U.S. Department
of Transportation

**Federal Highway
Administration**

Washington Division

Local Programs

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November 12, 2015

HDA-WA/301

Ms. Lynn Peterson
Secretary of Transportation
Department of Transportation
Olympia, Washington

FFY 2015 Performance Letter

Dear Ms. Peterson:

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) 2015, 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 funds flow into Washington State. In Federal Fiscal Year (FFY) 2015 (October 1, 2014 - September 30, 2015), Washington state obligated $629,109,423 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 ($409,768,558) of those Federal highway funds were obligated for state projects and 35 percent ($219,340,865) were obligated by local agencies (cities and counties) for road projects during FFY 2015.

Annually, we conduct project inspections, program evaluations, systematic reviews, and financial audits of WSDOT and local agencies. We also review and approve standard plans, special provisions, manuals, and other program documents. For FFY 2015, 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.

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Construction Inspections During FFY 2015 - Our office conducted 57 highway project construction inspections throughout the state (47 state and 10 local agencies). We conducted 20 inspections on Transportation Investment Generating Economic Recovery (TIGER) funded projects, and the remaining 37 on regular federal-aid funded projects or state-only funded projects. Summarizing all the inspection reports, WSDOT provides excellent oversight and administration of its construction program. The projects we reviewed were built in conformance with the approved plans and specifications. We discussed any specific findings and recommendations for these projects with the appropriate Project Engineer, resolved any issues, and shared the results with your HQ Construction and Local Programs (LP) offices via hard copies of the reports. We also noted numerous instances where innovative construction techniques and good contract administration practices were being used.

National Bridge Inspection Standards (NBIS) Annual Review - The 2015 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 2014 NBIS review and the current 2015 review. As part of the 2014 NBIS review, WSDOT completed several Plans of Corrective Action (PCA) to resolve issues with routine low and high risk inspection frequency and has continued to make progress on fracture critical member inspection frequency with the assistance of WSDOT maintenance washing bridges prior to their inspection. A new PCA for load rating was implemented based on the 2014 review findings and WSDOT has met the milestones outlined within the agreement between WSDOT and FHWA. The current 2015 NBIS compliance determinations on all 23 metrics are scheduled to be completed by December 31, 2015.

Design Stewardship Reviews - WSDOT Assistant State Design Engineers and our Area Engineers conduct annual design stewardship reviews to assess WSDOT's design process used on federal-aid projects. These reviews provide evidence that WSDOT's design documentation, project record files, and Plans, Specifications, and Estimates (PS&E) are consistent with applicable state and federal requirements. In 2015, our Area Engineers conducted PS&E reviews instead of the traditional design stewardship reviews. We conducted 10 reviews; 5 on local agency projects and 5 on state projects. We had no significant findings from these reviews. Based upon the results of the review of documents, we found PS&E packages comply with Title 23 USC requirements, WSDOT design policies and procedures, and the WSDOT/FHWA Stewardship Agreement.

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. A Core Question Guide was used to assess key Federal regulatory requirements. We reviewed a total of 58 projects with the Core Question Guides. We found the federal-aid highway projects reviewed are in compliance with key Federal requirements. As a result of these reviews and the previous year CAP reviews WSDOT and Local Programs have implemented measures to ensure in the PS&E approval process that certifications for railroad and utility agreements are being addressed.

Federal-aid Grants Management Review - Washington State was one of 10 states selected for the Safe Harbor Overhead Rate Initiative as part of an Innovative Test and Evaluation Program (TE-045). The Safe Harbor TE-045 allows selected states to test new and innovative ways to implement the federal-aid highway program. Our Office conducted this review to verify WSDOT was administering the Safe Harbor Rate initiative within the guidance provided by FHWA. To validate that WSDOT was implementing the program correctly, FHWA selected a sample of Safe Harbor ICR approved and denied candidates. We reviewed all documents in the file and interviewed WSDOT Internal Audit Staff for clarification, if needed. The results of our review found that WSDOT Internal Audit had a process in place to review potential candidates for the Safe Harbor ICR Pilot Program. Candidate firms were approved or denied based on the criteria for the FHWA program.

