

*Office of the*  
**INSPECTOR GENERAL**



REPORT OF INVESTIGATION

File Number: 09-009

Agency: Georgia Department of Transportation

Basis for Investigation: Self-initiation

Allegations: Lack of Internal Controls  
Abuse of Authority

Date Opened: January 2009

Investigated By: Elizabeth P. Archer, Inspector General  
Kisa D. Pangburn, Deputy Inspector General

Date of Report: July 2009

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Elizabeth P. Archer, Inspector General

# OFFICE OF THE INSPECTOR GENERAL



File Number: 09-009

## EXECUTIVE SUMMARY

In January 2009, the Office of the Inspector General (OIG) and the Department of Audits and Accounts (DOAA) launched a joint investigation into allegations of financial mismanagement at the Georgia Department of Transportation (GDOT). The purpose of the investigation was to determine whether the underlying acts that led to the findings from DOAA's FY 2008 financial audit were intentional or were a result of administrative deficiencies. Specifically, OIG investigated the findings pertaining to why employees in GDOT's Office of General Accounting (OGA) failed to enter \$153.4 million worth of executed contracts and supplemental agreements into the PeopleSoft system during FY 2008 and the submission of budget amendments that erroneously increased GDOT's annual operating budget.

Because OIG does not have audit capabilities, we narrowly defined the scope of our investigation to determine whether any administrative deficiencies or lack of policies and procedures contributed to the weaknesses in recording contractual obligations and in the submission of improper budget amendments. For purposes of this investigation, OIG relies on the State Auditor's initial findings regarding the underlying financial cause for the deficit. Although both agencies are issuing separate reports, the results of this investigation are a collaborative effort between the two agencies.

Based on the collective testimony of those interviewed, we find that former GDOT Treasurer Earl Mahfuz, abused his authority when he instructed his staff to stop entering contracts into PeopleSoft in June 2008. As GDOT Treasurer, he should have known the ramifications of giving such a directive and the impact it would have in the subsequent fiscal year. We find that the timing of his request, the fact that it was contrary to established procedures, and that he was placed on notice to inform the auditors of additional matters that could impact the deficit, suggests a purposeful intent to hide the true state of GDOT's finances.

Additionally, we find that OPB's failure to require supporting documentation and GDOT's inability to monitor revenues and expenditures on a regular basis, contributed to GDOT's ability to submit erroneous budget amendment requests. During the course of this investigation, we learned that OPB and GDOT have implemented new policies and procedures that will strengthen existing controls to prevent a similar situation from occurring in the future.

For purposes of this report, OIG is departing from normal practices in that we are not issuing any recommendations. We find that DOAA sufficiently prescribed the needed recommendations in their 2008 Financial Audit Report (statutory basis) issued November 7, 2008. OIG also concurs with the recommendations set forth in DOAA's Special Report dated July 2009.

OIG will provide a copy of this report and information obtained during the course of this investigation to the Attorney General for their review.



*Report of Investigation*

*File No. 09-009*

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**Summary of Actions**  
**Georgia Department of Transportation**  
**File Number 09-009**

**I. BASIS FOR INVESTIGATION**

In January 2009, the Office of the Inspector General (OIG) and the Department of Audits and Accounts (DOAA) launched a joint investigation into allegations of financial mismanagement at the Georgia Department of Transportation (GDOT). The purpose of the investigation was to determine whether the underlying acts that led to the findings from DOAA's FY 2008 financial audit were intentional or were a result of administrative deficiencies. Specifically, OIG investigated the findings pertaining to why employees in GDOT's Office of General Accounting (OGA) failed to enter \$153.4 million worth of executed contracts and supplemental agreements into the PeopleSoft system during FY 2008 and the submission of budget amendments that erroneously increased GDOT's annual operating budget.

**II. ACTION TAKEN IN FURTHERANCE OF INVESTIGATION**

OIG and DOAA interviewed former and current GDOT employees, GDOT board members, consultants, the Governor and members of the Governor's staff. We also reviewed GDOT policies and procedures, emails, contracts, audit reports, personnel and disciplinary files, and other documents.

