

December 5, 2012

**TO:** Paula Hammond, Secretary, Washington State Department of Transportation

**FROM:** Nancy Boyd, Washington CRC Project Director

**SUBJECT:** Review of Acuity Group correspondence to Washington legislators regarding Columbia River Crossing – Contracts and Task Order Analysis

## Introduction

At your request, we have reviewed assertions made by Tiffany Couch about the Columbia River Crossing (CRC) project that the CRC project has not complied with accounting and contracting processes as required by law or policy.

Project staff has spent considerable effort fulfilling requests for information and responding to previous claims by Ms. Couch on the topic of accounting and contracting, several of which have been repeated in this recent letter. WSDOT responded to a similar set of assertions from Ms. Couch in February 2012 (attached) which was provided to Washington legislators and others. Our review finds that claims of conflict of interest, duplicate work and inadequate documentation are unsubstantiated. As before, we have found CRC procurement, management and accounting practices adhere to federal and state law and established agency policies.

## Findings

1. Assertion: Appropriate procurement procedures in selecting a consultant for the CRC project were not followed.

**Finding: CRC solicited a competitive request for qualifications from a wide area for the CRC project prior to awarding the contract to David Evans and Associates.**

Consistent with national best practices learned from other large transportation projects, WSDOT issued a competitive and widely advertised Request for Qualifications (RFQ) in February 2005 for a general engineering consultant (GEC) to quickly mobilize a workforce and provide expertise and specialized skills that ODOT and WSDOT did not have available in-house. In addition to being advertised online, notification was provided in the Seattle Daily Journal of Commerce which is a paper of record in the Pacific Northwest and widely known as a source of information on contracting opportunities. The tasks identified in the RFQ included completing the environmental planning process under the National Environmental Policy Act (NEPA), permitting, and performing necessary preliminary design work leading to construction. This solicitation was completed under federal regulations that preclude a “low bid” process. Instead, selections must be based on professional qualifications provided at a reasonable cost to complete the work.

All potential bidders interested in leading the consultant team as the “prime” were required to participate in a pre-bid meeting prior to the submittal deadline. Seven firms attended the meeting indicating interest in being the prime consultant. Seventeen firms attended the meeting as potential sub-consultants. For a project of this size, it is expected that teams of consultants would submit proposals. In this case, one team, primed by DEA and consisting of 26 sub-consulting firms, submitted a proposal. Any submittal must meet pre-determined qualifications to be

evaluated and selected. The proposing team, led by David Evans and Associates (DEA), met all necessary qualifications and was selected following WSDOT procurement procedures.

Staff from the DEA consultant team provides services in roadway engineering, bridge engineering, transit engineering, travel demand modeling and forecasting, public communications, and project support and administration. DEA currently has active sub-contracts with 25 different firms to provide specialized work in structural, transit and highway engineering; computer-aided design; environmental planning and analysis; cost-estimating and scheduling; stormwater management planning; public communications; and document control. DEA is a well-qualified consulting firm with a strong reputation nationally. The firm was procured in accordance with applicable state and federal rules, regulations and procedures.

2. Assertion: David Evans and Associates' previous work on projects in the I-5 corridor creates a perceived Organizational Conflict of Interest.

**Finding: DEA has no real or perceived conflict of interest and was selected for unparalleled understanding of local and regional issues, as well as national expertise in bi-state and other FHWA mega projects.**

WSDOT has developed detailed guidance on Organizational Conflict of Interest (OCOI), cited by Ms. Couch, and adheres to these policies in its procurement, project management and engineering work. OCOI is important as it helps to safeguard the agency, competing firms and the public's trust by ensuring that contracting processes remain competitive. OCOI policies apply to all WSDOT-managed contracts to prevent competitive advantage of consultants or contractors. An example of a conflict of interest is where a contractor designs one phase of a project and then bids to further refine and/or construct these designs.