Federal-aid Billing Review #1 (State projects) - The objective of this review was to determine whether claims submitted for reimbursement during PY 2015 (June 1, 2014 through May 31, 2015), were fair, reasonable and properly supported. Collectively, the federal-aid reimbursement during this period amounted to $950,940,134. The state expenditures during this time period were $690,608,109. For this review we selected "highway construction" for testing. The charges attributable to "highway construction" on projects for this period were $460,099,558. In order to verify the validity of these charges, we conducted five reviews of projects in Project Engineer offices in the Northwest and Eastern Regions. Our review disclosed that documentation was generally adequate to support contractor payment and subsequent Federal reimbursement. Although there were areas where documentation could be improved -- for example, incomplete Field Note Records, missing basis for Lump Sum Bid Items, etc. -- our review disclosed that documentation was generally adequate to support contractor payment and subsequent Federal reimbursement.

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 one local agency project in the Olympic Region. During PY 2015 (June 1, 2014 through May 31, 2015), we reviewed reimbursement for contractor payments, to see if they were fair, reasonable, and properly supported. Collectively the federal-aid reimbursement for this period amounted to $950,940,134. The pass-through charges for local agencies for this period were $260,332,025. Our review disclosed that documentation was generally adequate to support contractor payment 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 requests justification for the inactivity. We began FFY 2015 with local and state projects at a total inactive balance of $1.3 million (0.2 percent of FFY 2015 apportionment). These figures fluctuated through the year, and ended FFY 2015 with $19.9 million (3.0 percent of total fiscal year apportionment).

Improper Payment Audit - In July, the Division submitted its final documentation to the FHWA financial consultant conducting USDOT's annual Improper Payments Elimination and Recovery Improvement Act (IPERIA) audit. The results of the improper payments testing are

reflected in the Department's annual Agency Financial Report, due by November 15 to Congress. The Division's determination is that all of the samples were fully supported by WSDOT and local agency documents and therefore, proper. The final step is for the consultant to concur with the Division's findings. We anticipate there will be follow-up questions from the auditors as they review the data from all of the Divisions over the next several months.

Right-of-Way (ROW) Certification Process Review - This review looked at WSDOT's management of the ROW Certification process. The team included WSDOT staff from Local Programs, Real Estate Services, and WSDOT Region Engineering Management. The two review objectives were to analyze Certificate #3s (Cert 3s) usage, and to analyze WSDOT's process used to determine when a project does not require ROW. For Cert 3s, the team determined that WSDOT's regular use of Cert 3s did not result from insufficient time allotted for ROW activities in the project development schedule for ROW acquisition. For "No ROW Needed" projects, the team determined that neither Local Programs nor WSDOT Program Management had a standardized process to verify that "No ROW Required" statements on projects are accurate, so WSDOT needs to make changes to internal processes to comply with regulatory requirements. An action plan was developed and is currently being implemented.

Environmental Commitments Review - This joint FHWA/WSDOT review was conducted to assess the effectiveness of commitment files in tracking the fulfilment of commitments made in FHWA National Environmental Policy Act (NEPA) documents. The review team's recommendations included updating WSDOT guidance memos for project delivery staff and implementing the new versions. The team further recommended that WSDOT's Environmental Services Office put in place a process to do an annual assessment of a few contracts within each Region to ensure all of the relevant environmental commitments were incorporated into the contract and the new Project Delivery Memo was implemented. For local agencies the review team recommended that a team should be convened to develop a recommended format(s) for a commitments file and to identify the specific types of commitments it should contain. Based on this review of WSDOT's process involving Environmental Commitment Tracking, the review team found that WSDOT is compliant with federal laws, regulations, and policies.

