

Central Texas Regional Mobility Authority: A Need for a Higher Standard



March 2005

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March 9, 2005

Fellow Texans:

On September 30, 2004, state and local officials asked my office to conduct a review of the operations and management of the Central Texas Regional Mobility Authority (CTRMA), citing serious oversight concerns. This is the report resulting from that review.

CTRMA is the first regional mobility authority (RMA) in Texas, and it is vitally important to our state's future that we get this first RMA right. And I am forced to say that I am troubled by what I see so far.

CTRMA is an important test case, marking the beginning of a new era of creatively financed road projects in our state. RMAs can make an important contribution to Texas. They promise to answer pressing transportation needs more quickly and efficiently than our traditional "pay as you go" approach to road construction.

And CTRMA is an interesting experiment in the interaction between government and the private sector. No other state has outsourced a road project of this magnitude so completely. CTRMA is responsible for hundreds of millions of dollars in public spending, but with only one full-time employee until November 2004, has placed most of its fundamental oversight responsibility in the hands of private contractors – a small circle of financially interested parties.

Their relationships are long-standing, complex and intertwined. Again and again among CTRMA's contracts, officers and even in "grassroots" groups formed to promote its efforts, one encounters the same small circle of individuals, some of whom stand to profit substantially from CTRMA's projects. It appears to be a story of favoritism and self-enrichment.

This report notes several instances in which CTRMA and its business operatives have engaged in conduct that appears to violate Texas law. In many others, though CTRMA's activities may not have been technically illegal, fundamental procurement, contracting, expenditure, conflict of interest and ethical standards were not observed – standards that good government must strictly adhere to for Texas citizens to have the faith and confidence in government that they deserve. Public-private partnerships deserve no less.

When this many tax dollars are at stake, I believe that the legislative system under which CTRMA operates must be tightened and strengthened so that higher standards replace the inner-circle dealings this report reveals. I believe the people of Texas want to see RMAs live by a higher standard – one that recognizes the substantial stake the public has in their operations. Public accountability is critical here since the actions and decisions of the RMAs are in no way subject to voter approval.

This report contains observations and common sense business and legislative recommendations that can improve CTRMA's operations and public accountability, and build public confidence in CTRMA. The first step should be the adoption of our recommendation calling for the resignation of the two board members whose personal holdings and business interests should have prevented their appointment in the first place. Ensuring that CTRMA's board is stripped of members with the potential for self-enrichment should help restore public trust. Our other recommendations, once implemented, should build on this trust, provide the accountability that should exist where public funds are involved and enable CTRMA to influence the success of all subsequent regional mobility authorities.

As always, my office stands ready to help with the implementation of our recommendations.

Sincerely,

Carole Keeton Strayhorn
Texas Comptroller

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Special Report

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INTRODUCTION

On September 30, 2004, the Comptroller's office was asked by state and local officials to conduct a review of the operations and management of the Central Texas Regional Mobility Authority (CTRMA) (**Appendix 1**). This report presents the results of that review.

Texas is on the brink of a significant change in the way it finances transportation. The state is moving from its traditional "pay-as-you-go" method of financing road construction, funded largely by motor fuels taxes, to an increasing reliance on bond debt and toll roads. In addition, new governing structures have been created to give local governments more authority over road construction and finance.

Laws enacted by the 2001 and 2003 Legislatures authorized the establishment of regional mobility authorities (RMAs) with significant powers over road creation. Essentially, these are county or multi-county toll-road authorities. Each RMA is a political subdivision formed by one or more counties, with the approval of the Texas Transportation Commission (TTC), entrusted with financing, designing, building, operating and maintaining toll roads and other transportation projects.¹

In October 2002, the TTC approved the creation of the Central Texas Regional Mobility Authority (CTRMA), the state's first RMA.² Its first project is US 183-A, an 11.6-mile toll road in Williamson County north of Austin.

Double Taxation without Accountability

Regional mobility authorities (RMAs) are not directly accountable to the people of Texas. No voter approval is required for their creation; no voter approval is required for the selection of their board members or staff; no voter approval is required for the selection and funding of their toll projects; nor is voter approval required for "conversion," as it is called in transportation planner's language. Comptroller Strayhorn has repeatedly said, "the redesignation as toll roads of roads already constructed, under construction or funded through traditional means, such as the gasoline tax, is double taxation."

RMAs can issue revenue bonds, set toll rates and, in partnership with a taxing entity, establish a taxing district to assist with transportation financing.³ Furthermore, the Legislature authorized TTC to convert parts of the state highway system to toll roads and transfer them to RMAs.⁴ Most importantly, however, RMAs have the power of eminent domain—the right to take private property for transportation projects.⁵ In effect, RMAs now have the same road-building powers as the Texas Department of Transportation (TxDOT), so long as their projects are consistent with local and state transportation plans.

Comptroller Strayhorn has repeatedly said, "the redesignation as toll roads of roads already constructed, under construction or funded through traditional means, such as the gasoline tax, is double taxation."

Central Texas transportation projects are expected to receive revenue from the Texas Mobility Fund, which was created by the 2001 Legislature to support state revenue bond issues for transportation projects. Texas Mobility funds are allocated by TxDOT.

While TxDOT officials have stated in public hearings that regional mobility plans do not necessarily have to include tolls in order to receive money from the Texas Mobility Fund, other evidence, as documented on pages 11 and 12 of this report, demonstrates just the opposite.

Loose Management Practices

CTRMA is a unique entity in American government. Few, if any, jurisdictions have ever embarked on a project of the magnitude of US 183-A with so little in the way of public supervision and oversight.

CTRMA is managing a project involving hundreds of millions in public funds. Virtually all responsibility and accountability for this project lies in the hands of private contractors—some of whom have been politically active in promoting US 183-A and other toll projects in Central Texas. And the authority's prime contractor, its general engineering consultant or GEC, has hired a number of subcontractors who have long-standing relationships with Travis and Williamson County officials responsible for regional transportation policies.

Furthermore, CTRMA functioned for two years before ever adopting an operating budget.

This review found that CTRMA is not exercising effective control over its contractors. The review team found that:

- CTRMA is managing a project worth hundreds of millions of dollars, but had just one full-time employee until November 2004.
- Despite handing out contracts worth millions of dollars, CTRMA does not employ a contract manager.

Favoritism and Self-Enrichment

One of the most intriguing aspects of CTRMA's operations is the web of relationships among those responsible for its creation. To a surprising extent, this project—which will receive hundreds of millions of dollars in public funds—is the product of close collaboration among a handful of individuals, chosen without competition, resulting in the appearance of favoritism and self-enrichment.

E-mails released by the authority use terms such as the “circle”—and “outside the circle”—in reference to this close-knit group, which includes developers with substantial financial interests not far from CTRMA's US 183-A highway project.

Some of the relationships and potential conflicts of interest involved in this circle include the following:

- The chairman of the CTRMA board has a substantial interest in more than 254 acres of real estate within two miles of the proposed US 183-A right of way. He began making land acquisitions in the vicinity of US 183-A less than a month after the Capital Area Metropolitan Planning Organization (CAMPO) adopted plans for the road.
- One of the Williamson County commissioners who voted to create CTRMA—and to appoint four of its seven board members—now serves as its executive director.
- The executive director also serves as treasurer of Team Texas, a nonprofit forum for Texas toll authorities and contractors that appears to be a trade association, an apparent violation of state law.
- The executive director's former campaign manager, active in Williamson County politics and a convicted felon, is now a GEC subcontractor. He has

CTRMA is managing a project involving hundreds of millions in public funds. Virtually all responsibility and accountability for this project lies in the hands of private contractors—some of whom have been politically active in promoting US 183-A and other toll projects in Central Texas.

also billed the authority directly for thousands of dollars in various services.

- CTRMA's general engineering consultant, which is responsible for much of the authority's day-to-day operations, contracted with individuals and entities connected to CTRMA board members and staff, CAMPO members and elected officials in Williamson and Travis Counties.
- CTRMA's GEC hosted an event for area public officials at the Four Seasons in Austin, at a cost of more than \$7,000. CTRMA was listed as a co-host for this event; this appears to violate the "no gifts" provision of the Transportation Code.
- The "media relations" coordinator for Texans for Mobility, a private group formed to campaign for toll projects, is also a CTRMA subcontractor for public relations. A subsidiary of this subcontractor also answers queries from the public for CTRMA.
- Another private organization, the Capital Area Transportation Coalition, has been strongly supportive of CTRMA's road plans. Among its members are several CTRMA contractors, including the consulting firm that served as the authority's initial staff.

This web of relationships is troubling, given the major expenditures of taxpayer dollars that are involved.

These and other relationships are discussed in greater detail in this report.

Lax Expenditure Controls

This review uncovered a number of troubling instances of lax expenditure controls. Some examples may represent common practice for executives of private businesses, but not public entities. These incidents, however, point to a significant lack of accountability

for taxpayer dollars—accountability that is particularly vital for a project whose decision-makers never have to face voters.

Some of the incidents identified in this review include the following:

- CTRMA has authorized, as of this writing, more than \$2 million for public relations, marketing and "outreach" services, much of it expended in areas miles away from any impact US 183-A may have and before any construction has started. At least 12 firms are providing public relations work for this single project.
- CTRMA hired and contracted to pay an independent consultant \$4,000 at \$250 per hour to help develop a job description for the authority's chief financial officer (CFO) position.
- CTRMA has reimbursed employees and contractors for meals, alcoholic beverages, first-class airfare, professional memberships and events that would be considered impermissible by both state and local government agencies. For example, CTRMA's executive director was reimbursed for alcoholic beverages purchased in Monterey, California; the executive director approved his own expense statement.

Holding RMAs Accountable

This report contains 27 recommendations that would build public confidence in CTRMA and help all RMAs fulfill their mission of providing transportation resources quickly and efficiently, with maximum accountability to the public. Many of these recommendations identify needed changes in state law to ensure that all RMAs are accountable to taxpayers. Others identify improvements that CTRMA should make to its business practices and that should be implemented by other RMAs at the appropriate time.

The chairman of the CTRMA board has a substantial interest in more than 254 acres of real estate within two miles of the proposed US 183-A right of way.

Some of the Comptroller's recommendations to amend state law include the following:

- **To prevent double taxation, prohibit the conversion to toll-road status of any road on which construction begins without tolls identified as a funding source.**
- **Prohibit the Texas Department of Transportation from making allocations from the Texas Mobility Fund contingent upon the inclusion of toll roads in regional road plans.**
- **Make RMAs more accountable to taxpayers by giving elected officials more oversight of RMA operations.**
 - Require commissioners court approval of any toll road project that will be built or operated by an RMA in the court's jurisdiction.
 - Require the commissioners courts of each RMA's constituent counties to appoint all RMA board members, including the board's chair.
 - Allow the commissioners courts of counties establishing RMAs to remove any board member, including the board's chair.
- **Require RMAs to follow provisions in the *Statewide Contract Management Guide*.**
- **Require RMAs to perform criminal background checks for contractors and subcontractors and prohibit them from contracting with convicted felons.**

- **Require RMAs to follow state guidelines concerning the reimbursement of staff and board member expenses.**
- **Prohibit RMAs from contracting for public relations or public involvement services with any entity engaged in transportation-related advocacy efforts.**
- **Limit RMA board member terms to four years.**

The Comptroller also recommends that CTRMA and any other RMA:

- **Employ a professional contract management officer to ensure that its contractors and subcontractors comply fully with the terms and conditions of their contracts.**
- **Adopt contract procedures to ensure that its contractors and subcontractors receive contracts based entirely on published specifications.**
- **Employ an in-house general counsel to ensure that the authority's best interests are represented.**
- **Require board members to disclose *all* real estate holdings.**

And finally, the Comptroller recommends that:

- **CTRMA Chairman Robert Tesch and board member Johanna Zmud resign immediately, Tesch because of the potential for self-enrichment and Zmud because she is precluded from serving by TxDOT regulations.**

I. DOUBLE TAXATION WITHOUT ACCOUNTABILITY

Regional mobility authorities (RMAs) are not directly accountable to the people of Texas. No voter approval is required for their creation; no voter approval is required for the selection of their board members or staff; no voter approval is required for the selection and funding of their toll projects; nor is voter approval required for “conversion,” as it is called in transportation planner’s language.⁶ Comptroller Strayhorn has repeatedly said, “the redesignation as toll roads of roads already constructed, under construction or funded through traditional means, such as the gasoline tax, is double taxation.”

Travis and Williamson counties created the Central Texas Regional Mobility Authority (CTRMA) in the wake of 2001 legislation allowing counties to create regional mobility authorities, or RMAs, to finance, build, operate and maintain toll roads and other transportation projects. CTRMA is a two-county political subdivision of the state, authorized to operate in its jurisdiction by the Texas Transportation Commission (TTC).⁷

The CTRMA board includes seven members, with three each appointed by the commissioners courts of Travis and Williamson coun-

ties and a seventh member appointed by the governor to serve as chairman (**Exhibit 1**).

The terms of all CTRMA board members expired as of February 2005. Williamson County has reappointed its current members. At this writing, Travis County has not yet made its appointments, and the governor has not designated a new chair. When these appointments are complete, two of the six county-appointed members will serve two-year terms; two for four years; and a final two, along with the chair, will serve six-year terms. All subsequent member terms will be for six years, giving the board staggered six-year terms. **Appendix 2** provides a timeline of significant events in CTRMA’s short tenure.

Questions have surfaced regarding the constitutionality of the six-year duration of terms for all RMA board members, as they are described in the RMA’s governing statute, Chapter 370 of the Transportation Code. The six-year terms of RMA board members may be held to violate Article XVI, Section 30(a) of the Texas Constitution, an issue raised by litigation filed on March 2, 2005 in Travis County District Court. The section says, “The duration of all offices not fixed by this Constitution shall never exceed two years.” On its face, this provision could invalidate the service of CTRMA’s board members and, in the extreme, invalidate past decisions by those members. The Legislature should consider legislation to approve retroactively CTRMA board decisions and amend the Texas Constitution to set the terms of RMA board members at four years to avoid any uncertainty that may result from an unfavorable court or attorney general ruling.

The Capital Area Metropolitan Planning Organization (CAMPO), a 23-member body consisting primarily of elected officials from Travis, Williamson and Hays counties, must approve CTRMA projects (**Exhibit 2**). Like all metropolitan planning organizations, CAMPO is required by federal law to approve

Questions have surfaced regarding the constitutionality of the six-year duration of terms for all RMA board members.

**EXHIBIT 1
CTRMA Board Members**

Board Member	Selected By
Robert “Bob” Tesch, Chairman	Governor*
Lowell H. Leberman, Jr.	Travis County
Henry H. Gilmore	Travis County
Johanna Zmud	Travis County
Robert L. Bennett, Jr.	Williamson County
James “Jim” Mills	Williamson County
David Singleton	Williamson County

* Chairman Tesch was originally appointed to the board by Williamson County and later was selected by the governor to serve as chairman.

Source: Central Texas Regional Mobility Authority.

all transportation plans in its region that receive federal funding.

The CAMPO board includes 21 elected officials as well as one representative from the Capital Metropolitan Transportation Authority (Capital Metro) and one from the Texas Department of Transportation (TxDOT). (Capital Metro is a transit authority established in 1985 by Austin-area voters that uses the proceeds of a one-cent local sales tax to provide public transportation within its jurisdiction.)

While Hays County is represented on CAMPO, the county has not petitioned TTC to join CTRMA or to create its own RMA, although it still could choose to do either.

CAMPO coordinates regional transportation planning with TxDOT, area cities and counties, Capital Metro, the Capital Area Rural Transportation System (which provides public transport services in Austin-area rural areas) and other transportation providers.

Since its beginning, CTRMA has worked closely with TxDOT to create its construction plan, and its operations depend heavily on TxDOT development and funding; Travis and Williamson Counties provided some early, but relatively limited financial assistance.

On April 12, 2004, CTRMA and TxDOT presented the authority's proposed regional implementation program to CAMPO. This identified the greater Austin area's immediate mobility needs and proposed toll-road projects for CTRMA to operate or develop (**Exhibit 3**).

Exhibit 4 illustrates CTRMA's and TxDOT's road plan, the Central Texas Regional Mobility System.

EXHIBIT 2
Capital Area Metropolitan Planning Organization Members

Member	Representing
Gonzalo Barrientos, Chair	State Senator, District 14
Greg Boatright, Vice Chair	Williamson County Commissioner
Steve Ogden	State Senator, District 5
Dan Gattis	State Representative, District 20
Dawnna Dukes	State Representative, District 46
Terry Keel	State Representative, District 47
Todd Baxter	State Representative, District 48
Elliott Naishtat	State Representative, District 49
Mark Strama	State Representative, District 50
Eddie Rodriguez	State Representative, District 51
Mike Krusee	State Representative, District 52
Sam Biscoe	Travis County Judge
Karen Sonleitner	Travis County Commissioner
Gerald Daugherty	Travis County Commissioner
Bill Burnett	Hays County Commissioner
Will Wynn	City of Austin Mayor
Daryl Slusher	City of Austin Council Member
Brewster McCracken	City of Austin Council Member
Danny Thomas	City of Austin Council Member
Nyle Maxwell	City of Round Rock Mayor
Dwight Thompson	Alliance of Cities Mayor
John Trevino	Capital Metro
Bob Daigh	TxDOT (District Engineer)

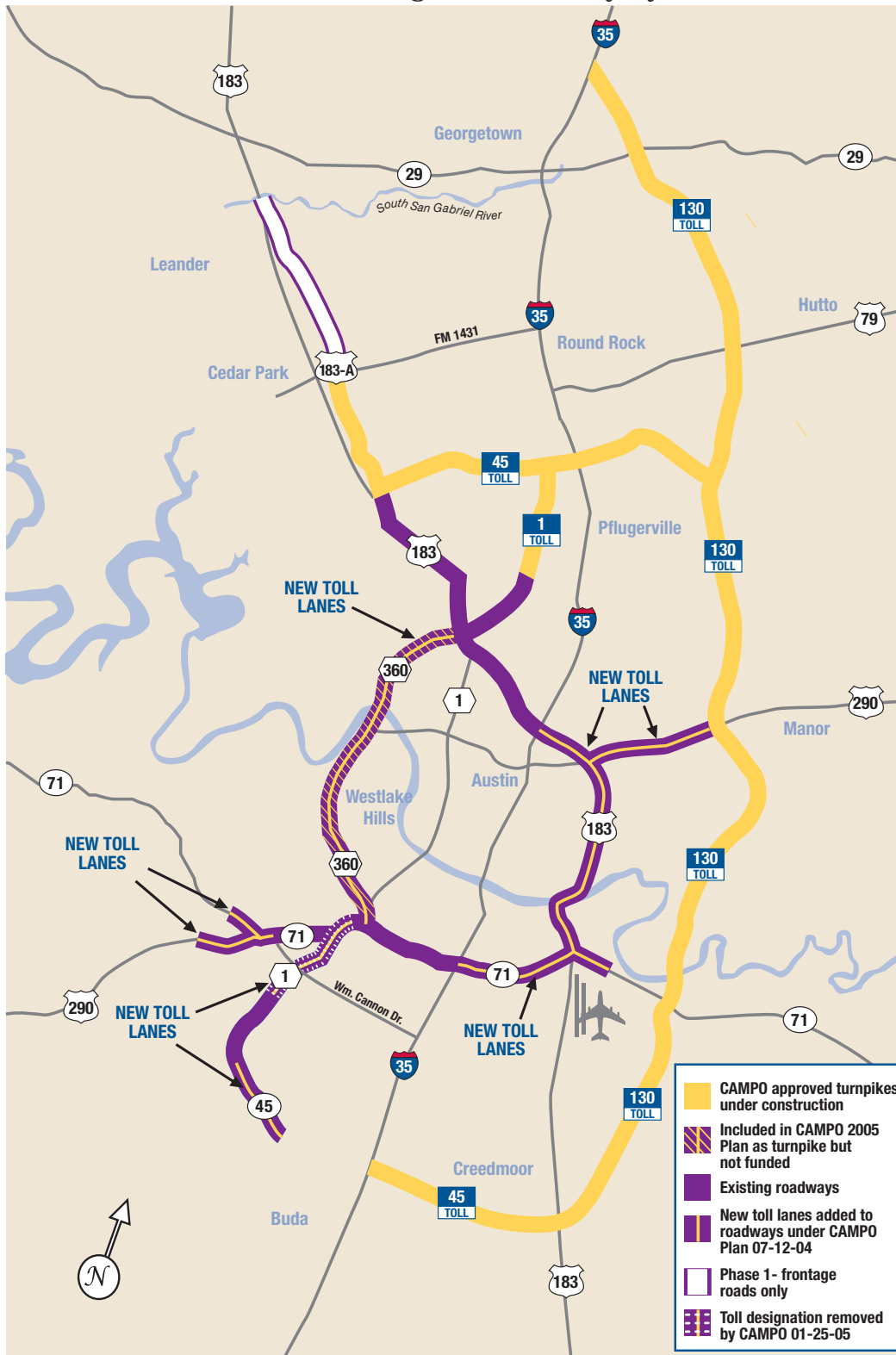
Source: Capital Area Metropolitan Planning Organization.

EXHIBIT 3
CTRMA and TxDOT Initial Project List

US 183-A: San Gabriel to SH 45 North
SE 45: SE US 183 to IH 35
US 290 phase of the "Y" in Oak Hill
US 183 / SH 71: IH 35 to the Airport
Loop 1 US 290 to William Cannon
SH 45: Loop 1 to FM 1626 (4 lanes)
SH 71 phase of the "Y" in Oak Hill
LP 360: RM 2244 to south of Walsh Tarlton
US 290: US 183 to SH 130
Loop 360: Loop 1 to US 290

Note: Since this list was made public, CAMPO has deferred funding to the Loop 360 project and removed the toll-road designation from Loop 1 (US 290 to William Cannon).
Sources: Central Texas Regional Mobility Authority and Texas Department of Transportation.

**EXHIBIT 4
Central Texas Regional Mobility System**



Sources: Central Texas Regional Mobility Authority and Texas Department of Transportation. Conceptional plan only.

CTRMA's proposed regional implementation program includes projects that were included in CAMPO's Transportation Improvement Program (TIP), a federally required, three-year plan listing transportation projects that can be developed with available funds. CAMPO amended its TIP on July 12, 2004, expanding the list of projects to include all of the toll-road projects CTRMA and TxDOT had proposed.

As public knowledge of CTRMA's plan spread during summer 2004, many Central Texas residents became increasingly concerned about the plan's reliance on toll roads.

The most controversial part of the plan, judging from news accounts and mail received by the Comptroller's office, was the proposed addition of tollbooths to the section of Loop 1 (MoPac) crossing William Cannon Drive. This segment touched off a particularly contentious debate about what should or should not be tolled; what constitutes "conversion" of a road; and just how the state should fund highway construction and maintenance.

The most controversial part of the plan, judging from news accounts and mail received by the Comptroller's office, was the proposed addition of tollbooths to the section of Loop 1 (MoPac) crossing William Cannon Drive.

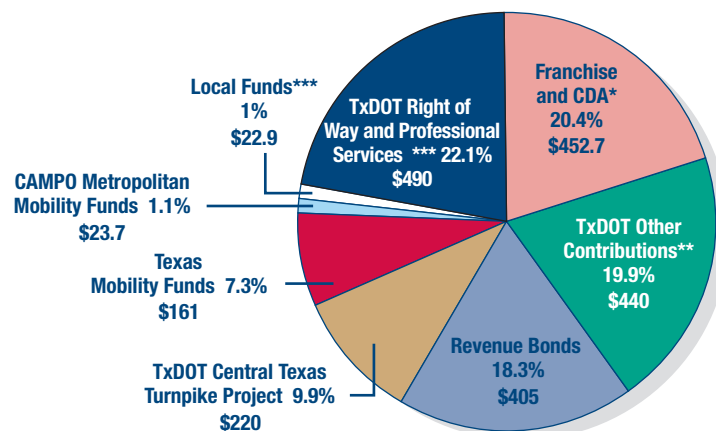
It should be noted that, despite CTRMA's close involvement with TxDOT in developing a toll road network for Travis and Williamson counties, at present it is directly responsible only for the construction and operation of US 183-A. TxDOT is planning and building the other roads in the region's plan. CTRMA officials told the review team that these toll roads would be turned over to the authority at a later date.

CTRMA Funding

CTRMA developed its financial plan in cooperation with TxDOT, CAMPO and the two counties' commissioners courts. The authority plans to rely on local, state and federal revenue, bond revenue, toll revenue and may receive private equity investment as well.

