

Washington State Auditor's Office
Accountability Audit Report

Department of Transportation

Audit Period
July 1, 2007 through June 30, 2008

Report No. 1001050

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WASHINGTON
BRIAN SONNTAG
STATE AUDITOR



**Washington State Auditor
Brian Sonntag**

April 6, 2009

Ms. Paula Hammond, Secretary of Transportation
Department of Transportation

Report on Accountability

We appreciate the opportunity to work in cooperation with your agency to promote accountability, integrity and openness in government. The State Auditor's Office takes seriously our role to advocate for government accountability and transparency and to promote positive change.

Please find attached our report on the Department of Transportation's accountability and compliance with state laws and regulations and its own policies and procedures. Thank you for working with us to ensure the efficient and effective use of public resources.

Sincerely,

BRIAN SONNTAG, CGFM
STATE AUDITOR

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Audit Summary

State of Washington Department of Transportation

ABOUT THE AUDIT

This report contains the results of our independent accountability audit of the Department of Transportation for the period from July 1, 2007, through June 30, 2008.

We evaluated internal controls and performed audit procedures on the activities of the Department. We also determined whether the Department complied with state laws and regulations and its own policies and procedures.

In keeping with general auditing practices, we do not examine every transaction, activity or area. Instead, the areas examined were those representing the highest risk of noncompliance, misappropriation or misuse. The following areas were examined during this audit period:

- Cash receipting and revenue
- Credit cards
- Expenditures
- Procurement of goods and services
- Highway construction expenditures and payment system
- Payroll expenditures and system
- Safeguarding of assets

RESULTS

In most areas, the Department complied with state laws and regulations and its own policies and procedures.

However, we identified a condition significant enough to report as a finding:

- The Department did not comply with state contracting and purchasing laws.

We also noted certain matters that we communicated to Department management. We appreciate the Department's commitment to resolving those matters.

Related Reports

State of Washington Department of Transportation

FINANCIAL

We perform an annual audit of the statewide basic financial statements, as required by state law (RCW 43.09.310). Our opinion on these financial statements is included in the Comprehensive Annual Financial Report (CAFR) prepared by and available from the Office of Financial Management. The CAFR reflects the financial activities of all funds, organizations, institutions, agencies, departments and offices that are part of the state's reporting entity. That report is issued by the Office of Financial Management in December of each year and can be found at www.ofm.wa.gov.

FEDERAL PROGRAMS

In accordance with the Single Audit Act, we annually audit major federal programs administered by the state of Washington. Rather than perform a single audit of each agency, we audit the state as a whole. The results of that audit are published in a report issued by the Office of Financial Management in March of each year.

PERFORMANCE AUDITS

Initiative 900, approved by voters in 2005, gives the State Auditor's Office the authority to conduct independent performance audits of state and local government entities. Performance audits include, but are not limited to, providing objective analysis to improve program performance and operations, reducing costs and identifying best practices.

We issued performance audit reports for the Department of Transportation results of wrap-up – Engrossed Substitute Senate Bill 6839 in April 2008 and the Collection of State Debt in August 2008, which are available on our Web site.

OTHER REPORTS

In addition to these reports, we also issued three reports in January 2008, February 2008 and December 2008 pursuant to the State Employee Whistleblower Act (Chapter 42.40 RCW), which are available on our Web site.

Description of the Department

State of Washington Department of Transportation

ABOUT THE DEPARTMENT

The Department of Transportation's mission is to keep people and business moving by operating and improving the state's transportation systems vital to our taxpayers and communities. The Department's key business processes include:

- Planning, designing and contracting for the construction of state and federal highway systems and related infrastructure.
- Maintaining, preserving and managing the capital assets that comprise the state-owned transportation system.
- Building and operating the ferry system.
- Promoting private and public investment in and operation of state-owned and state-interest transportation systems.

The Department is financed by revenue from the state gas tax, licenses, permits and fees, ferry fares and concessions, federal reimbursements and bond proceeds. The Department employs approximately 7,500 people. The 2007-09 biennial budget is approximately \$5.9 billion.

The Secretary of Transportation is appointed by the Governor and is the executive for the Department. The Department is organized into the executive branch, four divisions and seven regional organizations.

The Washington State Transportation Commission is an independent state agency of seven citizen members appointed by the Governor and confirmed by the Senate. The Commission exercises responsibilities in preparing the state's transportation plan, proposing the state's transportation investment plan and working with the Governor, the state Legislature, the Secretary of Transportation and others across the state in formulating transportation policy. The Commission also oversees transportation policy and operational plans for highways, ferries and inter-city passenger rail.

DEPARTMENT CONTACT INFORMATION

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AUDIT HISTORY

We audit the Department on an annual basis. The past five audits have reported 13 findings. We reported five in 2003, two in 2004, three in 2005 and three in 2006. No findings were reported in the 2007 audit.