Highway Safety Improvement Program (HSIP) Process Review - This review was undertaken to determine whether the projects authorized with HSIP funding were consistent with the intent of the Federal requirements and the goals of Washington's Strategic Highway Safety Plan, Target Zero (TZ), and whether sufficient information is provided in the project authorization request to determine HSIP eligibility. One hundred projects were reviewed: 70 local and 30 State. The projects examined indicate that WSDOT is utilizing HSIP funds on both State and locally-owned streets/highways consistent with Federal law and regulations and with the goals and strategies contained in TZ. The review revealed some inconsistencies in how the Division staff determines whether proposed projects are eligible for HSIP funding which we are in the process of correcting.

Planning Finding and Statewide Transportation Improvement Program (STIP) Review - Our office and the Federal Transit Administration (FTA) Region X office conducted reviews of WSDOT and Metropolitan Planning Organizations (MPOs) and their statewide and metropolitan transportation planning processes during FFY 2015. 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 2015 that the transportation planning process in calendar year 2014 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 a HPMS review of WSDOT and local agency routes in the Olympic and Northwest Regions in FFY 2015. Our staff worked with WSDOT Data staff and reviewed these routes after WSDOT submitted the full 2014 HPMS dataset to FHWA's Headquarters Office of Highway Policy Information (OHPI) on July 20, 2015. FHWA Headquarters accepted the entire dataset submitted by WSDOT in July. The data elements considered are those easily observed or measured in the field, and are based on specific guidance provided by OHPI. Our office is in the process of its fall "ground-truthing" field review for 50 road segments, and will meet with WSDOT's HPMS/Data office in December 2015 to go over the results. We will provide a final HPMS report to FHWA's OHPI office before December 31, 2015.

Vehicle Size and Weight (VS&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 VS&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 2015, the Washington State Patrol (WSP) submitted its 2015 State Enforcement Plan (SEP) on time. Our office approved WSDOT's certification data from 2014 and submitted the evaluation report for the State's SEP to FHWA HQ on September 30, 2015.

Because we had determined in FFY 2014 that the VS&W program was only meeting minimum requirements of the Code of Federal Regulations, our office organized and facilitated an interagency workshop in February 2015. We coordinated with leaders from WSP, WSDOT, FHWA (our office and two HQ representatives), Federal Motor Carrier Safety Administration (FMCSA), and Freight Mobility Strategic Investment Board (FMSIB) to discuss how we as a "freight community" can better communicate to help the VS&W program succeed. As a result of the workshop, WSDOT and WSP have already accomplished a number of successes, including setting up specialty enforcements at vulnerable bridges, and analyzing possible new enforcement uses for existing "weigh-in-motion" data. We note the state Legislature has ordered a study of the overall weight program and has dedicated $10 million to the VS&W program over the next two biennia.

Civil Rights Title VI Review - Despite not having received a final review report on the September 28-29, 2014 Title VI review of WSDOT, our agencies have been proactively working together over the past year to address known Title VI issues (Public Involvement Plan, Limited English Implementation Plan, improved data collection/reporting, etc.). We believe that this effort will enable WSDOT to positively address any findings that are likely to be identified in the final review report. We anticipate receiving the final report prior to the end of December 2015.

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

Heavy Vehicle Use Tax (HVUT) Compliance Review Report - 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. While FHWA identified regulatory compliance issues, DOL is working diligently to address these issues. FHWA and DOL agreed to an action plan to have changes in place by June 2016. The issues are related to the need for DOL's "agents" to obtain and retain the HVUT proof of payment. 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.

Office of Inspector General (OIG) Single Audit Issue - In April, the Division responded to an OIG inquiry associated with a Washington State Single Audit Issue. The OIG/Single Audit inquiry sited a finding on WSDOT for reporting on too many federal-aid projects under the Federal Funding Accountability and Transparency Act (FFATA). FFATA requires that States report on contracts (projects) that are sub-awarded to other local governments. The Division had already submitted a Management Decision Letter in April, 2015 concurring with WSDOT's corrective action to "stop reporting" on certain projects that are not required under FFATA. The Division submitted the required documents to OIG to close the issue.

