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CPA, CIA, CISA

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Corrie E. Stokes  
CIA, CGAP

**Audit Report**

**Performance Audit of the  
Construction Advisory Committee**

**February 22, 2011**

Office of the City Auditor  
Austin, Texas

### **Audit Team**

Kathie Harrison, Auditor-In-Charge, CGAP, CFE, CICA  
Naomi Marmell, CGAP, CICA

### **Assistant City Auditor**

Rachel Snell, CIA, CFE, CICA

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# City of Austin

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## Office of the City Auditor

301 W. 2<sup>nd</sup> Street, Suite 2130  
Austin, Texas 78767-8808  
(512) 974-2805, Fax: (512) 974-2078  
email: [oca\\_auditor@ci.austin.tx.us](mailto:oca_auditor@ci.austin.tx.us)  
website: <http://www.ci.austin.tx.us/auditor>

Date: February 22, 2011

To: Mayor and Council

From: Kenneth J. Mory, City Auditor

Subject: Boards & Commissions Audit: Construction Advisory Committee

I am pleased to present this audit report on the Construction Advisory Committee (CAC). This audit is part of our office's ongoing review of the Boards and Commissions as required by Section 2-1-8 of the City Code.

In general, the CAC is in compliance with City Code and its bylaws, and City staff provides the support required by the City Code. However, we determined that there are several opportunities to improve the CAC's effectiveness and efficiency in order to increase value-added service to the City Council. These improvement opportunities include:

- enhancing CAC communication with City Council and City staff;
- adhering to the CAC mission and clarifying member roles and responsibilities;
- evaluating the department assigned to provide staff support to the CAC; and
- supervising staff liaison outputs.

We appreciate the cooperation and assistance we received from Construction Advisory Committee, the Public Works Department, the Contract and Land Management Department, the Office of the City Clerk, and the Law Department during this audit.

cc: City Manager  
Assistant City Managers  
City Clerk  
Public Works Department Director  
Chairman of the Construction Advisory Committee  
Public Information Officer



## **COUNCIL SUMMARY**

According to City Code, the Construction Advisory Committee (CAC) is an advisory committee that monitors enforcement of prevailing wage scales and job classifications; advises the City Council and the City Manager regarding City construction programs; and reviews the implementation laws and regulations relating to construction matters.

The audit objectives were to evaluate the CAC risks identified during the Year 2 Boards and Commissions Risk Assessment, determine compliance with City Code and CAC bylaws, and assess support services provided by City staff. Audit work was performed for the period between November 2009 and October 2010.

Our findings were as follows:

Finding 1: Communication between CAC members, City Council, and City Staff should be improved, and related CAC roles and responsibilities should be clarified, in order to increase CAC effectiveness and improve CAC and staff relations.

Finding 2: City staff provides support to the CAC as required by the City Code, but City liaisons should attend required training and supervisors should review staff liaison outputs.





## **ACTION SUMMARY BOARDS & COMMISSIONS AUDIT: Construction Advisory Committee**



<b>Recommendation Text</b>	<b>Management Concurrence</b>	<b>Proposed Implementation Date</b>
1. The CAC Chair should seek guidance from City Council regarding how to communicate information or recommendations from the CAC to Council.	Concur	February 2011
2. The CAC Chair, in coordination with the City Council and Executive Liaison, should ensure the committee adheres to its mission.	Concur	February 2011
3. The City Manager should evaluate CAC staff support and ensure the appropriate City department is assigned the responsibility of providing support, as well as consider whether changes to the City Code are needed with regard to the CAC's mission.	Concur	April 2011
4. The Director of Public Works should ensure executive liaisons attend and complete the required OCC training and should ensure supervisory review of staff liaison outputs related to the CAC.	Concur	September 2011





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## **BACKGROUND**

The Construction Advisory Committee (CAC) is a seven-member advisory committee, appointed by City Council and governed by the City of Austin Code of Ordinances (Ord 20071129-011). The role of the CAC is to monitor enforcement of prevailing wage scales and job classifications; advise City Council and City Manager regarding City construction programs; and review the implementation of laws and regulations relating to construction matters. Administrative and support services for the CAC are provided by the Public Works Department staff.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

### **Objectives:**

Our audit objectives were to:

- determine the impact of risks identified through our Boards and Commissions Risk Assessment conducted in FY 2010;
- determine whether the CAC is operating in compliance with its bylaws and the City of Austin Code of Ordinances; and
- assess whether City staff provides the support services required by the CAC in a timely manner.

### **Scope:**

The audit focused on the period from November 1, 2009 – October 31, 2010.

