Questions/Issues for ACEC Texas - TxDOT Virtual Meeting

8/21/25

Workflow:

1. With regard to the stopping/slowing of contracts over the past year:
    - What went wrong as it applies to consultant contract expenditures and what has TxDOT learned from this experience?

      TxDOT response: During this prior biennium, TxDOT had a significant cash balance that increased to over $11 billion. With the help of our consultant and contracting partners, TxDOT successfully delivered one of the most robust programs for the citizens of Texas and the nation over the last three years. We want to thank our partners for helping us deliver that program. However, that cash balance has been reduced to less than $2 billion as of the beginning of October 2025. Going into the past legislative session, the Comptroller's Biennial Revenue Estimate (BRE) was lower than expected by approximately $1 billion for FY25 to FY27, requiring TxDOT to lower future development and delivery of highway project awards. Going forward, consultant contracts will be set to support the appropriate future letting targets while still allowing for project accelerations depending on upcoming Comptroller's Certified Revenue Estimate (CRE) expected later this month (OCT 2025).

    - Secondly, what steps will TxDOT be taking moving forward to avoid extreme swings such as recent work stoppages?

      TxDOT response: Some of our districts have communicated well, and some can communicate better. However, we have heard feedback from the consultant community noticing the improvement in communication at all levels. On June 3, 2025, TxDOT implemented a Standard Operating Procedure (SOP) for slowing and suspending work authorizations to ensure proper communication within the agency and with our consultant partners. Under this SOP prior to any slowing or suspending work, the district or division initiating such action must request the approval from the Senior Director of Project Development and the Deputy Executive Director for Program Delivery. Additionally, as September 1, 2025, the PEPS Division Director has to approve all Indefinite Deliverable (ID) procurements, which includes an analysis of the existing contract capacity (those executed and those still in the procurement process). Specific deliverable (SD) contract procurement requires the approval of the Senior Director for Project Development, who reviews the business case for that procurement including projected funding and UTP status, as well as the plan if the procurement is not approved.

- Finally, what adjustments do we on the consultant side need to make to support TxDOT as we move forward?

  TxDOT response: With each work authorization, consultants must communicate with the TxDOT project manager to ensure that there is a mutual understanding of the work to be performed and the anticipated expenditure for each fiscal year through the term of the work authorization. In general, it is helpful for TxDOT's partner organizations to understand both the Legislative and Congressional budgeting and appropriations processes as well as the cash forecast under which TxDOT operates. TxDOT is constrained by financial analyses that include historical trends, current law, the Texas Comptroller of Public Accounts' (comptroller) official revenue estimates, current events, and other economic developments. While TxDOT strives to deliver projects on budget and on time, a variety of circumstances—many of which are outside of its control—may alter the timeline in which projects are started and completed. The key is to openly and continuously communicate with our partners.

2. It seems as though much of the slowdown/stoppage is due to TxDOT over procuring and issuing work authorizations while not having enough actual funds to cover the work. This slow/stop issue seems to happen every 5-7 years like clockwork. What is TxDOT doing to solve this issue so that it does not happen again? What is TxDOT doing to make sure they do not over-procure and that there are enough funds available to cover what they procure?

   TxDOT response: With the additional of Proposition 1 and 7 revenues, TxDOT has been able to dramatically increase the amount of highway projects delivered across the state in recent years. While Proposition 1 has provided additional funding, it can have significant volatility as shown from FY15 ($1.7 billion) to FY17 ($0.4 billion) and FY22 ($1.5 billion) to FY23 ($3.6 billion) deposits which require frequent adjustments to development and delivery budgets. Procurements are not tied directly to our consultant and ROW budget. We will have a session on this at the PEPS conference, showcasing how funding and procurements work together.

3. At the March ACEC-TxDOT Town Hall, TxDOT stated that as of February 23, 2025, there was a moratorium on suspending/stopping a WAs unless Mo or Brian approved the suspension/stoppage of a WA. Since the moratorium, how many WAs have been suspended, with or without approval, and what is the dollar amount of those suspensions?

   TxDOT response: As mentioned above, TxDOT has developed a SOP date for slowing, suspending, and terminating work under contracts. Under this SOP prior to any slowing or suspending work, the district or division initiating such action must request the approval from the Senior Director of Project Development and the Deputy Executive Director for Program Delivery. This was implemented on June 3, 2025. With the passage of the General Appropriation Bill (Senate Bill 1) in the 89th Texas Legislature, TxDOT has implemented Rider 51, which requires TxDOT to post information on its website about contracts and their work authorizations along with any suspension notice that was approved by the Deputy Executive Director for Program Delivery on September 1, 2025, and after.