CTRMA's proposed regional implementation program, as presented to CAMPO on April 12, 2004, described a series of funding sources extending through 2015, including contributions from TxDOT, CAMPO, Travis and Williamson counties, the newly created

EXHIBIT 5
CTRMA Regional Implementation Plan
Funding Sources 2004-2015 (in millions)
Total: \$2.215 billion



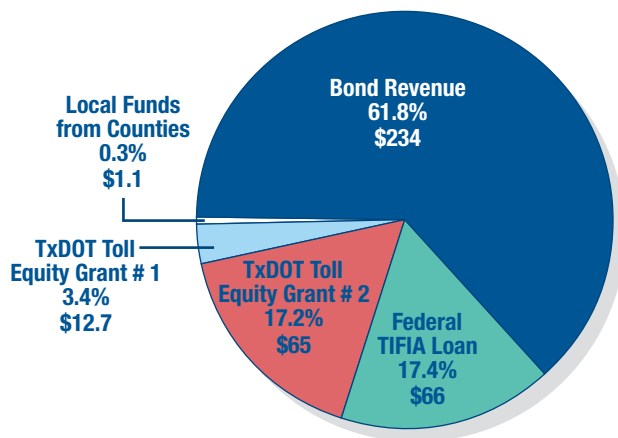
* These funds were intended for Loop 360 projects, which have since been removed from the plan.

** These dollars are likely to be distributed to CTRMA through toll equity grants.

*** Local funds are provided by Travis and Williamson County.

Sources: Central Texas Regional Mobility Authority and the Texas Department of Transportation.

EXHIBIT 6
Current CTRMA Funding Sources, as of February 2005 (in millions)
Total: \$378.8 million



Sources: Central Texas Regional Mobility Authority and the Texas Department of Transportation.

Texas Mobility Fund and proceeds from revenue bonds.

CTRMA and TxDOT originally anticipated that \$452.7 million in private equity would become available through a comprehensive development agreement (CDA), an arrangement authorized by the 2001 and 2003 Legislatures that allows transportation authorities to contract with private companies for the design, construction and operation of road projects.

The proposed CDA identified in **Exhibit 5** originally was intended to support projects on Loop 360. As of this writing, the CDA has been pulled from the plan due to CAMPO's decision to defer funding issues related to this project to a later date.

All current sources of funding are being directed towards the development of CTRMA's only ongoing project, US 183-A, or the authority's administrative costs.

As of February 2005, CTRMA's revenue included funds from TxDOT, Travis and Williamson counties and bonds (**Exhibit 6**). Exhibit 6 also identifies a federal loan through the Transportation Infrastructure Finance and

Innovation Act (TIFIA). CTRMA secured this loan in February 2005, although it is not likely to draw on these funds until 2008. (The likely use of the TIFIA loan is described in the Revenue Bonds section below.)

TxDOT Contributions

TxDOT contributions to the CTRMA regional implementation plan will come from the State Highway Fund.

The fund's primary purpose is to receive money allocated for the construction of roads and the maintenance of state highways. The fund's primary revenue source is state and federal motor fuel tax collections, although other fees and taxes generate some state dollars for the fund.

TxDOT also will contribute funding earmarked for the Central Texas Turnpike Project (CTTP), a planned network of four toll roads in the Austin area, including SH 130, SH 45 North, Loop 1 extension and CTRMA's US 183-A. TxDOT removed US 183-A from the CTTP to allow CTRMA to develop the road as its first project. CAMPO approved these toll roads in 2000 and TxDOT is financing the construction of the project's first

As of February 2005, CTRMA's revenue included funds from TxDOT, Travis and Williamson counties and bonds.

phase, including Loop 1, SH 45 North and the northern 49 miles of SH 130.⁸

TxDOT believes the SH 130 project will be less expensive than originally estimated, and plans to make the resulting savings available to CTRMA after calendar 2007. No funds from this source, however, have been allocated or are anticipated for use in financing US 183-A.

TxDOT has stated it also will provide CTRMA with rights of way and professional services. Rights of way are acquired through the purchase or condemnation of land. TxDOT can either acquire rights of way or reimburse cities and counties for acquiring them in the state's name.

The review team could not establish what percentage of the \$490 million devoted to rights of way and professional services in **Exhibit 5** will actually be used for right of way acquisition. Repeated requests to the Texas Transportation Commission (TTC) failed to yield the needed information. Similarly, the review team could not establish what "Professional Services" actually includes.

Both right of way and professional services will be funded through TxDOT's Austin District budget.

Toll Equity Grants

TxDOT's contributions to CTRMA are likely to be made in the form of toll equity grants, funds made available under the Transportation Code for the "cost of the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity."⁹

In the past, TxDOT was authorized to provide these funds only as loans. In 2001, however, S.B. 342 removed the obligation of repayment. TxDOT now can contribute up to \$800 million annually in toll equity grants to transportation projects and has recommended that the Legislature remove this cap.¹⁰

CTRMA already has received two toll equity grants from TxDOT to support the US 183-A

project. On April 24, 2003, TxDOT awarded CTRMA \$12.7 million to begin design work on the road.¹¹ The grant was not provided as a lump sum, but instead reimburses CTRMA for various expenses as they are incurred.

TTC approved a second toll equity grant on December 16, 2004, to help pay for the construction and initial operations of US 183-A. As of this writing, TTC has authorized a grant of between \$52 million and \$65 million. The exact grant amount will be subject to CTRMA's financial need after it sells revenue bonds.

This grant is intended to help the authority cover construction costs and its operating and maintenance costs during the first years of US 183-A's operations, until its toll revenue becomes sufficient. The grant should give CTRMA the financial flexibility it needs to meet its obligations to bondholders.¹²

Toll Equity Limitations

The 2003 grant came with restrictions spelled out in an agreement between CTRMA and TxDOT. According to this agreement, the grant is:

...to be used for the study and development of the proposed US 183-A turnpike project to the extent necessary to secure financial closing, including costs related to: (1) project management; (2) contract negotiation and preparation; (3) preliminary engineering; (4) securing federal funding; (5) preparing an investment grade traffic and revenue study; (6) the services of legal counsel and rating agencies; and (7) incidental administrative and other expenses.¹³

During an expenditure audit of CTRMA's use of this first grant, however, TxDOT found that the agreement failed to stipulate whether the funds could be used for general administrative costs. The authority subsequently agreed to use reimbursements from the grant to fund no more than half of its general administrative costs.

TxDOT's contributions to CTRMA are likely to be made in the form of toll equity grants.

CTRMA and TxDOT entered into the financial assistance agreement governing the second toll equity grant on February 3, 2005. According to the agreement, CTRMA would have wide latitude to expend these funds for the construction, operation or maintenance of US 183-A, and the funding would “not be subject to future discretionary actions of TxDOT.”¹⁴ This flexibility underlines the importance of the toll equity grant to the US 183-A financial plan.

Other restrictions related to TxDOT funding categories (2, 11 and 12) are detailed in **Appendix 3**.

Texas Mobility Fund

Central Texas transportation projects also are expected to receive revenue from the Texas Mobility Fund, which was created by

the 2001 Legislature to support state revenue bond issues for transportation projects.

While TxDOT officials have stated in public hearings that regional mobility plans do not necessarily have to include tolls in order to receive money from the Texas Mobility Fund, other evidence suggests the opposite.

Transportation Commissioner Robert Nichols has been quoted as telling State Representative Joe Pickett of El Paso that, “El Paso could lose some of its Texas Mobility Fund money if other communities build toll roads and have additional highway projects that they are willing to build with toll revenue.”¹⁵ And an April 12, 2004 presentation on the proposed TxDOT/CTRMA regional implementation program included a slide specifically stating that Texas Mobility Fund revenue would be made available only to transportation plans containing toll projects (**Exhibit 7**).

While TxDOT officials have stated in public hearings that regional mobility plans do not necessarily have to include tolls in order to receive money from the Texas Mobility Fund, other evidence suggests the opposite.

EXHIBIT 7
TxDOT/CTRMA Presentation, April 12, 2004

Additional Mobility Funds

TxDOT allocation FY 2004-15	\$596,000,000
Texas Mobility Funds	\$161,000,000 *
Total	\$757,000,000

*** Only available for Toll Roads**

Sources: Central Texas Regional Mobility Authority and the Texas Department of Transportation.

CAMPO board member and Austin City Councilman Danny Thomas was troubled by the same issue at the January 24, 2005 CAMPO meeting. He stated that, since CAMPO's July 2004 vote to include additional toll roads, he has repeatedly asked the TTC and CAMPO staff whether the Austin area would have lost Texas Mobility Fund dollars if it had not approved the additional toll roads. He said that he had not yet received a straightforward answer.

Travis County Commissioner and CAMPO board member Gerald Daugherty agreed with Councilman Thomas and said that he went to TTC meetings twice and was told if CAMPO didn't "do this Plan in its totality, that [they] will lose, most likely, [their] Texas Mobility Fund dollars...that if you don't do this, then you will lose \$161 million" in promised mobility fund dollars.¹⁶

CTRMA Chairman Bob Tesch made the same point in an October 20, 2004 letter to Austin Councilmember Brewster McCracken. He said, "We are all acting in response to a funding mechanism dictated largely by TxDOT, and we are reacting to the policy statements and directives we receive from the department."

In the same letter he quoted a TxDOT staff member who said, "...the staff of TxDOT feels that any deviation from the existing plan may jeopardize the funding level Central Texas could expect."

Limitations on the Texas Mobility Fund

Bonds backed by the Texas Mobility Fund may be issued for one or more of the following purposes:

- (1) to pay all or part of the costs of constructing, reconstructing, acquiring and expanding state highways, including any necessary design and acquisition of right of way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an

expected useful life, without material repair, of not less than 10 years;

- (2) to provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state;
- (3) to create debt service reserve accounts;
- (4) to pay interest on obligations for a period of not longer than two years;
- (5) to refund or cancel outstanding obligations; and
- (6) to pay the commission's costs of issuance.¹⁷

Local Funds

State law does not require counties establishing RMAs to provide them with startup funding. Travis and Williamson counties did so, however, each providing \$550,000 to begin CTRMA operations. The city of Cedar Park in Williamson County agreed to aid the county in providing rights of way.

Williamson County's contribution was delivered in two parts. On March 1, 2003, the county provided a \$250,000 grant "to pay for various expenses related to the creation and initial funding" of CTRMA during fiscal 2003.¹⁸ Williamson County transferred operational control of this first sum to Prime Strategies, Inc., a county consultant charged with the initial tasks involved in establishing CTRMA.¹⁹ The funds originated from a 2001 county road bond program.

On September 30, 2003, Williamson County provided the remainder of its funding, a second grant of \$300,000.²⁰ This allotment initially came from the county's 2000 general obligation road bond program, although a subsequent change in its interlocal agreement with CTRMA ultimately supplied the funds from county general revenue.²¹

Texas Mobility Fund revenue would be made available only to transportation plans containing toll projects.

On August 8, 2004, the city of Cedar Park and Williamson County entered into an interlocal agreement to provide rights of way needed for US 183-A. Cedar Park agreed to transfer all US 183-A right of way tracts that it had acquired within its city limits to Williamson County for CTRMA's eventual use. Williamson County agreed to acquire the remaining rights of way and turn them over to CTRMA before construction begins.

Travis County also provided CTRMA with an initial \$250,000 startup grant on June 4, 2003.²² The county transferred the entire amount directly to CTRMA. A second grant of \$300,000 on October 16, 2003 was intended to support CTRMA operations in fiscal 2004. The second grant allowed CTRMA to spend the money for "general administrative purposes."²³ In both cases, the grant money originally came from Capital Metro's Transportation and Mobility Enhancement Fund, also called the quarter-cent rebate fund.

Limitations on Local Funds

In providing this startup funding, the Travis and Williamson County commissioners courts agreed that CTRMA should not be unduly burdened with spending restrictions, as they wanted to provide the young authority with enough flexibility to meet unforeseen problems.²⁴

Since CTRMA may use TxDOT toll equity grants to cover only half of its administrative costs, it relies on Williamson and Travis County funds for the remainder until it secures bond proceeds. This motivated CTRMA's executive director to renegotiate the terms of the authority's second, \$300,000 grant from Williamson County. The director feared that the money's origin in a 2000 road bond program would prevent CTRMA from spending these funds exclusively on general administrative expenses. To overcome this hurdle, CTRMA and the county amended their interlocal agreement. In effect, CTRMA returned the bond proceeds to Williamson County, which replaced them with an equal amount of unencumbered funds from the county general revenue fund.²⁵

Since Travis County's funding originally came from Capital Metro, the funds are subject to Capital Metro's spending restrictions. Principally, these require CTRMA to use the funds to support projects within Capital Metro's jurisdiction that enhance regional mobility. The US 183-A project qualifies.

CTRMA's interlocal agreements with its parent counties also require it to spend county-provided funds only on items described in the budgets it provides to the counties, and to follow state purchasing laws in its spending. CTRMA provides both counties with financial reports on a monthly basis, describing operational costs after they are incurred.

The only other significant restriction includes a prohibition against using Travis County funds "for entertainment, liquor or recreational activities."²⁶ This sort of restriction highlights the importance of closely tracking expenditures by their source of funding, a subject discussed in Chapter 3.

In addition, the in-kind right of way commitments from Williamson County and Cedar Park came with specific construction requirements and other progress measures that will trigger the return of donated rights of way to city and county control if CTRMA does not meet the progress measures.

Revenue Bonds

CTRMA issued approximately \$234 million of bond debt in the form of insured senior lien revenue bonds (\$168 million) and bond anticipation notes (BANs-\$66 million) on February 16, 2005. BANs are short-term, interest bearing securities. Standard & Poor's gave the revenue bonds an underlying rating of Baa3 and an insured rating of Aaa. Another major rating agency, Moody's, assessed the underlying rating at BBB- and the insured rating at AAA. Standard & Poor's and Moody's assigned ratings of Aa3 and AA respectively to CTRMA's uninsured BANs. These investment grade ratings translated into CTRMA achieving an overall cost of financing of 4.6 percent.²⁷

CTRMA provides both counties with financial reports on a monthly basis, describing operational costs after they are incurred.

CTRMA intends to use the proceeds from this bond sale for US 183-A's construction, operations and initial debt service.

The bond rating is based on the creditworthiness of the issuing entity and the financial viability of the project expected to generate the repayment revenue. CTRMA's creditworthiness is based on the revenue it expects to receive from toll collections on US 183-A, TxDOT grants, TIFIA loans and an assessment by the market of CTRMA's governance. The state and federal contributions, while helping to establish the project's creditworthiness, do not obligate the state and federal governments to assume responsibility for any default on the authority's part. The constituent counties are similarly free of any obligation in case of default.

Vollmer Associates LLP, a CTRMA consultant, performed a traffic and revenue (T&R) study to develop revenue estimates for the US 183-A project. This study was critical in assessing the overall financial viability of the project. One of the required assumptions for this study was the toll rate CTRMA planned to charge. The amount charged reflected 2007 dollars, when the toll road is scheduled to open. The final Vollmer T&R study indicated CTRMA would charge \$2 to travel 12 miles from SH 45/RM 620 to the northern terminus, averaging 16.7 cents per mile. The report acknowledged that the portion of project north of FM 1431 would consist of non-tolled frontage road with room for main tolled lanes to be constructed at a later date. The study also identified the most expensive segment of the project to be of a trip between FM 1431 and Brushy Creek Road. CTRMA would charge \$1.50 for this 1.5-mile trip, averaging \$1 per mile.²⁸

CTRMA financial advisors used the results of the T&R study to structure the financial plan for US 183-A. They expect toll collections to begin in 2007, with the authority able to rely exclusively on toll revenue for annual debt service and operations and maintenance costs by 2013.²⁹

The early stage of a toll road project's life, before toll revenues mature, is called the

"ramp-up phase." CTRMA plans to leverage multiple sources of revenue to ensure that the authority maintains a minimum revenue-to-primary debt service ratio of 1.75 each year (the minimum ratio required by rating agencies to certify the bonds as investment grade). During the later years, CTRMA financial advisors expect this ratio to be as large as 7.55, providing the authority with significant flexibility if toll revenue doesn't meet expectations during the early years. To cover debt service during the ramp-up phase, CTRMA will use "capitalized interest"—excess revenue derived from the bond issue, over the anticipated cost of the project itself—and BANs. CTRMA will also leverage a portion of TxDOT's second toll equity grant to cover ramp-up phase operations and maintenance costs, thus freeing early toll revenues to service its bond debt.

As mentioned earlier, CTRMA insured the \$168 million in senior lien bonds. CTRMA's financial advisors considered bond insurance vital, as they were concerned that there would not be a market for uninsured bonds issued by a start-up toll road authority. Financial Guaranty Insurance Company (FGIC) insured the revenue bonds at a cost of approximately \$9 million to CTRMA. The insurance helped CTRMA obtain a better rating for their bonds, thus reducing the total amount that the authority needed to borrow to support the project.

Chapter 370 of the Transportation Code requires bond principal and interest to be paid solely by:

- (1) the revenue of the transportation project for which the bonds are issued;
- (2) payments made under an agreement with the commission, the department, or other governmental entity as provided by Subchapter G (toll equity grants);
- (3) money derived from any other source available to the authority, other than money derived from a transportation project that is not part of the same system or money

The state and federal contributions, while helping to establish the project's creditworthiness, do not obligate the state and federal governments to assume responsibility for any default on the authority's part.

derived from a different system, except to the extent that the surplus revenue of a transportation project or system has been pledged for that purpose; and

- (4) amounts received under a credit agreement relating to the transportation project for which the bonds are issued.³⁰

In 2008, CTRMA may draw on its TIFIA loan to pay back \$66 million in BANs used to fund debt service during the ramp-up phase. CTRMA's integration of funds from such a wide variety of sources indicates a strong commitment to make its public dollars stretch as far as possible.

As other CTRMA projects begin, similar bond issues may be employed. Under the 2003 legislation, if toll revenues from one project exceed debt service and other obligations, the surplus can be used to fund new projects.

Limitations of Revenue Bonds

The primary document governing the use of revenue bond proceeds is the "trust indenture" between CTRMA and its bond trustee, the independent third party charged with overseeing the terms of the agreement. This agreement is a contract describing the financial arrangements and binding each party to uphold certain agreements.

CTRMA has developed a master trust indenture with its US 183-A revenue bond trustee, JP Morgan Chase. CTRMA also has supplemental indentures for the 2005 series revenue bonds and BANs issued for US 183-A. These indentures outline how the bond proceeds can be spent and CTRMA's payment obligations to its bondholders. Indentures are intended to secure the interests of investors by clearly identifying the terms and priority of repayment.

The supplemental trust indentures provide limits on CTRMA's uses of the revenue bond and BAN proceeds, such as for costs associated with the "2005 project," which currently consists of only US 183-A, or for bond issu-

ance costs, or even for the cost of "studying, evaluating and designing additional turnpike projects."³¹

The trust indentures establish separate accounts for the variety of uses of bond revenue, such as a construction account or debt service account.³² These accounts inform investors how CTRMA will manage the revenues and costs associated with the bond issue and the US 183-A project. CTRMA is obligated to adhere to this structure. The supplemental indentures also provide specific restrictions, such as prohibiting CTRMA from using bond proceeds in any way that would jeopardize the bonds' tax-exempt status.³³

In addition, the bond agreements identify a priority for CTRMA's expenditure of toll revenue. The agreement requires the authority to use toll revenue to sustain the project's operating and maintenance (O&M) needs before paying bondholders. After these O&M needs are met and the investors receive their annual debt service payments, CTRMA may use the remaining revenue for other purposes, including future road projects.³⁴

Another significant restriction in the bond agreements is a "covenant not to build competing systems."³⁵ This restriction is in the master trust indenture and therefore will apply to all subsequent bond issues. The covenant obliges CTRMA to refrain from participating in or building any motor vehicle transportation system, or part of such a system, that might compete with US 183-A for revenue.

The covenant is intended to protect the bondholders' investment in US 183-A, and is vital to maintaining the bonds' rating. This provision, however, also effectively prevents CTRMA from improving vehicular mobility in the vicinity of US 183-A.

CAMPO Metropolitan Mobility Funds

According to the regional implementation plan, CAMPO has committed \$23.7 million in highway funds within its authority to CTRMA

This provision effectively prevents CTRMA from improving vehicular mobility in the vicinity of US 183-A.

transportation projects. These dollars will be used for projects that were in CAMPO's original TIP, before the July 2004 amendment. None of these CAMPO funds, however, will be used on the current US 183-A project.

Limitations on CAMPO Mobility Funds

CAMPO must follow a complex series of state and federal restrictions (TxDOT funding category 7) summarized in **Appendix 3**.

Recommendations

- 1. To prevent double taxation, state law should be amended to prohibit the conversion to toll-road status of any road on which construction begins without tolls identified as a funding source.**
- 2. State law should be amended to prohibit the Texas Department of Transportation from making allocations from the Texas Mobility Fund contingent upon the inclusion of toll roads in regional road plans.**
- 3. State law should be amended to require commissioners court approval of any toll road project that will be built or operated by an RMA in the court's jurisdiction.**

Current law does not provide sufficient accountability to voters for RMA projects. RMAs are, at best, indirectly accountable to voters, and as the controversy over CTRMA's toll plans indicates, voters do not have a direct relationship to any of the entities crafting and implementing RMA projects. County commissioners, however, are directly elected. Therefore, requiring commissioners courts to approve RMA projects in their counties would improve accountability to voters.

In addition, current law requires that county commissioners only approve the initial RMA project as part of the petition to establish the RMA. For a RMA to be a *true* state/local partnership, local authorities should continue to exercise approval authority over subsequent RMA transportation projects.

- 4. State law should be amended to require the commissioners courts of each RMA's constituent counties to appoint *all* RMA board members, including the board's chair.**

If more than one county jointly petitions TTC to create a multi-county RMA, the counties' commissioners should include a plan for appointing the board's chair in their petition.

- 5. State law should be amended to allow the commissioners courts of counties establishing RMAs to remove any board member, including the board's chair.**
- 6. The Texas Constitution and the Transportation Code should be amended to require board members of regional mobility authorities (RMAs) to serve four-year terms.**

Current law, stipulating six-year terms for RMA board members, appears to violate the Texas Constitution, which allows only two-year terms for such local governing bodies. Furthermore, county commissioners who serve four-year terms appoint the board members of RMAs. Making the terms of RMA board members consistent with the terms of county commissioners could improve the accountability of such bodies to elected commissioners courts.

II. LOOSE MANAGEMENT PRACTICES

Background

Since its October 2002 inception, CTRMA has chosen to depend almost exclusively on service contractors rather than employees for its needs, using them for a variety of financial, accounting, general counsel, investment banking, bond counsel, auditing, trustee, marketing and engineering services.

Some of CTRMA's prime contractors, such as its general engineering consultant (GEC), HNTB Corporation of Kansas City, Missouri, have agreements with subcontractors or have formed alliances with other firms to

provide services to CTRMA. The others are sole contractors (**Exhibit 8**). HNTB has hired subcontractors directly without using a public purchasing process, as allowed by law.

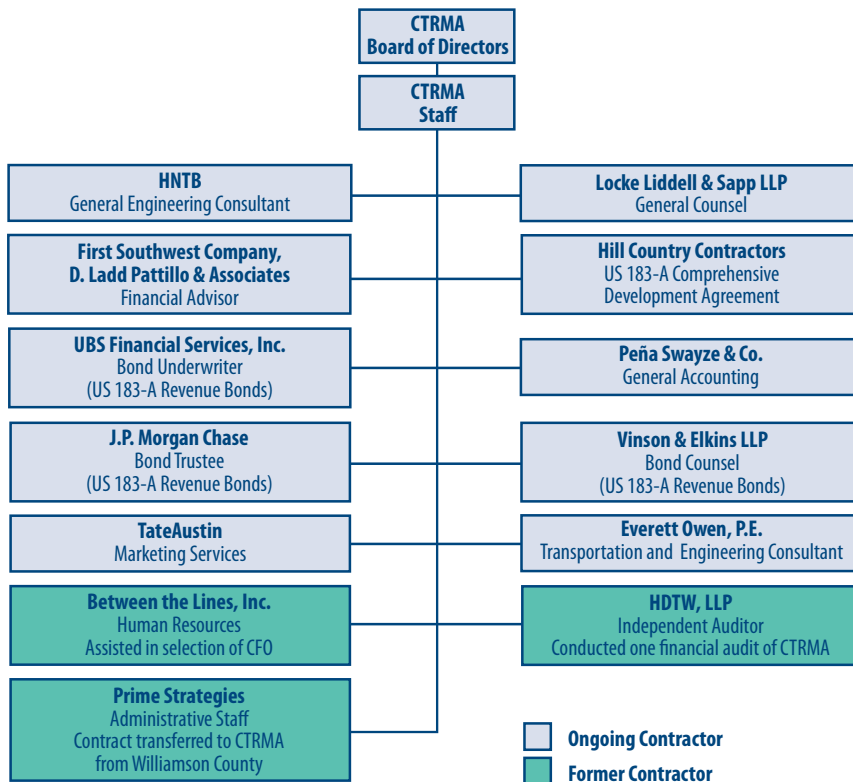
Initial Operations

The CTRMA board examined toll-road operations in Texas and Florida to determine an appropriate model for its staffing and organization.³⁶

One model studied was the North Texas Tollway Authority (NTTA), which operates four toll facilities in the Dallas metropolitan area.

