



U.S. Department
of Transportation

**Federal Highway
Administration**

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HDA-WA/301

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

FY 09 Performance Report

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 FY 2009, 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 aid flow into Washington State. In federal Fiscal Year (FY) 2009 (October 1, 2008 - September 30, 2009), Washington State obligated \$610,601,844 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 31 percent (\$183,975,700) of those federal highway funds were obligated by local agencies (cities and counties) for road projects during FY 2009.

Additionally, FY 2009 brought the need to identify and implement projects funded by the 2009 American Recovery and Reinvestment Act (ARRA). WSDOT received \$492,992,337 in ARRA funding. From February 2009 through September 2009, WSDOT obligated \$356,940,934 in ARRA funds on 181 projects. Approximately 37 percent (\$134,008,564) of those funds were obligated by local agencies.

In total, WSDOT obligated \$967,542,278 in federal funds during FY 2009. Of that \$649,558,514 was obligated for state projects and \$317,984,264 (approximately 33 percent) was obligated for local agency projects.



Annually, we conduct project inspections, program evaluations, systematic reviews, and financial audits of WSDOT and local agencies. For FY 2009 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 - We conducted 62 construction inspections (39 state and 23 local agencies) of highway projects throughout the state. 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 Office via hardcopies of the reports. We also noted numerous instances where innovative construction techniques and good contract administration practices were being used.

Annual Regional Work Zone Reviews - We participated in seven of WSDOT's Region work zone traffic control reviews -- five in the Northwest Region, one in the Olympic Region, and one in the Southwest Region -- in FY 2009. Minor revisions to work zone traffic control were found to be necessary, but as we have found in the past WSDOT personnel routinely exercise good engineering judgment in work zone plans and specifications and are providing safe and efficient travel for the public through work zones. Overall, WSDOT project offices continue to ensure that projects are developed in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and approved traffic control plans and specifications.

Consultant Services Program Review - The review was conducted to aid in determining whether or not WSDOT's Consultant Services Office (CSO) is procuring architectural and engineering (A&E) contracts in compliance with the Brooks Act. A particular emphasis of the review was to perform a review of CSO's consultant procedures manual and examine WSDOT policy 2006-01. The review found that in some instances WSDOT's written policies were inconsistent with 23 CFR 172.9 and the Brooks Act. In addition, WSDOT policy 2006-01 was found to be inconsistent with federal laws and regulations. As of August 16, 2009, WSDOT policy 2006-01 is no longer in effect for any new work. A new policy alternative to address the costs of administering sub-consultants is forthcoming and will be documented in the 2010 WSDOT CSO consultant procedures manual. In addition, WSDOT CSO is currently developing a plan to create a 2010 update of the consultant procedures manual; which will include all updates to all procedures that are currently in place and functioning for the consultant services program. The 2010 version of the manual will be submitted to FHWA for approval in early 2010.

National Bridge Inspection Standards (NBIS) Annual Review - The field review conducted in May 2009 of 23 state and local agency bridges in the Eastern and South Central Regions and the review of bridge inventory data statewide found that the overall bridge inspection program in Washington state was in substantial compliance with the NBIS. A considerable amount of effort was put forth by the state and local agencies to assess every bridge for its scour vulnerability, and provide plans of action for those considered at risk. Ongoing corrective actions are underway to complete needed load ratings of state bridges. Maintaining the required frequency of inspections is another area needing improvement as identified by the data review. Given the past and current attention and effort that the WSDOT Bridge Office and WSDOT Highways and Local Programs (H&LP) Office have made to address previous recommendations, the program is considered to be well managed. Identified deficiencies have been quickly addressed and WSDOT has shown effective leadership to ensure the safety of bridges in Washington.

Structural Design Review - This review was part of a national review with a team that consisted of individuals from the California Department of Transportation (Caltrans), FHWA's Resource Center, FHWA's Federal Lands Office, and our office. The field portion of the review was conducted in August 2008, followed by additional review of documents gathered during the field review. The final report

issued in January 2009 found that WSDOT is a leader in implementing many recommended structural design practices and technologies, and their overall structural design program is among the best in the country. Several recommendations were made for further strengthening the structural design program in the areas of expertise succession planning, coordinating with Regions, and involvement with mega projects.

Design: Cost Estimating Process Review - The review included site visits to the Olympic and Northwest Regions for interviews and process verification, as well as central office interviews. During the on-site reviews, the Review Team interviewed WSDOT cost estimating staff and reviewed the project estimate documentation from the representative projects. Based on this review, the Team verified how WSDOT develops cost estimates and identified best practices and potential gaps in the official WSDOT cost estimate process. The review at the region and HQ offices concentrated on project cost estimation from scoping to advertisement. Select projects authorized and awarded between 2006 and 2008 were reviewed as part of the effort. WSDOT also surveyed all seven regions prior to the on-site review to capture best practices and areas of concern within the state. The team also met with the System Analysis & Program Development Branch to discuss early planning and scoping-level estimates. Based on the observations made by the Review Team, it is believed that the current process for development and review of preliminary and design cost estimates is complete and accurate and meets or exceeds national standards.