OIG Audit on 10-Year PE to Construction - In February, the Division provided the requested documentation to OIG for the 10-year preliminary engineering (PE) to construction audit. The audit looked at PE projects to determine if they went to construction. If the project has not started ROW or construction within 10 years of the start of PE, then the state or local agency is required to pay back the federal funds spent on design. Both of the PE projects selected for Washington had started construction within the 10-year time period. One of the projects selected was a PE "bucket" project. All of 15 PE phases funded from this PE bucket went to construction within the 10-year time period.

Division Hosts Tribal Consultation in Planning Review - In December 2014, Our office hosted the initial site visit of FHWA Headquarters' State of the Practice Review for Tribal Consultation in Planning, to provide the Review Team with information about the Division's role in consulting with tribes in the planning process in Washington State. The Review Team met with the our Office, WSDOT, and Thurston Regional Planning Council staff members that are involved in consulting with tribes in the planning process. In addition, the Review Team and Division representatives met with staff of the Nisqually Indian Tribe and the Yakama Nation and their leadership to hear their thoughts on the consultation in planning. Information gathered along with best practices and recommendations were included in a formal report with information also from Maine and Oklahoma.

Division Approves Toll Credit Certification - WSDOT certified toll credits for FFYs 2013 and 2014. The Division approved $508 million in toll credits in this recent certification. Since the inception of toll credits, Washington State has certified $3.25 billion in soft match (toll) credits.

The toll credits are used by WSDOT to match its federal-aid highway program. This includes paving projects, unstable slopes, safety projects, bridge rehabilitations and replacements, and new mobility projects. In addition, toll credits are used on Ferry System terminal and vessel projects, and a portion of preservation work carried out by local agencies.

Washington's Stewardship and Oversight (S&O) Agreement Signed - Upon receiving legal sufficiency from FHWA Chief Counsel (HCC) on Washington's S&O Agreement was signed on March 3. The previous agreement had been in place since 2008.

Bigelow Gulch Memorandum of Agreement (MOA) Remedial Actions Fulfilled - In March 2011, the Division and WSDOT issued a report that found ROW acquisitions on Spokane County's $66 million Bigelow Gulch Safety and Mobility project violated Uniform Act requirements and the ROW could not be certified. This resulted in a groundbreaking MOA which was used as a mechanism to allow the project's eligibility for Federal funding to be reinstated once specific remedial actions were completed by Spokane County and WSDOT. The Division and our legal counsel found that WSDOT and Spokane County fulfilled all the remedial actions required by the January 25, 2012 MOA which substantially reestablished the project's eligibility to received Federal funds for future project activities. On March 5, 2015 FHWA notified WSDOT in writing that the terms and conditions of the MOA were fulfilled.

Conciliation Agreement on Disadvantaged Business Enterprise (DBE) Issues on Alaskan Way Viaduct (AWV) Project Amended - The conciliation agreement was amended in May 2015 to reflect a change in the reporting requirement (from monthly to quarterly). The AWV project staff continues to meet bi-weekly with our Division Major Projects Engineer and Civil Rights Program Manager, to discuss Seattle Tunnel Partner's progress in achieving the contract's DBE goal (including WSDOT's efforts to monitor/verify DBE participation). FHWA's monitoring efforts include reviewing WSDOT's Quarterly Progress Reports, Commercially Useful Function (CUF) reports generated by the Office of Equal Opportunity (OEO) on DBE subcontractors working on the AWV project, and through meetings/participation in outreach events with AWV project staff, OEO staff, and representatives of the DBE community. Our agencies have both devoted a considerable amount of time this past year to monitoring and tracking DBE participation on the AWV project. We also note the continued improvements you and your staff are making to the overall DBE program.

State Route (SR) 520 Floating Bridge Replacement and High Occupancy Vehicle (HOV) Program Financial Activities - On October 25, 2012, WSDOT and FHWA closed on the $300 million Transportation Infrastructure Finance and Innovation Act (TIFIA) loan agreement for the SR520 Floating Bridge and Landings (FB&L) project. The interest rate for this TIFIA loan is 2.99 percent. The TIFIA loan will fund portions of the SR520 Bridge Replacement and HOV Program. Most of the loan is planned for funding the SR520 West Approach Bridge North (WABN) Project. This performance year, Washington received three TIFIA disbursements totaling $135 million for expenditures on the SR520 Bridge Replacement project. Our office reviewed field note records to approve each of the three disbursement requests. The total amount of TIFIA disbursement on this project through May 31, 2015 totals $145 million.

