



U.S. Department
of Transportation

**Federal Highway
Administration**

Washington Division

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November 20, 2012

HDA-WA/301

Ms. Paula J. Hammond
Secretary of Transportation
Department of Transportation
Olympia, Washington

FFY 2012 Performance Letter

Dear Ms. Hammond:

Based on the inspections, reviews, program evaluations, audits, and specific project involvement conducted by the Washington Division of the Federal Highway Administration (FHWA) in Federal Fiscal Year (FFY) 2012, I find:

The Washington State Department of Transportation (WSDOT) has complied with federal laws and regulations in expending the federal-aid highway funds allocated to the state of Washington on state and local agency projects.

Our office is responsible for stewardship and oversight of the federal-aid highway funds allocated to the state of Washington. Your agency is the state agency responsible for delivering these federal-aid funds. Annually hundreds of millions of dollars of Federal highway funds flow into Washington State. In FFY 2012 (October 1, 2011 - September 30, 2012), Washington State obligated \$677,313,390 in formula and discretionary federal-aid funds. These funds were used to improve mobility and safety and reduce congestion through the construction of new roads and bridges, as well as the enhancement and preservation of existing infrastructure. Approximately 73 percent (\$493,200,873) of those Federal highway funds were obligated for state projects and 27 percent (\$184,112,517) were obligated by local agencies (cities and counties) for road projects during FFY 2012.

Annually, we conduct project inspections, program evaluations, systematic reviews, and financial audits of WSDOT and local agencies. For FFY 2012 we conducted numerous reviews of WSDOT's procedures and practices in project development and implementation. Following are the reviews and audits conducted and a brief synopsis of the findings. The full reports are available in our office.

Construction Inspections - During FFY 2012 we conducted 74 construction inspections (50 state and 24 local agency) of highway projects throughout the state. Twenty-three (23) inspections were conducted on American Recovery and Reinvestment Act (ARRA) (6) and Transportation Investment Generating Economic Recovery (TIGER) (17) funded projects, with the remaining 51 conducted on regular federal-aid funded projects or state-only funded projects. Summarizing all the inspection reports, WSDOT is providing excellent oversight and administration of their construction program. The projects reviewed were found to be built in conformance with the approved plans and specifications. Findings and recommendations for these projects were discussed and resolved with the appropriate Project Engineer and shared with your Headquarters Construction and Highways and Local Programs (H&LP) Offices via hardcopies of the reports. We also noted numerous instances where innovative construction techniques and good contract administration practices were being used.

Change Order Review - In May 2012, WSDOT and our office finalized a joint Change Order Process Review. In general WSDOT has a sound, dynamic system in place to address contract change orders. Several successful practices were identified, including the mandatory use of a standard checklist, widespread use of the “Blue Book” (a repository of industry standard equipment rates) in electronic format, clear lines of authority, and your staff has fostered a collaborative environment between the Regions and Headquarters. The review team made seven recommendations that are addressed through an action plan that identifies items to be accomplished by both WSDOT and our office.

National Bridge Inspection Standards (NBIS) Annual Review - The 2012 NBIS review incorporating the risk-based data-driven 23 metric oversight process is fully underway. Our office has been working in cooperation with WSDOT to gather bridge data, review bridge files, verify bridge inspector/underwater diver certifications, and conduct field visits to assist in the compliance determinations for 2012. WSDOT is currently adhering to several Plans of Corrective Action (PCA) to resolve issues with inspection frequency, Washington State Bridge Inspection Manual updates, Team Leader and Underwater Bridge Inspection Diver recertification, Quality Control/Quality Assurance procedure development, and the single overall National Bridge Inspection data inventory. The 2012 NBIS compliance determinations on all 23 metrics are scheduled to be completed by December 31, 2012.