Since its October 2002 inception, CTRMA has chosen to depend almost exclusively on service contractors rather than employees for its needs.

**EXHIBIT 8
CTRMA Contractors**



Sources: Central Texas Regional Mobility Authority and Texas Comptroller of Public Accounts.

NTTA is a large operation that employs 500, including design and construction engineers, contract managers and toll takers, and has 60 ongoing projects. The estimated cost for NTTA's seven largest projects currently in development is \$2.5 billion.³⁷

The other model—the one CTRMA preferred—was that of Florida's Orlando-Orange County Expressway Authority (OOCEA). OOCEA, in operation since 1963, manages a 92-mile expressway in the metropolitan Orlando area.³⁸ OOCEA depends heavily upon contractors rather than in-house staff. It employs 42 persons, using dozens of contractors to execute a five-year plan of 76 projects costing an estimated \$1.4 billion.³⁹

While CTRMA identified OOCEA as its model, the Texas authority makes even greater use of outsourcing. The authority did not hire its first employee, Executive Director Mike Heiligenstein, until December 2003, more than a year after CTRMA began operations and well after the GEC contract was signed. An administrative assistant joined the authority in February 2004. And the critical role of chief financial officer was not filled on a full-time basis until November 29, 2004.

On January 26, 2005 the new CFO presented, and the CTRMA board approved, the authority's first operating budget. The authority had functioned for two years without an operating budget. The newly approved budget can be found in **Appendix 4**.

Until November 2004, CTRMA had just one full-time employee, the executive director, and one part-time administrative assistant. In November 2004, CTRMA hired a chief financial officer and in February 2005, the CTRMA board announced the hiring of a director of Operations and a communications director (**Exhibit 9**).

An independent transportation and engineering consultant for CTRMA told the review team that, if he could do anything differently in the formation of CTRMA, he would have urged the board to hire employees more quickly, to reduce its dependence on contrac-

tors and allow it to better evaluate contractor performance.⁴⁰

Purchasing Requirements

CTRMA's purchasing policies require contractors to comply with state purchasing laws and regulations, including Chapters 223 and 370 of the Transportation Code and Chapter 2254, Subchapter A of the Government Code.⁴¹

Throughout 2003, CTRMA issued public requests for qualifications (RFQs) to acquire various professional services. This process followed CTRMA's procurement policy. CTRMA notified potentially interested parties and published a notice in the local newspaper; named a committee of CTRMA board members and interim staff to review proposals; "short-listed" the most qualified three or four candidates; and interviewed them. The selection committee then recommended its choices to the CTRMA board.

CTRMA has conflict of interest policies concerning its staff and board members, the authority's prime contractors and those contractors' "key personnel." (See Chapter 3 of this report for more information.) The policy states that those receiving more than \$10,000 over 12 months should be listed on CTRMA's Web site. These policies, however, should, but do not expressly apply to subcontractors.

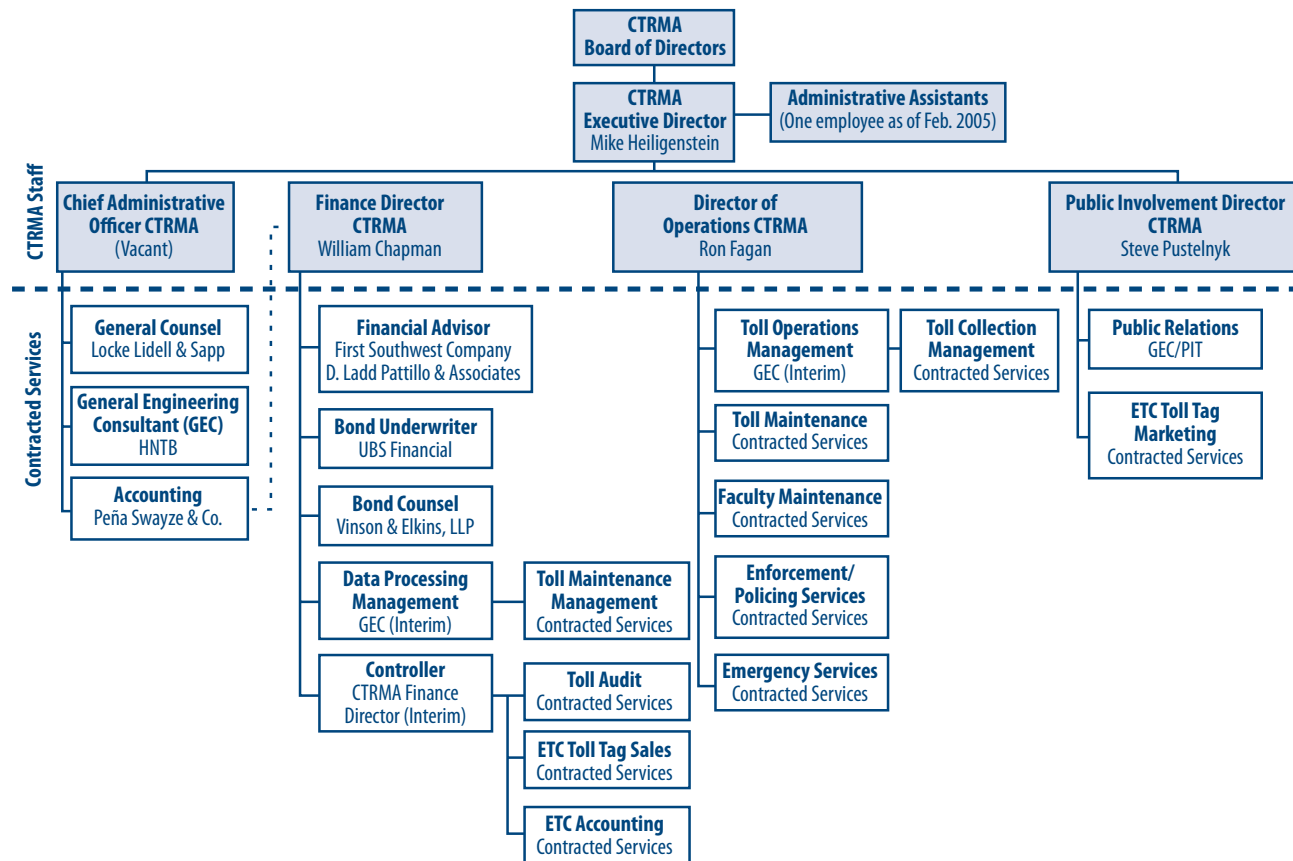
The review team found that some of CTRMA's practices require stricter attention, particularly in the area of subcontractor oversight (see Chapter 3).

One business practice that could be improved is CTRMA's documentation of its contractor selections. Scoring sheets provided by CTRMA featured short descriptions of criteria used to evaluate candidates, but did not identify their relative importance or value, or the actual scores assigned by individual committee members.

Because CTRMA had no staff initially, its contractors evaluated and commented on candidates for other CTRMA contracts.

The authority had functioned for two years without an operating budget.

**EXHIBIT 9
Central Texas Regional Mobility Authority (CTRMA)
Organization Chart
February 2005**



Source: Central Texas Regional Mobility Authority.

The review team found that, in at least one instance, a contractor’s comments after candidates had already been evaluated and scored changed the outcome. An e-mail from an individual working for one of CTRMA’s financial advisors recommended that a candidate for bond counsel services, which was ranked second after the initial evaluation, receive additional points for being a larger firm, even though the size of the firm was not a specific evaluation criterion.

Additional credit was added, raising the initial “qualification” score of the second-placed firm from 8.50 to 9.45. That change, plus a score from a subsequent oral interview in which this firm received 0.25 more points than its top competitor, allowed the larger

firm to best the former first-place team by 0.04 points in the overall final rating.⁴²

Allowing contractors to comment on the selection of other contractors apparently is not unusual in transportation, according to those in the industry, but it is unusual to change scores after the initial evaluation.

Stricter adherence to the stated selection criteria would have provided the public with greater assurance that its tax dollars were being spent fairly and wisely.

Prime Strategies, Inc.

CTRMA’s first contractor was Prime Strategies, Inc., an Austin transportation consult-

HNTB now serves as CTRMA's de facto staff, subject to the oversight of the authority's board, executive director and chief financial officer.

ing firm led by its principal, Mike Weaver. Prime Strategies is also Williamson County's road bond manager for its multi-corridor transportation plan, which will build roads using \$350 million in bonds approved by voters in 2000.

In 2002, Williamson and Travis counties retained Prime Strategies "to assist in the formation and initial operations of CTRMA."⁴³ Prime Strategies subcontracted with Brian Cassidy of the Austin law firm Locke Liddell & Sapp LLP for general counsel services.

In January 2003, Williamson County transferred its transportation consulting contract with Prime Strategies to the newly created CTRMA.⁴⁴ At that time, the CTRMA board asked Weaver and Cassidy to serve as an interim staff for the authority and to begin developing requests for qualifications for professional services. In February 2003, the CTRMA board approved procurement policies and procedures prepared by Weaver and Cassidy.⁴⁵ The two continued to operate as CTRMA's interim staff until Prime Strategies' contract expired on August 31, 2004.

The CTRMA board subsequently selected Brian Cassidy of Locke Liddell & Sapp over several competitors to serve as the authority's contracted general counsel, a position he still holds.

HNTB Contract

HNTB Corporation is CTRMA's largest contractor, in terms of both dollars and scope. In July 2003, CTRMA selected HNTB over two other competitors for a five-year contract to serve as the authority's general engineering consultant. As GEC, HNTB is responsible for:

- public liaison;
- technical services;
- project, design and construction management;
- administrative services;
- maintenance and operational services;
- advanced project development;
- engineering services;
- feasibility evaluations of proposed toll-road projects;

- right of way acquisition;
- relocation of utilities, railroad tracks and other obstructions;
- mobility planning;
- environmental services, including the acquisition of environmental permits for construction;
- architectural and landscaping services; and
- surveying and mapping.

HNTB now serves as CTRMA's de facto staff, subject to the oversight of the authority's board, executive director and chief financial officer. The contract provides that:

(t)he GEC will operate as an extension of, and in complete coordination with, the Authority's (CTRMA's) staff. To that end, the GEC shall be expected to represent, promote and advance the interests of the Authority throughout all aspects and phases of the Authority's activities and shall, when and as requested by the Authority, fully support the Authority in its dealings with contractors and suppliers, engineers and other consultants, the Authority's counsel and accountants, traffic and revenue advisors, rating agencies, bond insurers and underwriters, governmental entities and the public in accordance with the highest professional standards.⁴⁶

HNTB has selected a large group of subcontractors to assist CTRMA. HNTB's original proposal to CTRMA named a group of subcontractors that were approved in the September 2003 contract between the authority and its GEC.⁴⁷

In November 2003, the CTRMA board approved HNTB's recruitment of three additional subcontractors: WHM Transportation, to provide quality control for traffic and operations; Martin & Salinas Public Affairs, for public relations and public affairs services; and Crespo Consulting, for water quality studies.

Appendix 5 lists CTRMA contractors and subcontractors, along with their hourly rates.

CTRMA pays HNTB based on a formula of “actual hourly salary rates” for positions and classes of employees working on the project, multiplied by a federally regulated overhead rate (called the “FAR,” an acronym for Federal Acquisition Regulations) of 1.5353 (or 153.53 percent of actual costs) plus 15 percent profit.⁴⁸

The FAR is a cost component specifically intended to defray the contractor’s indirect costs of doing business, such as home office expenses and payroll, and used in transportation contracts by the federal government, TxDOT and now CTRMA.⁴⁹ The FAR generally is subject to adjustment each January 1, according to federal regulations, but CTRMA’s contract with HNTB locks in the profit percentage.

HNTB’s FAR was lowered in June 2004 to 150.43 percent, in response to the results of an independent audit of the company. According to HNTB, the new rate should be applied to all 2004 invoices. The review team found that invoices submitted after June 2004 reflect the new rate; HNTB supplied CTRMA with a credit reflecting the difference between the two rates for invoices submitted before June.⁵⁰ The current rate will be a provisional 2005 rate until another audit is performed.

In addition to its regular compensation, HNTB receives reimbursement for “reasonable out-of-pocket expenses,” such as travel, printing and other expenses “directly approved, in advance, by the Authority.”⁵¹ HNTB’s contract requires it to be liable for any expenses that TxDOT deems unreimbursable.⁵² The review team found that TxDOT has not rejected any expenses thus far.

Between July 2003 and November 2004, the CTRMA board approved eight work authorizations and two extensions for HNTB (**Exhibit 10**). As of November 2004, HNTB’s authorized work was worth more than \$16.5 million.

The review team found some questionable features in CTRMA’s contractual arrangements with HNTB.

A TxDOT audit of CTRMA dated September 10, 2004 noted an apparent discrepancy between the contractual FAR (revised to 150.43 percent) and 15 percent profit margin, and HNTB’s estimates for work authorizations:

...the overhead rates [FARs] used in the fee estimates of some of the work authorizations range from 168.01% to 175% and the profit rate ranges from 15.57% to 16.54%. This has the effect of increasing the profit and the maximum amount payable for these work authorizations.⁵³

A transportation consultant under contract to CTRMA explained that HNTB had been using a “blended” FAR and profit margin—a combination of the rates and margins offered to HNTB and its many subcontractors—in the work authorizations. He recommended, as TxDOT did, that the authority require HNTB to use contractor-specific information in estimating the cost of future work authorizations.⁵⁴ Doing so would lower the not-to-exceed cost estimate in the work authorizations and provide CTRMA with better financial controls. A monthly reconciliation of work authorization estimates and invoices would provide greater accountability and financial control.

Oversight of Subcontractors

HNTB hires and pays subcontractors in the same manner as the company itself was hired and is paid. The “master agreement” between HNTB and its subcontractors, like HNTB’s contract with CTRMA, contains no hourly rate information, no maximum cost and no specific duties. That information is found in attached work authorizations and exhibits.

Also attached to the master agreement is HNTB’s contract with CTRMA. A provision in the master agreement states that “[a]ll portions [of HNTB’s contract with CTRMA]... pertinent to Consultant’s responsibilities, compensation and timing of Services and not in conflict with any provision of this Agree-

The review team found that TxDOT has not rejected any expenses thus far.

**EXHIBIT 10
HNTB Work Authorizations**

Work Authorization (WA)	Effective Date	Maximum Amount Payable	CTRMA Board Approval	Scope of Work
WA 1	7/28/03	\$15,000	7/25/03	Strategic plan and deadlines for 183-A
WA 2	8/22/03	\$15,000	9/3/03	Continuation of WA 1 and core staff at CTRMA offices
WA 3	8/27/03	\$6,377,921	8/27/03	General engineering services for US 183-A development
WA 3.1	9/24/03	\$1,252,457	9/24/03	GEC core staff for CTRMA
WA 3.1 Supplement 1*	9/29/04	\$1,775,160	9/29/04	GEC core staff for CTRMA, 183-A schematic review, revisions and project administration
WA 3.2	9/24/03	\$500,000	9/24/03	Design concept conference
WA 3.3	9/24/03	\$350,000	9/24/03	Public involvement services for US 183-A
WA 3.3 Supplement 1**	9/29/04	\$744,630	9/29/04	Public involvement services for US 183-A
WA 3.4	11/5/03	\$3,488,862	11/5/03	Prepare and post request for competing qualifications for a comprehensive development agreement (CDA)
WA 3.5	3/31/04	\$1,987,257	3/31/04	Procurement of CDA contractors, environmental compliance services, public involvement
Total		\$16,506,287		

*Annual renewal of authorized work increasing compensation 42% over the previous year.

**Annual renewal of authorized work increasing compensation 113% over the previous year.

Source: Central Texas Regional Mobility Authority.

ment are incorporated herein and made binding on Consultant.”⁵⁵

In at least one instance, however, HNTB deviated from this practice, when hiring Adisa Public Relations in July 2004 to assist in the management and support of CTRMA’s Web site. The one-page agreement states simply that the prime agreement between HNTB and CTRMA is attached, and that “(a)ll portions thereof not in conflict with any provision of this Agreement, are incorporated and made a part hereof.” The agreement does not state specifically, as other agreements do, that the provisions of HNTB’s prime agreement are binding on the consultant.⁵⁶

Although they are hired by HNTB, subcontractors are not bound by its overhead rate and, according to HNTB’s contract with CTRMA, are required to use their own rates regardless of whether they have been independently audited according to federal regulations. One subcontractor, for example, used a FAR of 198 percent (a 1.98 rate), plus an additional 15 percent for profit. HNTB selected the subcontractor without a public, competitive process that could have made the FAR a criterion. Instead, HNTB’s invoices to CTRMA simply categorized these charges as “expenses” and passed the cost along to the authority without further explanation.

The management of subcontractors is a perennial problem in large state contracts. Outsourcing governmental functions can provide many benefits, but the risk of lax financial controls and poor management becomes greater when government outsources much of its oversight responsibility as well, as in the case of CTRMA.

Recent publicity surrounding several contracts in the state's health and human services agencies illustrates the problem. In 2004, several high-profile state and local government contracts for goods and services were found to be poorly managed, unduly expensive or acquired under questionable circumstances.

The State Auditor's Office (SAO) released an audit of one such contract and made the following recommendations that should be applied to CTRMA's business practices:

- Establish effective performance penalties to provide adequate incentive for contractors to control costs and efficiently administer contracts.
- Ensure that all subcontractors receiving...funds provide necessary, measurable products or services in exchange for the funds they receive.
- Independently audit subcontractors' use of...funds to ensure that it is fully aware of how all these funds are used.
- Ensure that agreements among subcontractors are documented and that subcontractors' agreements and payment rates are reported to the Commission.⁵⁷

Several legislative committees have found that even state employees trained in purchasing procedures generally lack training in contract management and oversight. Yet any entity that relies as heavily on outsourcing and its contractors as does CTRMA has a powerful motivation to enforce its contracting provisions with both prime and subcontractors.

State contracts generally require advance approval of subcontracts, and fully apply all contract terms and conditions, including conflict of interest provisions, to subcontractors. For example, a common provision in many Comptroller contracts states that:

[I]n no event shall any provision...be construed as relieving Contractor of the responsibility for ensuring that all services rendered under its subcontracts comply with all the terms and provisions of this Agreement *as if they were rendered by Contractor* [emphasis added].⁵⁸

CTRMA acknowledges that it has no formal contract monitoring program or procedure in place to assess its contractors' performance effectively.⁵⁹ In an apparent attempt to remedy this situation, in January 2005 CTRMA advertised for a director of operations to:

- participate in the development, analysis, formulation and administration of the CTRMA Project Development and Operations budget;
- approve the forecast of funds needed for staffing, equipment, materials and supplies;
- administer assigned contracts, negotiate and prepare request for proposals for contracts with external professional service providers and vendors;
- implement budgetary adjustments as appropriate and necessary;
- monitor and evaluate quality, responsiveness, efficiency and effectiveness of the programs, service delivery methods and procedures;
- respond to and resolve citizen inquiries and complaints regarding toll road development and toll services programs; and
- select, train, motivate and evaluate administrative, technical and clerical personnel for toll services operations.⁶⁰

Given the large number, complex nature and multimillion-dollar cost of CTRMA's contracts and subcontracts, plus the wide range of duties expected of the individual hired for this position, it seems highly unlikely that a single person could be expected to perform these roles adequately. In February 2005, CTRMA filled this position; the new director of operations will start work in mid-March.

The management of subcontractors is a perennial problem in large state contracts. Outsourcing governmental functions can provide many benefits, but the risk of lax financial controls and poor management becomes greater when government outsources much of its oversight responsibility

Appendices 5 and 7 show that CTRMA has numerous contractors doing public relations and public involvement work at rates ranging from \$85 to \$240 per hour for the principals of the companies. Multiple contractors and sub-contractors are conducting public outreach meetings, producing fact sheets and graphic design at a wide range of hourly rates.

Statewide Contract Management Guide

The 2001 Legislature required several state agencies—the Texas Building and Procurement Commission, Comptroller’s office, Department of Information Resources, Office of Attorney General and Governor’s Office, with assistance from the Legislative Budget Board and SAO—to write a contract management guide to improve state business practices.⁶¹ The Legislature also required that all state agencies follow the guide’s practices and procedures.

The *Statewide Contract Management Guide* addresses both contract management training and management best practices and provides valuable guidance to any governmental entity, particularly new ones such as RMAs.⁶²

Recommendations

- 7. CTRMA and other RMAs should employ a professional contract management officer to ensure that all of their contractors and sub-contractors comply fully with the terms and conditions of their contracts and that they provide necessary, measurable products or services for which they receive public monies.**

This officer should be added in addition to the director of Operations and should oversee all aspects of existing CTRMA contracts. CTRMA should employ additional contract managers as warranted.

CTRMA should evaluate all contracts, including those that are subcontracts of the GEC to ensure that the CTRMA is getting the best value for taxpayer

dollars and to prevent paying for the same service multiple times.

- 8. State law should be amended to require the State Auditor’s Office to conduct audits of RMAs within two years of their creation.**

As new organizations spending local, state and federal funds in addition to bond revenue, it is critical that RMAs exert proper oversight of their operations and expenditures. Because of the close relationship between TxDOT and RMAs, an independent outside entity, such as SAO, should audit RMA operations.

- 9. CTRMA and other RMAs should ensure that their contractors’ cost estimates employ the current federally audited overhead rate (the “FAR” rate) and contractually stipulated profit margins. To provide greater accountability over contractor expenditures, CTRMA and other RMAs should reconcile work authorization estimates and invoices monthly.**

The current practice of allowing cost estimates to employ overhead rates higher than those contractually allowed does not provide CTRMA with accurate information on its expenses or its contractors’ performance.

- 10. State law should be amended to require RMAs to follow the provisions of the *Statewide Contract Management Guide*.**

Provisions of particular benefit would be chapters concerning contract administration, contract management responsibilities and monitoring performance. For additional guidance, CTRMA should consult recommendations made by the State Auditor’s Office regarding other agencies’ contract management.

III. FAVORITISM AND SELF-ENRICHMENT

Background

Conflict of interest policies are intended to prevent public officials and staff from taking public actions that may bring them—or appear to bring them—a personal benefit, particularly a financial one.

CTRMA has conflict of interest policies and procedures governing its employees and board, but the review team found these policies are not always followed. Its policies state:

Section 2.1. A member of the Board of Directors or an employee or agent of the Authority shall not:

- (a) contract with the Authority or, without disclosure and recusal, be directly or indirectly interested in a contract with the Authority or the sale of property to the Authority;
- (b) accept or solicit any gift, favor, or service that might reasonably tend to influence that Board member, employee or agent in the making of procurement decisions or that the Board member, employee or agent knows or should have known is being offered with the intent to influence the Board member's, employee's or agent's making of procurement decisions; or
- (c) accept other compensation that could reasonably be expected to impair the Board member's, employee's or agent's independence of judgment in the making of procurement decisions.

Section 2.2. A bidder shall not be eligible to contract with the Author-

ity if a Board member, employee or agent is related to the bidder within the second degree of consanguinity or affinity, as determined under Chapter 573, Government Code. A bidder shall be required to complete a conflict of interest disclosure statement disclosing any business or familial relationships with Board members, employees or agents of the Authority, which may disqualify the bidder from consideration.⁶³

Potential Conflicts

No state law requires RMAs to comply with the Local Government Code's Chapter 171, which concerns conflicts of interest. That chapter requires local public officials to file affidavits stating their involvement in businesses of which they own or control more than 10 percent, and individuals to whom they are closely related, when either is involved in an issue before the local government. The officials must not participate in any governmental decision involving the business or person described in their affidavits.