4. At the March ACEC-TxDOT Town Hall, TxDOT stated that 90% of the suspended work will restart in FY 26 or FY 27. How much of the suspended work, will restart in FY 26; How much of the suspended work will be restarted in FY 27? How much of the suspended work will not restart? Will the restarted work be able to proceed at full capacity or at a slower pace?

   TxDOT response: We don't recall saying this percentage. The Districts and Divisions have been working on their 3-year spending plan which was completed in September, and they are expected to complete communicating their plans for any slowed or suspended work authorizations by October 2025.

5. To provide the consultant community the ability to plan and adjust, if you are being honest will it be FY 28 before consultant work will be able to proceed without work slowdowns or contract suspensions?

   TxDOT response: We live in a very fluid financial environment and until there are additional revenues dedicated to highway projects, then consultant work will continue to be adjusted to deliver a portfolio that revenues can support. As mentioned above, both prior to and going into the 89th regulate legislative session, the revenue estimates were lower than expected, $1.2 billion lower. Changes will continue to be made, and they will be triggered by funding and funding forecasts. As soon as we see such a change, that will be communicated. We think that the 3-year budget plan will help the Districts and Divisions better plan their spending.

6. What is TxDOT's 2-3 year plan to accelerate project development for the priority 2 projects that have been on hold and continue to not be worked on knowing that the critical path is not design, but environmental, ROW acquisition and utility relocation? How will TxDOT account for this timeline and how will this affect future lettings? Has this potential drop in lettings been communicated to AGC?

   TxDOT response: You are absolutely correct on environmental, ROW acquisition, and utility relocation. Districts are reprioritizing their needs to make sure that they continue to develop their highest priority 2 projects. The Districts and Divisions have been working on their 3-year spending plan which was completed in September, and they are expected to begin communicating their plans to their consultants and contracting partners immediately thereafter. TxDOT is working closely with our elected officials, MPOs, and local partners to prioritize those projects. Due to the limited financial resources, some tough decisions have had to be made to deliver on those priorities. In regard to the question for the AGC, we have informed them of the lower than expected BRE and the low cash balance, as well as the annual letting volume being in the range of $10 to $11 billion unless additional revenue becomes available.

7. With the extreme slowdown of work and many small companies bearing the brunt of this (many who are HUB/DBE's), many of these small firms have either gone out of business or are being acquired by non-HUB/DBE firms. How will the requirements for HUB/DBE participation be modified to account for the vast reduction of QUALIFIED HUB/DBE firms?

   TxDOT response: TxDOT follows both state and federal laws and regulations for HUB and DBE.

8. Is TxDOT open to extending time on existing contracts which have been paused and/or may not be picking back up in FY 26?

   TxDOT response: Absolutely. To continue with our current practice, on a case-by-case basis TxDOT is open to a discussion on an extension if the projects under those contracts fall within the District or Divisions priority to be worked on. TxDOT has already extended a number of contracts to facilitate the development of those covered projects.

9. ID contacts have two deadlines: one for assigning new work authorizations which is normally 4 years after contract execution and the overall contract deadline which is 5 years after contract execution. We understand that the overall deadline can be easily extended. Can the deadline for assigning new authorizations be extended beyond 4 years after contract execution?

   TxDOT response: The Texas Administrative Code (TAC) rules state that WA's may only be issued within 4 years of contract execution.

10. With the pauses in TxDOT consultant contracts, consultants must re-assign professionals to other projects. Could TxDOT consider a "pause and re-start contingency fee" as part of future negotiations to help manage project workflows?

    TxDOT response: Every contract and need are different, so this request would be evaluated on a case-by-case basis.

11. Consultant contracts have negotiated level of efforts with fees defined. When pausing contracts for six months or longer, future labor costs increase, yet the max fee defined in the contract is fixed—how can consultants and TxDOT automatically adjust contracts to reflect this increased labor cost—i.e., increase the max payable amount due to time extension (caused by pauses)?

    TxDOT response: Every contract and need are different, so this request would be evaluated on a case-by-case basis.

12. The consultant community bases business decisions and resource planning on existing contracts as hard/soft backlog and on the contracts we pursue. There have been times when we have been asked to spend a large amount of budget in a short period of time for which we pivot to do our best to support TxDOT. This is sometimes followed with direction to immediately pause. You can understand from a business perspective; this makes efficient management of a contract nearly impossible. The prior is an example of communications from TxDOT (both headquarters and districts) this past year regarding the ceasing of consultant work proving frustrating for the consultant community. Communications seemed disjointed, vague, untimely, unofficial/without a formal letter with stoppage details, or none at all. What steps would TxDOT take to provide clearer and more meaningful information to us as we move forward?

