

January 22, 2004

Internal Audit Report 2004-1
Special Assessments
Project Management and Engineering Department

Introduction. An improvement district is a public capital improvement project initiated by property owners in a neighborhood. As noted in Anchorage Municipal Code (AMC) 19.10.020, there are several types of improvement districts, including but not limited to, road improvement districts (RID), water improvement districts (WID), (sanitary sewer) lateral improvement districts (LID), as well as gas improvement districts, park improvement districts, and service improvement districts. This report focuses on RID's which were managed by the Project Management and Engineering Department (PM&E). PM&E has designated 25 percent of one Civil Engineer's time to coordinate all RID's. As of September 30, 2003, there were 17 created and active RID's at some stage in the assessment process.

A special assessment is a tax or levy customarily imposed, after the improvement project is completed, against specific property parcels within the improvement district benefitting from the proposed public improvement. At the time of the audit, approximately \$8.8 million in project costs for RID's were pending submission of final assessment rolls to the Municipal Assembly by PM&E. Assessments are payable in equal annual payments, with terms typically ranging from one to 20 years, depending on the principal amount of the assessment. The Special Assessment Section, placed at Anchorage Water and Wastewater Utility (AWWU), collects all special assessments for the Municipality. There were about \$2.2 million in RID special assessment accounts receivable.

Objective and Scope. The objective of this audit was to determine whether the provisions of Municipal Policy and Procedure (P&P) 46-2, AMC Title 19 - Special Assessments, and other related requirements were followed in the creation and processing of special assessments. As part of our audit, we judgmentally selected and reviewed seven RID's that had either been opened or closed

since January 2002. The audit was conducted in accordance with generally accepted government auditing standards, except for the requirement of an external quality control review, and accordingly, included tests of accounting records and such other auditing procedures as we considered necessary in the circumstances. The audit was performed during the period of August through October 2003. The audit was requested by the Administration.

Overall Evaluation. Overall, we found that the special assessment process could be improved. Specifically, we found pending assessment liens were not recorded timely with the Anchorage District Recorders Office. Final assessments were also not submitted to the Assembly for approval in a timely manner. In addition, there was no comprehensive policy and procedure for improvement districts. We also found \$247,461 in chargeable costs were not borne by the benefitting property owners. Finally, Municipality of Anchorage Standard Specifications (M.A.S.S.) was not followed when Certificates of Compliance and Certificates of Completion were issued.

FINDINGS AND RECOMMENDATIONS

1. Pending Liens Not Recorded Timely.

- a. Finding.** Pending assessment liens were not recorded timely with the Anchorage District Recorder's Office. Specifically, our review of seven RID projects revealed it took PM&E an average of 674 days to record the pending lien with the Anchorage District Recorder's Office after Assembly approval of the creation Ordinance. For example, one project was approved by the Assembly on June 10, 1997, but was not recorded in the Anchorage District Recorder's Office until September 28, 2000, (1,206 days later). As a result, potential home buyers may not be aware of pending assessment liens.

Section 6 of the Creation Ordinance states, "The Mayor forthwith shall cause this Ordinance to be recorded in the office of the Anchorage District Recorder." In

addition, AMC Title 19.20.180 states, “The administration shall file on record with the district recorder all ordinances creating or establishing assessment districts.”

- b. **Recommendation.** PM&E should record pending assessment liens with the Anchorage District Recorder’s Office as soon as original documents are available.
- c. **Management Comments.** Management stated, “PM&E concurs that all pending and final assessment documents should be recorded as soon as signed original assembly documents are available. These efforts should be complete by mid-January.”
- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

2. **Final Approval Delayed.**

- a. **Finding.** Completed projects were not brought before the Assembly for approval of the final assessment roll in a timely manner. AMC 19.20.080 states, “. . . the assembly by resolution shall confirm the assessment roll for the special assessment district.” Our review revealed PM&E had not submitted six of the seven eligible RID projects to the Assembly for approval of the final assessment roll. As of September 30, 2003, an average of 720 days had passed since the projects had been completed. For example, PM&E accepted one project as complete on July 24, 2000; however, as of September 30, 2003, (1,163 days later) it had not been submitted to the Assembly for approval of the final assessment roll.
- b. **Recommendation.** PM&E should submit the final assessment roll upon completion of a project to the Assembly for approval in a timely manner.

- c. **Management Comments.** Management stated, “The reasons for the long period between construction completion and final assessment action are complex and varied. They include: a) difficulty in resolving final construction costs with the contractor on some projects; b) the combining of several projects into one construction contract with construction over multiple years; and c) insuring that our new project costing module was accurately tracking expenditures for each project.

“PM&E concurs that final assessment rolls should be forwarded to the Assembly upon completion of a project, provided costs are sufficiently accounted for as required by code. The controllable component of these delays is the project costing module which is now accurately tracking expenditures.”

- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

3. **Lack of Comprehensive Policy and Procedure.**

- a. **Finding.** There was no comprehensive policy and procedure for special assessment improvement districts. While P&P 46-2, Street Reconstruction and Subdivision Agreement Completion Through Road Improvement Districts, provided guidance for construction and reconstruction of local streets using the 10%/90% cost formula, it did not address any of the other improvement districts. P&P 46-2 also did not establish time frames and did not assign responsibility for the various actions required for establishing and processing special assessment improvement districts.
- b. **Recommendation.** PM&E should coordinate with AWWU to create a separate P&P to provide comprehensive guidance for all improvement districts, and establish time frames for completing steps in the improvement district process.

- c. **Management Comments.** Management stated, “First, the findings reference Policy and Procedure 46-2 that is no longer in use due to Assembly action on code revisions in the spring of 2003. Efforts to have it removed from P&P books are underway. Second, while PM&E does have its own P&Ps regarding the RID program, they did not include specific time frames for completing some steps. PM&E concurs that coordination with AWWU to create a separate P&P to provide comprehensive guidance and time frames for all improvement districts would be helpful. PM&E has internally adopted these target timeframes and will work with AWWU to develop a more comprehensive P&P by the end of the 3rd Quarter, 2004.”
- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

4. **Cost Overruns Not Charged to Benefitting Property Owners.**

- a. **Finding.** Cost overruns amounting to \$247,461 were not charged to benefitting property owners in 3 of the 7 RID projects we reviewed. For example, one alley paving project had a final estimated cost of \$23,000, but the total project cost was \$62,765. Although AMC 19.40.130 permits a 10 percent cost overrun, the remaining difference of \$37,465 was not charged to the benefitting property owners. AMC 19.40.130 also states that increased costs, beyond 10 percent of the original assessment, shall be approved by the benefitting property owners. If approved, these increased costs are included in a new assessable amount to be paid by the benefitting property owners. However, for these three projects, PM&E did not approach property owners to have those increased costs approved. PM&E provided several reasons for not approaching property owners: (1) they promised property owners the project would be completed that year; (2) the paving of the alley way would provide a maintenance savings and; (3) they wanted to save the cost of obtaining approval from the property owners for the increased costs. Since benefitting property owners were not charged for these cost overruns, general taxpayers had to pay for them.

- b. **Recommendation.** When cost overruns occur, PM&E should obtain approval from the benefitting property owners as required by AMC 19.14.130.

- c. **Management Comments.** Management stated, “While our calculations of the dollar amount is lower, we agree with the findings that some of the project costs that could have been recouped from property owners through a re-petition process, assuming property owners would have approved the repaying the higher costs. The overruns fell into two categories on two construction contracts as noted below:

“**32nd Avenue RID:** The majority of the overruns were related to unforeseen conditions encountered during construction of the 32nd Avenue project. However, it is impractical and expensive to stop a project in the middle of construction to re-petition with the new costs. Fortunately, RID overruns of this nature and magnitude are extremely rare.

“**Downtown Area Alley Paving RIDs:** The overruns on the Downtown Area Alley RIDs were identified when the bids were opened and discussions were held with the Director of Public Works on whether to re-petition property owners with the new costs. The Director made a decision not to re-petition for reasons indicated in the Internal Audit Findings. Another reason for not re-petitioning was the possibility that the RIDs would fail and the costs incurred to date would not be recoverable. The primary reason for overruns on these projects was inadequate project estimating guidelines, which have now been updated.

“PM&E concurs that property owners should be re-petitioned when costs exceed the established cap, provided it is practical and financially beneficial to the Municipality.”

- d. **Evaluation of Management Comments.** Management comments were partially responsive to the audit finding and recommendation. If the requirements of AMC

19.14.130 are not practical or financially beneficial to follow, the AMC should be revised.

5. M.A.S.S. Not Followed.

- a. Finding.** During our review of time frames for six projects, we found that Certificates of Compliance and Certificates of Completion were either improperly issued, or not issued at all, before making final payment to the contractor. For example, for one of the RID's we reviewed, the Certificate of Completion was issued on April 9, 2002, but the Certificate of Compliance was not received until May 22, 2003. As a result, there was no assurance that PM&E received the services it paid for. M.A.S.S. Articles 5.26 (Final Inspection) and 7.7 (Final Payment) state that a Certificate of Completion should only be issued by the Engineer after having received the Certificate of Compliance from the contractor. It further states that the contractor shall not submit a request for final payment until the Engineer has received the Certificate of Compliance. The Certificate of Compliance certifies that all work has been performed, materials were supplied according to the contract documents, prevailing wage rates were used, payroll taxes have been paid, and that all claims for material, labor, and other services have been satisfied. A Certificate of Completion is issued when a final inspection verifies that the work has been completed, all code compliance inspections have been performed, and other contract requirements have been fulfilled.
- b. Recommendation.** PM&E should not make final payments to contractors until Certificates of Compliance and Certificates of Completion have been issued as required by M.A.S.S. Sections 5.26 and 7.7.
- c. Management Comments.** Management stated, "PM&E concurs that final payments to contractors should not be made until Certificates of Compliance and Certificates

of Completion have been issued. Directives have been given to Project Management Staff.”

- d. Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendation.

Discussion With Responsible Officials. The results of this audit were discussed with appropriate Municipal officials on December 4, 2003.

Audit Staff:
Ellen Luellen