According to CTRMA, the authority attempts to comply with Chapter 171 even though it is not legally required to do so.⁶⁴

In February 2003, CTRMA first adopted written policies on conflicts of interest for its board members and staff, as well as separate policies for consultants and financial advisors. These policies are consistent with the Local Government Code. For example, CTRMA's bylaws prohibit board members from accepting gifts, favors, services or other compensation that could influence or impair their conduct or independent judgment, a provision common to several state boards.⁶⁵

As evidence of compliance, CTRMA advised the review team that one board member

Conflict of interest policies are intended to prevent public officials and staff from taking public actions that may bring them—or appear to bring them—a personal benefit, particularly a financial one.

recused himself from a November 2003 vote authorizing HNTB to perform work because he had been hired by an HNTB subcontractor to work on an unrelated job for the City of Austin. Another instance concerned a previous CTRMA board member who removed himself from consideration during the search for an executive director because he desired to seek election to a Williamson County commissioner's seat.⁶⁶

Executive Director's Hiring

Mike Heiligenstein was a member of the Williamson County Commissioners Court until December 2003, and in that capacity voted for the formation of CTRMA and for the appointments of four of its board members. According to CTRMA's Web site, he also "initiated the drive for transportation improvements that led to the passage of a \$350 million dollar bond package" in Williamson County.

In 2004, however, the Texas Ethics Commission cited Heiligenstein and three other Williamson County commissioners for an ethics violation related to the promotion of that same bond package. The Ethics Commission found that the commissioners used public funds for political advertising in connection with the Williamson County Road Bonds Program. Each commissioner received and paid a \$400 civil penalty for the violation. Several future CTRMA contractors also worked on this bond program.

CTRMA's board offered Heiligenstein the executive director job on November 5, 2003. He continued to serve on the Williamson County Commissioners Court, voting at its December 2, 2003 hearing, and was formally selected for the CTRMA job on December 9.

Thus one of the persons responsible for creating CTRMA found himself in the authority's top position.

Chairman's Land Ownership

In November 2002, the Williamson County Commissioner's Court named Robert "Bob"

Tesch as one of its three members for the CTRMA board of directors. On January 22, 2003, Governor Perry appointed Tesch to chair the CTRMA.

The CTRMA Web site states that Tesch has owned and operated a real estate investment and development business in central Texas since 1984.⁶⁷ During a spirited CTRMA meeting in November 2004, a member of the Austin Toll Party accused Chairman Tesch of a conflict of interest and asked if he owned land in the vicinity of the proposed US 183-A toll road. Tesch responded that he did, but that it was not affected by the project.

Given the intertwined nature of road development and the real estate industry, the review team set out to establish the facts.

Tesch acknowledges that he has interests in several properties in Williamson County, including two large holdings of about 86 acres and 146 acres, both acquired in 2000. In a November 12, 2004 letter to the Comptroller's office, he stated:

All property that I own was acquired well in advance of either of these appointments, with no knowledge of the existence of the CTRMA, or any contemplation of ever serving on its board. I have acquired no interest in any real estate since either appointment and CTRMA has taken no action which would have a special economic effect on any property I own.⁶⁸

Yet despite Tesch's affidavit to Williamson County, it seems almost certain that the construction of US 183-A will enhance the value of any holdings near the road. Land near a proposed right of way often appreciates in value as the road is built. For instance, public records show that the property valuation (less any improvements) of an 18-acre tract Tesch owns, which lies about 2,000 feet east of future US 183-A right of way, has already increased by 612 percent since the time of his appointment to the CTRMA board.⁶⁹ And, as indicated below, landowners are already

Currently, Tesch has a substantial interest in more than 254 acres of real estate within two miles of the proposed US 183-A right of way.

touting proximity to US 183-A in their land offerings.

Currently, Tesch has a substantial interest in more than 254 acres of real estate within two miles of the proposed US 183-A right of way. The most recent appraised value of this land, less any improvements, is about \$8 million. This total includes his two-acre residential property located 800 to 1,000 feet to the east of the right of way.

Exhibit 11 provides a timeline of Tesch's real estate investments along with critical milestones in the development of US 183-A; **Exhibit 12** summarizes Tesch's real estate interests. As Exhibit 11 shows, Tesch began making substantial land acquisitions in the vicinity of US 183-A less than one month after CAMPO adopted plans for US 183-A. **Exhibit 13** shows the locations of Tesch's landholdings in the vicinity of US 183-A.

Williamson County did not specifically require disclosures of land ownership outside of the US 183-A right of way as part of its board member application form. As required by the Williamson County commissioners, however, Tesch signed an affidavit stating that he owned no land in the right of way itself.

His affidavit also indicated that he had "no personal investments that could reasonably be expected to create a substantial conflict of interest between private interests and the interests of the RMA."⁷⁰ In the affidavit, Tesch did not identify the 254 acres in which he had a substantial interest at the time of his appointment.⁷¹

Likewise, the Governor's Office appointment application did not request any land ownership information, and did not offer Tesch an opportunity to disclose this type of commercial interest.⁷²

Another way to determine if CTRMA's first project will materially benefit landowners in the vicinity of US 183-A is to review how developers advertise these tracts of land. Cedar Park, like many other Texas cities, has

an Economic Development Corporation that uses local tax revenue to aid the community with business development. Tesch's 2002 CTRMA governor appointment application lists Tesch as a board member of the Cedar Park Economic Development Corporation, having served since September 2002.

Among the tracts of land advertised for development on the corporation's Web site are many located along FM 1431 in the vicinity of US 183-A, including one of Tesch's properties (site 2 on Exhibits 12 and 13). The developers of several of these tracts cite their properties' proximity to the proposed 183-A project as an enticement to purchase or invest. One of these is the Carsow family partnership, which owns land along the US 183-A right of way with an appraised value higher than any entity other than the state of Texas and which recommended Tesch for appointment to the CTRMA board. Tesch's property is located directly across FM 1431 from the Carsow property.

Each time Tesch votes on matters relating to US 183-A, he has the potential to increase the value of property in the vicinity of the new toll road. Accepting appointment to chair the board of CTRMA, a political subdivision of the state whose identified first project would materially benefit his real estate holdings, strongly suggests the potential for conflicts of interest.

Given the nature of CTRMA's mission in road building and the explosive growth in the vicinity of CTRMA's first project, the Governor's Office and both county commissioners courts should have required prospective board members to disclose *all* real estate interests, not simply those within the initial project's right of way.

Full disclosure of all real estate holdings would allow the appointing officials to make more fully informed decisions. Prohibiting appointments of individuals who stand to benefit from projects they approve is fundamental good government.

The Governor's Office appointment did not request any land ownership information and did not offer Tesch an opportunity to disclose this type of commercial interest.

EXHIBIT 11
Chairman Tesch's Significant Real Estate
Interests in the Vicinity of US 183-A

May 8, 1995	Tesch acquires 18-acre real estate (future site of his business office space) approximately 2,000 feet east of future US 183-A right of way.
June 12, 2000	CAMPO adopts plans for US 183-A Toll Road.
July 10, 2000	Tesch acquires 39 percent interest in a 146-acre development site approximately 1 mile east of US 183-A right of way with intent to develop site.
September 1, 2000	Tesch acquires 88-acre site along CR 268, approximately two miles east of US 183-A right of way.
March 2001	Tesch begins construction improvements on 18-acre land tract. Builds two-story office building adjacent to his real estate business building, Tesch and Associates Inc.
May 25, 2001	Tesch acquires personal residence approximately 800 to 1,000 feet east of the proposed US 183-A right of way.
September 2002	Tesch becomes a board member of the Cedar Park Economic Development Corporation.
October 31, 2002	TxDOT approves creation of CTRMA, with first project identified as US 183-A.
November 2002	Williamson County Commissioners' Court appoints Bob Tesch to CTRMA Board of Directors. Tesch signs affidavit stating that he has "no personal investments that could reasonably be expected to create a substantial conflict between private interests and the interests of the RMA." At the time of affidavit, Tesch has significant interest in approximately 254 acres of land within two miles of US 183-A right of way.
January 2003	Governor appoints Tesch to Chairman of the CTRMA Board.
March 10, 2003	CAMPO appoints a Technical Advisory Committee to "make recommendations to the Transportation Policy Board on the CAMPO Long-Range Plan and the Transportation Improvement Plan." Tesch represents CTRMA on the committee from April-October 2003, then passes off duty to board member Johanna Zmud.
June 26, 2003	Bob Tesch receives 5.35-acre site adjacent to an 88-acre site as part of compensation package from Williamson County. In lieu of condemnation, Tesch sold an 8-acre strip of his property to provide right of way for the Williamson County Parmer Lane road project.
July 12, 2004	CAMPO adopts amendments to FY 2004-08 Transportation Improvement Plan, which includes US 183-A.
January 2005	Summary of significant property interests in the vicinity of US 183-A. Total acreage: 254.245 (two acres of which is homestead property). Total appraised value of acreage: \$7,995,136 (not including improvements).
February 2005	Tesch-owned land in the vicinity of US 183-A is advertised for sale on the Cedar Park Economic Development Corporation Web site.

Sources: Bob Tesch; Williamson County Appraisal District and CAMPO.

EXHIBIT 12

Summary of Chairman Tesch's Substantial Land Interests in Williamson County

Continuous Acreage	Site	Description	Location	Tract ID Number	Listed Owner	Chairman Tesch's Percentage Interest	When Purchased	Appraised Land Value in 2002 (land only) ¹	Appraised Land Value in 2004 (land only)	Percentage Increase in Land Value since Appointment in 2002
2	1	2 acres residential	REDACTED	R037879	Robert E Tesch	100%	May-01	\$217,800	\$348,480	60%
18.21	2	8.20-acre development site	1490 E Whitestone Blvd, Cedar Park North End	R031914	Cedar Park Properties LLC	100%	May-95	\$178,596	\$892,980	400%
		10.01-acre development site	1490 E Whitestone Blvd Cedar, Park South End	R031916	Cedar Park Properties LLC	100%	May-95	\$100,100	\$1,090,090	989%
146.11	3	133.35 acres	Due east of Site 2	R392194	Creekside Park LTD et al	39%	Jul-00	\$2,667,000	\$4,000,500	50%
		11.7672 acres	Due east of Site 2	R031930	Creekside Park LTD et al ²	39%	Jul-00	\$235,344	\$353,016	50%
2.26	4	1-acre development site	Due east of Site 2	R031929	Creekside Park LTD et al ²	39%	Jul-00	\$35,000	\$35,000	0%
		1.15-acre real estate site	Connects 146 acre site to FM 1431	R413087	Creekside Park LTD ³	39%	Jan-01	\$175,329	\$225,423	29%
		0.13-acre real estate site	Connects 146 acre site to FM 1431	R413088	Creekside Park LTD ³	39%	Jan-01	\$48,243	\$25,484	-47%
85.635	5a	80.29-acre development site ⁴	CR 268 at its intersection with South San Gabriel River	R022218	Robert E Tesch	100%	Sep-00	\$464,200	\$815,560	76%
	5b	5.345 acres flood plain	Attached to southern end of site 5a	R032202	Robert E Tesch	100%	Jun-03 ⁵	\$10,530	\$10,621	1%

¹ Year of Tesch's appointment to the board of CTRMA.

² Williamson County Appraisal District (WCAD) lists owner as Alkire LLP. This is outdated; Alkire LLP was the previous owner.

³ WCAD lists Creekside Park as owner. Th

for use as roadway connecting FM 1431 to the 146-acre site (R02218). Creekside Partners LTD is listed as the dedicatory owner, while the accepting entity, Cedar Park, will improve the property with a public road, known as Arterial A.

⁴ WCAD lists this tract of land as 88.09 acres. Official deeds show that this is outdated and that Tesch sold 7.8 acres to Williamson County in lieu of condemnation to provide right of way for future extension of Parmer Lane in June, 2003.

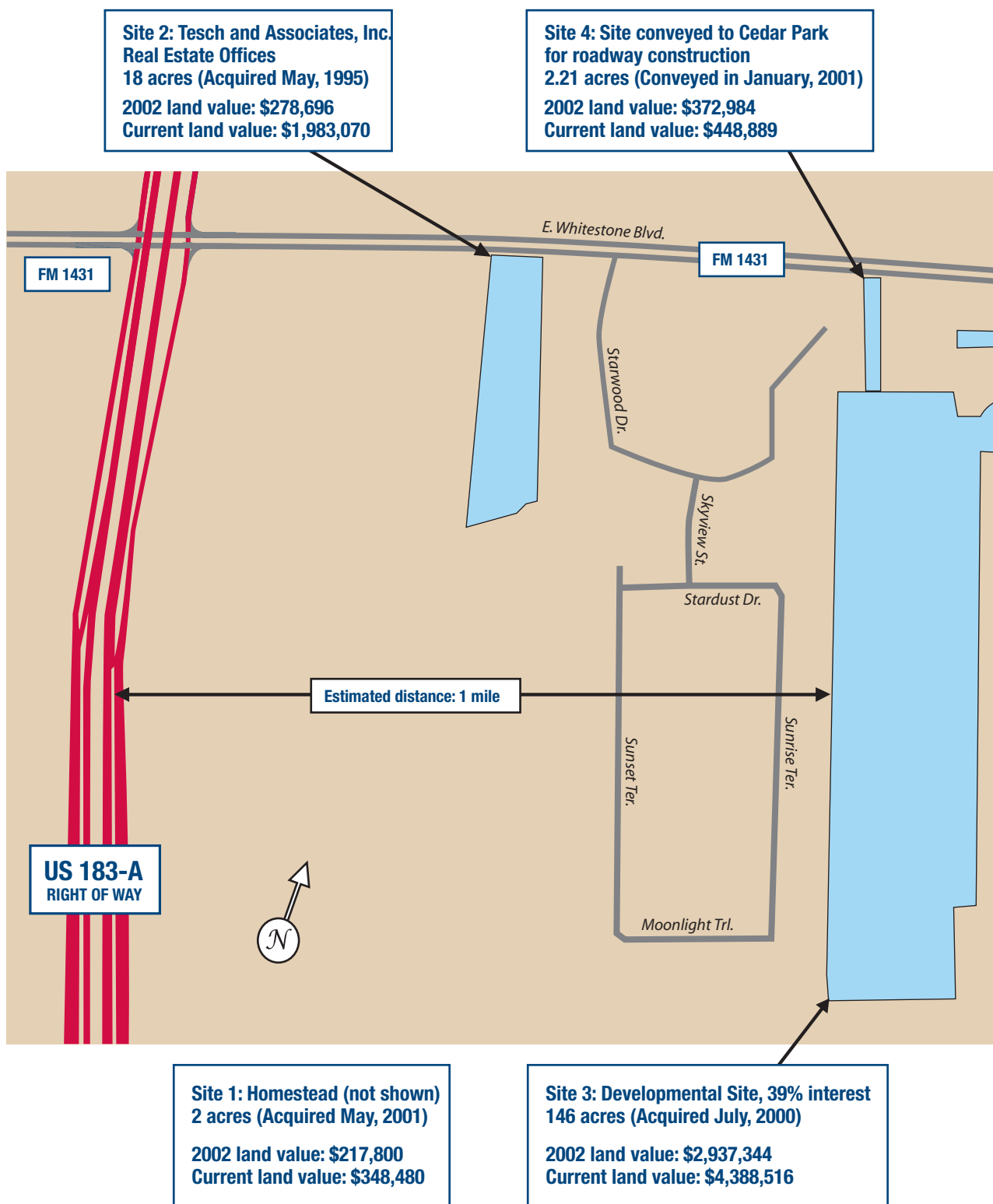
⁵ Date land transferred to Tesch as part of a settlement for selling 7.8 acres of tract 5a (R022218) to Williamson County in lieu of condemnation to provide right of way for future extension of Parmer Lane.

Summary of Current Land Interests within 2 miles of US 183-A right of way	
Total Acreage	254.215
Total 2004 Appraised Land Value	\$7,995,136

	2002 Land Value	2004 Land Value	Percentage Increase
Site 2	\$278,696	\$1,983,070	612%

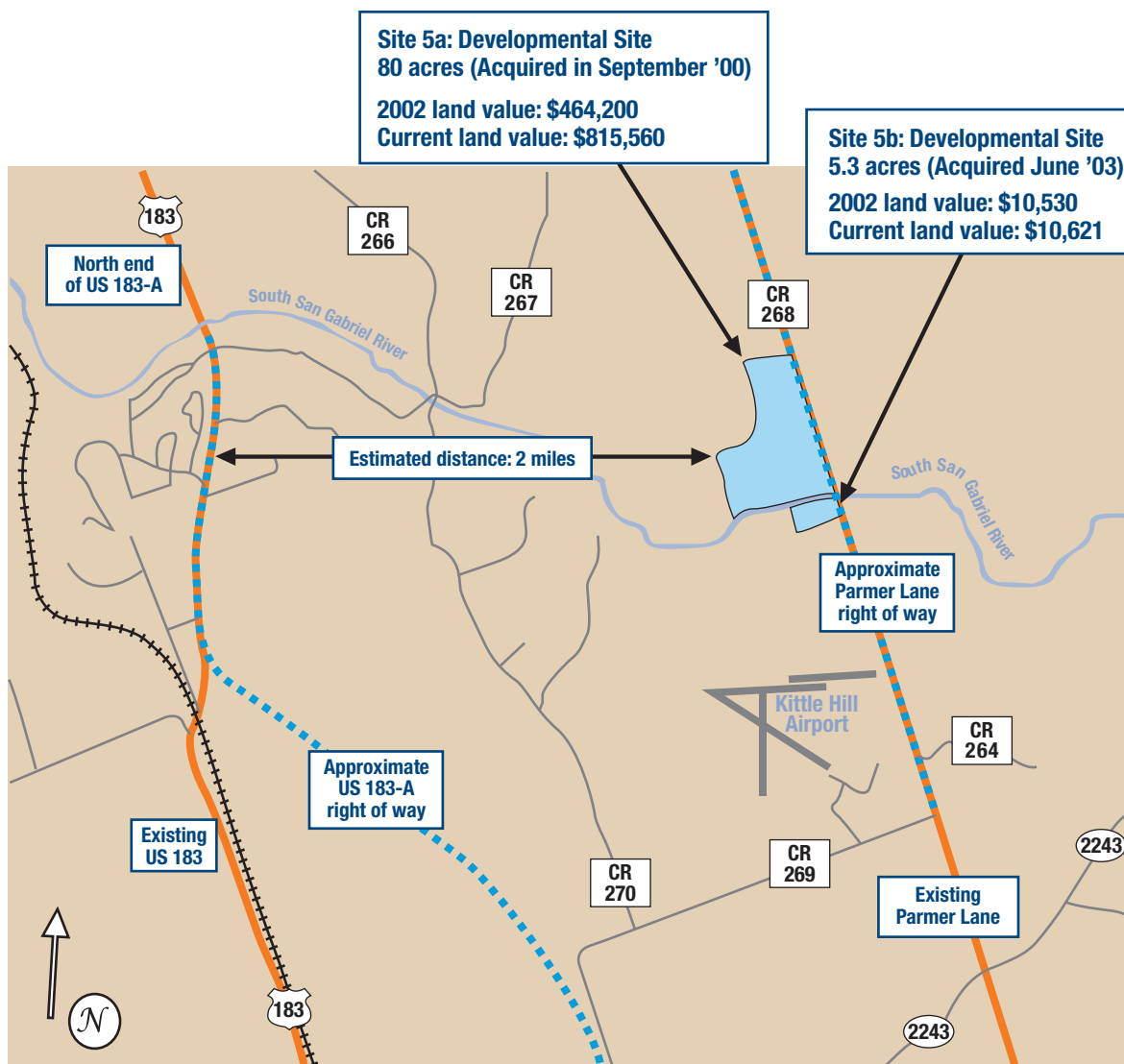
Sources: Williamson County Appraisal District (WCAD) and CTRMA Chairman Robert Tesch.

EXHIBIT 13
Locations of CTRMA Chairman's Land Interests in Williamson County



Sources: Williamson County Appraisal District, Bob Tesch and Texas Comptroller of Public Accounts.

EXHIBIT 13 (cont.)
Locations of CTRMA Chairman's Land Interests in Williamson County



Sources: Williamson County Appraisal District, Bob Tesch and Texas Comptroller of Public Accounts.

**Board Member
 Contracts with TxDOT**

June 2004 e-mails between CTRMA, its general counsel and TxDOT legal staff provided to the review team discuss a potential conflict of interest concerning CTRMA Board Member Johanna Zmud, whose business, NuStats, performs transportation-related origin and destination surveys for travel demand forecast models. According to the e-mails, Zmud

is a partner in NuStats and owns more than 10 percent of this business.

In a February 4, 2005 e-mail to the review team, CTRMA said that Zmud's company had not served as a "primary contractor" to TxDOT during her tenure on the CTRMA board. CTRMA did say, however, that NuStats is a subcontractor on two teams under contract to TxDOT, but that the work was "ancillary" and "not structured as such to avoid the RMA issues."

This appears to be a violation of TxDOT's rule §26.51(b)(1)(A), which states:

- (b) Eligibility of directors and chief administrative officer.
 - (1) A person is not eligible to serve as a director or chief administrative officer of an RMA if the person or the person's spouse:
 - (A) is employed by or participates in the management of a business entity or other organization, other than a political subdivision, that is regulated by or receives funds from the department, the RMA, or a member county;
 - (B) directly or indirectly owns or controls more than a 10% interest in a business or other organization that is regulated by or receives funds from the department, the RMA, or a member county;
 - (C) uses or receives a substantial amount of tangible goods, services, or funds from the department, the RMA, or a member county; or
 - (D) is required to register as a lobbyist under Government Code, Chapter 305, because of the person's activities for compensation on behalf of a profession related to the operation of the department, the RMA, or a member county.⁷³

Gifts, Favors and Services

Section 370.252(a)(1)(A) of the Transportation Code prohibits the acceptance or solicitation of any gift, favor or service that might reasonably influence a director or employee. In addition, section 370.252(a)(1)(B) prohibits the acceptance or solicitation of any gift, favor or service that a director or employee knows or should know is being offered with the intent to influence the director's or employee's offi-

cial conduct. Section 370.252(a)(4) prohibits a director or employee from making personal investments that could reasonably be expected to create a substantial conflict between the director's or employee's private interest and the interest of the CTRMA. Finally, section 370.252(a)(6) prohibits a director or employee from having a personal interest in an agreement executed by the CTRMA. CTRMA has participated in numerous activities that appear to violate these provisions.

Team Texas: Team Texas is a nonprofit organization created to provide a forum for Texas toll authorities to discuss issues and share ideas relating to the tolling industry. All Texas tolling authorities are part of Team Texas, including CTRMA, the North Texas Tollway Authority, the Harris County Toll Road Authority and the Fort Bend County Toll Road Authority.

CTRMA does not pay a membership fee to belong to Team Texas. The organization is funded by private transportation-related businesses including Kellogg, Brown & Root; TransCore; Cobb Fendley & Associates and Winstead Sechrest & Minick and others.⁷⁴

CTRMA's executive director serves as the treasurer of the organization. In doing so, he appears to be in violation of Section 370.252(c) of the Transportation Code, which states that a person may not serve as an RMA director or chief administrative officer if he or she is an officer, employee or paid consultant of a Texas trade association in the field of road construction or maintenance or public transportation.

Section 370.252(d) of the Transportation Code defines "Texas trade association" to mean a nonprofit, cooperative, and voluntary joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests. Team Texas appears to meet this definition of a trade association.

Team Texas holds quarterly meetings in different cities (Austin, San Antonio, Dallas and Houston) at resorts such as Barton Creek

All Texas tolling authorities are part of Team Texas, including CTRMA and the North Texas Tollway Authority, Harris County Toll Road Authority and Fort Bend County Toll Road Authority.

and the Westin La Cantera. Private firms such as HNTB, Locke Liddell & Sapp LLP, HDR Engineering and UBS Paine Webber, all of which are CTRMA contractors, sponsor events at the meetings.⁷⁵

These sponsors often pay for receptions and activities. The Team Texas event in Plano on July 14, 2004 included a golf tournament at the Golf Club at Castle Hills paid for by PBS&J (a transportation engineering, planning and architecture firm) at an approximate cost of \$7,500, including golf, meals and refreshments for 85 people.