Schedule of Audit Findings and Responses

State of Washington Department of Transportation

1. The Department did not comply with state contracting and purchasing laws.

Description of Condition

We reviewed 52 expenditures made by the Ferries Division in fiscal year 2008, totaling \$829,070, and found the Division:

- Paid \$710,207 to five companies for temporary personnel services without using a competitive process and without a written contract in place.
- Did not document competitive solicitation for four purchases of supplies and repairs totaling \$65,394.
- Did not use a formal competitive process for a purchase total \$127,837 for steam cleaning the ferry vessel Hyak's drive motors.
- Did not have a signed personal services contract for training totalling \$17,856. The Division also did not obtain prior advance approval from state Office of Financial Management before the training was provided. Further, the contractor billed the Division \$5,856 more than the amount agreed upon in a phone quote documented by purchaser on the purchase order.
- Did not make timely payments totaling \$109,779 to six vendors.
- Purchased publishing services for \$10,500, hull inspection of the ferry Klickitat for \$29,766, service of the life rafts on the ferry Puyallup for \$13,961 and rebuilding of injectors on the ferry Walla Walla for \$64,166 before the purchases were approved by the appropriate Department Directors.
- Jointly hosted an inter-tribal gathering and paid for meals for tribal members. Total expenditure for this event was \$37,785.

Cause of Condition

The Ferries Division has experienced a turnover in management and stated these violations occurred under the management of the previous Ferries administration. Ferries Division management stated it is working to address these issues, to include training.

The Department, tribal and local governments also hosted an inter-tribal gathering with non-state employees for the purpose of mitigating tribal relationship problems and reducing the costs of future transportation projects.

Effect of Condition

By not following state contracting rules and regulations, the Division increases the risk that contract competition and management may not be open, effective and efficient. In addition, the state may not get the best price for the item or service purchased.

By not making payments to vendors in a timely manner, the risk that late payment penalties will be assessed increases.

Without prior approval of purchases, the risk that goods and services could be improperly acquired without the knowledge of management increases.

Recommendation

We recognize significant changes are being made in the purchasing process to address the conditions we found.

We recommend the Department strengthen its internal controls to ensure compliance with state contracting rules and regulations as well as its own policies and procedures for purchasing. We further recommend that the Department comply with state rules and regulations regarding providing meals with meetings.

We also recommend the Division ensure those involved with contracting are properly trained in their duties.

Department's Response

Thank you for acknowledging the Department's progress in addressing the issues described in the audit finding. The Department appreciates your recommendations regarding contracting and purchasing at Ferries and is committed to addressing these issues.

The Department will continue its progress to strengthen internal controls over purchasing and contracting at Ferries, to ensure compliance with state rules, as well as internal policies and procedures. We have already taken steps to provide greater oversight over purchasing by moving eight buyers from the Vessels Division into a new section within Finance and Administration at Ferries, and by reminding employees of their responsibility regarding purchasing rules. We are also in the process of phasing out our use of temporary employment agencies at Ferries.

We appreciate your recommendations regarding meals with meetings, and will continue to work hard to ensure compliance with state laws and rules in this area. The Department received much value as a result of its expenditures for the inter-tribal gathering addressed in the audit finding. The Department's participation in this gathering furthered our compliance with Federal laws requiring that we consult with Indian Tribes that attach cultural significance to historic properties that may be affected by our projects (Section 106 National Historic Preservation Act). Face to face meetings that develop trust and build relationships between state and tribal governments are an important part of achieving compliance with these federal rules. The relationship building with tribal governments that occurred during this inter-tribal gathering facilitated negotiations and execution of tribal agreements, including Environmental Mitigation Agreements, Programmatic Cultural Resource Agreements, and others, necessary for the Department to move forward on many projects. We will ensure that the future purchase of meals with meetings meets state laws and regulations.

Auditor's Remarks

We appreciate the Department's commitment to resolve the issues identified in the finding and will review the Department's progress in our 2009 audit. We also appreciate the cooperation extended to us throughout the audit by Department staff.

Applicable Laws and Regulations

Washington Purchasing Manual, Chapter 6.1.a, states:

Request for Quote

Purchases between \$3,300 and up to \$46,200 (before trade-in allowance, sales tax and freight charges) are to be competitively solicited and documented.

Process Requirements:

- The request and the quote in response may be either written and/or oral as specified by the purchasing activity.
- A minimum of three quotations shall be sought. If fewer than three sources are solicited, the reasons are to be explained in writing and included in the purchase file.

Washington Purchasing Manual, Chapter 6.1.b, states:

Competitive Sealed Bidding

The law requires a formal, competitive process such as Invitation for Bids, Requests for Proposals and other formal competition processes for purchases for more than \$46,200.

Statutory Requirements:

- All bids shall be in writing.
- Public notice shall be provided.
- Notice sent to bidders on the appropriate supplier list.
- Available vendors in good standing shall be notified.
- Bids must be recorded and publicly opened.
- Awarded to lowest responsive bidder.

State Administrative and Accounting Manual (SAAM), Chapter 20.15.30.a, states:

Internal Control

The agency head or authorized designee is ultimately responsible for identifying risks and establishing, maintaining, and reviewing the agency's system of internal control.

State Administrative and Accounting Manual (SAAM), Chapter 85.32.10, states:

Agency responsibilities

At a minimum, agencies are also to establish and implement the following:

1. Controls to ensure that all expenditures/expenses and disbursements are for lawful and proper purposes and recorded in a timely manner.
2. Procedures to ensure prompt and accurate payment of authorized obligations.