**III. DOAA AND OIG JOINT INVESTIGATION**

Upon reviewing the FY 2008 financial audit report (statutory basis), OIG began a preliminary inquiry to determine whether any fraud, waste, corruption or abuse occurred. During the inquiry, OIG learned that DOAA's investigative division was also conducting an investigation into the underlying causes of their initial findings. In order to avoid duplication of effort, both agencies agreed to conduct a joint investigation.

Because OIG does not have audit capabilities, we narrowly defined the scope of our investigation to determine whether any administrative deficiencies or lack of policies and procedures contributed to the weaknesses in recording contractual obligations and in the submission of improper budget amendments. For purposes of this investigation, OIG relies on the State Auditor's initial findings regarding the underlying financial cause for the deficit. Although both agencies are issuing separate reports, the results of this investigation are a collaborative effort between the two agencies.

## **IV. NARRATIVE**

### **A. BACKGROUND**

GDOT plans, constructs, maintains and improves the roads and bridges of the state highway system of Georgia. The department also provides planning and financial support for other modes of transportation such as mass transit and airports and provides air travel to state departments. A board comprised of members from the state's congressional districts elected by each district's state representatives and senators, governs the department. Vance Smith is currently the GDOT Commissioner.<sup>1</sup>

### **B. INVESTIGATION**

***ALLEGATION 1: Why did employees in The Office of General Accounting fail to enter \$153.4 million worth of contracts and supplemental agreements into the PeopleSoft system?***

In August of 2008, while working on a plan to manage the deficit, GDOT's Leadership Team learned of the existence of several hundred unrecorded contracts and supplemental agreements.<sup>2</sup> According to those interviewed, in order to determine GDOT's financial picture for the upcoming fiscal year, Commissioner Evans requested a list of what each office had in the "pipeline" for FY 09. While compiling this request, the employees in OGA, informed the Interim Head of General Accounting of the unrecorded contracts and supplemental agreements, consisting of both FY 2008 and FY 2009 transactions.<sup>3</sup>

In order to determine whether the failure to record the contracts and supplemental agreements involved an administrative breakdown or an intentional act, OIG interviewed the employees from OGA regarding how contracts and supplemental agreements are entered into the PeopleSoft system. Those interviewed stated that when they receive a contract, they verify in PeopleSoft whether the project has sufficient funds. Once verified, a purchase order is created to encumber the funds for each project on the contract "totaling up" to the awarded amount. All contracts are entered into the system by the close of the fiscal year (June 30<sup>th</sup>), with the exception of commercial construction supplemental agreements, which were historically entered "when the money was needed on a contract."<sup>4</sup> Supplemental agreements are entered on an "as needed basis."

When questioned specifically about the unrecorded contracts, the Contracts Payable (CP) Manager for the Office of General Accounting stated that at the end of May or the beginning of June 2008 the former GDOT Treasurer, Earl Mahfuz, instructed her

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<sup>1</sup> Dr. Gena Evans was the Commissioner at the onset of this investigation.

<sup>2</sup> Unrecorded contracts are executed contracts not yet entered into the PeopleSoft system.

<sup>3</sup> The total amount of unrecorded contracts was \$321,910,316.01. However, \$153,402,135.80 was for FY08.

<sup>4</sup> During the course of our investigation, OIG learned that in years past, the Office of General Accounting often received assistance from personnel in other divisions and temporary staff in order to meet the June 30<sup>th</sup> deadline. This was confirmed through the Director of Administration

to stop recording contracts.<sup>5</sup> “He looked me dead in the face and told me to stop,” she said. Prior to that time, no one had ever instructed her to cease entering contracts into the system. Because the request was “so unusual,” she asked Mahfuz “why they were doing things differently this year.” Other than instructing her to proceed, Mahfuz did not provide his reasoning.