Ms. Couch alleges that work performed by DEA between 2000 and 2005 constitutes an Organizational Conflict of Interest. This work was completed under several contracts, each awarded through a competitive procurement process. DEA served as a prime contractor for four contracts and a sub-consultant on one. These contracts included work by DEA and subconsultants for the Portland Vancouver I-5 Trade Corridor Freight Feasibility and Needs Assessment, the I-5 Trade and Transportation Partnership and other economic and traffic analyses of the I-5 corridor. Associated work products included reports of research and findings, which were widely available to the public, and in the case of the I-5 Trade and Transportation Partnership, the result of a multi-month long public process with a stakeholder advisory group.

Work performed by DEA in previous projects did not provide privileged information or competitive advantage in obtaining work on the CRC project. Instead, DEA submitted its team's qualifications and was awarded the work on the basis of its qualifications.

3. Assertion: Design refinements amount to "design flaws" and the state should be reimbursed by the consultant.

**Finding: CRC design refinements were typical of large transportation projects advancing through the environmental phase.**

Design and refinements have been developed by an integrated team, made up of WSDOT, ODOT, partner agency and consultant staff in consultation with outside experts and multiple stakeholders. Design is an iterative process and design refinements occur as more information is known and the project advances. For example, the current bridge type was selected after an independent review because it met certain evaluation criteria related to project purpose and need, environmental effects, schedule and cost. The state departments of transportation made a risk management decision to proceed with a more standard and lower cost bridge type compared to an earlier design.

Oversight and direction of consultant work is provided by WSDOT and ODOT. Scoped deliverables are submitted by DEA to the DOTs for review and approval before being accepted.

4. Assertion: Budget increases above the original contract amount to “cost overruns.”

**Finding: CRC and DEA have followed appropriate contracting processes related to budget increases.**

When the project was initiated, the DOTs estimated that \$50 million was a reasonable budget for the initial level of effort to be conducted under this contract. The original budget amount was not intended to represent the total cost of the entire environmental and planning work effort, and the contract was not established, nor managed, as a “lump-sum” contract.

The CRC project team carefully managed the work effort to move through the federally mandated environmental process. As the environmental impact statement was developed, WSDOT and ODOT added work tasks and increased levels of technical analysis as the project evolved based on public input from more than 1,000 meetings and events, the guidance of 10 different project advisory committees, and recommendations from five expert review panels. Design refinements and analyses defined the level of work elements necessary and contract estimates were updated accordingly. The end result was a level of expenditure well within national norms for projects of this size and complexity.

Given the inherent variability (and uncertainty) of the project work effort, WSDOT and ODOT have utilized the appropriate contract approach to help closely manage the consultant team’s scope of work and level of effort. This contract approach involves a master agreement that establishes the broad range of contract services, timelines and levels of effort, which is then supplemented with individual task orders for specific work efforts and deliverables. These task orders are closely monitored through the contract and invoice payment process. The contracting process included oversight by the project directors, WSDOT and ODOT headquarters, and legal counsel. We believe the contract limits with the selected GEC have been appropriately increased over time and managed in accordance with all applicable state and federal rules and policies.

Ms. Couch’s expresses a misunderstanding of this contracting approach. She questions how the master contract could have value without associated task orders. It is standard practice to for agencies to identify a master contract amount and then rely on detailed task orders to appropriate smaller, budgeted amounts for specific work efforts.

5. Assertion: Duplicate work was conducted between several task orders and amendments.

**Finding: DEA has not been provided budget to perform duplicate work.**

As in previous inquiries, Ms. Couch questions why Task Order AF, which was initiated after the adoption of a locally preferred alternative in 2008 was closed and a new Task Order, AH, was initiated in spring 2010. At the beginning of Task Order AF, the level of public engagement and technical analysis that would be necessary to obtain consensus on the number of bridge structures, light rail alignment, station locations, multi-use path location, bridge type, number of bridge lanes and interchange designs was unknown. While Task Order AF was in effect, it was determined that additional design work was necessary to evaluate newly proposed concepts, which led to the approval of task order amendments.