    TxDOT response: To better address the future direction of spending, we have given the Districts and Divisions their PEPS budget for the next three years (FY 26-28) to meet their budgetary expectations. The Districts and Divisions have been working on their 3-year spending plan which was completed in September, and they are expected to begin communicating their plans to their consultant partners immediately thereafter. As mentioned above, TxDOT implemented a SOP regarding slowing and suspending work that requires the approval of the Deputy Executive Director for Program Delivery. The main goal of the SOP is to require proper communication within the agency and with our consultant partners. Some of our districts have communicated well, and some can communicate better; however, we have heard positive feedback from the consultant community noticing the improvement in communication at all levels.

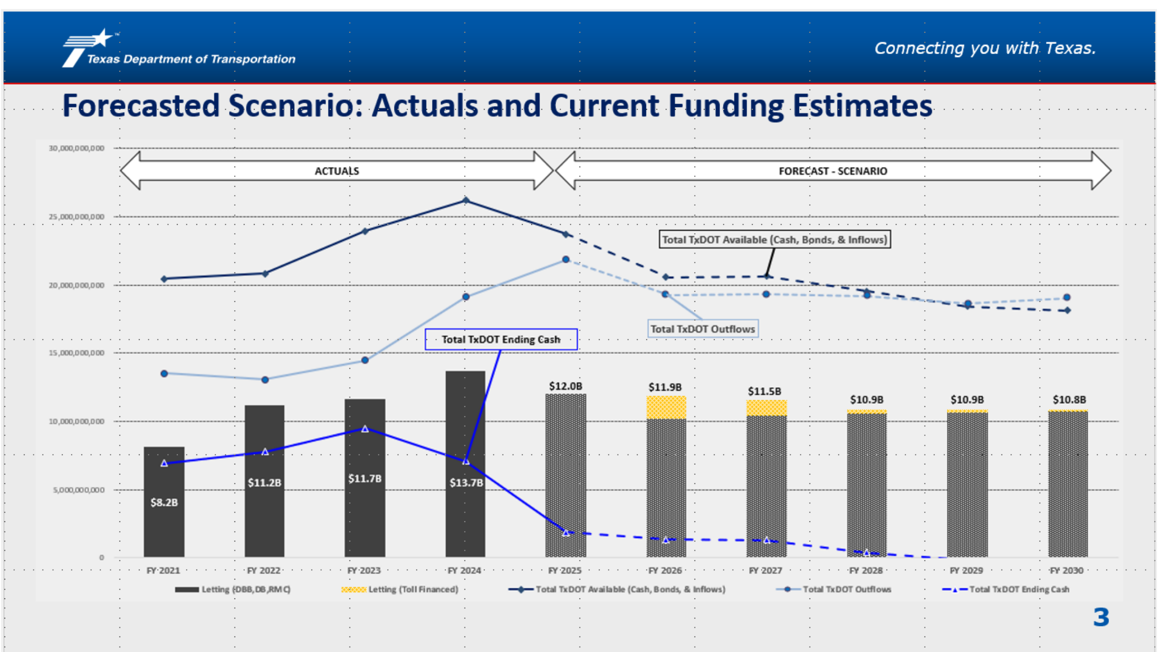
Consultant Budget:

1. What is the consultant budget for FY 26, 27, and 28? Why are these numbers lower than were presented to ACEC in March?

   TxDOT response: As of August 26, 2025, the consultant budget is as follows for each of the fiscal years:

   FY 2026 = $1.3 Billion
   FY 2027 = $1.26 Billion
   FY 2028 = $1.23 Billion

   The Comptroller’s revenue estimates supporting the program were lowered for the FY 2026-27 biennium, as well as an immediate reduction to FY25 revenues, for a combined $1.2 billion reduction. Refer to the two slides below that were discussed with ACEC in March 2025 depicting the lower revenue forecasts. The BRE showed lower than anticipated revenues and TxDOT will be evaluating potential impacts to letting volumes and associated project development costs as a result.



Guidelines to TxDOT Senior Leadership at Forum on January 27, 2025

Texas Department of Transportation

Connecting you with Texas.

