

Maintenance Memorandum

Date: November 16, 1998

Subject: **Maintenance Audit Review Process for Contract Agencies**

INTRODUCTION:

In accordance with Department Guidance Document # 10044, the Maintenance Division and the Regions must respond to and resolve audit reports issued by the Office of Commission Audits (OCA) concerning contractual agreements. The purpose of this memo is to review the current process to ensure timely response and resolution of future audit reports regarding contractual agreements.

The current process is outlined below to aide the Regions in processing audit reports issued by the OCA on contractual agreements. The attached guidance document # 10044 is provided for further clarification on the entire process. This document specifies who is responsible for each step in the procedure and the actions required by that party. Also included is a time line graph for processing OCA reports.

THE PROCESS:

The sequence of events leading to the resolution of audit reports are as follows:

- 1.) Office of Commission Audits conducts an audit/review of the reported costs by a contract agency providing maintenance services under the State Highway Maintenance Contract.
- 2.) A written audit report is submitted to the Bureau of Highways Technical Services/Chief Engineer-Deputy Director. A copy of the report is sent to the Maintenance Division Contract Administrator for processing in accordance with Identifier 10044 (attached).
- 3.) The Bureau must submit a concurrence memorandum or a nonconcurrence notice of appeal within 90 days of the date the auditor's report is issued.
- 4.) The Division submits a memorandum (Exhibit I) to the appropriate region representative for their review and ask that they forward a copy of the audit and a signed Notice of Audit Results letter (Exhibit II) to the appropriate contract agency for their review and action. In order to meet the required 90 day time line for processing, the Division will submit their memorandum to the region within 10 days from the Bureau's date of receipt. After receiving the region's response, the division will process either a concurrence or appeal to DART within 10 days. This will allow the region 10 days (7 working days) to process the Notice of Audit Results letter to the auditing entity and submit a written reply to the division. According to procedures the auditing entity has 60 calendar days to process a response back to the region.

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5.) All remaining steps are as outlined in the attached Guidance Document #10044.

If you have any questions or require further explanation, please feel free to contact me at (517) 322-3333 or Andre' D. Clover at (517) 322-3391.

Calvin Roberts
Engineer of Maintenance

Attachments

“Exhibit I - Office Memorandum”; 1 pg.

“Exhibit II - Notice of Audit Results”; 1 pg.

“Guidance Document 10044” September 3, 1998; 4 pgs. and Attachments A, B and C

Maintenance Memorandum

OFFICE MEMORANDUM
Exhibit I



DATE: XXXXXXXX XX, 1998

TO: John Doe
Title
XXXXXXX Region

FROM: Andre' D. Clover
Operational Services Section
Maintenance Division

SUBJECT: State Highway Maintenance Contract Audit Report:
#199X - XXX (XXXXXX County) Contract #XX - XXXX
Issued Date: XXX XX, 199X

Please find enclosed the “**Notice of Audit Results**” form letter and two copies of the above noted **Audit Report**. The Bureau of Highways- Technical Services is required to process a concurrence memorandum or notice of appeal within 90 days of the date the auditor’s report is issued. In an effort to expedite the process, we have included your return address on the form letter; we request that you sign the enclosed form letter and submit it along with a copy of the audit report to the audited entity. Please retain the other copy of the report for your review and file.

Please submit to me the written response you receive from the audited entity; indicating their concurrence or non-concurrence and your signed copy of the notice letter by XXX XX, 199X. A response of non-concurrence will require the submittal of full documentation attesting to and supporting the appropriateness of charges for cost reimbursement.

As indicated in the notice letter, if the audited entity does not respond within the 60 days allowed; we will proceed on the premise that the contract agency concur with the audit and will expedite the audit report’s closure. If such is the case, please forward a written response to that fact, along with your signed copy of the notice letter to me by XXX XX, 199X.

If you have any questions, please contact me at (517) 322-3391. Thank you for your assistance.

Operational Services- Manager

Attachments
cc: C. Roberts
C. Cerqueira

Maintenance Memorandum

DEPARTMENT LETTERHEAD

EXHIBIT II

Date

Mr. John Doe
Title
Local Agency Name
P.O. Box XYZ
City Name, MI Zip Code #

NOTICE OF AUDIT RESULTS

Audit Report No.
Agreement No.

Dear Mr. Doe:

Enclosed is a copy of the subject auditor's report, prepared by the Office of Commission Audits. We ask that you review the audit findings and respond in writing whether or not you concur with the report within 60 days of receipt of our letter.

In accordance with the contract, if you do not respond within 60 days, we will assume you concur with the audit and will proceed with closure. Please be advised that concurrence will authorize the Michigan Department of Transportation to disallow any items labeled "questioned," "disallowed," or "no opinion expressed."