Design Stewardship Reviews - Design stewardship reviews are conducted annually by WSDOT Assistant State Design Engineers and FHWA Area Engineers to assess WSDOT's project design process. These reviews provide evidence that design documentation, project record files, and Plans, Specifications, and Estimates (PS&E) prepared for federal-aid highway projects are consistent with state and federal requirements. Eight (8) reviews were conducted on projects with at least one in each WSDOT Region. Roadside safety, access management, and consistency with the requirements of the Americans with Disability Act were the three focus areas. Resolution of recommendations and actions for follow up are being incorporated in the appropriate design documents. Based on the results of this review, all WSDOT Regions comply with Title 23 of the United States Code (USC) requirements, WSDOT design policy and procedures, and the WSDOT/FHWA Stewardship Agreement.

Intelligent Transportation Systems (ITS) Systems Engineering Review - The purpose of this review was to examine the existing WSDOT ITS project delivery process and determine whether federally-funded WSDOT ITS projects are complying with federal ITS systems engineering requirements. The ultimate goal was to ensure that WSDOT has a project delivery process that allows ITS projects to be implemented successfully and minimize the risk of failure. In early 2009, the review team, made up of WSDOT and FHWA Washington Division staff, selected and analyzed four recently completed WSDOT ITS projects. In addition, a workshop was held in March 2009, with assistance from FHWA Resource Center and FHWA Systems Engineering Support Contract staff, to further discuss these four projects and develop an initial set of observations and recommendations. The final report, completed in July 2009, concluded that WSDOT has a documented project development process that complies with the federal ITS systems engineering requirements. In addition, several process improvement recommendations were made for better ensuring these requirements are followed on all ITS projects in the state and developing better guidance for how to scale the systems engineering process commensurate with individual projects. An action plan was also developed to guide the implementation of these recommendations over the next few years.

Federal-aid Billing Review #1 (State projects) - The objective of this review was to determine whether claims submitted for reimbursement during the first quarter of FY 2009 (October 2008 through December 2008), were fair, reasonable and properly supported. Collectively the federal-aid reimbursement during this period amounted to \$175,070,251.70. For this review we selected "highway construction" for testing. The charges attributable to "highway construction" on projects for this period were \$60,094,867.60. In

order to verify the validity of these charges, we conducted a review of state Project Engineer offices in the Northwest, Olympic, and Southwest Regions. Our review disclosed that documentation was adequate to support contractor payment and subsequent federal reimbursement. In the one area where project personnel did not adhere to established management controls follow up action has been taken by WSDOT.

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 six local agency projects. During the first quarter of FY 2009 (October 2008 through December 2008), we reviewed reimbursements, to see if they were fair, reasonable, and properly supported. Collectively the federal-aid reimbursement for this period amounted to \$175,070,251.70. The charges attributable to local agencies for this period were \$67,060,185.70. Our review disclosed that documentation was adequate to support contractor payment and subsequent federal reimbursement in most cases. However, we found one instance where project documentation was inadequate. These were discussed with H&LP staff and appropriate corrections were made.

Grants Management Review on Alaskan Way Viaduct (AWV) - The focus of our review was to determine if expenditures of the federal earmark funds on the AWV project are reasonable and allowable. Based on our review and follow-up discussions with staff from the AWV office it was determined that some of the federal charges were ineligible for federal funding because they were used for final design before the environmental document was completed. (Federal regulations permit the use of federal funds for final design on a project, only after the environmental documents are completed.) AWV staff have already taken follow-up action and implemented necessary management controls to ensure that expenditures for final design are not made until the environmental document is completed.

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 one includes projects that have been inactive for 12 months or longer with an inactive balance greater than \$500,000. Tier two includes projects that have been inactive for 24 months or longer with an inactive balance greater than \$50,000. Tier three 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 FY 2009 with 80 local and state projects in the three tiers with a total unexpended balance of \$21.8 million (3.4 percent of apportionments). These figures have fluctuated through the year, with a high of \$46.4 million (7.1 percent of apportionments) on July 31, 2009.

Right-of-Way (ROW) Administrative Settlement Review - This review was performed to ensure that the administrative settlement documentation now approved at the WSDOT Region level provides adequate support to justify the settlement amount. This review looked at both WSDOT and H&LP projects. The team found there are opportunities for improvement in documenting administrative settlements for both WSDOT and local agency projects. The team had two recommendations. First, the ROW Manual and the local agency guidelines (LAG) Manual Chapter 25 should be updated to provide better guidance and/or examples of the term “adequate justification.” The ROW Manual has been updated, and the LAG Manual update should be updated sometime in 2010. The second recommendation was to create a web-based training course. The team is actively working on creating the course, and currently plans on releasing a “beta” version of the course around March 2010.