Event at the Four Seasons in Austin: A CTRMA document entitled “CTRMA Stakeholder Meeting Notes” refers to a September 30, 2003 event held at the Four Seasons Hotel in Austin, at which “CTRMA recognized area legislators, TxDOT Director Behrens and Representative Mike Krusee for their hard work in passing H.B. 3588.”

When questioned about the event, CTRMA responded:

HNTB held a corporate officers meeting at the Four Seasons, and in conjunction therewith held an evening reception for local community leaders, business leaders, and legislators. As a courtesy HNTB included the CTRMA’s name as a co-host for the reception. HNTB paid for the event in its entirety—the CTRMA was not charged and did not spend any of its money for the event.⁷⁶

The review team requested that CTRMA provide more details on the event, but was told that HNTB did not retain a list of invitees.

Hotel records show that the event was billed to HNTB at a cost of \$7,306.79. The two-hour function featured a deluxe hosted bar, jumbo gulf shrimp and snow crab, as well as floral designs costing \$811.88.⁷⁷

Dinner at Sullivan’s: Richard Ridings of HNTB invited five CTRMA board members and the CTRMA executive director to dinner

at Sullivan’s Steakhouse on June 23, 2004. The e-mail invitation stated:

Reservations at Sullivan’s—Cameron County Commissioners David Garza and Edna Tamayo, along with County Transportation Director Pete Sepulveda will be visiting on Wednesday to obtain information on how Travis and Williamson County developed the first Regional Mobility Authority, the CTRMA. We will be hosting a dinner at Sullivan’s @ 300 Colorado Wednesday night June 23rd at 8:00 PM to provide each of you an opportunity to share your thoughts with the commissioners....⁷⁸

This meal should be considered a gift from HNTB, the CTRMA contractor (see **Appendix 6** for the full text of the e-mail).

Though the Texas Ethics Commission does not enforce TxDOT rules, the review team sought the Commission’s advice because of its expertise in ethics matters. When asked by the review team, the Texas Ethics Commission indicated that it is inappropriate for HNTB to host events such as those described above. The Ethics Commission referred the review team to Chapter 370, Section 370.252 of the Transportation Code, the “no gift” provision cited above.

Transportation Summit: On August 10 and 11, 2004, the CTRMA chairman attended the Seventh Annual Texas Transportation Summit in Irving, Texas. CTRMA reimbursed him for \$403.19, including \$24.36 for meals; \$13.53 for parking; \$268.91 for a rental car; and \$72.39 for long-distance calls. In addition, HNTB picked up another \$260.55 of the chairman’s expenses, for his hotel room, long-distance calls and fax services. CTRMA should have paid for these latter expenses, since they could constitute a gift within the meaning of the Transportation Code.

Subcontractors

CTRMA’s conflict of interest policy concerning consultants provides that “any individual

Any individual, firm, or team submitting a proposal to CTRMA must disclose to the authority’s general counsel any current or previous (within the past 12 months) business relationship with these key personnel.

or firm receiving more than \$10,000 in compensation for goods and services rendered to CTRMA during the preceding 12 months” shall be listed in public records as “key personnel.” Any individual, firm, or team submitting a proposal to CTRMA must disclose to the authority’s general counsel any current or previous (within the past 12 months) business relationship with these key personnel. Failure to do so is grounds for rejection of the proposal and future disqualification from other work. The policy does not, however, specify whether it applies to subcontractors not initially identified as “key.”

As a new entity that is outsourcing almost all of its functions to private companies, CTRMA and its contractors and subcontractors should assume that every action, every relationship and every expense will receive the highest public scrutiny because, as this report itself proves, they already have.

Similarly, any key personnel who review proposals submitted to CTRMA; participate in the procurement of goods and services leading to a proposal; or supervise any work under a proposal must disclose their business relationship with any proposer. The Executive Committee of the CTRMA board must determine, in each case, if the relationship constitutes a conflict and what, if any, safeguards should be implemented to prevent improper communication.⁷⁹

The policy for financial advisors is similar except that it lacks the dollar threshold defining key personnel. Investment banking firms are exempt from a provision prohibiting key financial personnel from being part of a team “proposing or competing to develop a transportation project through a comprehensive development agreement.” These firms, however, may not participate in any syndicate of firms financing a CTRMA project.⁸⁰

CTRMA provided information on situations related to conflict of interest arising in 2004. For example, Cobb Fendley & Associates, a Houston civil engineering firm, provides services to HNTB. Under a separate contract, Cobb Fendley is also part of a team of contractors working on CTRMA’s CDA to construct US 183-A. Cobb Fendley, in a letter dated July 30, 2004, agreed to CTRMA’s request that it ensure that its personnel on each project are segregated from one other; obtain signed confidentiality agreements; establish separate accounting project numbers and files for each client; and take other

managerial steps to prevent unlawful or unethical communication.

Grier-Bankett: One HNTB subcontract that has brought attention to CTRMA is a contract with Grier-Bankett of Austin for “public involvement services for US 183-A.” HNTB hired Stacy Dukes-Rhone, a principal of Grier-Bankett, to provide public information on tolls and US 183-A primarily to East Austin communities. As widely reported in news accounts, Dukes-Rhone’s sister is a state representative and member of the CAMPO board that approves toll-road projects, including US 183-A.

Grier-Bankett and HNTB signed the contract on July 7th and 13th, respectively. The contract, however, became effective February 1, 2004, more than five months earlier. CAMPO approved CTRMA’s plan to levy tolls on US 183-A on July 12th. The state representative voted with the 16-7 majority, but did not disclose any knowledge of her sister’s employment on the authority’s behalf.

News accounts raised questions of impropriety concerning this subcontract. The review team asked CTRMA’s staff and general counsel to explain the propriety of this contract and the delay in its signing, since the delay gives the appearance of retroactive approval of work in exchange for political favors. CTRMA admitted that the delay was neither good business practice nor good public relations. CTRMA said that, because Grier-Bankett was an HNTB subcontractor and not a CTRMA contractor, there was no conflict of interest.⁸¹

At best, the contract illustrates the interwoven relationships that are common among many of CTRMA’s contractors and subcontractors, as well as between CAMPO and CTRMA. It also illustrates the need for CTRMA to exercise oversight of its contractors to prevent the appearance of favoritism.

As a new entity that is outsourcing almost all of its functions to private companies, CTRMA and its contractors and subcontractors should assume that every action, every relationship and every expense will receive

the highest public scrutiny because, as this report itself proves, they already have.

CTRMA has entrusted HNTB with the management of much of its daily operations, as well as oversight of its subcontractors. As with the Grier-Bankett contract noted above, HNTB has hired a number of subcontractors who have existing relationships with Travis and Williamson County officials responsible for regional transportation policies.

HNTB itself had an existing contract to work on a Williamson County Road Bonds Program. HNTB, in turn, has hired a number of subcontractors who have prior contracts for Williamson County projects. Some CTRMA board members and staff have previous ties to some of the subcontractors as well.

To some extent, the reliance on contractors who have previous experience in Williamson County road projects is understandable, given that CTRMA was being pressured by TxDOT officials to move quickly in obtaining approval of a new regional mobility plan and issuing toll revenue bonds for the construction of US 183-A.

The reliance on contractors with existing relationships to CTRMA decision-makers, however, creates an impression of “insider dealing” that is inappropriate for a governing body established to implement mobility projects for a multi-county region. Furthermore, some of the contracts, particularly those awarded by HNTB, do not appear to have been thoroughly vetted to ensure that the selection process used by CTRMA and its GEC remains above criticism.

Amos “Pete” Peters III: Amos “Pete” Peters III is a consultant contracting with HB Media, an HNTB subcontractor. Peters also has billed CTRMA directly for goods and services. Peters has a very long history of relationships with Williamson County officials and others involved in CTRMA, having worked on the political campaigns of many Williamson County office-holders, including Mike Heiligenstein, a former Williamson County Commissioner who is now the executive director of CTRMA.⁸²

Peters’ resume, included in HNTB’s bid for the GEC contract, boasts that he has worked on more than 600 political campaigns. The HB Media Web site lists clients including HDR Engineering and Prime Strategies, both of which either have or have had contracts with CTRMA. Peters also created a “Roads Now” political action committee to promote the Williamson County Road Bonds Program approved by voters in 2000.

Peters has a 20-year criminal record, including charges for check fraud/swindling, fraud/illegal use of credit cards, larceny and DUI. From 1969 to 1989, he was convicted of three felonies and three misdemeanors.⁸³

Interestingly, Peters was considered so close to Williamson County officials that the state Attorney General’s Office joined a recent investigation of him.⁸⁴ According to one report, “Peters has handled campaign work for almost every major office holder in the county.” The investigation focused on several meetings related to the Williamson County Road Bonds Program for which Williamson County paid Peters; some persons who were supposed to be at these meetings allege that they never took place.⁸⁵

In contrast, the Comptroller’s office requires that each proposer or bidder for a contract with the agency sign a “No Criminal Conviction” certification. The Comptroller’s office will not contract with anyone who has a felony conviction.

CTRMA has paid Peters’ public relations firm, known as “The Communicators,” thousands of dollars for billings he submitted for activities in February 2004. These billings included a February 19, 2004 meeting held at the University of Texas Club for TxDOT executive director Mike Behrens’ “150 Group” at a cost of \$1,727.19.

CTRMA was asked for details on this event. The authority’s general counsel provided the following response:

The 150 Group was [a] short-hand reference to an invited gathering of business and community leaders

In contrast, the Comptroller’s office requires that each proposer or bidder for a contract with the agency sign a “No Criminal Conviction” certification.

to hear a presentation by TxDOT executive director Mike Behrens and CTRMA executive director Mike Heiligenstein in February, 2004. The purpose of the event was to inform attendees of the transportation funding crisis the state was facing and the need for innovative proactive solutions to funding challenges. This was a one-time gathering, and there was no formal structure, operation or organization.⁸⁶

Another Peters bill includes \$202.32 for copies of a CAMPO presentation made for the Austin District manager for TxDOT, regarding community work. Peters also billed CTRMA several hundred dollars for newsletters issued from October 2003 to January 2004, but the bills were not presented for approval until March 2004.

HNTB also contracts with Peters separately through its subcontractor HB Media, which paid him an hourly rate of \$145. From September 2003 to April 2004, his monthly billings through HB Media ranged from about \$6,000 to \$12,000 per month.

When the review team asked CTRMA about instances in which contractors billed both CTRMA and its subcontractors, the authority stated that it was only aware of one instance, by Martin & Salinas, and that it was a simple billing error. CTRMA did not mention the Peters situation.

Locke Liddell & Sapp: Locke Liddell & Sapp has been intimately involved in the CTRMA project since its inception. The firm was a subcontractor to Prime Strategies, the consultant that served as an initial staff for the CTRMA board, and helped write the landmark H.B. 3588 legislation creating RMAs. The law firm and CTRMA even shared the costs of the governor's June 2003 signing ceremony for the bill.

The firm's attorney who acts as CTRMA's general counsel is a registered lobbyist. According to the Texas Ethics Commission, he has registered as a lobbyist for CTRMA,

with 2005 compensation estimated at between \$10,000 and \$24,999.99.

In sum, then, CTRMA's law firm helped write the legislation that expanded CTRMA's powers and authority, and subsequently received a contract to provide it with general counsel services. Furthermore, CTRMA is reimbursing the firm for both general counsel and lobbying services. Thus the firm could directly lobby for legislation on CTRMA's behalf that could affect the value of its other services to the authority.

Informative Efforts: The principals of this public relations firm are Cathy Howell and Melinda Wheatley, who are subcontractors for Nancy Ledbetter Associates, which in turn contracts with HNTB. Their relationship with the transportation industry may represent a potential conflict of interest. Informative Efforts had a previous consulting arrangement with JP Morgan Securities Inc., a CTRMA contractor, and was paid a retainer fee of \$7,000 per month plus expenses. The Austin office of JP Morgan Securities indicated that Informative Efforts performed lobbying work and that it was a short-term contract terminated around March 2004.

Melinda Wheatley was Informative Efforts' primary contact with JP Morgan Securities. Wheatley was listed on the 2004 Texas Ethics Commission lobby list for only one client, TransCore, a sponsor of Team Texas. This company provides services and products that enable toll authorities to manage transactions using toll tags. As such, TransCore is a potential CTRMA contractor.

Recommendations

- 11. Prospective RMA board members should be required to disclose all real estate holdings, not simply those in the right of way of any planned mobility project.**

State law should be amended to require that candidates for the RMA board positions fully disclose all known potential conflicts of interest.

In sum, then, CTRMA's law firm helped write the legislation that expanded CTRMA's powers and authority, and subsequently received a contract to provide it with general counsel services.

12. **CTRMA Chairman Tesch should resign from the board immediately, due to the potential for self-enrichment.**
13. **CTRMA board member Zmud should resign from the board immediately, as her membership on the CTRMA board violates provisions of the Transportation Code.**
14. **CTRMA and other RMAs should ensure that none of its board members or employees accepts gifts, favors or services that could be construed as being made to influence them.**

The authority's participation in Team Texas events lends itself to influence by the transportation industry and appears to violate the "no gifts" provision of Chapter 370, Section 370.252 of the Transportation Code.

15. **CTRMA should immediately withdraw from Team Texas. Mike Heiligenstein should vacate his position as treasurer of Team Texas.**

Mike Heiligenstein's role in the Team Texas organization appears to violate state law, as Team Texas appears to fit the description of a trade association. He should no longer serve as the treasurer of this organization, or he should resign from CTRMA.

16. **CTRMA and other RMAs should adopt contract procedures to ensure that its contractors and subcontractors receive contracts based entirely on published specifications, regardless of whether they contract directly with the RMA or its contractors.**

As an additional protection, CTRMA should require each contractor to disclose any known or potential conflicts of interest among its subcontractors, regardless of whether the conflict is between the contractor and subcontractor or among subcontractors, and regardless of the dollar value of the contract or subcontract.

17. **State law should be amended to require RMAs to use their Web sites to publish information documenting all contracts, including the name of the contractor, key personnel, the cost and term of the contract, a description of goods and services to be provided by the contractor and a justification for the necessity of the contract.**
18. **State law should be amended to require RMAs and their contractors to perform criminal background checks for contractors and subcontractors and RMAs should not hire or contract with anyone previously convicted of a felony.**
19. **RMAs should not allow employees, contractors or subcontractors to lobby on their behalf.**

IV. LAX EXPENDITURE CONTROLS

Background

CTRMA has a multi-step approval process for dealing with contractor and subcontractor invoices. As **Exhibit 14** shows, CTRMA's accountant and HNTB review all subcontractor or vendor invoices. The invoices then are sent to CTRMA's executive director for review and approval. After the executive director approves the invoice, it is sent to TxDOT for review and payment approval. After TxDOT approves the invoice for payment, a warrant is issued and sent back to CTRMA for final approval and disbursement.

CTRMA's invoice submittal and approval process is similar to the process used by most governmental entities, in that invoices pass through several different approval points both in and outside the agency before a payment

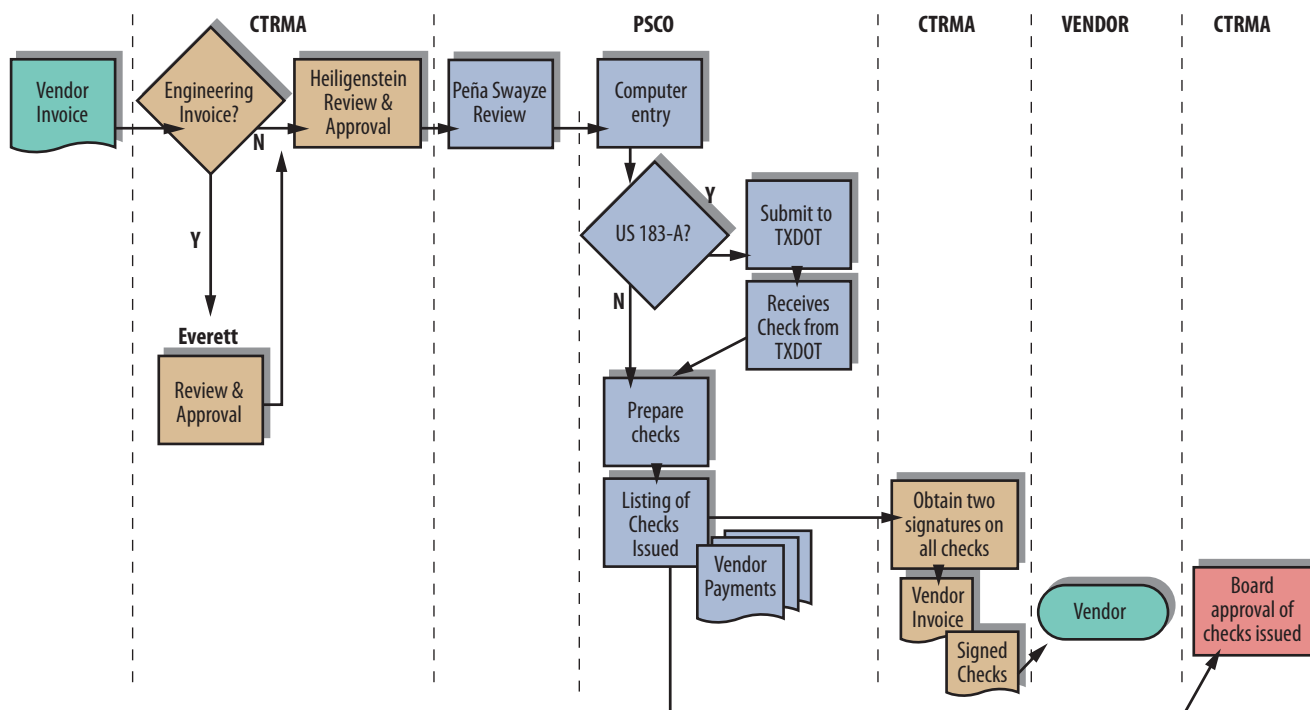
is issued. These approval points are critical to ensure the appropriateness of the expenditure according to state law as well as agency policy.

Moreover, since CTRMA receives monies from the State Highway Fund and the uses of those funds are restricted by the Texas Constitution, it is critical that CTRMA accurately account for expenditures of funds from all sources.

Exhibit 15 shows HNTB's invoice review and approval process. The process contains 11 approval points at which the invoice is reviewed and either approved or rejected.

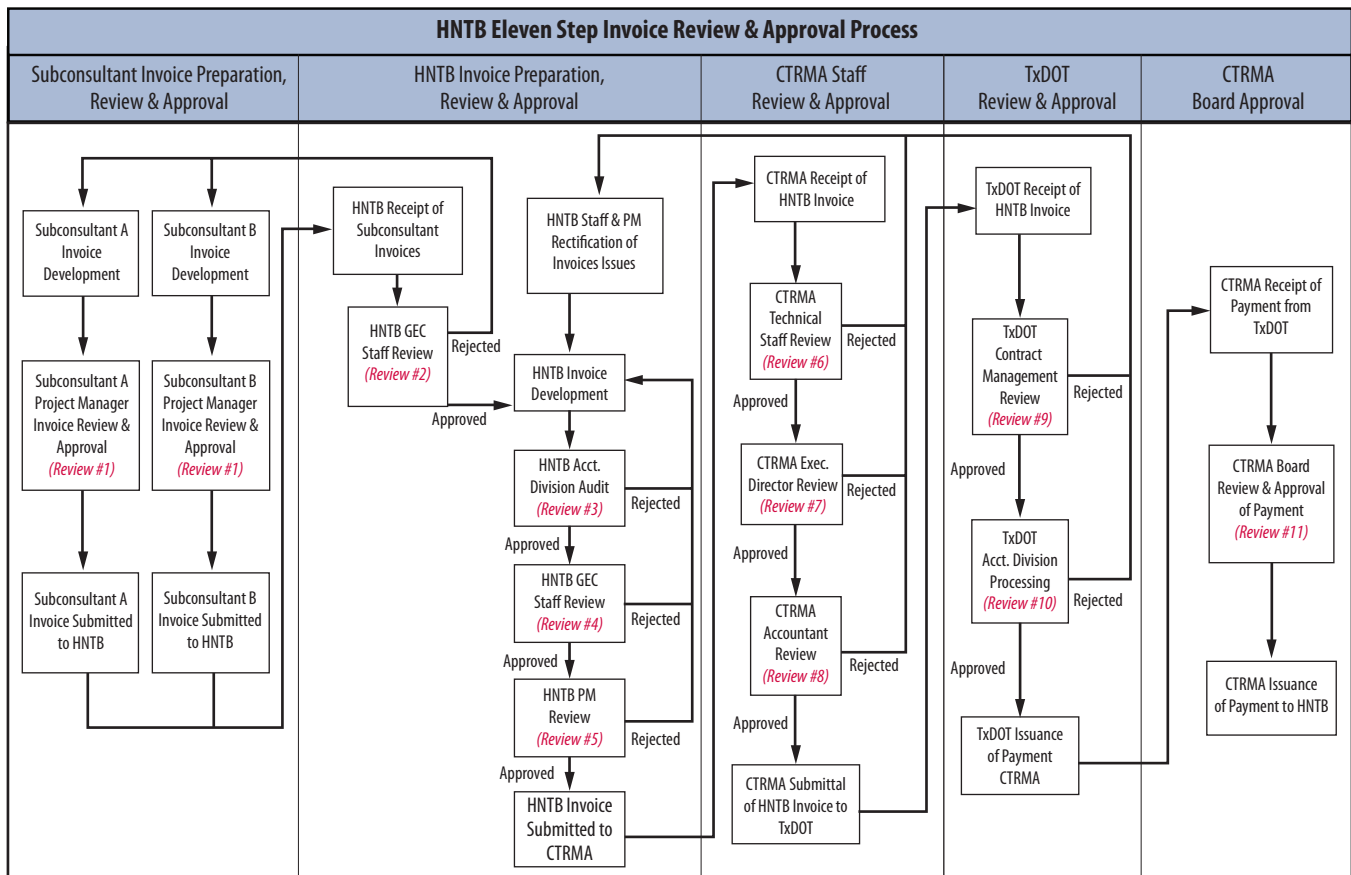
Since HNTB and its subcontractors perform much of CTRMA's work, HNTB is responsible for a majority of the authority's bills; these go through both approval processes. A sum-

EXHIBIT 14
CTRMA Invoice Process Flow Chart



Source: Peña Swayze.

**EXHIBIT 15
HNTB Invoice Review and Approval Process Flow Chart**



Sources: HNTB and Texas Comptroller of Public Accounts.

mary of CTRMA's expenditures through 2004 can be found in **Appendix 7**.

Inappropriate Expenditures

The Comptroller's review team found that CTRMA has made a number of questionable reimbursements. While the authority is not subject to state reimbursement requirements, these requirements do represent useful and appropriate guidelines for the expenditure of public tax dollars. CTRMA has approved purchases in travel, meals and mileage that would be considered inappropriate for a state agency and, in some cases, violate its own policies as well.

According to Chapter 370 of the Transportation Code and Section 9 of the CTRMA

Bylaws, board members can be reimbursed for mileage and other expenses associated with the performance of their duties as board members.⁸⁷ While reimbursement for travel to and from board meetings and other official functions is an acceptable practice for state agency board members, many board member reimbursements paid by CTRMA would be unacceptable at a state agency.

According to the 2003 General Appropriations Act, reimbursements for transportation and incidental expenses incurred by state board and commission members must be provided at the same rate as state employees. Specifically, airfare for board and/or commission members can be reimbursed at the levels established in the State Travel Management Program (STMP), which vary

by location and distance. Mileage costs for driving by board or commission members in their own vehicles can be reimbursed at a maximum of 35 cents per mile.

In addition, the 2003 General Appropriations Act caps in-state meal per diems for board members at \$30 per day and in-state lodging expenses at no more than \$80 per day. (The act does allow for higher reimbursements for legislators, but even these are capped at twice the amount available to state employees, or \$60 per day for meals and \$160 per day for lodging.)⁸⁸

On January 26, 2005, the CTRMA board adopted a reimbursement and travel policy that provides guidelines for board members and staff concerning travel, lodging, meals and incidental expenses associated with their duties as CTRMA representatives.

CTRMA's new travel policy provides only one cap for reimbursements: mileage accrued by CTRMA board members and staff in their personal vehicles can be reimbursed at the maximum level allowed by the federal government. The policy also disallows expenses for alcoholic purchases, entertainment (including hotel movies) and parking or traffic tickets. It also disallows reimbursement for expenses accrued by spouses or "significant others" of CTRMA board members or staff who accompany them on travel.