Although the CP Manager knew that not entering the contracts would inaccurately reflect the department’s liabilities, she did not challenge Mahfuz’s directive because she felt that she could not “question his authority.” However, because of the “potential for major problems,” she immediately informed her direct supervisor of Mahfuz’s directive. Her supervisor confirmed that the CP Manager came to him after receiving Mahfuz’s directive to voice her concerns. Although the supervisor admitted that Mahfuz’s directive was contrary to established procedures, he did not feel comfortable questioning his superior. As a result, they followed Mahfuz’s directive. Because they could not enter the contracts into the PeopleSoft system by the June 30<sup>th</sup> deadline, there was no other option but to enter them in FY 09.

The CP Manager stated, that at the time of Mahfuz’s directive, she had entered into the PeopleSoft system the newly executed contracts with the “except[ion] of the April, May and June money.” During those months, her division typically encumbered a significant amount of money. When asked if Mahfuz was aware of this, she stated, “I’m sure he had a pretty good idea because you can pull a report right out of PeopleSoft to get that information.”

In order to keep the original contracts from “getting lost,” they stored them in a filing cabinet in the main office in alphabetical order and categorized by type. When asked if Mahfuz was aware that the contracts were in the filing cabinet, the CP Manager stated, “They were not hidden by any stretch. We had been told to make sure that we kept everything so that you could find it.”

According to the CP Manager, she was surprised when the Commissioner summoned her to a meeting in September 2008 regarding the unrecorded contracts. The Commissioner was upset with her and wanted to know why she stopped encumbering contracts. When she informed the Commissioner that she received a directive to stop entering contracts, the Commissioner asked her who instructed her not to encumber any further contracts. Among the people present in the meeting were Mahfuz, her supervisor and the Director of Administration.<sup>6</sup>

Although Mahfuz was present during the questioning, he said nothing while the Commissioner questioned her. It was only after the Director of Administration informed the Commissioner that Mahfuz gave the directive that Mahfuz admitted to doing so. Those present at the meeting, with the exception of Commissioner Evans, confirmed that Mahfuz admitted giving the directive. During her interview, the Commissioner stated that she was unaware that Mahfuz or members of his staff were in possession of signed contracts not entered in the system until informed by her special assistant. In fact, in an

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<sup>5</sup> The CP Manager has been a GDOT employee for 19 years and a manager since 2003.

<sup>6</sup> See meeting request dated September 3, 2008.

earlier meeting she asked Mahfuz and members of the Leadership Team whether they were aware of any additional matters that could affect the audit. Our investigation confirmed that on August 8, 2008, Commissioner Evans had her staff, including Mahfuz, sign a document indicating that they were not aware of any additional matters that could affect the FY 2008 fund balance.<sup>7</sup>

During her interview, the Director of Administration stated that Mahfuz instructed her to inform her staff to stop recording contracts. She recalled Mahfuz giving the directive during the time the State Auditors informed the Leadership Team of their preliminary findings regarding the deficit. “He told me to tell Accounting not to put anymore contracts on the books because we were in the red.” Mahfuz never mentioned any other reason for his request. He informed her that they would resume recording contracts “in 09.” According to the Director of Administration, she did not question Mahfuz’s directive because she believed that they did not have any more money. “If I had a better understanding of auditing, I would have probably questioned him,” she stated. Our investigation revealed that neither the Director of Administration nor Mahfuz requested an account of how many contracts existed at the time of his directive.

When interviewed, Mahfuz wavered between denying that he instructed his staff to stop entering contracts to stating that he asked his staff to place the contracts temporarily on the “back burner” in order to pay contractors. When initially questioned about the unrecorded contracts, Mahfuz stated that he was “blown away” when he first heard about it in September 2008 during the meeting.<sup>8</sup> He was unaware, he claims, that the employees in the Office of General Accounting were not entering contracts into the PeopleSoft system until the Commissioner brought it to their attention during the meeting.