State Administrative and Accounting Manual (SAAM), Chapter 15.30.15.b, states:

Filing Periods

Contract is filed with OFM a minimum of ten working days prior to the proposed start date of services for all sole source contracts of \$5,000 or more and their amendments.

State Administrative and Accounting Manual (SAAM), Chapter 15.30.15.f, states:

Contract Total Amount

For filing purposes, the dollar amount specified in the contract should be the maximum contract value. That means the maximum amount that could be authorized for payment under the contract to the contractor and includes the amount estimated for sales and use taxes, travel and other expenses, etc.

State Administrative and Accounting Manual (SAAM), Chapter 15.30.25.a, states:

Sole Source Filings

- Sole source contracts in the amount of \$5,000 or more and their amendments must be filed with OFM.
- All sole source contracts and amendments subject to filing with OFM must be filed a minimum of ten-working days prior to the proposed start of work.

State Administrative and Accounting Manual (SAAM), Chapter 15.40.15.a, states:

Written Contract

All personal service contracts, regardless of dollar amount, require a written document specifying the agreement between the agency and the contractor.

Required elements in a personal service contract are:

- Identification of all parties to the contract;
- Scope of services that clearly describes the responsibilities and obligations of the parties;
- Maximum compensation;
- Period of performance, including start and end dates or a statement, for example, that the end date is two years from the start date;
- Payment mechanism that describes the basis on which the contractor will be paid for services whether an hourly/daily/weekly/monthly rate, by deliverable, completion of a project phase or milestone, achievement of a performance target or outcome, lump sum, etc.; and
- Signatures of all responsible parties.

State Administrative and Accounting Manual (SAAM), Chapter 70.15.10b states:

Reimbursement for meals with meetings

The agency head or authorized designee may authorize reimbursement for the allowable cost of meals (refer to Subsections 10.40.40 and 10.90.20) for elective and appointive officials and state employees regardless of travel status, and without regard to the Three Hour Rule of Subsection 10.40.50 (1). This authority is intended for use when the agency requires a person to attend a meeting where business meals are served, and where:

- The purpose of the meeting is to conduct official state business or to provide training to state employees or state officials; and
- The meals are an integral part of the business meeting or training session, and
- The meeting or training session takes place away from the employee's or official's regular workplace, and
- The agency obtains a receipt for the actual costs of the meals with meetings, and

- The agency head or authorized designee approves payment for the meals in advance of the meeting by defining in the *agency* internal policies and procedures (Subsection 10.10.10) those meetings where attendance by agency employee(s), official(s) or others as authorized by statute, and reimbursement for the meals regardless of travel status, is advantageous to the state.

Approvals must be in writing (Subsection 70.15.30). One-time approvals for recurring meetings can be made at the time of the initial request.

State Administrative and Accounting Manual (SAAM), Chapter 70.15.20 states:

Expenditures for meals with meetings are prohibited in some cases

Agencies may not make expenditures for meals in the following situations:

- Any hosting activities. "Hosting" includes, but is not limited to, those activities that are intended either to lobby a legislator or a governmental official, or are to be a social rather than governmental business event, and include expenditures for meals for those whom agencies are not legally authorized to reimburse.

RCW 39.29.018, Personal Service - Sole source contracts, states:

- (1) Sole source contracts shall be filed with the office of financial management and made available for public inspection at least ten working days prior to the proposed starting date of the contract.

RCW 43.03.050, Subsistence, lodging and refreshment, and per diem allowance for officials, employees, and members of boards, commissions, or committees, states:

- (1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed the rates set by the federal government for federal employees. However, during the 2003-05 fiscal biennium, the allowances for any county that is part of a metropolitan statistical area, the largest city of which is in another state, shall equal the allowances prescribed for that larger city.

RCW 43.19.1906, Competitive bids, states:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed, electronic, or web-based bid procedure, subject to RCW 43.19.1911, shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029.



ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the state's Constitution and is part of the executive branch of state government. The State Auditor is elected by the citizens of Washington and serves four-year terms.

Our mission is to work in cooperation with our audit clients and citizens as an advocate for government accountability. As an elected agency, the State Auditor's Office has the independence necessary to objectively perform audits and investigations. Our audits are designed to comply with professional standards as well as to satisfy the requirements of federal, state, and local laws.

The State Auditor's Office employees are located around the state to deliver our services effectively and efficiently.

Our audits look at financial information and compliance with state, federal and local laws on the part of all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits of state agencies and local governments and fraud, whistleblower and citizen hotline investigations.

The results of our work are widely distributed through a variety of reports, which are available on our Web site and through our free, electronic subscription service. We continue to refine our reporting efforts to ensure the results of our audits are useful and understandable.

We take our role as partners in accountability seriously. We provide training and technical assistance to governments and have an extensive quality assurance program.

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Deputy Chief of Staff
Chief Policy Advisor
Director of Audit
Director of Special Investigations
Director for Legal Affairs
Director of Quality Assurance
Local Government Liaison
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