Other than these guidelines, the policy allows board members and employees to use their best judgment on the appropriateness for travel expenses.⁸⁹ It also fails to address expenses accrued by CTRMA contractors or subcontractors. In general, the new policy does not provide for the type of accountability one would expect in governmental agency dealing with taxpayers' money.

From January 1, 2003 through December 31, 2004, CTRMA reimbursed its chairman a total of \$11,066.30 for CTRMA-related expenses. A majority of this was for mileage to and from meals and meetings with various local and state officials, contractors and representatives of special-interest groups. Occasionally, the chairman received reim-

bursements for the cost of meals as well. State and local board members generally are not reimbursed for such expenditures.

For example, on November 20, 2003, the chairman bought lunch for a state representative, the TxDOT Austin District Engineer, the HNTB project manager, a Williamson County Commissioner who would become the CTRMA executive director and CTRMA's general counsel at the University of Texas Club, at a cost of \$92.10. CTRMA later reimbursed the chairman for the cost of the meal, mileage and parking, for a total cost to taxpayers of \$125.63. The receipt filed for reimbursement simply stated "RMA meeting."

CTRMA also has reimbursed the chairman for administrative work performed by the staff of his own company. These totaled more than \$3,000, at \$19 per hour and later at \$23.08 per hour, between August 2003 and December 2004. CTRMA did not have a contract with the chairman's staff to perform this administrative work.

These reimbursements appear to have violated several sections of the Transportation Code. Section 370.252(a)(6) of the Transportation Code prohibits a director of an RMA from having a personal interest in any agreement executed by the authority. Section 370.252(b)(1)-(3) of the Transportation Code provides that a person is ineligible to serve as a director of an RMA if the person: (1) is employed by or participates in the management of a business entity or other organization that receives funds from the RMA; (2) directly or indirectly owns or controls more than a 10 percent interest in a business or other organization that receives funds from the RMA; or (3) receives a substantial amount of funds from the RMA. It is a ground for removal of a director from an RMA board if the director at the time of appointment or at any time during the director's term is ineligible to be a director under Section 370.252 of the Transportation Code.

Section 370.260(a) of the Transportation Code prohibits a director of an RMA from contracting with the RMA or being directly

CTRMA also has reimbursed the chairman for administrative work performed by the staff of his own company.

or indirectly interested in a contract with the RMA. And Section 370.260(b) provides that a director who violates this prohibition is liable for a civil penalty to the RMA in an amount not to exceed \$1,000.

CTRMA also paid \$2,400 for the chairman's personal membership in the Austin Area Research Organization (AARO). According to its Web site, AARO is a group of business leaders who gather to discuss "mutual concerns." This membership is not a requirement of his role with CTRMA and he was a member of AARO before being appointed to the board. Interestingly, another CTRMA board member belongs to AARO and was not reimbursed for his membership fee.

CTRMA also reimbursed a board member for \$780 in round-trip airfare from New York City to Austin. The board member asked to be reimbursed because she "was on business and would have missed the monthly board meeting had the board member not bought an additional ticket to fly to Austin and return to New York to continue the board member business."⁹⁰

The Transportation Code does not specify which RMA board member expenses are eligible for reimbursement. CTRMA bylaws, however, state that board members "will be reimbursed for their actual expenses of attending each meeting of the Board and for such other expenses as may be reasonably incurred in their carrying out of their duties and functions."⁹¹ The bylaws do not set any limits on such reimbursements, and the new reimbursement policy only limits mileage expenses.

CTRMA also paid the \$400 registration fee for a conference attended by its executive director for which he registered before he became a CTRMA employee. He registered for the Institute for Participatory Management and Planning conference on November 17, 2003, was hired on December 5, 2003, and attended the conference in Monterey, California from January 12 to 18, 2004. He did not bill CTRMA for his room or airfare, but did bill the authority for copies, a long-distance call, alcoholic drinks, meals, parking and taxi fare. He approved his

own expense statement (**Appendix 8**). The CTRMA expense statement does not include a section explaining the purpose of the trip.

Such examples may represent common practice for executives of some private businesses with expense accounts. These expenses may represent a very small portion of CTRMA's total expenditures. Such practices, however, generally would be considered unacceptable for government agency employees and board members. If CTRMA does not establish policies limiting the range of acceptable reimbursements and capping their amounts, it puts itself at risk of approving exorbitant, inappropriate or illegal expenditures.

In addition, it appears the policies that CTRMA has regarding travel and meal expenses for its board members are applied inconsistently. There have been several occasions in which one board member has been reimbursed for an expense while other board members have not.

The lack of reimbursement caps for travel, meals and other incidental expenditures accrued by CTRMA board members, staff, contractors and subcontractors, as well as the inconsistent applications of the limited policies they do have, make it impossible for the authority to budget for these types of expenditures accurately.

Contractor Travel Expenses

State agencies in the executive branch of government must participate in the Texas Building and Procurement Commission's (TBPC's) State Travel Management Program (STMP), using existing state contracts for travel services. These contracts include travel agency services, charge card services, rental car companies, airlines and hotels. Other entities such as cities and counties, school districts and public community colleges can use the STMP as well. State law does not identify RMAs as an entity eligible to participate in the STMP.

STMP services and contracts are available for business-related travel for elected and

If CTRMA does not establish policies limiting the range of acceptable reimbursements and capping their amounts, it puts itself at risk of approving exorbitant, inappropriate or illegal expenditures.

appointed state officers; state agency employees; prospective employees, when their travel is being paid by the state; and other persons traveling on behalf of state agencies when their travel expenses are being paid by the state in accordance with guidelines established by the Comptroller's office. All travel made through the STMP is reimbursable according to guidelines established in the 2003 General Appropriations Act.

CTRMA has reimbursed travel expenses far in excess of state guidelines. One HNTB employee flew first class while on CTRMA business from Austin to Kansas City at a one-way cost of \$677.31 including taxes and fees. The documentation obtained from the Peña Swayze accounting firm regarding this travel includes a handwritten note—"flight plans changed at clients [sic] request." Upgrading from coach-class airfare to first class directly conflicts with the guidelines and expenditure levels established in the STMP.

This upgrade also conflicts with HNTB's Employee Policy Memo 66, which states, "All employees are expected to travel in coach class with only one exception: For international travel...all charges associated with upgrades to first class are not job chargeable or overhead chargeable. The employee will bear the costs of upgrades." Yet HNTB, CTRMA and TxDOT all approved this reimbursement.

Sales Taxes

As a publicly funded entity, CTRMA is exempt from state and local sales and use taxes.⁹² In a detailed review of CTRMA expenditures, the Comptroller review team found that the authority usually exercises its exemption, but it has unnecessarily paid sales and use tax on a number of expenditures. It is entitled to and should seek reimbursement for the sales and use tax it has paid.

Human Resources Expenses

CTRMA hired and contracted to pay an independent consultant \$4,000 at \$250 per hour to help develop a job description for the

authority's chief financial officer (CFO) position. The consultant developed a job "model" based upon interviews and surveys with key stakeholders and an analysis written by CTRMA's executive director. The consultant described the characteristics of the person most suited for the CFO role; appropriate terms for creating a job description; and a survey to be used in evaluating applicants.

This consultant was hired without competitive bidding, upon the recommendation of a friend of the executive director's who has no formal connection with the authority.⁹³ According to Section 8.3 of CTRMA's procurement policies, the executive director may obtain consulting services for less than \$25,000 via such a single-source contract if he determines that only one consultant possesses the knowledge, competence and qualifications to provide the needed services at a reasonable fee and within the time limits required by the authority.

Nothing furnished to the Comptroller's review team indicated that these criteria were satisfied. A glance at the Austin phone directory identified 13 "Human Resource Consultants," 21 "Employment Consultants" and 82 "Executive Search Consultants." Neither the consultant nor her company, "Between the Lines," is listed in the directory.

Food and Beverage Expenses

Employees and contractors of CTRMA often are reimbursed for meals and beverages that would be considered unjustified by both state and local government agencies. While the amounts involved are negligible in terms of the overall budget, these incidents—and the fact that they were approved for reimbursement—demonstrate a lack of appropriate oversight over the expenditure of tax dollars by both CTRMA and TxDOT.

For example, CTRMA's executive director received reimbursement for alcoholic beverages purchased in Monterey, California. Other reimbursements cover beer purchased by contractors. When asked about reimbursement for alcoholic beverages, CTRMA

Employees and contractors of CTRMA often are reimbursed for meals and beverages that would be considered unjustified by both state and local government agencies.

told the Comptroller review team that its policy does not allow such purchases.⁹⁴

Another difference between CTRMA and government practice is the reimbursement of in-town meals. State guidelines reimburse employees only for meals taken out of town when on government business, and only on a per diem basis. CTRMA staff, board members and contractors, however, commonly receive reimbursement for meals while in town. As noted earlier, CTRMA has reimbursed its board chairman and its executive director for meals in both Williamson and Travis counties. CTRMA also has reimbursed an employee of HDR, a subcontractor for HNTB, for meals with temporary HNTB employees.

Some of the executive director's meals reimbursed by CTRMA were taken with CTRMA board members, county commissioners, TxDOT officials, CTRMA's general counsel, Pete Peters of The Communicators (an HNTB subcontractor), Trey Salinas of Martin & Salinas (an HNTB subcontractor) and CTRMA contractor Everett Owen.

On September 30, 2003 HNTB held a "CTRMA Kick-off" event, billed to and paid for by CTRMA, at the Omni Austin Hotel South for new subcontractors, at a cost of \$309.90.

The CTRMA Planning Committee met on April 23, 2004. As part of the meeting, lunch was served at a cost of \$219.64 for four CTRMA board members, CTRMA staff and contractors. The cost of the lunch was billed through Locke Liddell & Sapp.

More Guidelines, Employees Needed

CTRMA hired a professional engineer experienced in transportation matters to review HNTB documents and billings. When questioned about CTRMA expenditures, he said he was concerned about some HNTB purchases and travel billings. In addition, he said he thought CTRMA could have negotiated a better deal for the GEC contract and that the 15 percent profit-margin clause in the GEC contract is probably too high.

He indicated that while the 15 percent profit margin is within a generally accepted profit margin of 10 to 15 percent for GEC services, it could have been negotiated for a figure closer to 10 percent. Unfortunately, at the time of the negotiation, CTRMA had no staff. He indicated that CTRMA should have hired an in-house general counsel with contract negotiation experience before it sought its GEC contractor.⁹⁵

He also thought the authority needed more formal, written policy guidelines regarding HNTB's work, and stated that some functions could be performed more cost-effectively by CTRMA employees rather than by HNTB. As noted in Chapter 2, he also stated that CTRMA should have hired staff more quickly to allow it to evaluate HNTB's work effectively.⁹⁶

In October 2004, CTRMA's executive director told the Comptroller review team that he expected to hire more staff over the following year.⁹⁷ On November 29, 2004, CTRMA's chief financial officer (CFO) began working full-time for the authority. In February 2005, CTRMA hired a director of operations and a communications director.

Public Relations

Of \$16.5 million in work authorized by CTRMA thus far, \$2 million has been approved for public relations contracts. At least 12 firms are providing public involvement and public relations work.

CTRMA may need some survey and market research related to toll tags and toll rates, and gathering public input is critical, but its spending on public outreach in parts of Travis County far removed from the path of its only project, US 183-A, raises questions.

When asked why it was spending money for public outreach in Southwest and East Austin, miles away from any impact US 183-A may have, CTRMA responded that such spending was legitimate because US 183-A is part of a larger transportation program, and that the amount of funding TxDOT would provide for US 183-A depended upon CAMPO's approval

On September 30, 2003 HNTB held a "CTRMA Kick-off" event, billed to and paid for by CTRMA, at the Omni Austin Hotel South for new subcontractors.

of the overall program. CTRMA also noted that such public outreach spending was “encouraged by several CAMPO board members.”⁹⁸

CAMPO, however, has already approved the plan; TxDOT has committed toll equity funding; and CTRMA continues to spend on public outreach. Furthermore, TxDOT is building all roads in the plan aside from US 183-A, and thus TxDOT would seem to be the entity that should take responsibility for public outreach in the areas of Travis County where their construction projects will have the greatest impact.

As discussed in Chapter 2, CTRMA controls work and compensation through the use of work authorizations (WAs). Each WA is dated and numbered and approved by board resolution. The first “Public Involvement Services for 183-A” (Board Resolution 03-46, WA 3.3) specifically included reference to a grant of \$12.7 million from TxDOT and tasked HNTB with performing various public involvement activities within 12 months at a cost of no more than \$350,000. The scope of services was defined as “Public Involvement Services...for the development of US 183-A from SH 45 at US 183 to a connection with US 183, north of Leander, a distance of approximately 11 miles.”⁹⁹

On September 29, 2004 the CTRMA board extended and expanded “Public Involvement Services for 183-A.” Board Resolution No. 04-44 extended Work Authorization 3.3 for 12 addi-

tional months and compensation not to exceed \$744,630—a 113 percent increase from the first year’s work. The scope of work was defined as “Public Involvement Services associated with the development of the US 183-A Turnpike.”¹⁰⁰

On March 31, 2004, the board approved Resolution 04-10, adding more than \$156,000 to public involvement and marketing efforts regarding electronic toll tags.¹⁰¹ Resolution No. 04-48, approved on September 29, 2004, authorized \$750,000 in payments to TateAustin, an Austin-based public relations firm, for marketing efforts over the next two years.¹⁰² Compensation authorized through 2006 for public relations and public involvement totals \$2,000,875.

Exhibit 16 indicates the amounts that have been authorized for public involvement and public information work.

Political Advocacy

Chapter 556 of the Texas Government Code forbids governmental agencies from engaging in lobbying.¹⁰³ In a November 2003 status report, however, HNTB subcontractor Amos “Pete” Peters stated that “elected officials have been shored-up and alliances have been formed to see the HWY 183-A through to completion.”

In addition, an April 15, 2004 memo from Don Martin of Martin & Salinas, a public relations

In a November 2003 status report, HNTB subcontractor Amos “Pete” Peters stated that “elected officials have been shored-up.”

EXHIBIT 16
CTRMA Public Involvement/Information Authorizations

Board Resolution Number	Date	Amount Authorized	Source	Service
03-46	9/24/03	\$350,000	GEC WA 3.3	Public involvement services for US 183-A
04-10	3/31/04	\$156,245	GEC WA 3.5	Public involvement and marketing for toll tags
04-44	9/29/04	\$744,630	GEC WA 3.3 Supplement 1	Public involvement services for US 183-A
04-48	9/29/04	\$750,000	Resolution to retain TateAustin	Marketing plan, advise on public information
	Total	\$2,000,875		

Source: Central Texas Regional Mobility Authority.

Don Martin, who, according to the Martin & Salinas Web site, is a Central Texas real estate developer, is under contract to perform public relations work for CTRMA's general engineering consultant, while at the same time working for groups actively trying to build public and political support for CTRMA's plan.

firm contracting with HNTB, to TxDOT's Austin District Engineer and CTRMA's executive director concerned what Martin referred to as "the appropriate time to move into 'campaign mode' with the toll efforts." In that memo, Martin discussed examples of previous efforts and proposed establishing a private citizen's group to raise money and run the campaign, separate from the public education efforts authorized and funded through CTRMA. Martin's proposal included participation by some groups already contracting with CTRMA, such as Adelante Solutions, Martin & Salinas and Peters.¹⁰⁴ A copy of this memo can be found in **Appendix 9**.

CTRMA's executive director appears to be aware that governmental agencies are prohibited from lobbying, because he responded to the Martin memo with an April 21, 2004 letter stating that:

...as you note in your memo, it is essential that any 'advocacy efforts' be separate and distinct from the educational efforts which may be undertaken by CTRMA. CTRMA cannot and will not, engage in advocacy efforts. All public relations efforts on behalf of CTRMA will be educational in nature.¹⁰⁵

Yet the public may have difficulty distinguishing and separating the roles of these contractors. For example, the Citizens for Mobility Web site lists Don Martin of Martin & Salinas as its "media relations" coordinator. Citizens for Mobility, according to its Web site, is a "privately funded committee formed to support the recently proposed toll road funding initiative."¹⁰⁶

Thus Don Martin, who, according to the Martin & Salinas Web site, is a Central Texas real estate developer, is under contract to perform public relations work for CTRMA's general engineering consultant, while at the same time working for groups actively trying to build public and political support for CTRMA's plan.¹⁰⁷

Furthermore, CTRMA has hired Adelante Solutions, an "entity" of Martin & Salinas, to

answer public inquires it receives. In other words, a public relations firm owned in part by a developer who has a vested interest in seeing US 183-A and other road projects completed, is responding to questions posed to CTRMA by members of the public.¹⁰⁸

The letter from CTRMA's executive director cited above recognized the need to separate the authority's public outreach and education efforts from political advocacy. CTRMA's reliance on contracted public relations firms engaged in parallel public advocacy efforts, however, makes it difficult to ensure that its money is not spent on political advocacy.

CTRMA only recently hired a public information officer. CTRMA has relied on outside contractors for guidance concerning how much to spend on public relations and what to spend it on.

Recommendations

- 20. State law should be amended to require RMAs to follow the restrictions detailed in Article IX of the state General Appropriations Act concerning the reimbursement of staff and board member expenses. State law should be amended to allow RMAs to participate in the State Travel Management Program (STMP).**

RMAs should adopt spending policies that reflect the organizations' use of public funds and should limit reimbursements to expenses directly related to RMA board meetings and other official business. As part of these policies, RMAs should establish rules requiring a written contract or memorandum of understanding between any board member and the RMA before the authority can reimburse the member for any work, including administrative and clerical work, performed by a business in which he or she has any financial interest.

If state law allows, CTRMA should participate in the STMP.

- 21. CTRMA should seek a refund of all sales and use taxes charged to it for purchases it has made.**

CTRMA is a tax-exempt governmental agency and should declare its exempt status. CTRMA should have its new CFO examine its purchases and retroactively seek refund of any sales and use tax it has paid.

- 22. CTRMA and other RMAs should assume responsibility and be held accountable for ensuring that all expenses submitted for reimbursement are appropriate.**

CTRMA and TxDOT have approved questionable expenses, including some that would violate state law if the RMA were a state agency, and some that violate the authority's own policies as well. TxDOT, under the guidance of the Texas Transportation Commission, has granted a great deal of local control to RMAs. It is important, therefore, that CTRMA ensure that all of its expenditures are appropriate.

CTRMA should make its in-house staff responsible and accountable for ensuring that only legal and appropriate expenses are reimbursed. CTRMA should give its new CFO or his designee the responsibility for reviewing and approving all requests for reimbursement from CTRMA staff, board members, contractors and subcontractors.

- 23. CTRMA and other RMAs should employ an in-house general counsel to ensure that the taxpayers' best interests are protected.**

According to one of CTRMA's consultants, the authority might have negotiated a better deal for GEC services had it had an in-house general counsel with

contract negotiation experience looking out for its interests.

- 24. CTRMA should not reimburse contractors for food, entertainment, meetings or social functions without previous approval by the CTRMA executive director, who must justify the cost of the event.**

- 25. CTRMA and other RMAs should limit public relations and public information contracts to projects directly under their authority.**

US 183-A is the only road for which CTRMA is responsible at present. CAMPO is responsible for planning the region's mobility projects and TxDOT approves them. The authority worked with TxDOT to create the current plan for Central Texas, but it is not responsible for the construction of any road other than US 183-A at this time, and should dedicate any public information spending to that project.

- 26. Shortly after their formation, RMAs should employ public information officers to limit their dependence on public relations contractors.**

CTRMA's recently hired communications director should help the authority prioritize its public relations spending and reply to questions received from the public.

- 27. State law should be amended to prohibit RMAs from contracting for public relations or public involvement services with any entity engaged in transportation-related advocacy efforts.**

RMAs should establish clear policies prohibiting any public relations or public outreach contractor or subcontractor from working on political advocacy efforts connected with their projects.

APPENDICES

Appendix 1 – Letter from Representative Terry Keel (page 1)

P. O. BOX 2910
AUSTIN, TEXAS 78768-2910
TELEPHONE: 512-463-0652
FACSIMILE: 512-477-7121
E-MAIL: terry.keel@house.state.tx.us



TERRY KEEL
STATE REPRESENTATIVE, AUSTIN
DISTRICT 47

COMMITTEES:
CHAIRMAN, CRIMINAL JURISPRUDENCE
MEMBER, LAW ENFORCEMENT
MEMBER, GENERAL INVESTIGATING

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OCT - 1 2004

STATE ADMIN.
OFFICE

September 30, 2004

The Honorable Carole Keeton Strayhorn
Comptroller of Public Accounts
P. O. Box 13528
Austin, Texas 78711

RE: Request for audit

Dear Comptroller Strayhorn:

As you know, we serve on the Board of the Capital Area Metropolitan Planning Organization (CAMPO). The Board recently voted to undertake the largest public works project in this region's history. This public works project will create a network of toll roads in Central Texas. The total cost of this program exceeds \$2 billion.

A new governmental entity, the Central Texas Regional Mobility Authority (CTRMA), will implement and manage this \$2 billion project. It will award billions in contracts. In fact, the CTRMA is already awarding contracts for the \$200 million construction of US 183A. The CTRMA is already awarding lucrative contracts for numerous other services. The CTRMA is already issuing requests for proposals for other contracts in this \$2 billion program.

The CTRMA currently has one full-time employee. In other words, a new organization with one employee is in charge of implementing and managing this \$2 billion program.

Recent news reports indicate that the CTRMA has already contracted for nearly a quarter of a million dollars in public relations work in the first eight months of this year. (These news reports also indicate that at least one contract was backdated.) The CTRMA has just awarded another contract for more public relations work. The CTRMA has also apparently awarded numerous other lucrative contracts. No toll road has yet opened.



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Appendix 1 – Letter from Representative Terry Keel (page 2)

The Honorable Carole Keeton Strayhorn
September 30, 2004
Page Two

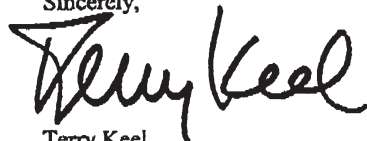
The CTRMA's operating budget reportedly consists of \$600,000 in local property tax revenues contributed by Travis and Williamson Counties. Therefore, the CTRMA apparently has contracted for more in public relations expenditures alone than the total of its annual operating budget. The CTRMA has also received \$12.6 million in state gas tax revenues to be used for the construction of 183A. The reports suggest that some of these funds may have been used for other purposes.

No governmental body appears to have direct oversight authority over the CTRMA or its \$2 billion program. Given the amount of money involved and the recent news reports, this is a matter of extreme concern.

We request that your office begin immediately a comprehensive audit of the expenditures and operations of the CTRMA. We all have a duty to ensure that tax dollars are spent wisely and that every level of government remains accountable. With your office's extensive experience in performing audits of government agencies, your office is uniquely suited to audit the CTRMA's operations and contract management procedures. Your office also has valuable expertise to analyze the financial transactions that have transpired and continue to transpire to determine whether they are in compliance with applicable laws and sound operating procedures.

We appreciate your consideration of this request and thank you for your courtesy and service.