According to Mahfuz, at the end of the year there is always a “scurry” to get contracts signed. OGA employees, he stated, are constantly “juggling balls” in that they are entering contracts, making payments and setting up supplemental agreements while trying to comply with the June 30<sup>th</sup> deadline.<sup>9</sup> He stressed that both the Director of Administration and the head of General Accounting should have been aware that the employees were not entering contracts into the system. In fact, he stated that when he was Treasurer, he strongly encouraged them both to “walk around” in order to find out what their employees were doing. Therefore, he was surprised that no one checked on the invoices.<sup>10</sup> However, he was quick to acknowledge that he was pleased with the Director of Administration’s job performance.<sup>11</sup>

When asked specifically whether he ever instructed his staff to cease entering contracts into the PeopleSoft system so that they would not be included in the 2008 financial statement, Mahfuz said “No, why we would do that?”<sup>12</sup> However, later in his interview, he admitted that “at one time” in mid-June he asked his staff to **hold** the

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<sup>7</sup> See “Signed in Harmony” document dated August 8, 2008.

<sup>8</sup> See page 12 of Mahfuz transcript.

<sup>9</sup> See page 17 of Mahfuz transcript.

<sup>10</sup> See page 18 of Mahfuz transcript.

<sup>11</sup> See page 5 and 27 of Mahfuz transcript.

<sup>12</sup> See page 30 of Mahfuz transcript.

contracts and supplemental agreements “temporarily” in order to pay contractors.<sup>13</sup> During that time, he stated, contractors were complaining to the GDOT Board that they were not receiving payment in a timely manner. He recalled having a discussion with the Director of Administration regarding getting “caught up.”<sup>14</sup> According to Mahfuz, before giving the directive to his staff, he discussed it with the Chief Operating Officer (COO).

When interviewed, the COO stated that he was aware that contractors had been complaining about untimely payments. However, Mahfuz never informed him that in order to “get caught up” he would direct his staff to cease entering executed contracts. The COO was adamant that he would not have agreed to this directive.

Mahfuz stated that although he instructed his staff to “hold” the contracts, he was not aware that they had not resumed entering the contracts into the system. According to Mahfuz, the employees in OGA “probably would have had time enough time to get everything in before closeout.”<sup>15</sup> Throughout his interview, Mahfuz maintained that he never instructed anyone to do anything illegal or “not cooperate with the auditors.” It was his intention, he stated, to make sure that they “took care of business.”

**Based on the collective testimony provided during the course of this investigation, we find that that the employees in the Office of General Accounting failed to enter the contracts and supplemental agreements into the PeopleSoft system because of the former Treasurer’s directive.**

***ALLEGATION 2: Why did the Office of Planning and Budget (OPB) approve two budget amendments that erroneously increased GDOT’s annual operating budget?***

Georgia’s agencies are required to maintain an Annual Operating Budget (AOB) throughout the fiscal year, which should represent the agencies’ work plan. The work plan projects planned expenditures and represent the agencies’ best estimate of state, federal and “other funds.” At fiscal year end, on June 30<sup>th</sup>, agencies usually submit a final amendment that either adds revenue or reduces projected revenue for amounts not earned.<sup>16</sup> While an agency cannot increase the amount of state funds it can receive apart from an appropriation, it may administratively increase/amend, its AOB upon receipt of additional federal grant awards and/or “other funds” not anticipated during the appropriations process.<sup>17</sup> The Office of Planning and Budget approves the agencies’ budget amendments.

According to DOAA’s initial findings, GDOT submitted two invalid budget amendments, which OPB approved, that retroactively increased GDOT’s obligation authority by \$3,484,830,360.<sup>18</sup> DOAA found that the amendments exceeded actual funds

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<sup>13</sup> See page 30 of Mahfuz transcript.

<sup>14</sup> See page 30 of Mahfuz transcript.

<sup>15</sup> See page 21 of Mahfuz transcript.

<sup>16</sup> OPB’s Financial Management Policies and Procedures 02.01.0401, Budget Amendment Allotment- Final Year-End Amendment, effective June 1, 2008.

<sup>17</sup> See DOAA’s November 2008 Financial Audit Report, page 58.

