



U.S. Department
of Transportation

**Federal Highway
Administration**

Washington Division

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Roger Millar
Secretary of Transportation
Department of Transportation
Olympia, Washington

FFY 2016 Performance Letter

Dear Mr. Millar:

Based on the inspections, reviews, program evaluations, audits, and specific project and program involvement conducted by the Washington Division of the Federal Highway Administration (FHWA) in Federal Fiscal Year (FFY) 2016, 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 public agency (LPA) 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 funds flow into Washington State. In FFY 2016 (October 1, 2015 - September 30, 2016), Washington State obligated \$645,661,015 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 65 percent (\$425,298,226) of those Federal highway funds were obligated for state projects and 35 percent (\$229,006,737) were obligated by LPAs (cities and counties) for road projects during FFY 2016.

Annually, we conduct project inspections, program evaluations, systematic reviews, and financial audits of WSDOT and LPAs. We also review and approve standard plans, special provisions, manuals, and other program documents. For FFY 2016, 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 During FFY 2016 - Our office conducted 45 construction inspections on active construction projects throughout the state (34 state and 11 LPAs). We conducted four inspections on Transportation Investment Generating Economic Recovery (TIGER) funded projects, and the remaining 41 on regular federal-aid funded projects or state-only funded projects. Any specific findings for these projects were discussed at the time with the appropriate Project Engineer. On 10 LPA projects, inspections were specifically focused only on the construction of curb ramps and sidewalks meeting compliance with the American with Disabilities Act (ADA). At most sites the curb ramps and sidewalks were found in compliance with ADA, although uniqueness was noted on several of these sites. While at the remaining sites the cross slopes or the running slopes slightly exceeded the maximum required slope to meet ADA compliance. With the assessment report forth coming, we will continue to work with WSDOT Construction and Local Programs Offices to ensure ADA compliance is met efficiently and effectively. Summarizing all the inspection reports, WSDOT provides quality oversight and administration of its construction program.

National Bridge Inspection Standards (NBIS) Annual Review - The 2016 NBIS review incorporating an oversight process that is risk-based, data-driven, and evaluates 23 metrics is fully underway. Our office has worked in cooperation with WSDOT to gather bridge data, review bridge files, and conduct field visits to assist in the compliance determinations for the 2015 NBIS review and the current 2016 review. As part of the 2015 NBIS review, WSDOT completed several Improvement Plans to resolve minor issues with routine low and high risk inspection frequency and has continued to make progress on the Plan of Corrective Action for fracture critical member inspection frequency. (WSDOT Maintenance's notable practice of washing bridges prior to their inspection greatly assisted in the process.) The results of the 2015 NBIS compliance review for Washington included 14 metrics in full compliance, eight metrics in conditional compliance with improvement plans developed to resolve minor discrepancies, one metric in conditional compliance, and no metrics in non-compliance. The results continue to show significant progress by state and local agencies to improve their bridge inspection programs. The current 2016 NBIS compliance determinations on all 23 metrics are scheduled to be completed by December 31, 2016.

Compliance Assessment Program (CAP) Reviews - The purpose of the CAP is to help provide reasonable assurance that federal-aid highway projects comply with key Federal requirements. The CAP helps provide this assurance by assessing a statistically valid sample of projects such that the results inform FHWA nationwide, with an acceptable level of certainty, of the degree of compliance. We reviewed a total of 50 LPA projects with the Core Question and Contract Administration Guides. We found a few items on a handful of projects in which documentation was lacking, but overall the federal-aid highway projects reviewed were in compliance with key Federal requirements. All findings were considered very low risk and we have worked with WSDOT Local Programs Office to address future occurrences.