By early 2010, all work on uncompleted tasks was halted and the budget zeroed out (through an amendment) so that a new task order could be implemented. The new task order (AH) re-allocated resources to better match the work effort with necessary tasks to analyze the community and environmental effects of the refined project, publish the Final Environmental Impact Statement and obtain the Record of Decision.

It would have been technically possible in the spring of 2010 to amend Task AF to add scope and budget to complete the work related to the Final EIS and ROD. However, by that time it was clear that significant other work was necessary that was not identified in the Task AF scope of work. WSDOT started with a fresh slate (Task AH) to provide additional specificity and clarity to both the project owners and consultants. Amendments to Task AH have been necessary to accommodate continual design refinements and analysis and provide close oversight of contract expenditures.

Ms. Couch questions Task Order AR, which addressed resolution of key project issues identified through the 30 percent transit engineering phase and to advance design toward the Full Funding Grant Agreement (FFGA). This task order was initiated when advanced transit design work, unanticipated in Task Order AF, was necessary.

Ms. Couch also questions the amendment to Task Order AI, stating that it appears to be duplicative of the original task order and has no associated deliverables. Amendment 1 of Task AI clearly indicates the purpose of the amendment is for “additional work not anticipated.” The Independent Review Panel conducted a comprehensive analysis of project designs and processes which required more staff support time and analysis than originally planned. Deliverables for this work are identified under the original task order, as noted in the amendment.

6. Assertion: CRC is unable to produce accounting reports that provide project costs to date.

**Finding: CRC project accounting reporting provides costs to date in an easy to understand format.**

Reconciliation of project expenditures occurs on a monthly basis. Project management information is contained and tracked at the CRC project office using Prolog database software. The outputs are compared with information contained in each state’s accounting systems. The reconciliation documentation is provided to project leadership in both agencies for review and oversight.

Project expenditure data contained in the WSDOT accounting system shows amounts that have been paid or accrued in accordance with generally accepted public accounting principles. A one to two month lag may occur before an invoice is fully logged as paid in the accounting system as WSDOT reviews the invoice, confirms work was completed, confirms payment meets state and federal policy, and issues payment.

In addition to the reports available from the WSDOT accounting system, the project office provides public information reports. On a monthly basis, expenditure information is provided to interested stakeholders and members of the public in a summary document called the “Monthly Financial and Schedule Report.” Monthly expenditure details and financial information also are provided to the Federal Highway Administration and Federal Transit Administration, as required to receive federal transit construction funds. These documents use the same project data that is contained in the “Expenditure Summary” and “Cost Report Sorted by Consultant and Agency” cited by Ms. Couch. Project database reporting outputs are based on total amounts invoiced to WSDOT for payment by the state.

## Conclusion

Ms. Couch repeats many assertions previously addressed by WSDOT with regards to project contracting and accounting practices. CRC entered into contract with DEA in 2005 after a competitive procurement process, selecting a well-qualified consultant to assist with a variety of tasks that could not be provided in house. Contract and task order management has been accurate and consistent, with oversight from agency leadership and legal staff. Regular reporting of project costs remains available. As before, we find Ms. Couch’s claims to be without full understanding or merit.

NB:ro  
Attachment  
cc: Project Controls



**Washington State  
Department of Transportation**  
**Paula J. Hammond, P.E.**  
Secretary of Transportation

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February 14, 2012

The Honorable Mary Margaret Haugen  
Chair, Senate Transportation Committee  
PO Box 40410  
Olympia, WA 98504

The Honorable Judy Clibborn  
Chair, House Transportation Committee  
PO Box 40600  
Olympia, WA 98504

Dear Chair Haugen and Chair Clibborn:

Representative Rivers recently held a brown bag work session where Ms. Tiffany Couch shared the findings of her report on the Columbia River Crossing project. David Dye, Deputy Secretary and Bob Covington, Director of Financial Services at WSDOT were both in attendance.