<sup>18</sup> Amendment 5 Agency Explanation

available that GDOT could obligate by \$2,388,738,059.41. In addition, although a majority of the amendments was for “prior year Federal funds,” DOAA found that actual revenues and/or grant awards did not support the budget amendments.<sup>19</sup>

In order to determine why OPB approved GDOT’s budget amendment requests, we interviewed OPB’s Deputy Director who authorized the amendments. We asked her to explain OPB’s approval process. She stated that an agency initially submits an amendment into OPB’s BudgetNet system. From that point, an OPB analyst reviews it for accuracy. The analyst also works with the agency to determine how they expend their funds, and into which programs the agency directs their money. After the analysis is complete, the analyst recommends the budget for approval to the division director. However, regarding federal and “other” funds, OPB must “rely” on the agency to provide accurate and honest information. According to the Deputy Director, it is “not unusual” for agencies to submit closeout amendments to balance out their books at the end of the year.

Regarding the amendments in question, she stated she had reservations about approving GDOT’s second budget amendment (Amendment 6) because of the timing of the request and the dollar threshold. GDOT’s submission “caught [OPB] by surprise,” because the request for approval occurred during the last week amendments could be submitted.<sup>20</sup> However, she admitted that she signed off on the requests anyway. When asked why, she stated that it did not occur to OPB that GDOT may not have the funds because “for them to have been able to spend against a fund source in their financial system all year long, [GDOT] had to have booked the expenses against the fund source all year long.” She surmised, “They had been booking expenditures against this revenue all year, and what they were doing is just truing up their budget system. Essentially they were spending against funds they did not have.”

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Amend annual operating budget with federal grants and bond proceeds:  
Federal grants include Federal Aviation Administration (\$5,927,462), Federal Transit Administration (\$12,580,204), and Federal Rail Administration (\$6,690,857).  
Bond proceeds include Variable Rate Bonds (\$300,000,000), Grant Anticipation Revenue Bonds (\$376,342,197), Reimbursement Revenue Bonds (\$90,512,088) and Commercial Paper (\$50,000,000).  
Amend annual operating budget with prior year funds in the amount of \$1,103,120,149 to cover projected expenditures.

Amendment 6 Agency Explanation (Final Amendment)

Amend the FY2007 approved operating budget with prior year funds and agency revenue. Agency revenue includes the sale of accident reports, maps, and plans and proposals, permits and fees, cash participation, wildflower tag proceeds, aircraft receipts, interdepartmental agreements, DUI memorial signs, sale of buses and surplus equipment, rents and leases, billboard payments, vending machine income, reimbursement for vehicle and equipment damages, and refunds, rebates, and reimbursements. This is the Department’s final budget amendment for FY07.

<sup>19</sup> Georgia DOAA Special Report, July 2009, GDOT, pp 39-42.

<sup>20</sup> See page 2 of OPB Deputy Director transcript.

OPB also approved the request, she stated, because GDOT indicated that the money used to amend their budget came from “prior year funds.”<sup>21</sup> She explained that GDOT, prior year funds can aggregate for long periods and do not lapse back to the treasury to be used in other ways. If GDOT had classified the funds as federal, she stated then OPB would have “flagged it” because they can calculate state to federal matching funds.

When asked if they requested any additional documentation in support of GDOT’s request, she stated OPB normally requests backup for prior year funds. However, she does not think that the analyst requested backup documents in this case. It was conceivable, she stated that GDOT had prior year funds, but “not to that extent.” Based on DOAA’s findings, we asked her whether in retrospect, GDOT intentionally submitted improper budget amendments. She opined that it had to be deliberate “because they were booking all these expenditures against a fund source that was a current fund source, but bringing in with us as agency funds ...not federal funds.”<sup>22</sup> The Deputy Director recalled that at the time GDOT submitted their budget amendment, OPB was understaffed and the analyst had increased responsibilities.