Background

- The approved 2025 UTP is a record $104B. This total leads to an average construction letting of $10B/year across the next 10 years. When the RMC letting volume is added, the average letting approximately $11B/year.
- The expected average letting volume based on the UTP was exceeded the last two FYs: 2023 at $12.1B; 2024 at $13.7B. FY 2025 letting volume is expected to exceed $12B as well. These higher than average letting volumes have helped TxDOT achieve the goal of reducing cash balances.
- In December 2023, the State Highway Fund (SHF) cash balance was $10.5B; As of December 2024, the SHF cash balance was $5.4B; this balance will continue to decline based on recent record lettings in FYs 2023-2025.
- The latest Comptroller Biennial Revenue Estimate (BRE) lowered anticipated revenues available to TxDOT by approximately $1B less than expected over FY 2025-2027. TxDOT will evaluate potential impacts to letting volumes and associated project development costs as a result. If those forecasts improve, TxDOT will be positioned to adjust letting and associated project development budgets upward.
- TxDOT will plateau level letting volumes to match revenue levels. Now that revenues are leveling – at still historic levels – the letting volumes will also level off. PEPS and ROW budgets have been developed with the goal of aligning development costs with the expected letting volumes.

6

2. What budget was requested by each district and what budget was allocation was approved for each district?

   TxDOT response: Typically, Districts request more funding than their allocation, which in total was approximately $2.2 billion. The approved funding allocations by District and Division is posted on the TxDOT website.

3. What is the breakdown between project delivery (planning, schematic, PS&E) and CEI for FY 2025, 2026 and 2027?

   TxDOT response: Over the past 4 fiscal years, 75.8% of the PEPS budget has been for project delivery and 24.1% has been for construction engineering. In FY 2025 the split was 74.8% versus 25.1%. We anticipate a similar split moving forward into FY 2026 and 2027.

4. Why is the above information not timely communicated to the consultant community or posted online for everyone to see? This would go a long way toward transparency and help in communication with your "partner" consultants. (The districts were sent their allocations around July 20th).

   TxDOT response: Can you clarify the "above" information that you are look for?

5. Why are the district budgets/allocations subject to change at any time during the year? How can districts plan if they don't have certainty in their allocations?

   TxDOT response: As with any organization, budgets are subject to change. While the Legislature appropriates funds, they are subject to actual revenues received. Budgets will be adjusted downward if there are shortfalls, such as with the biennial revenue estimate shortfall referenced above, or will be adjusted upward if there are significant improvements to forecasted revenues. Also, District or Department priorities may change to address unforeseen events, such as natural disasters.

6. How much of the total consultant budget is being spent on project delivery (i.e., design, survey, geotech, etc. services) and how much is being spent on CEI? It would be helpful to see the budget broken out into the pre-letting and construction phases to see what that trend is.

   TxDOT response: Refer to the similar question above. Also as mentioned above, Districts are completing their plans which will be communicated this fall.

7. There seems to be a discrepancy between the message we hear from administration and districts/divisions on the flexibility of using consultant budgets. Admin is telling ACEC that districts/divisions have 3 years of consultant budget that they are able to manage and use as they see fit (i.e., D/Ds have the ability to pull funds forward from future FYs if needed). Some districts/divisions say they HAVE NOT received this direction and are under the direction to only spend what they have been allocated in the FY. I have talked with four of five D/D staff and they said they have never been told there is flexibility in this.

   TxDOT response: Since TxDOT had a healthy cash balance in FY 2024-2025 biennium some flexibility was allowed. However, since the cash balance has been reduced, that flexibility is not available for use in the FY 2026-2027 biennium.

8. Is TxDOT's goal to do more project delivery in-house and less with consultants? If yes, then what is expected reduction in consultant project delivery budget over the next 3 years. We have already seen a significant reduction in the spend that has impacted staffing levels and future hiring able to work on TxDOT projects.

   TxDOT response: TxDOT has the healthiest portfolio in the country and cannot deliver that portfolio without the significant contribution of our consultant partners. If revenues are increased in future years, TxDOT will again be ready to accelerate development and delivery of highway projects.

6. Will ROWAPS budgets and the acquisition of right of way be suspended or reduced so TxDOT can fund PEPS for schematic, design, and CEI type services?

   TxDOT response: PEPS, ROW, and highway construction project awards have all seen reductions from peak FY24 levels. All of these elements and their budgets are tied together to deliver a whole project and a whole program.

New Procurements:

1. What is the plan for new procurements (wave 1, 2, etc) and are you taking into consideration the existing work authorizations/contracts you already have prior to deciding to procure new work?

   TxDOT response: As referenced in a similar question above, both of the ID and SD proposed contract procurements are evaluated on a case-by-case basis by the PEPS Division Director and/or the Senior Director of Project Development. Funding and existing capacity is considered as part of that evaluation. Anticipated procurements may be found on the TxDOT website for FY2026.

2. Questions have come up following Martin Rodin's presentation at ASHE in Houston. During the presentation, Martin discussed the potential reduction in focus on CEI procurements due to the need to continue developing the "pipeline" with PS&E and Schematic/Environmental work. With that in mind, should we anticipate any shifts in the current Project Contracts List (PCL) plan for 2026?