Sincerely,



Terry Keel
State Representative, Austin



Brewster McCracken
Member, Austin City Council

Appendix 2 – Timeline of Significant CTRMA, CAMPO, TxDOT Events (page 1)

Date	Event	Detail
05/21/02	Public Meeting	Joint meeting of Williamson and Travis County Commissioners Courts to discuss the creation of an RMA.
12/10/02	Public Meeting	Travis County Commissioners Court unanimously approves the appointment of Henry Gilmore, Lowell Lebermann and Johanna Zmud to the CTRMA board.
12/17/02	Public Meeting	Williamson County Commissioners Court (including Cmsr. Mike Heiligenstein) unanimously approves the appointment of Jim Mills, Bob Bennett and Bob Tesch to the CTRMA board.
01/22/03	Effective Date	Governor Perry appoints Bob Tesch chairman for a term ending January 17, 2005. Tesch serves until reappointed or replaced.
01/28/03	Effective Date	Williamson County Commissioners Court appoints Mike Robinson to the CTRMA board to replace Bob Tesch.
01/29/03	CTRMA resolution	New CTRMA board approves and adopts the “Bylaws of the CTRMA.”
02/26/03	CTRMA resolutions	Approves agreement to transfer Williamson County funds to CTRMA. Approves agreement to transfer the contract of Prime Strategies, Inc. from Williamson County. Authorizes Prime Strategies, Inc. and Locke Liddell & Sapp, LLP (LLS) to be interim staff.
03/01/03	Effective Date	Williamson County reassigns its contract with Prime Strategies, Inc. to CTRMA and gives CTRMA \$250,000.
04/24/03	TTC Approval	Approves the \$12.7 million toll equity financial assistance agreement with CTRMA, effective May 30, 2003.
04/30/03	CTRMA resolution	Selects First Southwest and Ladd Pattillo & Associates to be co-financial advisors. <i>Reviewers:</i> Mike Weaver (Prime Strategies) and Brian Cassidy (LLS). <i>Interviewers:</i> Executive Committee (Chairman Bob Tesch, Vice-Chairman Lowell Lebermann, Treasurer Bob Bennett) <i>Selection:</i> Full board, based on executive committee recommendation.
05/28/03	CTRMA resolution	Selects Peña Swayze & Co, LLP to provide accounting services. <i>Reviewers:</i> None – no responses received. <i>Interviewers:</i> No formal interviews – no candidates to interview. <i>Selection:</i> Full board approval based on executive committee recommendation (Tesch, Lebermann, Bennett).
06/04/03	Effective Date	Travis County pays \$250,000 to CTRMA.
06/25/03	CTRMA resolution	Directs interim staff to publish posting for Executive Director position.
07/15/03	CTRMA resolutions	Approves the selection of Locke Liddell & Sapp LLP as general counsel. <i>Reviewer:</i> Mike Weaver (Prime Strategies) <i>Interviews:</i> No in-person interviews were required. <i>Selection:</i> Full board approval based on executive committee recommendation (Tesch, Lebermann, Bennett). Approves the selection of HNTB as general engineering consultant. <i>Reviewers:</i> Mike Weaver (Prime Strategies) and Brian Cassidy (LLS) – scoring performed. <i>Interviewers:</i> Executive Committee (Tesch, Lebermann, Bennett) – scoring performed. <i>Selection:</i> Full board approval based on executive committee recommendation.

Sources: Central Texas Regional Mobility Authority, Locke Liddell & Sapp, Texas Comptroller of Public Accounts.

Appendix 2 – Timeline of Significant CTRMA, CAMPO, TxDOT Events (page 2)

Date	Event	Detail
09/24/03	CTRMA resolution	Approves the selection of UBS Financial Services, Inc. as senior manager of the U.S. 183-A Investment Banking Team, along with JP Morgan Securities, Morgan Stanley, First Albany, Southwest Securities, Estrada Hinojosa & Co., Inc., and Siebert, Brandford, Shank & Co. <i>Reviewers:</i> financial advisors (First Southwest Company and D. Ladd Pattillo & Associates). <i>Interviewers:</i> Full board. <i>Selection:</i> Full board.
09/30/03	Effective Date	Williamson County pays CTRMA \$300,000.
10/16/03	CTRMA resolution	Travis County pays CTRMA \$300,000 and asks CTRMA to use “best efforts to develop a Travis County project second.”
11/05/03	CTRMA resolutions	Accepts the resignation of Mike Weaver as interim executive director and appoints Brian Cassidy in his place. Selects Williamson County Commissioner Mike Heiligenstein as executive director. <i>Reviewers:</i> Mike Weaver (Prime Strategies), Brian Cassidy (LLS), Bob Bennett (board member), Joanne Land (consultant). <i>Interviewers:</i> Telephone interviews of six semi-finalists (same as reviewers). <i>Selection:</i> Full board, based on resumes and in-person interviews of three finalists.
12/17/03	CTRMA resolution	Selects Vinson & Elkins LLP as bond counsel. <i>Reviewers:</i> financial advisors (First Southwest Company and D. Ladd Pattillo & Associates). <i>Interviewers:</i> executive committee (Tesch, Lebermann, Bennett). <i>Selection:</i> Full board.
12/30/03	Effective Date	CTRMA board member Mike Robinson submits resignation to Williamson County Commissioners Court.
02/01/04	Effective Date (Grier-Bankett)	Master Agreement between HNTB and Grier-Bankett Consulting, Inc.
02/17/04	Effective Date	Williamson County Commissioners Court appoints David Singleton to the CTRMA board to replace Mike Robinson.
02/25/04	CTRMA resolution	Approves the short-list of finalists (Austin Flatiron, Hill Country Constructors and San Gabriel River Constructors) recommended by the executive director and evaluation committee for US 183-A Comprehensive Development Agreement.
05/05/04	CTRMA resolution	Directs staff to publish the posting for Chief Financial Officer and Public Information Officer.
05/26/04	CTRMA resolution	Directs staff to publish posting for Chief Operations Officer. (Delayed to December 2004 and reposted January 2005.)
06/30/04	CTRMA resolutions	Authorizes staff to submit a TIFIA (Transportation Infrastructure Finance and Innovation Act Program) loan application for US 183-A. Approves agreement with Williamson County and the City of Cedar Park for right of way acquisition. Approves amendment to the agreement with Williamson County providing \$300,000.
07/07/04	Signature Date (Grier-Bankett)	Master Agreement between HNTB and Grier-Bankett Consulting, Inc.
07/08/04	Effective Date	Professional Consulting Services Agreement between CTRMA and Everett Owen for \$150 per hour for indefinite term.

Sources: Central Texas Regional Mobility Authority, Locke Liddell & Sapp, Texas Comptroller of Public Accounts.

Appendix 2 – Timeline of Significant CTRMA, CAMPO, TxDOT Events (page 3)

Date	Event	Detail
07/12/04	Public Meeting	CAMPO approves Phase Two of ‘2025 Plan’ to develop toll roads.
07/13/04	Signature Date (HNTB)	Master Agreement between HNTB and Grier-Bankett Consulting, Inc.
	Invoice	HNTB approves payment of Grier-Bankett invoices of \$6,037, \$10,627.50 and \$3,700.
07/28/04	CTRMA resolutions	Selects Helin, Donovan, Trubee & Wilkerson to provide auditing services for US 183-A bond financing. <i>Reviewers:</i> financial advisors (First Southwest Company and D. Ladd Pattillo & Associates) – scoring performed. <i>Interviewers:</i> None – no in-person interviews held. <i>Selection:</i> Full board based upon financial advisor recommendations.
		Selects JP Morgan Chase to provide trustee services for US 183-A bond financing. <i>Reviewers:</i> financial advisors (First Southwest Company and D. Ladd Pattillo & Associates) <i>Interviewers:</i> None – no in-person interviews held. <i>Selection:</i> Full board based upon financial advisor recommendations.
09/08/04	CTRMA resolution	Selects Hill Country Constructors as the firm that will construct US 183-A. <i>Members of evaluation committees:</i> Richard Ridings (HNTB), Curt Ashmos (LLS), Everett Owen, Russell Zapalac (HDR), Loretta Scheintinger (HNTB), Brian Cassidy (LLS), Eric Ploch (HNTB), Wayne Placide and Dan Wegmiller (First Southwest Company), D. Ladd Pattillo (Ladd Pattillo & Associates). <i>Interviewers:</i> None – no in-person interviews held. <i>Selection:</i> Full board, based on scoring criteria and executive director recommendation.
09/29/04	CTRMA resolutions	Approves the submission to TxDOT of a Request for Financial Assistance for approximately \$50 million.
		Selects TateAustin to provide marketing services. <i>Reviewers:</i> Cindy Forkner (CTRMA: compliance review only), Mike Heiligenstein (CTRMA), Audrey Murphy (HNTB), Beth Phillips (Pecora & Bluxrud), Deanna Attenhoff (Clean Air Force), Ron Pecora (Pecora & Bluxrud), Hector Snoddy (TxDOT – non-voting observer), Shuronda Robinson-Parks (ADISA – non-voting observer). <i>Interviewers:</i> Same as reviewers (except for Forkner). <i>Selection:</i> Full board based on staff recommendation.
10/01/04	Announcement	Comptroller Strayhorn to audit CTRMA per request of state Representative Terry Keel and Austin City Council Member Brewster McCracken.
11/29/04	Effective Date	Bill Chapman begins as CTRMA’s Chief Financial Officer.
12/21/04	Effective Date	Williamson County reappoints Jim Mills to a two-year term, Bob Bennett to a four-year term and David Singleton to a six-year term beginning February 1, 2005. (Subsequent terms will be six years.)
01/26/05	CTRMA resolution	Adopts first budget, for the remainder of fiscal 2005.

Sources: Central Texas Regional Mobility Authority, Locke Liddell & Sapp, Texas Comptroller of Public Accounts.

Appendix 3 – Selected TxDOT Funding Categories

Categories Number and Name	Programming Authority	Usual Funding	Allocation Program (Yes/No), Responsible Entity	Ranking Index or Allocation Formula	Brief Summary, Restrictions, Etc.
2 Metropolitan Area Corridor Projects	Commission approval. Project-specific corridors selected statewide based on criteria to be determined. Projects scheduled by consensus of districts.	Federal 80% State 20% or State 100%	No, Commission	Funding target formula 32.63 % Total vehicle miles traveled (on and off the state highway system) 22.35 % Population 17.04 % Lane miles (on system) 14.22 % Vehicle miles traveled (trucks only) 7.04 % Percentage of population under the federal poverty level 6.72 % Fatal and incapacitating crashes.	Mobility and added capacity projects on major state highway system corridors which serve the mobility needs of the Metropolitan Areas Metropolitan Planning Organizations.
7 Metropolitan Mobility/ Rehabilitation	Commission allocation. Allocation based on population. Allocation program to districts. Projects selected by MPO in consultation with TxDOT.	Federal 80% State 20% or Federal 80% Local 20% or State 100%	Yes, Districts	Population (2000 Census).	Transportation needs within metropolitan area boundaries with populations of 200,000 or greater. Projects selected by Metropolitan Planning Organizations.
11 District Discretionary	Commission allocation by formula. Allocation program to districts. Projects selected by districts. Minimum \$2.5 million allocation to each district in compliance with 78(R), H.B. 1, Article VII, Rider 29.	Federal 80% State 20% or Federal 80% Local 20% or State 100%	Yes, Districts	Allocation Formula 70% on-system vehicle miles traveled 20% on-system lane miles 10% Annual truck vehicle miles traveled.	Projects selected at the district's discretion. Dollars may not be expended to offset overruns on previously selected projects and may not be used for right of way acquisition.
12 Strategic Priority	Commission selection. Project-specific.	Federal 80% State 20% or State 100%	No, Commission	Selected by Texas Transportation Commission.	Commission selected projects that promote economic development, provide system continuity with adjoining states and Mexico, increase efficiency on military deployment routes or address other strategic needs as determined by the commission.

Source: Texas Department of Transportation.

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 1)

1/26/2005	6 months FY 05	FY 06	FY 07	FY 08	FY 09
Fund Balance		1,409,992	1,856,391	6,336,690	10,394,632
Total Resources inflows	3,050,333	3,368,000	9,120,000	11,361,000	19,802,906
Available resources	3,050,333	4,777,992	10,976,391	17,697,690	30,197,538
Administration					
Personal Services-Adm	354,359	856,671	899,086	972,135	1,004,759
Materials and Supplies	9,000	42,000	42,000	42,000	42,000
Contractual	448,000	561,000	586,000	611,000	661,000
Operating Senior Bonds	138,700	230,800	222,050	231,988	237,122
Capital Expenditures	130,000	100,000	25,000	25,000	25,000
Debt Service	0	0	0	0	7,733,825
totals	1,080,059	1,790,471	1,774,136	1,882,122	9,703,706
183A Operating					
Personal Services-183A	38,283	153,130	158,490	164,037	169,778
Materials and Supplies-183A	0	0	20,000	30,000	30,000
Contractual-183A	522,000	978,000	2,074,225	2,538,900	2,075,100
Operating-183A	0	0	462,850	1,888,000	1,888,000
Capital Expenditures-183A	0	0	150,000	800,000	816,500
totals	560,283	1,131,130	2,865,565	5,420,937	4,979,378
Fund balance-unrestricted	1,409,992	1,856,391	6,336,690	10,394,632	15,514,454

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 2)

Sources	6 Months FY 05	FY 06	FY 07	FY 08	FY 09
Grants					
TxDot equity-original	150,000				
County	300,000				
TxDot-equity					5,392,906
Tolls					
Tolls			3,060,000	10,336,000	13,937,000
Bond Proceeds					
Senior Bonds-operating	2,000,000	2,000,000	4,500,000		
Operating Senior Bonds-Toll Tag sales, distribution, discounts	522,000	978,000	1,300,000	825,000	375,000
Interest	78,333	390,000	260,000	200,000	98,000
Totals	3,050,333	3,368,000	9,120,000	11,361,000	19,802,906

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 3)

		page 3				
Department	Position	6 months FY 05	FY 06	FY 07	FY 08	FY 09
Personal Services						
Administrative						
	Executive Director	90,990	188,349	194,942	201,764	208,826
	Chief Administrative Officer	62,140	124,280	128,630	133,132	137,791
	Executive Administrative Assistant	14,505	58,020	60,051	62,152	64,328
	Administrative Assistant	9,945	39,780	41,172	42,613	44,105
	Clerical	16,850	34,880	36,100	37,364	38,672
	Research Analyst	26,665	106,660	110,393	114,257	118,256
Financial						
	CFO	76,565	158,490	164,037	169,778	175,720
	Analyst/Accountant	0	0	8,657	51,940	53,758
	Analyst(.5)	8,074	16,713	17,298	17,903	18,530
Public Involvement						
	Director	23,625	94,500	97,808	101,231	104,774
salary reserve						
		25,000	35,000	40,000	40,000	40,000
Totals		354,359	856,671	899,086	972,135	1,004,759
		FY 05	FY 06	FY 07	FY 08	FY 09
Operations-general						
	Director	38,283	153,130	158,490	164,037	169,778
Operations-183A						
Totals		38,283	153,130	158,490	164,037	169,778

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 4)

Materials and Supplies page 4					
	FY 05	FY 06	FY 07	FY 08	FY 09
Administrative					
Computer supplies	3,000	10,000	10,000	10,000	10,000
Office supplies	5,000	30,000	30,000	30,000	30,000
Other	1,000	2,000	2,000	2,000	2,000
totals	9,000	42,000	42,000	42,000	42,000
Materials and Supplies-183A					
Computer supplies			10,000	10,000	10,000
Office supplies			10,000	20,000	20,000
totals	0	0	20,000	30,000	30,000

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 5)

Contractual Services-adm		page 5				
	6 months FY 05	FY 06	FY 07	FY 08	FY 09	
Auditing	20,000	20,000	20,000	20,000	20,000	
Legal	300,000	200,000	225,000	250,000	300,000	
Consulting engineers	60,000	120,000	120,000	120,000	120,000	
IT	10,000	100,000	100,000	100,000	100,000	
Copy machines/printing	12,000	24,000	24,000	24,000	24,000	
Insurance	12,500	25,000	25,000	25,000	25,000	
Courier/overnight	4,500	9,000	9,000	9,000	9,000	
HR		3,000	3,000	3,000	3,000	
Accounting	18,000	3,000	3,000	3,000	3,000	
Misc	6,000	12,000	12,000	12,000	12,000	
Annual reports		25,000	25,000	25,000	25,000	
Contingency	5,000	20,000	20,000	20,000	20,000	
totals	448,000	561,000	586,000	611,000	661,000	
Contractual Services-183A						
Acquisition, distribution and discounts-toll tags	522,000	978,000	1,300,000	825,000	375,000	
Cost of toll collection			150,000	406,000	630,000	
Toll facilities maintenance			624,225	1,307,900	1,070,100	
totals	522,000	978,000	2,074,225	2,538,900	2,075,100	

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 6)

page 6					
Operating	6 months				
	FY 05	FY 06	FY 07	FY 08	FY 09
Administrative					
Rent	30,000	75,000	78,750	82,688	86,822
Utilities	3,000	5,000	5,000	5,000	5,000
Reimbursement-Board Chair	1,000	2,000	2,000	2,000	2,000
Travel-ex dir	4,500	7,500	7,500	7,500	7,500
Travel-staff	3,000	8,000	8,000	8,000	8,000
Travel board	10,000	20,000	20,000	20,000	20,000
Travel board chair	3,000	5,000	5,000	5,000	5,000
Continuing education	15,000	10,000	10,000	10,000	10,000
Reimbursable expenditures	5,000	7,500	10,000	10,000	10,000
Recruitment	20,000	20,000	5,000	5,000	5,000
Auto Allowance	3,900	7,800	7,800	7,800	7,800
Maintenance	3,000	3,000	3,000	3,000	3,000
Postage	300	600	600	600	600
Other contractual services	15,000	30,000	30,000	30,000	30,000
Memberships	2,000	4,400	4,400	5,400	6,400
Contingency	20,000	25,000	25,000	30,000	30,000
total	138,700	230,800	222,050	231,988	237,122
Operating 183A					
Utilities			8,650	122,400	122,400
Insurance			250,000	250,000	250,000
Travel-staff			3,000	12,000	12,000
Gasoline/mileage			200	2,400	2,400
Maintenance			200,000	1,500,000	1,500,000
Postage			1,000	1,200	1,200
totals	0	0	462,850	1,888,000	1,888,000

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 7)

Toll Tags		page 7				
	6 months					
	FY 05	FY 06	FY 07	FY 08	FY 09	
Toll tag marketing contractor	522,000	228,000	100,000	75,000	75,000	
sub total-contract	750,000					
Acquisition, distribution and discounts-toll tags		750,000	1,200,000	750,000	300,000	
4,000,000 totals	<u>522,000</u>	<u>978,000</u>	<u>1,300,000</u>	<u>825,000</u>	<u>375,000</u>	

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 8)

Utilities

	6 months FY 05	FY 06	FY 07	FY 08	FY 09
Electricity					
Water					
Gas					
Telecommunications	15,400	19,000	19,600	20,000	21,000
totals	15,400	19,000	19,600	20,000	21,000

Telecommunications

cell phones	2,400	3,000	3,600	4,000	5,000
land lines	8,000	16,000	16,000	16,000	16,000
new system installation	5,000				
totals	15,400	19,000	19,600	20,000	21,000

Utilities-183A

Electricity			1,250	60,000	60,000
Water			1,000	40,000	40,000
Gas			1,000	5,000	5,000
Telecommunications	0	0	5,400	17,400	17,400
totals	0	0	8,650	122,400	122,400

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 9)

Capital expenditures	page 9				
	FY 05	FY 06	FY 07	FY 08	FY 09
Administrative					
Software	25,000	100,000	25,000	25,000	25,000
Phone system	20,000				
Computer systems	75,000				
Furniture	10,000				
totals	130,000	100,000	25,000	25,000	25,000
Operating-183A					
Software-maintenance				100,000	100,000
vehicles and equipment			150,000	150,000	150,000
renewal and replacement				550,000	566,500
totals	0	0	150,000	800,000	816,500

Appendix 4 – Budget Approved by CTRMA Board - January 26, 2005 (page 10)

Debt Service		page 10				
	FY 05	FY 06	FY 07	FY 08	FY 09	
senior lien bonds					7,733,825	
Totals	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>7,733,825</u>	

Appendix 5 – Contractor Billings (page 1)

(Contractors in red are subcontractors of HNTB.)

Contractor	Primary Staff for CTRMA Project	Duties	Cost per Hour	Provisional Overhead Rate + Profit (added to the hourly cost)	CTRMA Billings (to TxDOT) to December 31, 2004	Contract Competitively Bid?
Prime Strategies	Mike Weaver	Transportation Consultant	\$150.00	N/A	\$620,407.44 began October 1, 2002	No
Locke Liddell & Sapp LLP	C. Brian Cassidy	General Counsel	\$333.00, \$290.00 when billed though Prime Strategies	N/A	\$1,135,572.83 began June 30, 2003; does not include billings when Locke Liddell & Sapp was a subcontractor for Prime Strategies	Yes, but the first Locke Liddell & Sapp contract was not competitively bid when Locke Liddell & Sapp was a CTRMA subcontractor through Prime Strategies
HNTB	Richard Ridings	GEC	\$73.99	Overhead 153.53% Profit 15% (overhead revised in June 2004 to 150.43%)	\$7,271,877.37 began September 30, 2003	Yes, recommended by Prime Strategies and Locke Liddell & Sapp
Peña Swayze	Mike Swayze	Accounting	\$50.00 - \$172.00	N/A	\$72,349.42 began June 25, 2003. This does not include billings when Peña Swayze was a subcontractor for Prime Strategies	Yes, but the first Peña Swayze contract was not competitively bid when Peña Swayze was a CTRMA subcontractor through Prime Strategies
The Communicators	Pete Peters	Public Affairs	Billings for meals, copies	N/A	\$4,293.18 began November 10, 2003	No

Note: Amounts billed and/or accrued by CTRMA, unless noted.

Sources: Central Texas Regional Mobility Authority and Texas Comptroller of Public Accounts.

Appendix 5 – Contractor Billings (page 2)

(Contractors in red are subcontractors of HNTB.)

Contractor	Primary Staff for CTRMA Project	Duties	Cost per Hour	Provisional Overhead Rate + Profit (added to the hourly cost)	CTRMA Billings (to TxDOT) to December 31, 2004	Contract Competitively Bid?
HB Media	Manuel Zarate, Pete Peters and others	Public meetings, outreach, elected official briefings, educational outreach, communication protocol, media relations, governmental relations, project database, printed materials, coordination meetings, media releases, audio/visual production, strategic planning	\$97.00 - \$150.00	N/A	\$259,704.40 began February 2, 2004	No
Martin & Salinas Public Affairs Inc.	Don Martin, Trey Salinas, others	Assist in communications with targeted stakeholder groups, assist with message development and media relations, assist in preparation of press releases and project fact sheets, attend meetings as required	\$45.00 - \$240.00	N/A	\$120,027.75 began June 11, 2004	No
Adelante Solutions	Paul Saldaña	Public Affairs	\$180.00	N/A	Included in Martin & Salinas billings	No
Adisa Public Relations	Shuronda Robinson-Parks	CTRMA Web site support, manage and coordinate responses to public comments, update public comment tracking worksheet, update master contact database and e-mail group	\$75.00 + expenses	N/A	\$59,517.98 began July 29, 2004	No

Note: Amounts billed and/or accrued by CTRMA, unless noted.

Sources: Central Texas Regional Mobility Authority and Texas Comptroller of Public Accounts.

Appendix 5 – Contractor Billings (page 3)

(Contractors in red are subcontractors of HNTB.)

Contractor	Primary Staff for CTRMA Project	Duties	Cost per Hour	Provisional Overhead Rate + Profit (added to the hourly cost)	CTRMA Billings (to TxDOT) to December 31, 2004	Contract Competitively Bid?
Grier-Bankett	Stacy Dukes-Rhone	Assist in communications with targeted stakeholder groups, assist with message development and media relations, assist in preparation of press releases and project fact sheets, attend meetings as required	\$185.00	N/A	\$32,116.00 began August 25, 2004	No
Nancy Ledbetter Associates	Nancy Ledbetter	Public meetings, outreach, elected official briefings, educational outreach, communication protocol, media relations, governmental relations, project database, printed materials, coordination meetings, media releases, audio/visual production, strategic planning, develop a community and government relations program, brochure development, community and industry relations, consumer attitude tracking, crisis communication plan and training, government relations, strategic planning	\$120.00	N/A	\$109,105.87 began February 2, 2004	No

Note: Amounts billed and/or accrued by CTRMA, unless noted.

Sources: Central Texas Regional Mobility Authority and Texas Comptroller of Public Accounts.

Appendix 5 – Contractor Billings (page 4)

(Contractors in red are subcontractors of HNTB.)

Contractor	Primary Staff for CTRMA Project	Duties	Cost per Hour	Provisional Overhead Rate + Profit (added to the hourly cost)	CTRMA Billings (to TxDOT) to December 31, 2004	Contract Competitively Bid?
Informative Efforts LLC	Catherine Howell, Melinda Wheatley	Graphic design and marketing efforts, compile engineering maps, create and illustrate brochures, work with TxDOT on creation of slides and presentation materials for a cohesive message of the mobility crisis and the solutions that can be implemented, graphic needs, print advertisements, design signage that may be needed for trade shows and presentations	\$55.00 - \$85.00	N/A	\$59,068.25 began August 25, 2004 (Some billings may have been under Nancy Ledbetter.)	No
J. Land Municipal Consultants	Joanne Land	Executive director selection	\$125.00	N/A	\$812.50 began May 20, 2003; also billed CTRMA \$5,000 through Prime Strategies, Inc.	No
HDR Engineering Inc.	Russell Zapalac, Craig Stong (staff)	Review design, evaluate drawings, review earthwork, right of way, frontage roads, develop project strategy, assist in development, progress reports, document printing and distribution, project coordination	\$79.33, \$50.50	Overhead 172.51% Profit 15%	\$1,350,153.98 began February 2, 2004	No
Owen Consulting	Everett Owen	Oversight / expenditure review	\$150.00	N/A	\$61,050.00 began January 31, 2004	No

Note: Amounts billed and/or accrued by CTRMA, unless noted.