Right-of-Way (ROW) Interstate Access and Encroachments Review - FHWA identified encroachments as an area of weakness and airspace leases as a streamlining opportunity in the 2008 ROW Program Assessment our office conducted. A process improvement review was performed, resulting in several recommendations. An encroachment policy should be created and implemented. The policy has been updated in the ROW Manual and FHWA is monitoring the policy implementation. WSDOT will implement a pre-approved non-modifiable lease form which will not require the State Attorney General’s

Office review. WSDOT is finalizing this for use. FHWA and WSDOT will execute a Memorandum of Agreement (MOA) to delegate signature authority to WSDOT HQ Real Estate Services Office for a subset of Interstate airspace leases. A preliminary MOA has been drafted, but additional work is pending to implement this recommendation. A second valuation procedure has been added to the ROW Manual as a tool to determine economic rent for leases under \$10,000 (annual rent). Lastly, clarification on NEPA requirements for property management actions should be included in the WSDOT ROW Manual. Additional information has been incorporated into the ROW Manual on NEPA requirements.

Civil Rights Title VI Review - The purpose of this review was to evaluate the effectiveness of selected program offices' procedures for implementing Title VI. The review was limited in scope, focusing on the processes and procedures of five WSDOT program offices (Office of Equal Opportunity, Real Estate Services, Consultant Services, Communications, and H&LP). Several areas were identified as needing improvement, such as the lack of agency-wide procedures for addressing limited english proficiency, especially in the area of communications. A draft plan for improving communications is expected later this month. Overall Title VI implementation at WSDOT is one of the best in the country.

Planning Finding and Statewide Transportation Improvement Program (STIP) Review - This review of the WSDOT and MPOs self-certifications of their statewide and metropolitan transportation planning processes for calendar year 2009, included a review of self-certification supporting documentation, federal certification of TMAs within the state, and federal involvement in the state and MPO transportation planning processes. As a result the FHWA and FTA jointly found 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. Based on the federal review of the 2009-2013 STIP, the FHWA and FTA found that the projects in the 2009-2013 STIP are based on a transportation planning process that substantially meets the requirements of 23 Sections 134 and 135 and 49 U.S.C. Sections 5303-5305. Therefore, the 2009-2013 STIP submitted was approved.

Statewide Planning and Research (SPR) Review - This bi-annual review of the SPR Review conducted on June 24, 2009 examined the full range of transportation planning and research activities accomplished during the previous biennium and to be undertaken during the 2009-2011 biennium. That review resulted in a finding that the work program substantially meets the requirements of 23 CFR 420.111 and was subsequently approved on June 30, 2009.

Highway Performance Monitoring System (HPMS) Annual Review - In FY 2009 an HPMS review of WSDOT and local agency routes was conducted in the Northwest and Olympic Regions. The data elements looked at were those that can be observed or measured in the field. WSDOT provided a subset of the data elements that were submitted to FHWA's Office of Highway Policy Information in June of 2009. We reviewed 30 sections from that subset in the field and found no discrepancies. FHWA Headquarters reviewed the entire dataset submitted by WSDOT in June and commented positively on its quality and accuracy.

Truck Size & 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 FY 2009 both WSP (for the Enforcement Plan), and WSDOT (for the Enforcement Certification) submitted the required plan and certification on time and in the appropriate format. In addition, we performed a mid-year review of WSP's Enforcement Plan to see if they were on track with their projected activities. We found they had met or exceeded their forecast for all items in the plan and that WSP and WSDOT are making good use of the resources in conducting the size and weight enforcement program in the state of Washington.

The following review and initiative were also done with involvement and assistance of your staff:

Transportation Management Area (TMA) Certification Review - This planning review conducted in January 2009 jointly with FTA evaluated the Portland, OR/Vancouver, WA planning process. The Portland/Vancouver TMA was certified subject to the corrective actions and recommendations. Two corrective actions noted from the review were subsequently addressed.

Endangered Species Act (ESA) Initiative - Earlier in FY 2009 agreement was reached between National Marine Fisheries Service, the US Fish & Wildlife Service, WSDOT, and FHWA on initiatives around stormwater, indirect effects, and pile-driving. These agreements should reduce the time to get through the ESA consultation process for projects. We appreciate your Environmental Services Office's efforts and resources in this significant initiative.

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 548 federal-aid highway projects authorized for construction in FY 2009 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 FY 2009. I also applaud your staff for their work in delivering the nearly \$1 billion in federal-aid (ARRA and formula funds) at a time when you've embarked on the largest state construction program in history.

This is the eighth annual Performance Report. Performance Reports for FYs 2002 through 2008 can be found on our website at <http://www.fhwa.dot.gov/wadiv/>.

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
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Mary Margaret Haugen, Chair, Senate Transportation Committee
Dan Swecker, Ranking Minority Member of Senate Transportation Committee
Judy Clibborn, Chair, House Transportation Committee
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