Ms. Couch expressed a number of concerns about the CRC projects management and compliance with standard accounting and contracting practices. She stated that the project lacks transparency and accountability. I want you to know I take these assertions very seriously. Good government, accountable and transparent government, has been a cornerstone of WSDOT since I became secretary and I'm proud of the way we conduct our business. Obviously, Ms. Couch's assertions describe a WSDOT that is not consistent with how we strive to do business. To assess the validity of Ms. Couch's report findings, I asked Dave and Bob to review her report and work with the CRC team to get to the bottom of this, and provide an independent evaluation of the assertions and facts.

Attached you will find Dave and Bob's summary memo. They found no merit to Ms. Couch's claims. I think you will find their memo enlightening.

I would be happy to discuss with you if you have any questions.

Sincerely,

Paula J. Hammond, P. E.  
Secretary of Transportation

PJH:jaa

cc: Representative Ann Rivers  
Representative Mike Armstrong  
Representative Jim Moeller  
Representative Paul Harris  
Representative Ed Orcutt  
Marty Loesch, Governor Office  
Matt Garrett, ODOT

Beth Redfield, HTC  
Kelly Simpson, STC  
Dillon Auyoung, WSDOT  
Bob Covington, WSDOT  
Steve McKerney, WSDOT  
Dick Ford, WTC Chair



February 14, 2012

TO: Paula Hammond, Washington State Secretary of Transportation  
Matt Garrett, Oregon Director of Transportation

FROM: David L. Dye, Deputy Secretary of Transportation  
Bob Covington, Director of Financial Services

RE: Letter dated Jan. 19, 2012, from Ms. Tiffany Couch concerning Columbia River Crossing

Per your request, this memorandum responds to the findings and assertions presented in Ms. Tiffany Couch's letter to Rep. Rivers on Jan. 19, 2012. We have reviewed Ms. Couch's letter, attended Ms. Couch's briefing to Representative Rivers and others, and have reviewed the project team's detailed response to the report as a basis for our findings.

We acknowledge the time investment made by Ms. Couch to review the financial records of the Columbia River Crossing project and welcome public involvement in, and oversight of, this complex project. However, we are concerned by Ms. Couch's report and public statements suggesting that the CRC team has mis-managed the CRC project and that the project lacks accountability, transparency, and oversight. We found in our review quite the opposite, that in spite of very challenging circumstances the CRC team has conducted business in accordance with applicable policies, standards, and guidelines and has steered the project to a successful completion of the Record of Decision. Specifically, we found:

- Total project expenditures for the CRC Project to date fall well within national averages for complex, large transportation projects
- Review and oversight of CRC financial accounting processes has shown they are consistent with state and federal laws, accounting standards, and policies
- Each funding source and all project expenditures are tracked in detail for reporting and monitoring
- Financial reports are regularly produced and distributed at the agency and project level
- The contracting practices employed at CRC are consistent with state and federal policies for mega-project planning and with national best practices
- Project task orders are administered and overseen in a manner consistent with WSDOT policies and guidelines
- Responses to public record requests meet state law intent and timelines

### **General Observations**

The Columbia River Crossing project is one of a handful of mega-transportation projects in various stages of delivery in Washington and is certainly among the most complex. This complexity arises from its size, multi-modal structure, and bi-state leadership and ownership by Washington and Oregon. Issues associated with planning in an urban environment with an engaged populace, endangered species, numerous tribal treaty rights, archeological and historic resources, major shipping channel and proximity to two airports are well documented. With receipt of the federal Record of Decision, CRC has completed the required environmental review process in six years, in accordance with the National Environmental Policy Act (NEPA) and Washington's State Environmental Policy Act (SEPA). Six years to complete the NEPA process falls within the average amount of time necessary to complete large transportation projects across the country. Total expenditures incurred during this timeframe (approximately \$142 million) also fall within the average range up to 10 percent of total project cost.<sup>1</sup>