Design Stewardship Reviews - Design Stewardship Reviews are conducted annually by WSDOT Assistant State Design Engineers and our Area Engineers to assess WSDOT’s design process used on federal-aid projects. These reviews provide evidence that WSDOT’s design documentation, project record files, and Plans, Specifications, and Estimates (PS&E) are consistent with applicable state and federal requirements. Twelve (12) reviews were conducted; seven (7) on local agency projects and five (5) on state projects. The FFY 2011 review focus areas were repeated. They included roadside safety, access management, and consistency with the requirements of the Americans with Disabilities Act (ADA). Most recommendations were resolved during the review or shortly thereafter. In addition, the design reports also documented best practices being employed by design offices. Based upon the results of this review, all WSDOT design teams are complying with Title 23 USC requirements, WSDOT design policies and procedures, and the WSDOT/FHWA Stewardship Agreement.

Federal-aid Grants Management Review - On December 7, 2011, the Federal Transit Administration (FTA) Region 10 and FHWA Oregon and Washington Divisions signed the Record of Decision (ROD) for the Columbia River Crossing (CRC) project. From 2004 through November 2011 (seven days prior to signing the ROD), CRC had spent approximately \$131 million for preliminary planning and design, financial studies, public involvement, project management, and other activities necessary to complete the Environmental Impact Statement (EIS). While regulations allow for design activities to be carried out to a level necessary for the ROD, it is not permissible for federal funds to participate in any final design activities until there is a ROD. This review looked at the invoices submitted by the Architectural and Engineering Consultant Manager to WSDOT to determine if federal funds were used to pay for any final design work on the CRC project, prior to the signing of the ROD. This review found that all activities reviewed by our office that were billed to the Federal-aid Highway Program constituted preliminary design. These activities billed were necessary to complete the environmental document and support the ROD, and are therefore eligible for federal participation.

Federal-aid Billing Review #1 (State Projects) - The objective of this review was to determine whether claims submitted for reimbursement during the period June 1, 2011 through May 31, 2012, were fair, reasonable and properly supported. Collectively the federal-aid reimbursement during this period amounted to \$830,147,230. For this review we selected “highway construction” for testing. The charges attributable to “highway construction” on projects for this period were \$498,004,635. In order to verify the validity of these charges, we conducted a review of three projects in Project Engineer offices in the Northwest and Southwest Regions. Our review disclosed that documentation was generally adequate to support contractor payment and subsequent federal reimbursement. However, there were areas where documentation could be improved and this was discussed with WSDOT staff.

Federal-aid Billing Review #2 (Local Agency Projects) - The objective of this review was to determine how well local agencies carried out their documentation responsibilities. Our sample included one local agency project in the Olympic Region. During the period of June 1, 2011 to May 31, 2012, we reviewed reimbursement for contractor payments, to see if they were fair, reasonable, and properly supported. Collectively, the federal-aid reimbursement for this period amounted to \$830,147,230 with the charges attributable to local agencies for this period being \$287,043,240. Our review disclosed that documentation was generally adequate to support contractor payment and subsequent federal reimbursement.

Inactive Projects Audit - The FHWA Financial Integrity Review and Evaluation (FIRE) Order requires a quarterly review of inactive projects that fall into three tiers. Tier I includes projects that have been inactive for 12 months or longer with an inactive balance greater than \$500,000. Tier II includes projects that have been inactive for 24 months or longer with an inactive balance greater than \$50,000. Tier III includes all projects that have been inactive for 36 months or longer. Each quarter, our office requires a review of projects that fit into the three tiers and requests justification for the inactivity. We began FFY 2012 with local and state projects in the three tiers with a total unexpended balance of \$18.7 million (2.8 percent of apportionments). These figures fluctuated through the year, and ended FFY 2012 with \$22.6 million (3.5 percent of apportionments).

Planning Finding and Statewide Transportation Improvement Program (STIP) Review -

This review of WSDOT and Metropolitan Planning Organizations (MPO) and their statewide and metropolitan transportation planning processes for calendar year 2012, included a review of self-certification supporting documentation, federal certification of Transportation Management Areas (TMA) within the state, and federal involvement in the state and MPO transportation planning processes. As a result, FHWA and FTA jointly find that the transportation planning process substantially meets the requirements of 23 U.S.C. Sections 134 and 135 and 49 U.S.C. Sections 5303-5305. The finding can result in approval of the entire STIP, approval of the STIP subject to corrective actions, or approval of a partial STIP under special circumstances. FHWA, FTA, and WSDOT undertook extensive review and coordination during FFY 2012 that included discussion of specific issues related to fiscal constraint, full funding, and administrative modification criteria for metropolitan transportation improvement programs and the STIP. Resolution to these issues is currently underway.