Federal-aid Grants Management Review - As part of the CAP Review, our office Finance Team completed reviews on 50 LPA projects to verify that charges were federally-eligible and properly supported, and the agreements between WSDOT and FHWA complied with Federal policy. For each project, FHWA reviewed all documents available in the LPA file, and in the Financial Management Information System project agreement(s). Staff made site visits to many

LPAs to interview responsible LPA staff for clarification. The specific areas of focus were confirming that charges were eligible; the Federal share on the agreements remained unchanged; the type of Federal funds authorized on the agreements were appropriate for the type of work on the project; indirect costs billed to FHWA were identified in an indirect cost rate plan; and, payroll, fleet, and equipment charges were properly billed to the project. The results of our review found that LPAs in Washington State were largely compliant and had processes in place to properly administer federal-aid projects.

Federal-aid Billing Review (LPA Projects) - The objective of this review was to determine how well LPAs carried out their documentation responsibilities. Our sample included the 50 CAP reviews statewide, as well as an additional billing review in Olympic Region. During PY 2016 (June 1, 2015 through May 31, 2016), we reviewed reimbursements for contractor payments, LPA labor, overhead charges, equipment and fleet in order to verify that the charges were fair, reasonable, and properly supported. Collectively the federal-aid reimbursement for this period amounted to \$934,314,309. The pass-through charges for LPAs for this period were \$226,917,281. Our review disclosed that documentation was generally adequate to support the payments and subsequent Federal reimbursement.

Inactive Obligations - The FHWA Financial Integrity Review and Evaluation (FIRE) Order requires a quarterly review of inactive projects that fall into two tiers, 1) inactive projects \$150,000 or greater and 2) inactive projects less than \$150,000. Each quarter, our office requires WSDOT to review projects that fit into the inactive status and request justification for the inactivity. We began FFY 2016 with local and state projects at a total inactive balance of \$5.7 million (0.8 percent of FFY 2016 apportionment). These figures fluctuated through the year, and ended FFY 2016 with \$15.3 million (2.2 percent of total fiscal year apportionment).

Right-of-Way(ROW) Interstate General Permits Process Review - The purpose and objective of this review was to re-evaluate WSDOT's process of allowing non-highway use of interstate ROW to determine if changes made in 2013 have resulted in compliance with 23 CFR 710.401 and 710.405. The language in these regulations require FHWA's approval to grant temporary or permanent rights to third parties for non-highway use of Interstate property if the area is not required presently or in the foreseeable future for the safe and proper operation and maintenance of the Interstate. The review consisted of a literature review, review of 16 general permits and three Adopt-a-Highway agreements, and review of WSDOT Region responses to a follow-up questionnaire to obtain clarifying information. There were four observations/recommendations made as a result of the review. The first is that WSDOT Regions are allowing changes to access, use, and occupancy on Interstates without seeking/receiving WSDOT Access Office and FHWA approval. This has been identified as a compliance issue and, as such, our staff will work with WSDOT staff to develop an action plan to resolve this recommendation. While the remaining three observations / recommendations are not considered compliance issues, we believe they are potential improvements that could make the permit issuing process better. Also, we will work with your staff to develop a programmatic agreement to focus our review/approval of only the most important permits.

Contract Change Order (CCO) Process Review - The primary objectives of this review, which began in 2015, were to identify common contract provisions that result in changes to contracts through change orders and recommend possible improvements to reduce the risk in future contracts. We also wanted to assess the level of statewide consistency in change order methodology and process, confirm that WSDOT CCOs contain adequate documentation to justify approval, and that it meets all applicable Federal requirements. Based on the observations and recommendations of the process review, the Review Team determined that WSDOT's CCO process is fully compliant with Federal regulations and no further action is required.

Highway Safety Improvement Program (HSIP) Review - This review was undertaken to assess how WSDOT's obligation of HSIP funds compares to the national average since Safety was made a core funding program in the Safe, Affordable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This assessment revealed that WSDOT is obligating HSIP funds at an acceptable rate. WSDOT's HSIP program is consistent with Federal law and regulations and with the goals and strategies contained in Target Zero.