The Washington State Department of Transportation (WSDOT) and Oregon Department of Transportation (ODOT) use the same systems and policies to deliver the CRC project that are successfully used throughout Washington and Oregon. Financial accounting services and oversight for the CRC project, procurement, and contracting comply with applicable state and federal laws, accounting standards, and policies. Expenditures on the CRC project are tracked within each transportation department's accounting systems using unique identifiers which allow for project-specific reporting. Expenditures also are closely tracked at the CRC project office level to ensure payments do not exceed available funding. Internal financial audits by WSDOT and ODOT are ongoing to further ensure that policies and procedures are being appropriately followed. In addition, the Federal Transit Administration reviews project delivery and oversight mechanisms on a monthly basis through the use of a Project Management Oversight Consultant (PMOC).

To date, review and oversight efforts have shown the CRC project's financial accounting and contracting processes to be consistent with state and federal laws, policies, standards and directives.

### **Detailed Discussion**

The following sub-sections respond in more detail to questions, assertions, and comments raised in Ms. Couch's report.

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<sup>1</sup> See FHWA's *Evaluating the Performance of Environmental Streamlining: Development of a NEPA baseline for Measuring Continuous Performance*, for discussion, <http://environment.fhwa.dot.gov/strmlng/baseline/section2.asp>).

*Assertion 1: Sources and uses of funds are difficult to track and lack an audit trail.*

**Sources and uses of funds are tracked in detail for reporting and monitoring, and are supported by a strong system of management oversight, strong internal controls, a complete audit trail, and supporting documentation of project expenditures.**

The public expects, and the law requires, that WSDOT maintain detailed systems to track each fund source and payment and track it back to the CRC project. Detailed systems connect large volumes of data for monitoring and legislative reporting.

The CRC project has received funding from state gas tax revenue and federal “formula” funds through the highway trust fund as well as competitive discretionary funds. Under agreement between the two states, project planning costs have been and will be shared equally. With differences in each state’s funding cycles, the ratio of funding is not always equal. At the conclusion of the project, any remaining discrepancy will be reconciled, according to the states’ signed agreement. Currently, WSDOT has contributed approximately 6 percent more in total funding than ODOT, as shown in the table below provided by the CRC project team. (Data presented in Ms. Couch’s report was current as of May 18, 2011.)

<b>CRC Funding Summary</b>	
Joint WSDOT/ODOT - Projects of National Significance	15,000,000
<b>Oregon Department of Transportation</b>	
Federal Highway Administration	79,897,847
State of Oregon	10,414,880
<b>Wash. State Dept. of Transportation</b>	
Federal Highway Administration	52,445,055
State of Washington	50,153,377
<b>TOTAL (through Dec. 2011)</b>	<b>\$207,911,159</b>

From late 2004 through Dec. 31, 2011, total invoiced expenditures for the CRC project are \$142 million. About \$104 million of the expenditures have been invoiced by private companies contracted to provide a variety of professional services, testing, and research related to project development. About \$37.5 million has been paid to project sponsor agencies, government agencies providing independent reviews, and tribal governments consulting with the project. Of the total invoiced by all private consultants, \$98 million has been invoiced by the prime consultant, David Evans and Associates, for work completed by its own staff and its 25 sub-consultants. As an individual firm, DEA has billed a total of \$34.5 million, or 24 percent of the total project expenditures. The table below provided by the CRC project team shows a current summary of expenditures by agency and invoiced costs to date. (Ms. Couch provided similar data from July 18, 2011, in Exhibit D.)

