

Schedule of Federal Audit Findings and Questioned Costs

**City of Gold Bar
Snohomish County
January 1, 2012 through December 31, 2012**

- 1. The City's internal controls were inadequate to ensure compliance with requirements of its Highway Planning and Construction Grant.**

CFDA Number and Title:	20.205 Highway Planning and Construction
Federal Grantor Name:	Federal Highway Administration, Department of Transportation
Federal Award/Contract Number:	STPE-00002(8002)
Pass-through Entity Name:	NA
Pass-through Award/Contract Number:	LA7406
Questioned Cost Amount:	\$0

Description of Condition

In fiscal year 2012, the City spent \$344,265 in Highway Planning and Construction grant funds. Of this, it paid \$221,000 to one vendor for constructing a sidewalk along U.S. Highway 2. The City relied on its engineering consulting firm to procure this contract without adequate oversight and monitoring internal controls in place to ensure it met all federal requirements.

Davis-Bacon Act

Contractors and subcontractors are required to follow labor standards, pay prevailing wages and submit certified payroll records weekly. The City did not inform the contractor of these requirements in its contract language. The City also did not obtain weekly certified payroll records.

Suspension and debarment

Federal grant regulations prohibit the City from contracting with parties suspended or debarred from doing business with the federal government. For vendor contracts of \$25,000 or more, the City must ensure the vendor is not suspended or debarred. The City paid \$221,000 for services under this contract without verifying the vendor's status.

Cause of Condition

The City hired an engineering consulting firm to oversee the sidewalk construction project. The City used a contract form provided by the engineering consultant without ensuring it contained all of the required federal provisions.

Effect of Condition and Questioned Costs

Without proper controls, the City cannot ensure:

- Contractors are paid prevailing wages. This could result in underpaid workers and the City responsible to pay the higher of state or federal wage to workers on the project.
- Vendors that are paid with federal funds are not suspended or debarred from participating in federal programs. Any payments made to an ineligible party are unallowable and would be subject to recovery by the grantor.

Even though the City didn't include language about prevailing wage requirements in the contract, we confirmed the engineering consultant obtained certified payrolls from the vendor. Further, we were able to verify the vendor was not suspended or debarred. Therefore, we are not questioning these costs.

Recommendation

We recommend the City establish appropriate oversight and monitoring internal controls to ensure all future projects paid with federal funding meet federal Davis-Bacon Act and suspension and debarment requirements.

City's Response

The City complied with all the federal requirements under the Certified Acceptance authority of WSDOT N.W. Region Local Programs who monitored our consultant and contractor for compliance. Both the hired consultant, WH Pacific, and the Washington State Department of Transportation Assistant Local Programs Engineer have stated that the project met all federal requirements. The City does not have the specific expertise in-house to state otherwise.

Auditor's Remarks

We reaffirm our finding. We will follow-up on its status during the next audit.

Applicable Laws and Regulations

OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, Subpart C, Section 300 states in part,

The auditee shall:

(b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

(c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs

Title 29, code of federal Regulations, Section 5.5(a) states in part:

§ 5.5 Contract provisions and related matters.

- (a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1, the following clauses . . .

(8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

Title 29, Code of Federal Regulations, Section 3.3, Weekly statement with respect to payment of wages, states in part:

- (b) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by this part 3 and part 5 of this chapter during the preceding weekly payroll period. This statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages, and shall be on form WH 348, "Statement of Compliance", or on an identical form on the back of WH347, "Payroll (For Contractors Optional Use)" or on any form with identical wording.

Title 2, Code of Federal Regulations, Section 180.220, states in part, – Are any procurement contracts included as covered transactions?:

- (b) Specifically, a contract for goods or services is a covered transaction if any of the following applies:
- (1) The contract is awarded by a participant in a nonprocurement transaction that is covered under Sec. 180.210, and the amount of the contract is expected to equal or exceed \$25,000.

Title 2, Code of Federal Regulations, Section 180.300 – What must I do before I enter into a covered transaction with another person at the next lower tier?

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

- (a) Checking the EPLS; or
- (b) Collecting a certification from that person if allowed by this rule; or
- (c) Adding a clause or condition to the covered transaction with that person.