Prompt Payment Assessment - During this past year, we conducted a Prompt Payment Assessment in an effort to determine whether concerns expressed to FHWA by Disadvantaged Business Enterprise (DBE) firms were valid, and if so, were the issues limited or widespread. Nine federal-aid projects from across the state were reviewed (five WSDOT-administered and four LPA-administered projects). Information gleaned from project documents, contractor records, and associated interviews, revealed that some contractors were not adhering to the Federal / State prompt payment requirements including return of retainage which affected DBEs and non-DBEs. We acknowledge the improvements WSDOT has made to the prompt payment and return of retainage issues and will continue to work with your staff to address any remaining observations.

Civil Rights Title VI Compliance Review - In September 2014, FHWA Office of Civil Rights conducted a Title VI compliance review of WSDOT. The review report, which was issued in December 2015, identified several areas requiring WSDOT's attention. Subsequent to issuance of the report, our office met with your staff to discuss the findings and next steps. WSDOT was requested to develop an action plan describing how it intended to correct the deficiencies identified in the report, and otherwise strengthen its Title VI Program. WSDOT submitted an action plan to our office in June 2016. We have worked closely with your staff in 2016 to ensure successful implementation of their corrective action plan.

Planning Finding and Statewide Transportation Improvement Program (STIP) Review - Our office and the Federal Transit Administration (FTA) Region 10 office conducted reviews of WSDOT and Metropolitan Planning Organizations (MPOs) and their statewide and metropolitan transportation planning processes during FFY 2016. These included the annual reviews of the MPOs' work programs, the state and MPOs' public involvement processes, and discussions about their transportation planning processes. As a result of these reviews, FHWA and FTA jointly found in January 2016 that the transportation planning process in calendar year 2015 substantially met the requirements of 23 U.S.C. Sections 134 and 135 and 49 U.S.C. Sections 5303-5305. (Federal Planning Findings coincide with the state's calendar year-end STIP submittal and review in December and January.)

Highway Performance Monitoring System (HPMS) Annual Review - Our staff conducted the HPMS review for FFY 2016 in October 2015, and met with WSDOT Data and GIS management and staff to discuss the results of the field review report on December 10, 2015. (The review for FFY 2017 takes place on the same schedule: October through December 2016.) FHWA reviewed State and LPA routes in the Northwest and Olympic Regions in the fall of 2015, checking more than 50 “sample” sites representative of HPMS data sent in to FHWA Headquarters (HQ). The data elements considered are those easily observed or measured in the field, and are based on specific guidance provided by FHWA HQ. WSDOT delivered information on time, and the field review found no deviations from the data sent from WSDOT to FHWA HQ. After a discussion with FHWA HQ, in the coming year, we will use WSDOT’s State Route Web Tool “SRweb” (an application that allows users to view digital images of the Washington State Highway System via their web browser) for assessing 50 road segments in the North Central and Eastern Regions to determine whether SRweb can be used as a viable alternative to some field reviews.

Truck Size and Weight (TS&W) Review - This annual review of WSDOT and Washington State Patrol’s (WSP) operation is conducted to ensure the state meets the Federal regulatory requirements of TS&W laws. The size and weight enforcement program is designed to monitor and prevent premature deterioration of the highway pavement and structures and provide a safe driving environment. In FFY 2016, WSP submitted its 2016 State Enforcement Plan (SEP) on time. Our office approved WSDOT’s certification data from 2015 and submitted the evaluation report for the State’s SEP to FHWA HQ.

I would like to note that WSP and WSDOT had a number of successes based on the interagency workshop held in February 2015 which were highlighted last year. In FFY 2016, WSP and WSDOT collaborated on a “beta” version of a Weigh-in-Motion station near Spokane, and are considering the use of dozens more of these sites as budgets and time allow. The cross-pollination of great ideas among the groups continues to provide positive results.