### **Methodology:**

To accomplish our audit objectives, we performed the following steps:

- evaluated information obtained from interviews and documentation received from relevant stakeholders including CAC board members (except for one), City staff, and Council Aides
- assessed compliance of CAC with City Code, CAC bylaws, and other relevant documents
- analyzed CAC's FY 2009 annual review and FY 2010 work plans.
- reconciled CAC meeting agendas and meeting minutes for FY 2010 and the first month of FY 2011
- observed CAC meetings and compared FY10 audio recordings to meeting minutes

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



## AUDIT RESULTS

The Construction Advisory Committee (CAC) is in general compliance with City Code and its bylaws; however, there are opportunities to improve the CAC's effectiveness and efficiency.

### **Finding 1: Communication between the CAC members, City Council, and City staff should be improved, and related roles and responsibilities should be clarified, in order to increase CAC effectiveness and improve CAC and staff relations.**

Ineffective communication between CAC and the City Council, strained relations between the CAC and City staff, differences of opinion among CAC members, and unclear roles and responsibilities, impedes the CAC's ability to conduct business, reduces its effectiveness as an advisory board, and limits value-added input to City Council.

#### **Inconsistent communications amongst CAC members, City Council, and City Staff:**

The Office of the City Clerk (OCC) training material states that advisory boards do not direct City staff, but rather discuss citizen concerns, provide feedback, and make recommendations to City Council. City Code Section 2-1-128 states that the CAC may include representatives from the labor and construction industries, and its mission is to advise the City Council and City Manager on issues related to municipal construction projects. Until 2007, the code also required one independent appointment (not from the labor or construction industry).

CAC members and City staff stated that there is no consensus amongst CAC members and City staff on how to communicate CAC recommendations and other outputs to the City Council. Between November 2009 and October 2010, City Council aides stated that some CAC members communicated directly with City Council members regarding particular issues. The CAC, as a body, also sent memos to the City Council regarding two issues (prevailing wage enforcement and rest breaks). Separate from those communications with Council, CAC members directed staff, without the City Council's participation, to perform assignments such as conducting benchmarking studies, modifying contractor selection scoring criteria, and making policy recommendations on behalf of the CAC to City Council. Further, some City staff reported fear of attending CAC meetings due to the unprofessional remarks made by committee members to City staff during those meetings, straining CAC and City staff relations.

In addition, both CAC members and staff reported a built-in difference of opinion between union and non-union members. City staff and some CAC members reported that certain members were deliberately absent to prevent votes on issues they thought they would lose. For example, three of 15 meetings (20%) were cancelled due to lack of quorum, and as a result of attendance issues, the OCC sent notifications to three members for missing 33% or more meetings. One member received a waiver due to the illness and

recently, one member was removed by the City Council. One action remains pending at the time of this report.

Although it was self-reported that CAC members completed the required training, the OCC training system does not ensure members actually participate in the training. For example, members can start the training on their computers and obtain a training code, which is submitted as evidence of training completion; however there is no way to monitor whether the member was actually seated at their computer and viewing the training contents. In addition, OCC training does not include guidance on how to communicate with City Council or the City Manager.

### **CAC's lack of adherence to mandated mission:**

The CAC does not always follow the mission as defined in City Code and may discuss items covered by other Council boards. Specifically, the City Code states the CAC advises the City Council on such issues as:

- enforcement of prevailing wage scales and job classifications on municipal construction contracts;
- maintenance and construction work that should be accomplished by contract through competitive bidding processes;
- implementation of relevant laws and regulations relating to the award of construction contracts and the purchase or rental of construction equipment materials and services; and
- construction matters affecting the quality, cost, and improvement of City construction programs.

However, CAC members reported lack of familiarity and consensus regarding its mission, as stated in City Code. Between November 2009 and October 2010, some CAC meetings considered issues outside of its mission, including minority participation in small business, as well as safety and wage compliance on private construction sites. These issues may be covered within the mission of the MBE/WBE<sup>1</sup> and Small Business Enterprise Procurement Program Advisory Committee. Furthermore, some CAC members continue to pursue charging fees to contractors who violate wage poster issues, missing employee certification forms, and missing wage payroll, despite guidance from City Attorney stating that the City cannot legally impose such fees. However, none of the meetings under review included deliberation of maintenance and construction work, laws relating to awarding of construction contracts, or purchase of rental of equipment, which are areas covered within the current CAC mission.