<b>CRC Invoiced Costs by Agreement or Expenditure</b>		
Description	Costs through Dec. 31, 2011	Percent
All Consultant Agreements	104,223,539	73.5%
Oregon Dept. of Transportation	6,379,888	4.5%
Wash. State Dept. of Transportation	24,814,375	17.5%
Intergovernmental Agreements	5,925,590	4.2%
Other Government Agreements	378,052	0.3%
Tribal Agreements	42,383	0.0%
<b>TOTAL</b>	<b>141,763,827</b>	<b>100.0%</b>

Some expenditures made by WSDOT for the CRC project are tracked through “journal vouchers” in WSDOT’s accounting system. These transactions include organizational charges, such as CRC staff payroll, geotechnical drilling, information technology support and equipment, supplies and materials, data entry corrections, staff training, and facility maintenance. Supporting documentation and tracking for these transactions is handled in detail through agency systems. Extensive documentation for all expenditures is available upon request and was offered to Ms. Couch via email July 8, 2011. In addition, WSDOT provided Ms. Couch with a description of the various types of journal vouchers and examples of supporting documentation, and recommended she select a random or representative sample of transactions if she desired further detail due to the volume of records. To date, WSDOT has not received additional requests for the records of journal voucher transactions. Regardless, journal vouchers are a routine part of doing business using WSDOT’s accounting system and are being used appropriately at the CRC project.

Likewise, individual vendors are tracked uniquely using the Statewide Vendor numbering system employed by all State of Washington agencies. Within that system, each vendor has a unique identifier (Social Security Number or Taxpayer Identification Number) so all payments to the vendor may be accurately tracked, but they may have a Statewide Vendor Number with various suffixes that accommodate unique payment needs of the vendor (e.g., payment via warrant, payment via direct deposit, differing addresses for mailing of remittance advice). The use of suffixes does not degrade the accountability or reliability of the statewide vendor tracking system and is an accepted practice within WSDOT.

*Assertion 2: There is a lack of appropriate project reporting.*

**Rigorous financial management and use of reporting systems provides managers and the public with sound information to support project activities and decisions.**

Reconciliation of project expenditures occurs on a monthly basis with WSDOT and ODOT. Project management information is contained and tracked at the CRC project office using Prolog database software. The outputs are compared with information contained in each state's accounting systems. The reconciliation documentation is provided to project leadership in both agencies for review and oversight.

Project expenditure data contained in the WSDOT accounting system shows amounts that have been paid or accrued in accordance with generally accepted accounting principles. A 1-2 month lag may occur before an invoice is fully logged as paid in the accounting system as WSDOT reviews the invoice, confirms work was completed, confirms payment meets state and federal policy, and issues payment.

In addition to the reports available from the WSDOT accounting system, the project office provides public information reports. On a monthly basis, expenditure information is provided to interested stakeholders and members of the public in a summary document called the "Monthly Financial and Schedule Report." Monthly expenditure details and financial information also are provided to the Federal Highway Administration and Federal Transit Administration, as required to receive federal transit construction funds. These documents use the same project data that is contained in the "Expenditure Summary" and "Cost Report Sorted by Consultant and Agency" cited by Ms. Couch. Project database reporting outputs are based on total amounts invoiced to WSDOT for payment by the state.

*Assertion 3: Questionable contracting practices and contractor payment processes are used.*

**Competitive contracting practices have been employed, which are consistent with state, federal policies for mega-project planning and national best practices.**

Consistent with national best practices learned from other large transportation projects, WSDOT issued a competitive Request for Qualifications in February 2005 for a general engineering consultant (GEC) to quickly mobilize a workforce and provide expertise and specialized skills that ODOT and WSDOT did not have available in-house. The tasks identified in the RFQ included completing the environmental planning process under NEPA, permitting, and performing necessary preliminary design work leading to construction. The procurement process that resulted in selection of a GEC for the CRC project was open and competitive. Competition in this sense is defined by federal regulations that preclude a "low bid" process. Instead, selections are based on professional qualifications provided at a reasonable cost to complete the work.