Highway Performance Monitoring System (HPMS) Annual Review - In FFY 2012 an HPMS review of WSDOT and local agency routes was conducted in the Southwest and South Central Regions. The review occurred subsequent to WSDOT's submittal of the full 2011 HPMS dataset to FHWA's Office of Highway Policy Information in August 2011. The submittal was completed using updated software developed by FHWA. The data elements considered were those that can be observed or measured in the field. The Division reviewed 50 sections from that subset in the field and found only minor discrepancies. To date FHWA Headquarters has accepted the entire dataset submitted by WSDOT in August.

Truck Size and Weight Review - This annual review of WSDOT and Washington State Patrol's (WSP) operation is conducted to ensure the state enforces vehicle size and weight laws. This is done to prevent premature deterioration of the highway pavement and structures and provide a safe driving environment. In FFY 2012 both WSP (for the 2013 Enforcement Plan), and WSDOT (for the 2012 Enforcement Certification) submitted the required plan and certification on time and in the appropriate format. In addition, the Division held a coordination meeting for WSP and WSDOT to discuss potential research activities and future funding opportunities.

TMA Certification Review - The TMA Certification Review for the Spokane Regional Transportation Council (SRTC), which looks at how the metropolitan transportation planning process is being carried out in the area, was completed in 2012. The review consisted of a desk audit of the current planning documents which began in August 2011 and a subsequent site visit on September 27-29, 2011, where FHWA, FTA, WSDOT, and SRTC planning staff spent two and a half days discussing the details of metropolitan planning for SRTC. The review found several commendable issues, recommendations for improvement, and deficiencies that require corrective actions. FHWA and FTA submitted the final report to the SRTC Policy Board January 16, 2012 and initiated coordination with SRTC to address those findings throughout the remainder of FFY 2012.

The following review(s), initiative(s), and scans were also done with involvement and assistance of your staff:

Active Transportation Demand Management (AcTDM) Showcase Held in Seattle - On Wednesday, November 2, 2011, FHWA and WSDOT hosted an AcTDM showcase in Seattle. Representatives from Colorado, the Virginia DOT, Oregon DOT, Pennsylvania DOT, Southern Nevada Regional Transportation Council, Texas Transportation Institute, FHWA HQ, Resource Center, and our office participated in the showcase. Presentations on the AcTDM program, its various components, WSDOT's Active Traffic Management system on I-5, I-90, and SR 520, and its Commute Trip Reduction program were presented. In addition to information on your Active Traffic Management system, there was extensive sharing on WSDOT's HOV system and its experiences with tolling of the SR 167 HOT lanes, the variable tolling on SR 520, and the possibility of tolling HOV lanes on I-405.

FHWA, WSDOT, and Spokane County Execute Agreement to Remediate Uniform Act Non-Compliance - Resulting from a 2011 joint FHWA and WSDOT right-of-way review on Spokane County's multi-phased Bigelow Gulch road safety project, a Memorandum of Agreement (MOA) was executed on January 25, 2012, between the Washington Division, WSDOT H&LP Office, and Spokane County to define acceptable remedial actions to address Spokane County's right-of-way (ROW) acquisition non-compliant practices with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and enhance WSDOT's oversight policy and practices of the local public agency ROW program. The MOA included staff qualification requirements, project management plan approvals and remedial actions to address the URA non-compliance.

USDOT's Office of the Inspector General (OIG) Reviews I-5 Columbia River Crossing (CRC) Project - Staff from our office and the Oregon Division met with the OIG on Tuesday, February 7, 2012 to discuss finances on the I-5 Columbia River Crossing (CRC) project. OIG staff were following up on a forensic accounting analysis completed by the Acuity Group. The meeting allowed staff from FHWA to help OIG better understand the project development process and answer any questions the OIG had related to the project. OIG also had discussions with WSDOT and Oregon DOT staff to determine if they had any concerns related to the issues presented in the forensic report.