It appears that some CAC members addressed areas of individual interest during Commission meetings rather than addressing all issues within its stated mission. According to the Public Works Director, the CAC could add more value to the City if it considered all items within its mission, not just prevailing wage or issues outside its mission, and this Director is willing to help the CAC stay within its mission. Currently, attention to areas outside the CAC mission results in less efficient operation of the CAC,

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<sup>1</sup> Minority-Owned Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE).

increases time spent by CAC members and staff at meetings, and limits the potential for value-added input from the CAC to the City Council.

**Finding 2: City staff provides support to the CAC as required by the City Code, but City liaisons should attend required training and supervisors should review staff liaison outputs.**

City Code<sup>2</sup> requires staff liaisons to compile agendas and track attendance information, including residency and conflict of interest disclosures for each CAC meeting. City Code also requires the CAC to keep the meeting minutes and file them with the liaison department. However, the CAC Bylaws Article 7 Section K and OCC training, states that, the staff liaison prepares the minutes.

We found that staff liaisons prepared the meeting minutes and staff provided the support described above. However, in our review of meeting minutes, we determined that some agenda items were not always documented accurately. During the scope period, we analyzed 15 meeting agendas and minutes and listened to audio recordings for 4 out of 15 meetings. We determined that several meeting agendas and minutes contained errors, including:

- inaccurate adjournment times (3 out of 4);
- incomplete voting information (1 out of 4);
- incomplete documentation of discussion items (2 out of 4);
- lack of citizen communication (1 out of 15 agendas) (according to staff, citizens were turned away due to the incomplete agenda); and
- insufficient documentation of conflicts of interest and residency information (8 out of 15).

Some inaccuracies in meeting minutes, such as incomplete documentation of discussion items, may result from a lack of understanding of the topics being discussed by the CAC. The majority of the CAC agenda pertains to items under the purview of the Contract and Land Management Department (CLMD), but the support department assigned by the City Manager to support the CAC is Public Works. Staff reported that they often experience confusion related to subjects outside the purview of Public Works. (Note: In 2008, an organizational change created CLMD, a department independent from Public Works, which resulted in certain expertise moving from Public Works to CLMD.) We also did not find evidence of supervisory review of CAC meeting materials for accuracy and completeness. An inaccurate and incomplete agenda posting or record of a meeting potentially limits government transparency, creates the risk of retaining incorrect information, and could result in violations of open meetings requirements.

In addition, the OCC developed required training for executive and staff liaisons, which provides information on how to perform their roles and responsibilities. We noted that not all liaisons to the CAC have attended required training from the OCC. The CAC is

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<sup>2</sup> Sections 2-1-21, 2-1-23, 2-1-24, 2-1-26, and 2-1-43

supported by one staff liaison and one executive liaison. Between November 2009 and October 2010, there were two staff liaisons and three executive liaisons assigned to the CAC. We found that both staff liaisons completed the required OCC training; however, two of three executive liaisons did not complete the OCC training.

**Other Observations:**

- During this audit we found that currently there is no process or guidance in place for communicating information between the CAC and City Council offices. Based on other information provided to our office during this audit, this may be a concern for other Boards and Commissions in addition to the CAC.
- Our audit results indicate that currently there is limited value coming from the CAC. Further, we observed that several City staff including two executive level employees regularly attend the committee meetings and devote numerous hours to supporting the CAC monthly. During this audit, the City Council formed a task force to examine the expenses associated with maintaining its boards and commissions; we support this decision and did not make a recommendation related to this issue.

**Recommendations:**

The recommendations listed below are a result of our audit effort and subject to the limitation of our scope of work. We believe that these recommendations provide reasonable approaches to help resolve the issues identified. We also believe that operational management is in a unique position to best understand their operations and may be able to identify more efficient and effective approaches and we encourage them to do so when providing their response to our recommendations. As such, we strongly recommend the following:

01. The CAC Chair should seek guidance from City Council regarding how to communicate information or recommendations from the CAC to Council.
02. The CAC Chair, in coordination with the Executive Liaison, should ensure the committee adheres to its mission.
03. The City Manager should evaluate CAC staff support and ensure the appropriate City department is assigned the responsibility of providing support, as well as consider whether changes to the City Code are needed with regard to the CAC's mission.
04. The Director of Public Works should ensure executive liaisons attend and complete the required OCC training and should ensure supervisory review of staff liaison outputs related to the CAC.

For complete text of management response see Appendix A.