The following reviews were completed by our staff which may be of interest to you:

Heavy Vehicle Use Tax (HVUT) Compliance Review - Division staff conducted a mandatory compliance review of the Washington State Department of Licensing (DOL) in 2015 for the HVUT process. Basically, the Director of DOL, as the Governor’s delegate, must provide FHWA with an annual letter certifying that HVUT proof of payment is obtained and retained by DOL for at least a year as a condition of registration for vehicles subject to the tax. FHWA must conduct compliance reviews of the HVUT process according to Federal law. FHWA identified numerous regulatory compliance issues, and in FFY 2016 DOL worked diligently to address these issues. FHWA and DOL agreed to an action plan to have changes in place by June 2016, which DOL met. DOL took the extraordinary step to retrain all of their staff and external agents statewide on the requirements of HVUT. HVUT is significant and important. The State of Washington’s share of that funding was almost \$178 million from 2004-13. These collected funds are attributed back to the State.

U.S. Government Accountability Office (GAO) Bridge Management and Funding Review -

In January, the Division met with individuals from the GAO Seattle Field Office to respond to questions on the current state of bridges in Washington, unique program features or challenges, the FHWA Division Office role with regards to bridges, bridge funding and project prioritization, and bridge management including a brief description of the FHWA annual National Bridge Inspection Standards (NBIS) Oversight Program compliance review. We were able to provide GAO with Division’s oversight of WSDOT’s bridge program with regards to our roles and responsibilities. A main focus of the review was the discussion on bridge program impacts from a previously dedicated bridge funding source to a shared funding source as implemented with the Moving Ahead for Progress in the 21st Century (previous Federal transportation act) and continued with the FAST Act. GAO also met with select individuals from WSDOT that oversee both the state and LPA bridge programs including discussions with individuals on program funding and project prioritization. This review by GAO was part of a multi-state review with the final findings report still to be provided.

Transportation Management Agency (TMA) Certification Review - Washington Division staff conducted Certification Review(s) of Spokane Regional Transportation Council and Benton-Franklin Council of Governments (BFCG). Washington Division staff worked with these MPOs to develop proactive responses to address corrective actions, including BFCG updating its Metropolitan Transportation Plan, and continuing its work on the Congestion Management Process.

The following review(s), initiative(s), and scans were also completed with involvement and assistance of your staff:

Repurposing Earmarks - The U.S. DOT Appropriations Act of 2016 provided the authority for a State to repurpose earmarks under certain conditions. The authority to repurpose allows a Federal earmark to be moved to a different project. Several criteria had to be met for any earmark to be eligible for repurposing to another project. The criteria included the requirement that the repurposed funds had to be obligated on a new or existing project in the State within 50 miles of the original earmark designation. Also, the project had to be eligible under the Surface Transportation Block Grant Program. Washington submitted 93 repurposing transfer requests totaling \$48.5 million. The 93 requests made up six percent of the nationwide amount (in dollars), and eight percent of the nationwide transfers eligible for repurposing. The 93 transfer requests encompassed 129 Federal earmarks. Fifty-two of the 93 transfer requests were from LPAs, totaling \$31.5 million. The remaining 41 transfers were for State DOT projects, totaling \$17.0 million.

Spokane Hosts First Every Place Counts (EPC) Design Challenge - On July 7-8, Spokane was the site of the inaugural EPC Design Challenge. The two-day design session focused on ways to reconnect the community that was impacted from the construction of I-90 through the East Central neighborhood in the late 1950s, and examine ways to avoid a similar result when US 395 is reconstructed in the same area of the city. Multiple stakeholders participated in the charrette including representatives of the impacted neighborhood, the City of Spokane, WSDOT, and our office. The in-depth sessions and workshops were facilitated by representatives of the Office of the U.S. Secretary of Transportation.