US General Accountability Office (GAO) Climate Change Adaptation Research - On April 11, 2012, two representatives of GAO visited the SR 522, Cathcart Road to US 2, project in Snohomish County. This visit was part of GAO's research on infrastructure and climate change adaptation. The GAO research was requested by U.S. Senators Baucus (D-MT) and Whitehouse (D-RI). The scope of this research is to determine; 1) what is known about the foreseeable consequences of climate change on infrastructure, 2) the extent climate change effects are incorporated into infrastructure planning and project implementation, and 3) the ways federal adaptation programs and policies are either helping or impeding efforts to incorporate climate change effects into infrastructure planning and project implementation. The SR 522 project was chosen because the environmental assessment (EA) included qualitative consideration of climate change in the cumulative effects section and the project team considered the impacts of climate change in various design elements. Representatives of WSDOT, Snohomish County, the City of

Monroe, the National Oceanic & Atmospheric Administration, the Environmental Protection Agency, and the Washington Division participated in the meeting and site visit.

Colorado “Lid” Scan Team Visits Washington State - On September 27, 2012, staff from the Colorado DOT and the Colorado Division visited Washington State to learn about "lids". A lid is essentially a wider bridge over a freeway/tollway facility that provides for an enhanced community connection from the two sides of the facility. The group from Colorado met with WSDOT staff in the Seattle area to learn about existing lids over I-90 on Mercer Island and lids under construction over SR 520.

We congratulate and commend WSDOT for:

Implementation of Variable Tolling on SR 520 - While complex, challenging, and somewhat controversial, WSDOT successfully implemented variable tolling on SR 520 on December 29, 2011. This tolling, which received approximately \$154.5 million in federal funds as part of the Urban Partnership Agreement program in 2007, is expected to raise \$1 billion overall toward the \$4.13 billion SR 520 Bridge Replacement and HOV program.

First Grant Anticipation Revenue Vehicle (GARVEE) Bond Sale – In May 2012, Washington State sold \$494 million in its first ever issuance of GARVEE bonds, which are backed by Federal Highway funds, to raise money to help pay for a replacement of the SR 520 Floating Bridge in Seattle. Our offices worked with staff from FHWA’s Office of Innovative Project Delivery, to develop the Memorandum of Understanding (MOU) to identify the roles and responsibilities for WSDOT and FHWA with respect to the GARVEE loan. The GARVEE agreement allows WSDOT to get reimbursed for debt service up to \$900 million in bond sales.

ARRA Percentage of Projects Final Vouchered - As of September 30, 2012, WSDOT has the second highest percentage of Recovery Act projects final vouchered in the nation at 90.22! Two hundred three (203) of the 225 ARRA projects have been closed out or final vouchered. This follows WSDOT’s quick obligation and expenditure of ARRA funds over the past three and one-half years to help stimulate the economy and improve infrastructure.

In addition to the above mentioned program oversight and review activities, my staff has specific project involvement responsibilities as well. Each and every one of the federal-aid highway projects authorized for construction in FFY 2012 required FHWA involvement through our approval of the environmental document. Per the Stewardship Agreement we also had project specific design, ROW, and construction involvement on many Interstate and major/unique projects under development and construction in Washington State. Therefore, I am confident in the finding made at the beginning of this letter.

We wish to thank you and your staff for their professionalism, integrity, and innovation in carrying out the delivery of the federal-aid funds during FFY 2012. I also applaud your staff for their work in delivering the \$677 million in federal-aid (formula funds and discretionary) at a time when you're in the midst of one of the largest state construction programs in history.

This is the 11th annual Performance Report. Performance Reports for FFYs 2002 through 2012 can be found on our website at <http://www.fhwa.dot.gov/wadiv/preports/>.

If you have any questions or need further information please feel free to contact me via phone at (360) 753-9480 or via e-mail at Daniel.Mathis@dot.gov.

Sincerely,

Original /s/ by Daniel M. Mathis

DANIEL M. MATHIS, P.E.
Division Administrator

cc: Governor Christine Gregoire
Dan O'Neal, Chair, Washington State Transportation Commission
Mary Margaret Haugen, Chair, Senate Transportation Committee
Curtis King, Ranking Minority Member of Senate Transportation Committee
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