OIG and DOAA interviewed GDOT’s former Budget Director who submitted the amendment requests to OPB. When asked how GDOT determined the amount to be requested in their amendment, she stated that the data came from the Project Costing Module. GDOT uses this module to budget project expenses by fund source. According to the former Budget Director, the module does not function like a budget, because it does not provide an annual, year-to-year number for expenditures and appropriations. The data from the module, she stated, is continuous and accumulative. Because road projects can go on for over ten years, the module shows the authorized amount for the project, and lists the expenditures through the life of the project. GDOT can use the funds or bring them forward for the project in the next fiscal year. The module also includes all fund sources including motor fuel funds, federal funds from the Federal Highway Administration (FHWA), bond proceeds, and miscellaneous income. She stated that balances remaining on projects at year-end not encumbered or expensed are brought into the budget and used to cover expenses in the next year.

She informed us that the numbers in the module are not confirmed with the federal fund source agencies because the money assigned to the projects is authorized and confirmed in the beginning. The module is reconciled only when funding modifications are required. The Office of Financial Management will then adjust funds according to what the federal government has authorized for that project. The employee stated that the majority of the money for the 2007 budget amendments was federal. In this case, GDOT used prior year funds. The amendments came from multiple fund sources, i.e. federal dollars, GARVEE proceeds, General Obligation (GO) bond proceeds and motor fuel funds.

Prior to submitting the amendments to OPB, GDOT did not confirm the prior year funds with their Office of Financial Management, the Federal Aid Office or FHWA.

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<sup>21</sup> See language in budget amendment 6.

<sup>22</sup> See page 9 of OPB Deputy Director transcript.

GDOT based the amount only on what the Project Costing Module showed. She stated it was a “standard practice” to use carryover (prior year) federal funds for amendments. “Anytime we are at the point where the expenditures have exceeded the funds that have been appropriated for that given fiscal year, we amend the prior year money to cover any expenditure above and beyond what has been appropriated.”

The former Budget Director stated that it is difficult to know whether the numbers provided by the Project Costing Module are accurate because the numbers get into the module by several different mechanisms. She indicated that federal dollars can be reconciled with what the federal agencies say they have authorized for the project. GO bonds can also be reconciled with the proceeds that were available at the time the bonds were sold. However, there are areas in which reconciliation could be inaccurate or skewed, because it is a cumulative look at the finances. At the time of our interview, GDOT had no set way to go back and reconcile the Project Costing Module. Currently, she stated, the administration is working to reconcile the module with the PeopleSoft general ledger.

**Based on our investigation, we found that OPB’s failure to require supporting documentation contributed to GDOT’s ability to submit erroneous budget amendment requests. This was compounded by GDOT’s failure to monitor revenues and expenditures on a regular basis.**

## **V. CONCLUSION**

Based on the collective testimony of those interviewed, we find that former GDOT Treasurer Earl Mahfuz, abused his authority when he instructed his staff to stop entering contracts into PeopleSoft in June 2008. The employees’ positions relative to the Treasurer make their reticence to challenge his directive understandable. His explanation of the circumstances and conditions regarding staff workloads at the end of the fiscal year and the fact that contractors were “complaining” about untimely payments are not unique to what other agencies face in state government.

As GDOT Treasurer, Mahfuz was responsible for the financial well being of the department. He should have known the ramifications of giving such a directive and the impact it would have in the subsequent fiscal year. We find that the timing of his request, the fact that it was contrary to established procedures, and that he was placed on notice to inform the auditors of additional matters that could impact the deficit, suggests a purposeful intent to hide the true state of GDOT’s finances.

Additionally, we find that OPB’s failure to require supporting documentation and GDOT’s inability to monitor revenues and expenditures on a regular basis, contributed to GDOT’s ability to submit erroneous budget amendment requests. During the course of this investigation, we learned that OPB and GDOT have implemented new policies and procedures that will strengthen existing controls to prevent a similar situation from occurring in the future.

**V. RECOMMENDATIONS**

For purposes of this report, OIG is departing from normal practices in that we are not issuing any recommendations. We find that DOAA sufficiently prescribed the needed recommendations in their 2008 Financial Audit Report (statutory basis) issued November 7, 2008. OIG also concurs with the recommendations set forth in DOAA's Special Report dated July 2009.

**VI. REFERRAL**

OIG will provide a copy of this report and information obtained during the course of this investigation to the Attorney General for their review.