th and Washington deemed unsafe for vehicular traffic by NMDOT.	\$ 150,000
ES21260	Carlsbad	Eddy	Greene Street (US 62/180) Roadway and Drainage Reconstruction, Principal Arterial	Reconstruct Greene Street from Canal (US285) to Moore Drive including rehab of existing concrete pavement, rehab of curb and gutter and sidewalk, upgrade ADA facilities, and improve drainage structures.	\$ 831,489
ES21250	Chaves County	Chaves	Chaves County Pavement Preservation Project	Roads included are E. Brasher Road (C1-184) from Southeast Main Street (US 285) to the Old Dexter Highway (NM 256), Red Bridge Road (C1-106) from US 380 to 19th Street, 19th Street (C1-125) from Red Bridge Road to Fowler Road, Fowler Road (C1-123) from 19	\$ 830,000
ES21220	Lea County	Lea	Carlsbad to Eunice By-Pass	Mill entire road; check sub-base; relay the road; and add 4 inches of asphalt.	\$ 831,489
ES21210	Lovington	Lea	Ninth Street	Ninth Street -- Completion of the Municipal Arterial Street	\$ 831,489
ES21200	Roswell	Chaves	West Brasher Road Reclamation	Reclamation and recycling of existing roadway pavement and base course. New 4" PMBP overlay.	\$ 831,489
ES21240	Ruidoso	Lincoln	Resurface Paradise Canyon	2" overlay on Paradise Canyon with use of heater scarify/remix and resurface asphalt pavement. 11,500' x 23'.	\$ 352,651
total					\$ 4,658,607
Total					\$ 5,907,342

District Three

CN/PN	Entity	County	Proposed Projects	Description	Stimulus Funds
ESA3320	Rio Rancho / Town of Bernalillo	Sandoval	NM 528 Southern to US 550*	Lighting Project along NM 528	\$ 1,348,848
				total	\$ 1,348,848
ES31110	Bosque Farms	Valencia	Bosque Loop Rd	NM47 to NM47	\$ 63,000
				total	\$ 63,000
ESA3312	Los Lunas	Valencia	New Street Connection south of Courthouse Road	New Street from Rail Runner Station to Los Lentes as identified in MRCOG TOD	\$ 1,092,715
ESA3310	Los Lunas	Valencia	Los Lunas Railroad Crossings	NM 314 at Otero Road; NM 314 at Daniel Fernandez Park; Construct at-grade crossings; identified as a safety need	\$ 1,092,715
				total	\$ 2,185,430
ES02689	Albuquerque	Bernalillo	I-40 Trail Crossing at the Rio Grande	Construct bikeway/trail bridge over the Rio Grande	\$ 5,358,782
ES03184	Albuquerque	Bernalillo	ITS-Albuquerque Traffic Management System	Replace traffic signal controllers, communications, camera monitoring, other ITS	\$ 2,651,176
ESL3310	Bernalillo, Town of	Sandoval	Camino Don Tomas	Advance Construction to Reconstruct 2 lanes & Add/Improve Sidewalks. Add center double left turn lanes & add deceleration lane for new school bus access.	\$ 2,914,579
ESL3137	Rio Rancho	Sandoval	Paseo del Volcan (NE Section) Stage II	Construct New 2 lane Roadway	\$ 14,000,000
				total	\$ 24,924,537
				Total	\$ 28,521,815

District Four

CN/PN	Entity	County	Proposed Projects	Description	Stimulus Funds
ES41170	Cimarron	Colfax	US 64 Trail and Interpretive Sites	4 block area along US 64 in the Village of Cimarron. Construction of Multi-Use Path with Interpretive Sites, etc. Project with aid in enhancement of streetscape, parking capacity, functionality and promote heritage tourism.	\$ 125,000
ES41180	Las Vegas/ San Miguel County	San Miguel	Gallinas Riverwalk - Bicycle/Pedestrian Path	Construction of bicycle/pedestrian path from Mills Avenue to the United World College (Approx. 5.15 miles). This trail will tie into the existing Gallinas Riverwalk from Mills Avenue to Jackson Street. Total Cost \$3,115,000	\$ 937,015
total					\$ 1,062,015
ES41190	Angel Fire	Colfax	North Angel Fire Road	Pavement Resurfacing	\$ 762,000
ES41200	Santa Rosa	Guadalupe	8th Street to NM91	Reconstruction of North 8th Street and Eddy Street - on 8th Street for 850 Feet and on Eddy Street for 630 Feet.	\$ 673,350
total					\$ 1,435,350
ES41210	Las Vegas	San Miguel	Mills Ave. (FL 4560) Roadway Improvements (Pavement Rehabilitation)	Repave 1.47 miles on Mills Avenue in Las Vegas, New Mexico between Grand Avenue (State Road 85) and New Mexico Avenue (State Road 329), to include milling of shoulders and striping. Total cost \$2,146,000	\$ 1,946,300
ES41220	Raton	Colfax	I-25 Business Loop (L0017) Pavement Preservation	Surface Treatment of PCCP Pavement.	\$ 1,000,000
ES41230	Raton	Colfax	US 64/87 Pavement Preservation	US 64/87, Tiger Drive to Exit 452. Pavement Preservation.	\$ 600,000
ES41240	Tucumcari	Quay	2nd Street Road Improvements	City of Tucumcari- 2nd Street from Tucumcari (Business 40) on the north and Charles Street on the south; including the first 150 feet of each cross street.	\$ 1,785,000
total					\$ 5,331,300
Total					\$ 7,828,665

