

# Schedule of Audit Findings and Responses

## City of Lakewood Pierce County January 1, 2013 through December 31, 2013

### 1. The City's internal controls were inadequate to ensure compliance with federal Davis-Bacon Act (prevailing wage) requirements for its Highway Planning and Construction grant.

<b>CFDA Number and Title:</b>	20.205 Highway Planning and Construction
<b>Federal Grantor Name:</b>	U.S. Department of Transportation Federal Highway Administration
<b>Federal Award/Contract Number:</b>	SRTS-2921(001)
<b>Pass-through Entity Name:</b>	Department of Transportation
<b>Pass-through Award/Contract Number:</b>	LA-7685
<b>Questioned Cost Amount:</b>	\$0

#### Description of Condition

The City spent \$1,249,793 in Highway Planning and Construction grant funds on nine projects in fiscal year 2013, which included \$226,525 on the Dower Elementary - Safe Routes to School Project.

For federally funded construction projects that exceed \$2,000, the Davis-Bacon Act requires contractors to pay federally prescribed prevailing wages to laborers. Grant recipients must include a provision stating the contractor and subcontractors must comply with the Davis-Bacon Act in construction contracts. The provision requires the contractor and subcontractors to submit a weekly copy of payroll and a statement of compliance (certified payrolls) to the grantee.

We identified a significant internal control deficiency, which we consider to be a material weakness. The City did not have a process in place to ensure required weekly certified payroll reports were received for the Dower Elementary safe routes project. Total payroll costs associated with this project were \$167,765.

#### Cause of Condition

Due to changes in staff and a lack of management oversight, this project was not monitored to ensure required weekly certified payrolls were obtained and reviewed.

## **Effect of Condition**

The City did not obtain certified weekly payrolls from the prime contractor or sub-contractors for 10 out of 13 weeks. Therefore, the City could not ensure the contractors paid prevailing wages to the workers. This could result in underpaid workers, which the City could be responsible in paying the higher of state or federal wages to the workers on this project.

## **Recommendation**

We recommend the City identify and assign responsibility to appropriate staff for ensuring compliance with prevailing wage requirements and obtain required certifications on a weekly basis. We also recommend the City ensure responsible staff is adequately trained and knowledgeable of prevailing wage requirements.

## **City's Response**

*The City appreciates the partnership with the Washington State Auditor's Office. The City believes that it has adequate controls in place for verification of weekly certified payrolls and that the finding appears to be the result of an isolated incident.*

*The issue has been communicated with the Public Works Director and the department has implemented an additional control (secondary review) to ensure certified weekly payrolls are received by the City.*

## **Auditor's Remarks**

We appreciate the steps the City is taking to resolve this issue. We will review the condition during our next audit.

## **Applicable Laws and Regulations**

U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, states in part:

*Subpart C, Auditees; Section 300 Auditee responsibilities.*

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, *Contract provisions and related matters*, states in part:

(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 (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor) . . .

(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 title 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 the back of Form WH 347, "Payroll (For Contractors Optional Use)" or on any form with identical wording. Copies of Form WH 347 may be obtained from the Government contracting or sponsoring agency or from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site.

U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, Section 500, states in part:

(a) The audit shall be conducted in accordance with GAGAS . . . *Government Auditing Standards*, December 2011 Revision, paragraph 4.23 states:

When performing GAGAS financial audits, auditors should communicate in the report on internal control over financial reporting and compliance, based upon the work performed, (1) significant deficiencies and material weaknesses in internal control; (2) instances of fraud and noncompliance with provisions of laws or regulations that have a material effect on the audit and any other instances that warrant the attention of those charged with governance; (3) noncompliance with provisions of contracts or grant agreements that has a material effect on the audit; and (4) abuse that has a material effect on the audit.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 265, as follows:

**.07** For purposes of generally accepted auditing standards, the following terms have the meanings attributed as follows . . .

**Material weakness.** A deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

**Significant deficiency.** A deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit attention by those charged with governance.