If you disagree with the results of the audit, please prepare a written response clearly explaining the nature and basis for any disagreement and forward it to me at the address listed above.

If you have any questions, please contact me at (xyz) xxx-xxxx.

Sincerely,

Region Contact Name - Title

Enclosure

	<h2 style="margin: 0;">GUIDANCE DOCUMENT</h2>	IDENTIFIER	EFFECTIVE DATE
		10044	09-03-98
		SUPERSEDES	DATED
		DR 1300.04	03-12-96
RESPONSIBLE ORGANIZATION: Office of Commission Audits			
SUBJECT: Processing Audit Requests and Auditor’s Reports on Contractual Agreements			

PURPOSE:

The purpose of this directive is to define the procedure for requesting audits and processing auditor’s reports issued by the Office of Commission Audits(OCA) on contractual agreements.

INFORMATION:

The Disputed Audits Review Team (DART) is comprised of the Deputy Director for the Bureau of Finance and Administration, as Chairperson, the Commission Auditor, the Deputy Director for the bureau involved, and the Assistant Attorney General In Charge of the Transportation Division, as legal advisor.

The responsible bureau must submit a concurrence memorandum or notice of appeal within 90 days of the date the auditor’s report is issued.

The department shall make its decision with regard to any Notice of Audit Results and respond within one hundred twenty (120) days of the date of the Notice of Audit Results.

An illustration of the above time frames is included in Attachment A.

Any deviation from this procedure must be preapproved, in writing, by DART and incorporated into the original agreement before execution. The terms of the agreement must then be followed in lieu of the procedure set forth herein.

Contracts executed prior to the inclusion of the 120-day decision requirement language should be closed out following this directive unless specific requirements in the contract outline an alternate procedure.

The Contract Administration Tracking System (CATS) should be used by the contract administrators to document the audit concurrence process. For detailed instructions, please refer to the CATS user manual. The responsible bureaus still need to inform Financial Operations Division (FOD) of their audit requests and concurrence on project related audits. This notification can be done on paper or by E-mail.

DEFINITIONS:

Audited Entity - The party contracting with the department.

Disallowed Costs - Costs listed as adjustments in the auditor’s report. These adjustments result from noncompliance with the terms of the agreement/applicable regulations, which indicate that noncompliance will result in the costs being ineligible.

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No Opinion Expressed - A condition in which the records provided were not sufficient to enable the auditor to express an opinion or be able to apply other auditing procedures which would satisfy the auditor as to the eligibility of the costs reported under the terms of the contract. Costs in the auditor's report which have no opinion expressed will be disallowed if the audited entity and the responsible bureau concur with the auditor's report.

Project Related - Anything with a job number.

Questioned Costs - Costs for which the terms of the agreement/applicable regulations do not indicate that noncompliance will result in ineligible costs. Typically, questioned costs result from failure to obtain required approvals. Costs in the auditor's report which are questioned will be disallowed if the audited entity and the responsible bureau concur with the auditor's report.

PROCEDURE:

<u>Responsibility</u>	<u>Action</u>
Responsible Bureau	1. Requests the OCA to perform an audit of the completed contract(s)/project(s). Notification requirements are detailed in Attachment C.
OCA	2. If OCA determines that an audit is not necessary, OCA notifies the responsible bureau, with a copy to the Bureau of Finance and Administration - Project Accounting Unit(PAU) if project related. An auditor's report will not be issued. No audit concurrence is required.
	3. Conducts the audit/review in accordance with generally accepted government auditing standards and the terms and conditions of the agreement and discusses the results with the audited entity prior to the issuance of the auditor's report.
	4. If a draft auditor's report is prepared, submits copy to the responsible bureau for its comments and ten days later submits draft report to the audited entity, if applicable, for close-out purposes.
	5. Sends the final auditor's report to the responsible bureau, with a copy to the PAU if project related. If appropriate, a copy may also be sent to the Director and Transportation Commission.
Responsible Bureau	6. Submits a Notice of Audit Results (Attachment B) and a copy of the final auditor's report to the audited entity. The Notice of Audit Results will inform the audited entity that within sixty (60) days of the date of the Notice of Audit Results, they must: <ul style="list-style-type: none"> a. respond in writing to the responsible bureau whether or not they concur with the auditor's report;

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- b. clearly explain the nature and basis for any disagreement as to a disallowed, no opinion expressed, or questioned item of expense;
- c. be advised that, in accordance with the contract, failure to submit a response within the sixty-(60)day period constitutes agreement with any disallowance of an item of expense and authorizes the department to finally disallow any items of no opinion expressed or questioned costs.