District Five

CN/PN	Entity	County	Proposed Projects	Description	Stimulus Funds
ESS1010	Santa Fe	Santa Fe	Rodeo Road Median Landscaping	Applying landscaping treatment to newly installed and existing medians on Rodeo Road from Galisteo Street to Camino Carlos Rey.	\$ 150,000
ESS1020	Santa Fe County	Santa Fe	Santa Fe Rail Trail	Construct a paved multi use trail from I-25 to Rabbit Road	\$ 100,000
				total	\$ 250,000
ESF1050	Aztec	San Juan	East Arterial	Construction of a north/south route intersecting with US550 on the south and NM173 including improvements to NM173 and the intersection of US550 and NM173.	\$ 1,700,000
ESF1080	Bloomfield	San Juan	West Maple St Reconstruction	Reconstruction of approximately 1, 630 feet of roadway, starting at US 550 and heading west, subsurface utilities	\$ 900,000
ESG2G75	Espanola	Rio Arriba	Industrial Park Road	Added lanes, drainage, pedestrian facilities, access management	\$ 1,250,000
ESF1070	Farmington	San Juan	Wildflower Parkway from Browning Parkway(NM 516) to Wildflower Mesa	Roadway Widening Project	\$ 1,000,000
ES51140	Los Alamos County	Los Alamos	Diamond Drive Phase 3	Request was \$5.759,876, lower amount recommended by D5	\$ 1,962,217
ESF1030	San Juan County	San Juan	Bridge #8116 on CR 2900	The current bridge is in need of replacement due to a failing deck and severe corrosion of all steel elements.	\$ 1,000,000
ESS1030	Santa Fe	Santa Fe	Airport Road	Safety Improvements Cerrillos Road to San Felipe Road	\$ 2,000,000
				total	\$ 9,812,217
				Total	\$ 10,062,217

District Six

CN/PN	Entity	County	Proposed Projects	Description	Stimulus Funds
ES61150	Reserve	Catron	Downtown Rehabilitation (Main Street)	Road improvements along Main Street	\$ 1,033,609
				total	\$ 1,033,609
ESG2S74	Acoma Pueblo	Cibola	SP 36 half mile extension	SP 36 0.5 mile extension including R/R Bridge (Total Cost \$5,225,000 ARRA to supplement GRIP 2 \$4,387,538)	\$ 1,200,000
ES61160	Sandoval County	Sandoval	County Road 13 Bridge 8053	Rio Puerco	\$ 270,000
ES61170	Sandoval County	Sandoval	Horseshoe Springs Bridge 6056	San Antonio creek	\$ 198,000
ES61180	Zuni Pueblo	McKinley	Z-4(3)1, 2&4	Gallup Cut-Off Bridge widening (184 feet)	\$ 736,582
				total	\$ 2,404,582
ES61190	Gallup	McKinley	Clay Street Bridge Construction Project	Replace existing 5-ton load limit, railroad flatcar bridge with a new bridge structure that can carry school buses and other heavy commercial vehicles.	\$ 2,100,000
ES61200	Grants	Cibola	Nimitz Bridge	Single Span 2-Lane Bridge over the Rio San Jose.	\$ 800,000
				total	\$ 2,900,000
				Total	\$ 6,338,191

APPENDIX C: Performance Measure Rating Criteria

Performance Measure Rating Criteria

G

- Most annual targets met
- Data is reliable
- Measures gauge core functions
- Measures relate to agency's budget
- Measures tied to strategic and mission objectives

Y

- Mixed success in meeting targets
- Data is questionable
- Measures not closely related to core functions
- A clear and achievable action plan is in place to reach goals

R

- Most annual targets missed
- Data is unreliable
- Measures unrelated to core functions and budget expenditures
- No action plan to improve performance in place
- Agency failed to report on performance

APPENDIX D: Other GAA Performance Measures

The following are other performance measures included within GAA and are identified as key measures.

Department of Transportation Performance Measures								
Department of Transportation Performance Measures		FY07 Actual	FY08 Actual	FY09 Target	FY09 1st Quarter	FY09 2nd Quarter	FY09 3rd Quarter	Rating
Output	Annual number of commuter rail riders between Belen and Bernalillo	485,150	547,077	>400,000	208,169	197,699	345,996	
Quality	Ride quality index for new construction	4.0	4.0	4.3	4.2	4.1	4.1	
Outcome	Number of traffic fatalities per one hundred million vehicle miles traveled	1.69	1.4*	<.88	1.28*	1.6*	1.24*	
Output	Number of crashes in established safety corridors	699	609*	<886	Data available 6/09	Data available 7/09	Data available 10/09	Data Available 10/09
Quality	Percent of final cost over bid amount on highway construction projects	8.5%	5.5%	<6%	6%	4.73%	5.6%	
Explanatory	Percent of programmed projects let according to schedule	72%	91%	>85%	31%	94%	88%	
Outcome	Percent of front-occupant seat belt usage	90%	91.5%	>90%	Annual measure data available Q2 FY10	Annual measure data available Q2 FY10	Annual measure data available Q2 FY10	
Outcome	Number of interstate miles rated good	4,005	3,850	>1190	Annual measure data available Q2 FY10	Annual measure data available Q2 FY10	Annual measure data available Q2 FY10	Data Available 12/09
Outcome	Number of non-interstate miles rated good	19,216	19,532	>8225	Annual measure data available Q2 FY10	Annual measure data available Q2 FY10	Annual measure data available Q2 FY10	Data Available 12/09
Output	Number of statewide improved pavement surface miles	2,424	4,321	>4,500	1,411	788	81	
Outcome	Number of combined system-wide miles in deficient condition	3,468	3,306	<2500	Annual measure data available Q2 FY10	Annual measure data available Q2 FY10	Annual measure data available Q2 FY10	Data Available 12/09

Source: FY09 3rd Quarter Good to Great Report and LFC Analysis

*The data is as of the last date in the quarter and is likely to change.