Sources: Central Texas Regional Mobility Authority and Texas Comptroller of Public Accounts.

Appendix 5 – Contractor Billings (page 5)

(Contractors in red are subcontractors of HNTB.)

Contractor	Primary Staff for CTRMA Project	Duties	Cost per Hour	Provisional Overhead Rate + Profit (added to the hourly cost)	CTRMA Billings (to TxDOT) to December 31, 2004	Contract Competitively Bid?
Sheets & Crossfield	Charles Crossfield	Attend and participate in team meetings, identify right of way parcels purchased, pre-condemnation negotiation and acquisition of all rights of way	\$90.00 - \$190.00	N/A	\$588,332.01 began February 2, 2004	No
UBS Financial Services	N/A	Underwriter	N/A	N/A	N/A	Yes
JP Morgan Securities	N/A	Bond trustee	N/A	N/A	N/A	Yes
First Southwest Co., D. Ladd Pattillo & Associates	Daniel Wegmiller and D. Ladd Pattillo	Financial advisors	N/A	N/A	\$98,904.56 began July 31, 2003	Yes
Vinson & Elkins LLP	W. Glenn Opel	Bond counsel	Contracted rate of \$395.00, with annual increases of \$10.00	N/A	N/A	Yes
Between the Lines	Meri Aaron Walker	Dynometrics consultation and support (selection of CFO)	\$250.00	N/A	\$2,175.00 began September 3, 2004	No
Jose I. Guerra	Joe Hernandez	Attend design workshop, review schematic plan bridge lengths, bridge span, review CDA procurement process, attend document review workshop	\$22.50 - \$35.50	Overhead 177.0% Profit 15%	\$26,220.00 began February 2, 2004	No
S.D. Kallman	Steven D. Kallman	Attend team meetings, assist with utility coordination	\$60.00 - \$220.00	N/A	\$80,999.30 began February 2, 2004	No

Note: Amounts billed and/or accrued by CTRMA, unless noted.

Sources: Central Texas Regional Mobility Authority and Texas Comptroller of Public Accounts.

Appendix 5 – Contractor Billings (page 6)

(Contractors in red are subcontractors of HNTB.)

Contractor	Primary Staff for CTRMA Project	Duties	Cost per Hour	Provisional Overhead Rate + Profit (added to the hourly cost)	CTRMA Billings (to TxDOT) to December 31, 2004	Contract Competitively Bid?
Smith, Robertson, Elliott & Glen	Alan Glen	Attend team meetings, identify specific environmental update tasks, assist in scoping of environmental tasks, updates, environmental permitting, environmental compliance	\$250.00	N/A	\$47,232.90 began March 5, 2004	No
Pink Consulting	Bobbie J. Garza-Hernandez	Public affairs	\$125.00	N/A	\$32,394.55 began August 25, 2004	No
S.W. Hale Consulting LLC	Stephanie Hale	Public affairs	\$76.00 - \$125.00	N/A	\$41,441.50	No
Dennis Karus	Dennis Karus	Bond insurance	\$125.00 + expenses	N/A	\$10,577.66 began September 23, 2004	No
aci consulting	Steve Paulson	Environmental consultant	\$39.39	Overhead 198% Profit 15%	\$64,824.76 began March 5, 2004	No
Cobb, Fendley & Associates, Inc.	Allen Watson - Project Manager	Preliminary utility coordination services	\$87.89	Overhead 169.39% Profit 15%	\$410,833.96 began February 2, 2004	No
WHM Transportation, Engineering, Consultants, Inc.	Heidi Ross	Attend team meetings, respond to inquiries regarding existing traffic data, technical review of CDA proposals	\$52.88	Overhead 153.53% Profit 15%	\$37,001.11 began April 9, 2004	No
Survey and Mapping, Inc. (SAM)	Michael Hatcher	Surveying and mapping	\$65.00 - \$130.00	N/A	\$1,065,154.41 began February 2, 2004	No
Crespo Consulting Services	L. Steven Stecher	Review maps, visit the site, drainage issues, pollutant loading calculations, project management and meetings with HNTB and TCEQ	\$65.00 - \$135.00	N/A	\$94,516.00 began April 9, 2004	No

Note: Amounts billed and/or accrued by CTRMA, unless noted.

Sources: Central Texas Regional Mobility Authority and Texas Comptroller of Public Accounts.

Appendix 5 – Contractor Billings (page 7)

(Contractors in red are subcontractors of HNTB.)

Contractor	Primary Staff for CTRMA Project	Duties	Cost per Hour	Provisional Overhead Rate + Profit (added to the hourly cost)	CTRMA Billings (to TxDOT) to December 31, 2004	Contract Competitively Bid?
Hicks & Company	Jim Robertson	Attend and participate in team meetings, assist with identifying project environmental tasks	N/A	N/A	\$4,313.56 began February 2, 2004	No
Baselice & Associates, Inc.	N/A	Opinion research	N/A	N/A	\$18,000.00 began May 10, 2004	No
Helin, Donovan, Trubee & Wilkinson, LLP	Donald K. McPhee	Auditing services	N/A	N/A	\$8,060.00 began September 15, 2004	Yes
Arrowhead Film & Video	N/A	Aerial video of corridor	N/A	N/A	\$7,050.00	N/A
Dandy Idea	N/A	Graphic design	N/A	N/A	N/A	N/A
Trenholm Research	N/A	Focus group facilitation	N/A	N/A	\$13,190.00	N/A
Pecora & Bluxrud	N/A	Toll marketing firm procurement assistance	N/A	N/A	\$4,615.00	N/A
Vollmer & Associates	N/A	Traffic and revenue analysis	N/A	N/A	\$686,669.38 directly paid by TxDOT	N/A
Nossaman Guthner Knox Elliott LLP	N/A	Legal services	N/A	N/A	\$25,957.05 directly paid by TxDOT	N/A
Crossland Acquisition, Inc.	Jim Henry	Acquisition, title research and analysis, appraisal, appraisal review, relocation assistance and litigation support services	\$42.50 - \$100.00	N/A	Included in Sheets & Crossfield billings	No
TateAustin	Kerry Tate, John Langmore, Stacey Dukes-Rhone	Marketing plan and distribution of toll tags	N/A	N/A	N/A	Yes
Hill Country Constructors	N/A	Construction of US 183-A	N/A	N/A	N/A	Yes
Winstead Sechrest & Minick, P.C.	N/A	Counsel to UBS Financial Services	N/A	N/A	N/A	N/A

Note: Amounts billed and/or accrued by CTRMA, unless noted.

Sources: Central Texas Regional Mobility Authority and Texas Comptroller of Public Accounts.

Appendix 6 – E-mail Correspondence Concerning Dinner at Sullivan’s

Cassidy, C. Brian

Cassidy, C. Brian

From: Johanna Zmud
Sent: Monday, June 21, 2004 8:47 AM
To: Richard Ridings; Bob Bennett; Bob Tesch; Cassidy, C. Brian;
Henry H. Gilmore; Jim Mills;
; mstein@ctrma.org; Ray Sullivan;

Cc: Cecilia Martinez
Subject: RE: Reservations at Sullivan's

FW: Reservations at Sullivan's Richard, I will be there (if I have voice by then!).

-----Original Message-----

From: Richard Ridings [mailto:RRidings@hntb.com]
Sent: Sunday, June 20, 2004 10:51 PM
To: Bob Bennett; Bob Tesch; Cassidy, C. Brian;
Henry H. Gilmore; Jim Mills;
mstein@ctrma.org;

Ray Sullivan;
Cc: Cecilia Martinez
Subject: FW: Reservations at Sullivan's

Subject: RE: Reservations at Sullivan's

Cameron County Commissioners David Garza and Edna Tamayo, along with County Transportation Director Pete Sepulveda will be visiting on Wednesday to obtain information on how Travis and Williamson County developed the first Regional Mobility Authority, the CTRMA. We will be hosting a dinner at Sullivan's @ 300 Colorado Wednesday night June 23rd at 8:00 PM to provide each of you an opportunity to share your thoughts with the Commissioners. I apologize in advance for the late notice, but the meeting was only confirmed on Friday. Please let Cecilia or I know if you will be able to attend. THANKS! Richard.

Sullivan's @ 300 Colorado (495-6504)

Cecilia Martinez
(512) 691-2200

Appendix 7 – CTRMA Expenditures, through December 31, 2004 (page 1)

Capitalized Expenditures

Federal Highway Loan Application Fee	\$30,000.00
---------------------------------------------	--------------------

Administrative Services	
Owen Consulting	\$61,050.00
First Southwest Co.	\$94,116.63
Prime Strategies	\$18,420.40
Total Administrative Services	\$173,587.03

Consulting-Reimbursed Expenses (Prime Strategies and HNTB)	\$184.14
-------------------------------------------------------------------	-----------------

Environmental Fees (Hickory Pass, mitigation and TCEQ)	\$398,750.00
---------------------------------------------------------------	---------------------

Legal Fees	
Prime Strategies	\$65,396.87
Nossaman Guthner Knox Elliott LLP	\$25,957.05
Locke Liddell & Sapp LLP (other fees included in operating expenses)	\$816,492.25
Total Legal Fees	\$907,846.17

Traffic and Revenue Analysis - Vollmer & Associates	\$686,669.38
----------------------------------------------------------------	---------------------

General Engineering Consultant (GEC) - HNTB	\$7,271,080.39
----------------------------------------------------	-----------------------

Total Capitalized Expenditures	\$9,468,117.11
---------------------------------------	-----------------------

Subcontractors to HNTB	
Permitting	
ACI consulting (environmental)	\$64,824.76
Crespo consulting Services (environmental)	\$94,516.00
Hicks & Co. (environmental)	\$4,313.56
Smith, Robertson, Elliott & Glen (environmental legal)	\$47,232.90
Total Permitting	\$210,887.22

Public Involvement	
Adisa Public Relations	\$59,517.98
Baselice & Associates (survey)	\$18,000.00
Grier-Bankett	\$32,116.00
HB Media	\$259,707.40
Informative Efforts	\$59,068.25
Martin & Salinas Public Affairs (including Adelante Solutions)	\$120,027.75
Nancy Ledbetter & Associates	\$109,105.87
D. Ann Slayton Shiffler (writing)	\$5,000.00
Pink Consulting (meeting facilitation)	\$32,394.55
S.W. Hale Consulting LLC (meeting facilitation)	\$41,441.50
Trenholm Research (focus groups)	\$13,190.00
Total Public Involvement	\$749,569.30

Appendix 7 – CTRMA Expenditures, through December 31, 2004 (page 2)

Engineering	
Cobb Fendley & Associates, Inc.	\$410,833.96
HDR Engineering Inc.	\$1,350,153.98
Jose I. Guerra	\$26,220.00
S.D. Kallman (utility coordination)	\$80,999.30
WHM Transportation Engineering Consultants, Inc.	\$37,001.11
Total Engineering	\$1,905,208.35

Surveying and Right of Way	
Sheets & Crossfield (legal, right of way)	\$588,332.01
Arrowhead Film & Video (aerial video)	\$7,000.00
Survey and Mapping, Inc. (SAM)	\$1,065,154.41
Total Surveying and Right of Way	\$1,660,486.42

Miscellaneous Consultants	
Dennis Karus Consulting (bond insurance)	\$10,577.66
Pecora & Bluxrud (toll marketing consulting)	\$4,615.00
Total Miscellaneous Consultants	\$15,192.66

Total Subcontractors	\$4,541,343.95
Remainder for HNTB (overhead, salaries, etc.)	\$2,729,736.44
Total of HNTB Billings	\$7,271,080.39

Operating Expenditures

	6/30/03	6/30/04	12/31/04	Sub Total Operating
Accounting (including audit)	\$4,500.00	\$42,195.65	\$33,713.77	\$80,409.42
Contributions (to CAMPO)			\$4,500.00	\$4,500.00
Dues & Subscriptions		\$4,431.33	\$6,675.00	\$11,106.33
Salaries, payroll, wages and taxes		\$89,739.11	\$100,505.40	\$190,244.51
Lodging & Meals		\$1,675.20	\$3,637.54	\$5,312.74
Meeting Facilities & Expenses & Transcripts	\$12,521.57	\$8,913.60	\$5,741.73	\$27,176.90
Mileage reimbursements and parking		\$3,606.37	\$2,931.82	\$6,538.19
Printing (includes The Communicators and reimbursements other than printing)	\$1,853.17	\$8,568.10	\$301.82	\$10,723.09
Professional Development		\$780.00	\$2,415.00	\$3,195.00
Public Notices	\$5,226.69	\$773.60	\$1,999.96	\$8,000.25
Recruiting		\$5,924.17	\$2,175.00	\$8,099.17
Telephone		\$2,642.34	\$1,861.01	\$4,503.35
Travel		\$6,656.94	\$11,156.81	\$17,813.75
Consulting-Administrative Services (including Prime Strategies)	\$118,415.00	\$89,272.50	\$4,095.00	\$211,782.50
Consulting-Reimbursed Expenses	\$9,959.53	\$4,642.15	\$19.90	\$14,621.58
Legal (Including Locke Liddell & Sapp)	\$251,426.68	\$280,018.88	\$174,010.27	\$705,455.83
Other Expenses	\$1,054.55	\$2,844.99	\$5,024.69	\$8,924.23
Total Operating Expenditures	\$404,957.19	\$552,684.93	\$360,764.72	\$1,318,406.84

Total Capitalized and Operating Expenditures **\$10,786,523.95**

Appendix 8 – Expense Statement

Statement number: _____

Expense Statement

Employee information

Name MIKE HEILIGENSTEIN Department _____
 Employee ID _____ Manager _____
 Position _____

Pay period
 From _____
 To _____

Date	Account	Description	Hotel	Transport	Fuel	Meals	Phone	Entertain.	Misc.	TOTAL
1-12		MISC. HOTEL				22.81	5.95		7.00	35.76 0.0
1-12		AUSTIN AIRPORT PARK		54.18						54.18 0.0
1-15		BREAKFAST				4.50				4.50 0.0
1-15		CAB TO REST. + MBAL		7.00		25.00				32.00 0.0
1-13		CAFE FINA DINNER		6.00		25.00				31.00 0.0
1-15		ROSINA'S DINNER LUNCH				15.00				15.00 0.0
1-15		CIBOS				12.00				12.00 0.0
1-14		BULLWACKERS RAST				25.00				25.00 0.0
1-12		RAPPAS DINNER				20.00				20.00 0.0
1-12		LENNY'S GRILLE AUSTIN AIRPORT				8.00				8.00 0.0
1-12		TAXI TO/FROM MONT. AVA	0.00	31.20	0.00	57.90	0.00	0.00	7.00	96.10 0.0
Subtotal Advances TOTAL										98.13 157.31 5.95 7.00 277.49 0.0 268.4

Approved by _____ **Notes** _____

Paid

Date _____ Check # _____

Project # _____

Account # 5340-157.31 5455 5.95
5460-44.00 5405 7.00
2390-54.18

Approved For Payment _____

For Office Use Only

Note: There is additional documentation for this expense statement.

Appendix 9 – Memorandum from Don Martin (page 1)

MEMORANDUM

To: Bob Daigh, Mike Heiligenstein
CC: Pete Winstead, Pete Peters, Trey Salinas, Mike Weaver, Brian Cassidy, Stacy Dukes-Rhonc, Paul Saldana

From: Don Martin

Re: Organization of an Advocacy Public Information Effort

Date: April 15, 2004

From my observations this week, I think now is the appropriate time to move into “campaign mode” with the toll efforts. We need a more campaign-like strategy that recognizes that we need to take action now and focus on a limited amount of time (the next 60 days) on an urgent, pro-active, highly-energized basis. However, you have both made it clear that neither TxDOT or the CTRMA can be directly and actively involved in advocacy efforts due to funding and ethical constraints.

Therefore, it will be important to separate the “advocacy” efforts into a privately-funded campaign and keep that campaign distinct and wholly separate from the educational work of TxDOT and CTRMA. It is entirely appropriate that a private group take on the major advocacy effort and to oversee the larger “campaign” to support the regional program. I understand, however, the limits of what the CTRMA and TxDOT are permitted to do, and have designed a proposed program accordingly and in a way which maintains these boundaries.

There are excellent examples we can use from past campaigns – in particular the 1993 Bergstrom referendum. The City of Austin and Aviation Departments handled an extensive “educational” campaign to get out the facts, arrange speakers, and to help educate and meet with organizations. Meanwhile, an entirely separate and privately-financed citizens group took on the campaign, running the referendum as you would any other kind of voter campaign. The private campaign organized the overall effort making assignments to the city departments and others involved in the effort.

Similar efforts were undertaken separately for the Round Rock baseball stadium referendum.

Appendix 9 – Memorandum from Don Martin (page 2)

In the case of Bergstrom, a citizen's committee was spearheaded by Pete Winstead and Dan Matheson and I was the paid campaign manager. Total budget for the private campaign was \$198,000 -- all raised through private donations.

Here is what I recommend to begin immediately in regard to how to organize and implement the kind of campaign that is needed:

Establish A Private Citizens Group --

Using Pete Winstead as Chair, we should quickly pull together a "citizens committee" that will essentially raise the money and run the "campaign effort." We will solicit additional key community leaders to be part of this committee.

Fundraising would be handled through Pete Winstead sending out an immediate email to key potential contributors, and then using key individuals (Weaver, Salinas, Winstead, and Peters) to make strategic phone calls to get funding underway.

Collection of funds, accounting, budgeting and disbursement and such would be handled by Pete Winstead's office to have one single point of responsibility for the funds. Legal issues relating to the private campaign would fall under Pete's purview while Brian Cassidy will oversee the legal issues of the CTRMA's public education effort.

Goal: \$250,000. That would allow the campaign to afford extensive mailings, advertising, perhaps TV and radio, and professional oversight. I see no reason to do any polling at this time, but polling could be included if needed.

Don Martin and an assistant (**Dallas Kelley**) would be separately hired (individually) by the citizens group to be the campaign manager, to be paid solely out of the privately-raised funds. A clear delineation of campaign efforts (privately funded) versus public efforts and education (TxDOT and CTRMA funded) needs to be made and adhered to. Martin & Salinas Public Affairs, Inc. likely will continue to do sub-consulting work for the CTRMA if appropriate and with approval, but this will no longer include myself or Dallas Kelley.

All campaign-related materials (such as advocacy mailers, fact sheets, radio or tv production if any, yard signs and other such materials) would be handled ONLY by the campaign group.

Appendix 9 – Memorandum from Don Martin (page 3)

The CTRMA Efforts –

These efforts would be focused on the necessary public education campaign, but stopping well short of advocacy. Martin & Salinas Public Affairs, Inc. and/or Adelante Solutions would remain as a hired sub-consultant to HNTB for the CTRMA for a significant portion of these functions (but Don Martin and Dallas Kelley would not be part of this HNTB contract). My preliminary thoughts on the CTRMA organization are as follows:

Trey Salinas would work on the governmental and political resolutions and issues (including the care and handling of the eventual CAMPO vote)

Paul Saldana and Stacy Dukes-Rhone would work on Austin-area neighborhoods, organizations and associations. In addition they would handle minority outreach, minority media and minority community issues.

Howard Falkenburg and Pete Peters would work on basic fact sheets, handouts and a series of newspaper ads for the factual education efforts.

Howard Falkenburg would need to take over the media efforts from me relating to the public education, leaving me open to oversee the campaign efforts and the separate campaign media relations.

TxDOT Efforts --

These efforts are parallel with but separate from CTRMA. In general the TxDOT staff and consultants (**TxDOT PIO, Daigh, Peters, Falkenberg**) would take on development of basic fact sheets regarding the toll proposal, funding, toll tags, the electronics, and the operations and design of the individual roadway segments, etc. TxDOT PIO staff can also be brought in to assist with the overall toll proposal educational efforts.

Communications

I will attempt to meet periodically with each of you to let you know what is planned in the advocacy area. Advocacy campaign activities, however, would be overseen by me and funded solely through private fundraising for the advocacy effort, similar to the way it was handled in the Bergstrom campaign.

An example of how activities would be divided (using the various materials that need to be produced as an example):

Appendix 9 – Memorandum from Don Martin (page 4)

- Sunday ads -- public education (Howard Falkenberg, Pete Peters)
- Development of Toll Plan fact sheet(s) and Q&A for use by all groups and as a leave-behind in meetings. This includes basic materials on the toll plan, plus individual fact sheets as needed for the elements of the plan (roadway segments, electronic tolling, etc) (Pete Peters)
- Development of all mailers, newspaper inserts, signs and campaign materials however would be handled by **Don Martin**...separately apart from the CTRMA sub-contract with Martin & Salinas Public Affairs, Inc. Work on behalf of the CTRMA will now involve Trey Salinas and Paul Saldana instead of me.

Again, we need to be absolutely sure that all efforts recognize the constraints of what the CTRMA and TxDOT are legally and ethically permitted to do. To the extent some of the individual mentioned above are working temporarily on both efforts (the advocacy and the public information activities) it needs to be made very clear that separate billing records are to be maintained and that no charges are made to the CTRMA or TxDOT for advocacy work.

Don Martin

Endnotes

- 1 Texas S.B. 342, 77th Leg. Reg. Sess. (2001).
- 2 Texas Department of Transportation, "Texas Transportation Commission Minute Order No. 109052," Austin, Texas, October 31, 2002.
- 3 Tex. Transp. Code Chapter 370.
- 4 Tex. Transp. Code §370.035.
- 5 Tex. Transp. Code §370.163.
- 6 43 Tex. Admin. Code Part 1, Chapter 26, Subchapter E, Rule Section 26.41 (a)(1).
- 7 Tex. Transp. Code Ann. sec. 370.
- 8 Texas Department of Transportation, "Welcome to the Texas Turnpike Authority Division," <http://www.dot.state.tx.us/ta/>. (Last visited November 8, 2004.)
- 9 Tex. Transp. Code Ann. §222.103.
- 10 Texas Department of Transportation, *Mobility Challenges and Solutions: 79th Texas Legislative Session* (Austin, Texas, December 16, 2004), p. 6.
- 11 Texas Department of Transportation, "Texas Transportation Commission Minute Order No. 109227," Austin, Texas, April 24, 2003.
- 12 Interview with Dan Wegmiller, senior vice president, First Southwest Company, Austin, Texas, December 7, 2004.
- 13 Texas Department of Transportation and Central Texas Regional Mobility Authority, *Financial Assistance Agreement* (Austin, Texas, May 30, 2003), p. 2.
- 14 Central Texas Regional Mobility Authority, Resolution No. 05-07, "Draft Financial Assistance Agreement 183-A Turnpike Project" (Round Rock, Texas, January 26, 2005), p. 2.
- 15 Gary Scharrer, "No Toll Roads Could Cost City Cash," *El Paso Times* (May 13, 2004).
- 16 Capital Area Metropolitan Planning Organization Transportation Policy board meeting transcript, Austin, Texas, January 24, 2005.
- 17 Tex. Transp. Code Ann. §201.943.
- 18 Williamson County Commissioners Court and Central Texas Regional Mobility Authority, *Interlocal Agreement* (Round Rock, Texas, March 1, 2003), p. 1.
- 19 Interview with Julie Kiley, first assistant county auditor, Williamson County Auditor's Office, Round Rock, Texas, December 2, 2004.
- 20 Williamson County Commissioners Court and Central Texas Regional Mobility Authority, *Interlocal Agreement* (Round Rock, Texas, September 30, 2003.), p. 1.
- 21 Interview with Julie Kiley, first assistant county auditor, Williamson County Auditor's Office, Round Rock, Texas, January 5, 2005.
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- 23 Travis County Commissioners Court and Central Texas Regional Mobility Authority, *Interlocal Agreement* (Austin, Texas, October 16, 2003), p. 2.
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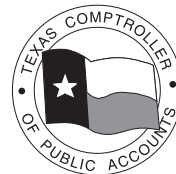
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Texas Comptroller of Public Accounts
publication #96-1117, March 2005.