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

A Peer Exchange in Seattle with the Colorado DOT on May 27-28, 2015 to learn about WSDOT's staffing requirements for operating its facilities, its general approach to managing its facilities, its public outreach/education approach, HOV enforcement (specifically does WSDOT's honor system work?), and incident management (besides Active Traffic Management (AcTM), what other strategies does WSDOT use?).

Western Region Local Technical Assistance Program (LTAP) Meeting Hosted - On June 2-3, WSDOT's Local Programs office hosted the Western LTAP meeting in Vancouver. Ten western state LTAPs, the Northwest and Eastern Tribal Technical Assistance Programs (TTAP) office, and representatives from FHWA HQ, Western Federal Lands Highway Division, and Oregon and Washington Divisions participated in the meeting.

Hosting two **Workshops of Innovative Technologies**: 1) **Accelerated Bridge Construction (ABC)** workshop was attended by over 120 individuals to share information on national ABC resources and perspectives, research and development with regards to ABC for materials and within high seismic zones; and 2) **Tack Coat** workshop was attended by 102 federal, state, and local employees and contractors with an interest in sharing experience, issues, and performance on tack coats for pavements.

We congratulate and commend Washington State and WSDOT for:

Washington Named the No. 1 "Bicycle-Friendly State" Again - Congratulations to WSDOT for its part in helping Washington State being named the No. 1 "Bicycle-Friendly State" in the country for the eighth year in a row in May 2015 by the League of American Bicyclists. WSDOT's numerous programs in support of bicycling play a key part in this recognition. We appreciate WSDOT's efforts in accommodating other modes of transportation.

Safer People, Safer Streets Workshop Held - On November 7, 2014 WSDOT hosted a "Safer People, Safer Streets" workshop in Olympia. Over 45 attendees from all six WSDOT Regions, various bicycle and pedestrian organizations, academia, and the Washington Division and Resource Center participated. The morning session was devoted to presentations on bicycle/pedestrian safety and accommodation. The afternoon was devoted to small groups collaborating on action plans to make bicycling and walking better and safer in Washington State. A 15-20 mile bicycle ride around the Olympia area was held following the workshop.

Washington Transportation Revenue Package Passes - On July 1, the Washington State Legislature passed a $16.1 billion transportation revenue package that includes an incremental 11.9-cent gas tax increase over the next two years. The Division is committed to assisting WSDOT in the delivery of this program.

Snohomish County and WSDOT Presented with American Public Works Association (APWA) Award - On August 31, the National APWA honored Snohomish County Public Works and WSDOT for the response and repair following the State Route 530 (SR 530) Oso

landslide with the 2015 Project-of-the-Year award. The effort was led by the two agencies, and was recognized in the Disaster or Emergency Construction and Repair category in the $25 million to $75 million division. In addition to Snohomish County Public Works and WSDOT, APWA presented the award to the primary contractors and consultants that assisted in the project. The award for disaster or emergency construction and repair is presented to Public Works organizations that demonstrate techniques and timing for safety, community relations, environmental protection and adverse conditions. The project was also recognized by the Washington State Chapter of APWA earlier this year in the same category.

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 $629 million in federal-aid funds during FFY 2015.

This is the 14th annual Performance Report. Performance Reports for FFYs 2002 through 2015 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,

Daniel M. Mathis

DANIEL M. MATHIS, P.E.
Division Administrator

cc: Governor Jay Inslee
Anne Haley, Chair, Washington State Transportation Commission
Curtis King, Chair, Senate Transportation Committee
Judy Clibborn, Chair, House Transportation Committee
Ed Orcutt, Ranking Minority Member of House Transportation Committee
Roger Millar, Deputy Secretary, WSDOT
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