Border Planning Peer Exchange - On June 8-9, FHWA, in coordination with Transport Canada, the Transportation Border Working Group, Whatcom County MPO, and WSDOT hosted a Regional Master Planning Peer Exchange in Bellingham to focus on regional border planning efforts along the U.S.-Canada border. This peer exchange convened Federal, State, Provincial, and regional government agency practitioners from both the U.S.-Canada and U.S.-Mexico border to share experiences and best practices in developing strategies for continuing national-level support of regional cross-border planning and coordination. The peer exchange included sharing of existing efforts, a tour of several border port of entry facilities, and facilitated discussions of border planning gaps and strategies to close those gaps.

Bicycle/Pedestrian Safety Assessment - Building on U.S. DOT's Bike/Ped Safety efforts from last year our Area Engineers along with the WSDOT's Regional bike/ped contacts conducted one brief bike/ped assessment in each of the six WSDOT Regions. While the bike/ped assessments served their purpose in establishing contact between the Area Engineers and their respective WSDOT Region Bike/Ped Coordinators and in getting a better sense of the status of the bike/ped program in the Regions, there are opportunities to enhance bike/ped coordination and accommodation on future projects.

We congratulate and commend Washington State and WSDOT for:

“Gray Notebook - 15 years and 61 publications” - Governor Inslee proclaimed Tuesday, May 31, as Gray Notebook Appreciation Day in the State of Washington! We too, want to acknowledge this milestone of the pre-eminent model report for project and program transparency and accountability among state DOTs.

Opening the New State Route (SR) 520 Floating Bridge - In April -- after nearly 20 years of planning, environmental work, design, and construction -- you opened the new longest floating bridge in the world, to replace the seismic and storm vulnerable bridge that had served the region since 1963. On Saturday April 2nd, FHWA Administrator Greg Nadeau joined in the grand opening ceremony and ribbon-cutting on the new bridge.

Hosting a Peer Exchange with Michigan and Arizona DOTs on Active Traffic Management (AcTM) - The purpose of the peer exchange was to gain a better understanding of WSDOT's planning, design, public outreach, operations, maintenance, and enforcement of their AcTM systems (i.e., Variable Speed Limits, Queue Warning Systems, and Dynamic Lane Use Control) that has been in place on Seattle freeways since 2010. Your staff exchanged insights with staff from the Michigan and Arizona DOTs on February 3-4 in Seattle. Both Michigan and Arizona DOTs are planning AcTM systems on urban corridors in their states.

Freight Corridor Designation - The FAST Act (signed by President Obama in December 2015) has created greater visibility and focus for freight in transportation. Your Freight/Rail staff and our staff have worked closely throughout 2016 to address the early requirements of the FAST Act. As a result of WSDOT's leadership, diligence and superb efforts throughout the calendar year, WSDOT and Puget Sound Regional Council (PSRC) are the first state DOT and MPO in the country to certify their “critical urban/rural freight corridors,” which our office verified and sent on to FHWA HQ in September.

Implementing Practical Design - On November 20, 2015, WSDOT published new guidance and procedures in their Design Manual to implement Practical Design. WSDOT's approach to Practical Design will make project decisions that engage local stakeholders, focus on the need for the project, and look for the lowest cost solutions.

In addition to the above-mentioned program oversight and review activities, my staff has specific project involvement responsibilities, as well. As noted in the Stewardship Agreement, we had project specific environment, 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 \$654+ million in federal-aid funds during FFY 2016.

This is the 15th annual Performance Report. Performance Reports for FFYs 2002 through 2016 can be found on our website at <http://www.fhwa.dot.gov/wadiv/preports/>.

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/ Daniel M. Mathis, P.E.

DANIEL M. MATHIS, P.E.
Division Administrator

cc: Governor Jay Inslee
Jerry Litt, Chair, Washington State Transportation Commission
Curtis King, Chair, Senate Transportation Committee
Steve Hobbs, Ranking Minority Member of Senate Transportation Committee
Judy Clibborn, Chair, House Transportation Committee
Ed Orcutt, Ranking Minority Member of House Transportation Committee
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Amy Scarton, Assistant Secretary for Community and Economic Development, WSDOT
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