All potential bidders interested in leading the consultant team as the “prime” were required to participate in a pre-bid meeting prior to the submittal deadline. Seven firms attended the meeting indicating interest in being the prime consultant. Seventeen firms attended the meeting as potential sub-consultants. For a project of this size, it is expected that teams of consultants would submit proposals. In this case, one team consisting of 27 consulting firms submitted a proposal. Any submittal must meet minimum qualifications to be evaluated and selected. The proposing team, led by David Evans and Associates, met all necessary qualifications and was selected.

Staff from the DEA consultant team provides services in roadway engineering, bridge engineering, transit engineering, travel demand modeling and forecasting, and project support and administration. DEA currently has active sub-contracts with 25 different firms to provide specialized work in structural, transit and highway engineering; computer-aided design; environmental planning and analysis; cost-estimating and scheduling; stormwater management planning; public communications; and document control. DEA is a well-qualified consulting firm that was procured in accordance with applicable state and federal rules, regulations and procedures.

Each consultant under the GEC must submit a billing rate schedule for review and approval by the state. The billing rate schedule for Architectural and Engineering (A&E) agreements includes hourly pay rates per staff category, with overhead and fee markup percentages (Overhead and fee are a percentage of direct salary). The overhead rate contains costs such as the firm’s rent, administration, insurance and utilities. The overhead rate for a WSDOT A&E agreement is required to have an independent review, to ensure the rate only includes allowable expenses per state and federal policies. The overhead rate for DEA was audited by a private CPA firm and accepted by ODOT, the state with “cognizant” authority to do so under federal law. The fee rate is negotiated with WSDOT for each agreement with an A&E firm. Factors that influence the fixed fee include project size, complexity, risk and uncertainty. In this case, CRC staff used the Department’s standard assessment tools to determine the fixed fee for this agreement. The fee for this agreement is also within acceptable federal levels. Further, the overhead and fee rates used by DEA on the CRC project are allowable and consistent with other rates charged in the industry for similar projects throughout the state and country.

*Assertion 4: Task order discrepancies exist and project costs to date have overrun original estimates.*

**Task orders and scopes of work are responsive to design advancements and project requirements and are carefully managed. Development costs to date are within national norms for mega projects.**

The CRC project team estimated that \$50 million was a reasonable budget for the initial level of effort to be conducted under this contract. The original budget amount was not

intended to represent the total cost of work effort, and the contract was not established, nor managed, as a “lump-sum” contract. The CRC project team carefully managed the work effort to move through the federally mandated environmental process. As the EIS developed, the project staff reacted appropriately to add work tasks and increase levels of technical analysis as the project evolved through public input received at more than 1,000 meetings and events, the guidance of 10 different project advisory committees, and recommendations from five expert review panels. This process of refinement of the project alternatives and analyses defined the level of work elements necessary and contract estimates were updated. The end result, as noted earlier, was a level of expenditure well within national norms for projects of this size and complexity.

Given the inherent variability (and uncertainty) of the project work effort, we believe WSDOT and ODOT (and the CRC project team) have utilized the appropriate contract approach to help closely manage the GEC scope of work and level of effort. This contract approach involves a master agreement that establishes the broad range of contract services, timelines and levels of effort, which is then supplemented with specific task orders for specific work efforts and deliverables. These task orders are closely monitored through the contract and invoice payment process. The contracting process included oversight by the project directors, WSDOT and ODOT headquarters, and legal counsel. We believe the contract limits with the selected GEC have been appropriately increased over time and managed in accordance with all applicable state and federal rules and policies.

The contract value is currently \$105 million and expires in June 2012. Of the 11 task orders executed for CRC, nine have been completed and closed.

Ms. Couch questions why Task Order AF, which was initiated after the adoption of a Locally Preferred Alternative in 2008 was closed out and a new Task Order, AH, was initiated in spring 2010. At the beginning of Task Order AF, it was unknown the level of public engagement and technical analysis that would be necessary to obtain consensus on the number of bridge structures, light rail alignment, station locations, multi-use path location, bridge type, number of bridge lanes and interchange designs. Additional design work was necessary to evaluate newly proposed concepts, which led to the approval of task order amendments by the project director. By early 2010, all work on uncompleted tasks was halted and the budget zeroed out (through an amendment) so that a new task order could be implemented. The new task order (AH) re-allocated resources to match work effort with necessary tasks to analyze the community and environmental effects of the refined project, publish the Final Environmental Impact Statement and obtain the Record of Decision.