**APPENDIX A**

**MANAGEMENT RESPONSE**



## MEMORANDUM

**TO:** KEN MORY, CITY AUDITOR

**FROM:** HOWARD LAZARUS, DIRECTOR, PUBLIC WORKS DEPARTMENT

**SUBJECT:** MANAGEMENT RESPONSE TO PERFORMANCE AUDIT OF THE CONSTRUCTION ADVISORY COMMITTEE

**DATE:** FEBRUARY 11, 2011

**CC:** R GOODE, R GARZA, R TRUELOVE, K JUAREZ, S GARNETT

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I am forwarding this memorandum in response to the Draft Performance Audit of the Construction Advisory Committee (CAC). Responses to specific recommendations are provided in the table below. Please do not hesitate to contact me at 974-7190 if you have any questions or if you need additional information.

No.	Recommendation	Management Concurrence	Proposed Implementation Date
1	The CAC Chair should seek guidance from City Council regarding how to communicate information or recommendations from the CAC to Council.	Concur	Input required from CAC Chair.
2	The CAC Chair, in coordination the City Council and Executive Liaison, should ensure the committee adheres to its mission.	Concur	PWD Director met with CAC Chair in January to discuss roles and responsibilities and CAC mission elements. This will be an ongoing communications effort.

No.	Recommendation	Management Concurrence	Proposed Implementation Date
3	The City Manager should evaluate CAC staff support and ensure the appropriate City department is assigned the responsibility of providing support, as well as consider whether changes to the City Code are needed with regard to the CAC's mission.	Concur	The PWD Director will provide recommendations to the City Manager on the roles, responsibilities, and authorities involved in supporting the CAC by April 30 <sup>th</sup> , 2011.
4	The Director of Public Works should ensure executive liaisons attend and complete the required OCC training and should ensure supervisory review of staff liaison outputs related to the CAC.	Concur	The PWD Director will identify primary and alternative executive and support staff and ensure training is up-to-date. Task will be completed by September 30, 2011.
			The PWD Director will review all minutes of meetings and work products requested by the CAC prior to submittal to the CAC. This action has been implemented.

**ACTION PLAN**  
**Boards & Commissions audit:**  
**Construction Advisory Committee**

<b>Rec #</b>	<b>RECOMMENDATION TEXT</b>	<b>Concurrence</b>	<b>Proposed Strategies for Implementation</b>	<b>Status of Strategies</b>	<b>Responsible Person/ Phone Number</b>	<b>Proposed Implementation Date</b>
01	The CAC Chair should seek guidance from City Council regarding how to communicate information or recommendations from the CAC to Council.	Concur	In our last CAC January meeting, the Committee along with the Executive Liaison decided to implement a dashboard report that will be presented to Council and City Manager on a quarterly basis. This report will outline the issues being handled by the Committee as well as the status of each task and goal dates for task's accomplishment. The report will also show the department responsible for accomplishing said particular task. The committee also decided that Executive Liaison will be preparing a director's report that will be presented during the first 5 minutes of the CAC meeting to bring the board up to date with the various events that are pertinent to this board.	Underway	Martin Prisant, CAC Chair 922-5968	February 2011
02	The CAC Chair, in coordination with the City Council and Executive Liaison, should ensure the committee adheres to its mission.	Concur	The committee has already implemented a once a month meeting with the Executive Liaison prior to the CAC meeting to discuss agenda items and make sure that the committee adheres to its mission.	Underway	Martin Prisant, CAC Chair 922-5968	February 2011

<b>Rec #</b>	<b>RECOMMENDATION TEXT</b>	<b>Concurrence</b>	<b>Proposed Strategies for Implementation</b>	<b>Status of Strategies</b>	<b>Responsible Person/ Phone Number</b>	<b>Proposed Implementation Date</b>
03	The City Manager should evaluate CAC staff support and ensure the appropriate City department is assigned the responsibility of providing support, as well as consider whether changes to the City Code are needed with regard to the CAC's mission.	Concur	Provide recommendations to the City Manager on the roles, responsibilities, and authorities involved in supporting the CAC.  Input has been received from the City Clerk. Next steps are to discuss roles and responsibilities with CLMD Director and ACMDs.	Underway	Howard Lazarus, Public Works Department Director 974 - 7190	April 2011
04	The Director of Public Works should ensure executive liaisons attend and complete the required OCC training and should ensure supervisory review of staff liaison outputs related to the CAC.	Concur	PWD Director will identify primary and alternative executive and support staff personnel and ensure required training is up-to-date.  Training will be scheduled as it available.	Underway	Howard Lazarus, Public Works Department Director 974 - 7190	Training will be scheduled as soon as new program is available from CTM. Anticipated completion date of September 2011.
			PWD Director will review all minutes of meetings and work products requested by the CAC prior to submittal to the CAC.	Implemented	Howard Lazarus, Public Works Department Director 974 - 7190	Implemented with January 2011 meeting.