   TxDOT response: The Districts and Divisions have been working on their 3-year spending plan which was completed in September, and they are expected to begin communicating their plans to their consultant partners immediately thereafter. TxDOT is working closely with our elected officials, MPOs, and local partners, to prioritize those projects. Due to the limited financial resources, some tough decision have had to be made to deliver on those priorities.

13. There have been industry discussions suggesting that CEI work is also slowing down. This raises the question: why is there a high number of CEI procurements on the PCL when current contracts are being reduced? It would be helpful to understand the rationale behind this approach.

   TxDOT response: As referenced in a similar question above, both the ID and SD proposed contract procurements are evaluated on a case-by-case basis by the PEPS Division Director and/or the Senior Director for Project Development. Funding and existing capacity are considered as part of that evaluation. The Districts and Divisions have been working on their 3-year spending plan which was completed in September, and they are expected to begin communicating their plans to their consultant partners immediately thereafter. Procurement strategies may change based on those spending plans.

Funding:

1. TxDOT received an increase from the legislature in overall appropriations to TxDOT. How will TxDOT allocate that increase in funding specifically as it applies to consultant contracts?

   TxDOT response: The PEPS, ROW, and CST budgets need to be coordinated to be able to deliver the whole program. However, in comparison to the previous biennium, the new appropriation bill allocates more budget in the area of mobility and preservation expenditures, primarily related to continued payouts on prior record contract awards that typically have a multi-year payout.

2. In TxDOT's recent 89th Legislature Summary report you indicated that TxDOT was appropriated $2.6B more than the previous session, a 6.5% increase. Given this increase in available funding, why it TxDOT still having workflow issues? It's becoming apparent that TxDOT's goal is to rely less on consultants and to self-perform more work in house. Can you confirm this is your goal?

   TxDOT response: In the new appropriation bill, the increase in funding was primarily focused in the area of maintenance and preservation. There was an overall decrease in the level of funding for project delivery and project development. TxDOT will continue to rely on consultant partners to deliver its program. For the past 3 years, TxDOT has outsourced 88.2% of its preliminary engineering. However, as referenced in responses above, it is important to note that the Comptroller's biennial revenue estimates supporting the program were lowered.

3. I have noticed a significant difference in the legislative appropriations between 2023 and 2025, particularly in the proportion of funding allocated to in-house project development versus consultant (contracted) development. Does this shift indicate that TxDOT plans to perform more work in-house and rely less on consultant services moving forward? We've heard that TxDOT metro districts may be shifting toward a model that more closely resembles rural district operations, relying more heavily on in-house resources.

   TxDOT response: The PEPS allocation comes from more sources than just a single source of funds. PEPS funds include Prop 1 and Prop 7 funding which are not reflected in the source of funding identified as Strategy A.1.1 Inhouse Plan Design and Manage and Strategy A.1.2. Contracted Planning and Design. District and Divisions have been provided with their allocations for the next three years, and they will adjust how to deliver their projects within those budgets.

3. Regarding the breakdown of funding from Prop 1 and Prop 7 appropriations, what portion of this is going for construction, for consultant contracts, etc.?

   TxDOT response: For the biennium FY 2026-2027, the distribution of the Prop 1 and Prop 7 funds is as follows:

   - 11% for contracted planning & design
   - 14% for right of way acquisition
   - 40% for mobility construction contracts
   - 35% for preservation construction contracts

4. Why does the June 2025 TxDOT cash forecast show such a difference between appropriated amounts and forecasted amounts—specifically for Props 1 and 7 receipts?

   TxDOT response: The Texas Legislature bases the appropriation on historical and forecasted revenues. The forecasted revenues are estimates based on funds anticipated to be deposited into the state highway fund utilizing the specified formulas.

Other:

1. TxDOT routinely asks consultants to stop, pause, or alter work authorizations/contracts either verbally or in an e-mail. Very seldom are these asks followed up with a supplemental or contract amendment. Many times, the ask from TxDOT will directly require the consultant to violate the terms of the contract and will substantially increase the consultant's liability. TxDOT contracts require any amendments to the contract to be in writing and signed by both parties. Why does TxDOT not issue a supplemental every time it asks a consultant to do something that is in violation of the original contract/WA language?

TxDOT response: If a District or Division is requesting additional work or a change in a work schedule without a supplemental, please request that those changes be documented in a supplemental. Any request to violate such a provision should be escalated to the District Engineer, Division Director, PEPS Division Director, or a member of the Administration.