It would have been possible in the spring of 2010 to amend Task AF to add scope and budget to complete the work related to the Final EIS and ROD. However, by that time it was clear that significant other work was necessary that was not identified in the Task AF

scope of work. WSDOT started with a fresh slate (Task AH) to provide additional specificity and clarity to both the project owners and consultants. Amendments to Task AH have been necessary to accommodate continual design refinements and analysis and provide close oversight of contract expenditures.

From Nov. 1, 2006 to Aug. 16, 2009, a WSDOT policy allowed prime consultants to adjust sub-consultant invoices by 4 percent to compensate for the administrative costs, risks and oversight associated with contract management. The intent of this policy was to encourage larger prime consultants to team with smaller firms. However, the policy did not meet the agency's expectations and questions arose related to consistency with federal regulations 2 CFR Part 225; 23 CFR 1.9; and 49 CFR 18.20(6). As a result, the policy was rescinded on Aug. 16, 2009.

Following termination of the policy, the markup was disallowed for all new contracts or task orders from that point forward. The CRC project and DEA complied with this policy change. DEA applied a markup starting in December 2006. In August 2009, DEA was actively working under Task Order "AF." Task Order AF ended for most sub-consultants by June 2010. However, some sub-consultants continued to bill a small amount under this task order because their work products were not complete. The final invoice where the markup was charged was March 2011. The total markup under this policy was \$1,454,797. The markup is not currently charged.

*Assertion 5: Public record request responses violate state statute.*

**The Project has and will continue to respond to public record requests in accordance with state law, and makes every effort to provide prompt response.**

WSDOT and ODOT strive to meet each state's identified response times and guidelines for public record/public disclosure requests. These requirements include a 30-day target for response times and production of available documents. The public disclosure law does not require state agencies to produce new documents, indexes, summaries or analyses as a result of a request.

WSDOT staff has corresponded, talked with and met with Ms. Couch or her client, Mr. David Madore, on multiple occasions to respond to questions, and provide clarification, documents and information as requested and in accordance with state law. Combined, they have submitted 12 requests for financial documents, 10 of which have been completed, resulting in the provision of hundreds of public records. Four requests for documents were inadvertently misfiled in early 2011, resulting in a delayed response and a letter of apology from WSDOT. Of the two open disclosure requests, one was received in Jan. 17, 2012, and the other is the request from July 2011 identified by Ms. Couch, which has required a phased response.

Paula Hammond  
February 14, 2012  
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The particular example identified by Ms. Couch is an active request that has required record gathering from multiple WSDOT offices. Documentation related to the three firms identified was provided in two phases of the response on Aug. 16, 2011, and Sept. 30, 2011, with records related to the DEA contract. The three firms mentioned have only worked on the CRC project as sub-consultants through DEA; thus all state records related to their work are within or represented by contracts between DEA and WSDOT and the invoices and initial bid submitted by DEA to WSDOT.

### **Conclusion**

WSDOT's research resulted in a comprehensive understanding of best practices for complex transportation projects:

- Strong owner team with integrated consultant team
- Co-located project office to save money, increase communication, speed decision-making, increase efficiencies
- Rigorous cost estimation process to account for risks and unknowns
- Early and frequent coordination with public, tribal governments, partner agencies, permitting agencies

CRC has employed all of these best practices.

To date, review and oversight efforts have shown the CRC project's financial accounting and contracting processes to be consistent with state and federal laws, policies and directives. Ms. Couch has made strong statements related to the management of CRC financial resources. Based on the information we have reviewed, we respectfully disagree with her statements and support a different conclusion than that contained in the Jan. 19, 2012, letter.