

Schedule of Federal Audit Findings

**City of Bainbridge Island
Kitsap 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.

CFDA Number and Title: 20.205 Highway Planning and Construction

Federal Grantor Name: U.S. Department of Transportation, Federal Highway Administration

Federal Award/Contract Number: STPUS-9918 and STPUS-6203

Pass-through Entity Name: Department of Transportation

Pass-through Award/Contract Number: LA-8122, TA-5164 and LA-7337

Questioned Cost Amount: \$0

Description of Condition

The City spent \$1,386,593 in Highway Planning and Construction grant funds on five projects in fiscal year 2013. The focus of the audit was on two of those projects which included \$900,000 on the Rockaway Beach Road Stabilization Project and \$357,112 on the Chip Seal Project.

For federally funded construction projects that exceed \$2,000, the Davis-Bacon Act requires contractors to pay federally prescribed prevailing wages to laborers. In addition, contracts for these projects must contain language notifying the contractor and subcontractors must comply with the Davis-Bacon Act in construction contracts. The Act also requires recipients of federal funds to obtain weekly certified payrolls for all contractors and subcontractors to ensure prevailing wages are paid.

During our audit, we noted a significant internal control deficiency, which we consider to be a material weakness. The City did not monitor to ensure contractors and subcontractors paid prevailing wage on the Rockaway Beach project and the City did not obtain weekly certified payrolls for the Chip Seal project.

Under the grant agreement, the City was responsible for following federal and state laws and regulations.

Cause of Condition

A Project Engineer was assigned to both projects (Rockaway Beach and Chip Seal) with no previous experience managing a federally funded construction project in addition to a lack of management oversight. As a result, the City did not use the internal controls it normally would have for federally funded construction projects to ensure required weekly payrolls were obtained and reviewed.

Effect of Condition

The City did not obtain certified weekly payrolls for the Chip Seal project and the certified weekly payrolls for the Rockaway Beach project were not reviewed. Without adequate internal controls, the City cannot ensure the contractors or subcontractors paid workers the prevailing wage. The City could be liable for paying additional wages if prevailing wage was not paid.

Recommendation

We recommend the City provide management oversight and follow-up with staff to ensure that the procedures they have in place are being followed. We also recommend the City ensure responsible staff is adequately trained and knowledgeable of prevailing wage requirements.

City's Response

The City of Bainbridge Island will improve its internal compliance with its project checklist specific to all federally-funded capital projects by improving existing processes and procedures and updating staff training.

Auditor's Remarks

We thank the City for its cooperation during the audit and we will review issue 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:

4.23 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.