Note: The audited entity should be advised that costs in the auditor's report which are either questioned or have no opinion expressed will be disallowed if they concur with the auditor's report.

- 7. If the bureau and the audited entity concur with the auditor's report, the bureau must complete the following appropriate action within 90 days of the date the auditor's report was issued by OCA.

Local Agency Projects

The responsible bureau needs to complete the notification requirements outlined in Attachment C. Final project accounting will be completed by the PAU.

All Other Contracts/Projects

- A. If there is an amount due to the audited entity, the responsible bureau initiates the payment process and completes the notification requirements outlined in Attachment C.
 - B. If there is an amount due to the department, the responsible bureau sends the concurrence form and any required supporting documentation to the Bureau of Finance and Administration - Accounts Receivable Unit (ARU). The ARU will establish a receivable, add the invoice number to the concurrence form and return the form to the responsible bureau. The responsible bureau completes the notification requirements outlined in Attachment C.
 - C. If there is no outstanding amount, the responsible bureau needs to complete the notification requirements outlined in Attachment C.
- 8. If the bureau and/or the audited entity do not concur with the auditor's report, the bureau will discuss the audit findings with OCA.
 - a. If the bureau and the audited entity reconsider their position and accept the auditor's report, the bureau should proceed with the steps outlined in 7.

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b. If any of the audit recommendations are still not accepted by the bureau and/or the audited entity; within 90 days of the date the auditor's report was issued, the bureau sends the chairperson of DART a written explanation of the position taken on the disputed item(s), including monetary adjustments by the OCA and the bureau, . Copies of the Notice of Audit Results, the auditor's report, and relevant contract provisions, statutes, federal approvals, et cetera, as may be necessary to understand and resolve the dispute should be included. A copy of the transmittal memo will also be submitted to FOD, if project related, and the audited entity.

DART

9. Within 120 days of the date of the Notice of Audit Results and receipt of the materials described in 8.b., DART convenes and decides the appropriate action to take to resolve the issue . Such action may require the bureau to:
- a. request specific legal advice from the Attorney General;
 - b. request, through the Director, that the Attorney General seek authority through the Court of Claims for payments;
 - c. complete other appropriate action.

If DART cannot reach a consensus, DART will forward a report to the Director, which may include a recommendation that the Director decide between competing positions.

If DART identifies an apparent practice, contract provision or other matter which should be reviewed or changed, it may file an appropriate recommendation with the bureau(s) involved and/or the Director.

10. DART sends a decision memo clearly indicating the reason for the decision to the Director, with copies to the deputy director of the responsible bureau, OCA, Office of the Attorney General - Transportation Division, and FOD, if project related.

Responsible Bureau

11. Completes the appropriate action outlined in 7. Also submits department's final position on appeal to the audited entity.
12. Complete the notification requirements for DART decision concurrences as detailed in Attachment C.

Commission Auditor: _____

Date: _____

Time Line for Processing Office of Commission Audits (OCA) Reports on Contractual Agreements

0 Days			90 Days
OCA issues auditor's report to responsible bureau.			Responsible Bureau completes concurrence notification requirements or written appeal to DART.
	0 Days	60 Days	120 Days
Notice of audit results sent to audited entity by responsible bureau.	Audited entity response.	DART Decision.	

Date

Audited Entity

Street

City, State Zip

NOTICE OF AUDIT RESULTS

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If you do not respond within the 60 days; in accordance with the contract, we will assume you concur with the audit and will proceed with closure. Please be advised that concurrence will authorize the Michigan Department of Transportation to disallow any items labeled "questioned," "disallowed," or "no opinion expressed."

If you disagree with the results of the audit, please prepare a written response clearly explaining the nature and basis for any disagreement and forward it to me at the address listed above.

If you have any questions, please contact me at (phone number).

Sincerely,

Signature

Enclosure

Notification Requirements

If contract is:	To request an audit:	To concur with an auditor's report or DART decision:
on CATS - no job nos.	enter request on CATS	enter concurrence and payment or invoice information on CATS
on CATS with job nos.	enter request on CATS and e-mail notification memo to Financial Operations Division, Project Acct.	enter data on CATS and e-mail notification memo to Financial Operations Division, Project Accounting.
not on CATS - no job nos.	e-mail audit request memo to Office of Commission Audits only	e-mail notification memo to Office of Commission Audits only
not on CATS with job nos.	e-mail audit request memo to Office of Commission Audits and Financial Operations Division, Project Accounting	e-mail notification memo to Office of Commission Audits and Financial Operations Division, Project Accounting

Note:

The notification memo, Form 1380 - Audit Request and Concurrence, is distributed through the Contracts Network. Concurrences for auditor's reports and DART decisions should contain payment or invoice information when applicable.