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July 1, 2008

The Honorable Brian Sonntag, CGFM
Washington State Auditor
Washington State Auditor's Office
Washington State Capitol Campus
P.O. Box 40021
Olympia, Washington 98504-0021

Re: Performance Audit Report, Port of Seattle Construction Management,
Report No. 100008 - Annual Report

Dear Auditor Sonntag:

The Port of Seattle Commission is pleased to report on the status of our response to the Performance Audit your office conducted in 2007. The Commission, CEO and Port staff welcomes the comprehensive review of the Port of Seattle's performance and are responding to its recommendations. We appreciate the opportunity the audit provided us to evaluate the Port's management and oversight functions, to better serve the public by improving port policies and procedures, and to increase the efficiency and effectiveness of Port services.

While work is proceeding in all areas of the performance audit, the Commission would like to report to you specifically on six major areas:

- Establishing a Central Procurement Office;
- Revising the Delegation of Authority (Commission Resolution 3181);
- Implementing ethics reforms;
- Centralizing project controls;
- Training of Port staff; and
- Reassigning the Port's Internal Audit Manager.

These reforms have moved the Port of Seattle toward securing most of the objectives you established in your audit report.



Central Procurement Office

Responding to Overarching Recommendation #1, the Port retained a facilitator experienced in capital project delivery and procurement to review and analyze our procurement practices and organizational structure. Based on that analysis, the Deputy CEO assembled a team to review options and best practices for procurement. In March 2008, this team recommended that the CEO centralize procurement oversight under one department led by a Chief Procurement Officer and described the new department's responsibilities and essential functions. On March 19, the CEO appointed an Interim Chief Procurement Director and instructed him to establish initial duties and procedures of the Central Procurement Office (CPO). Details of the new office were announced Port-wide in April and May. The Port of Seattle has now hired the new CPO Director effective June 30.

The Central Procurement Office is one component of a new Capital Development Division, established on June 3 by the CEO. This new division centralizes the capital development functions in several departments, including Engineering, Aviation Project Management, Seaport Project Management, and Port Construction Services. This division is responsible for the successful delivery of capital projects that support the business and infrastructure needs of the Port. Creating the Capital Development Division and the Central Procurement Office centralizes purchasing and procurement practices that insure oversight, consistency and quality assurance.

Delegation of Authority (Resolution 3181)

Responding to Overarching Recommendation #2, the Commission established a subcommittee to review the Port's Delegation of Authority on January 8, 2008. The subcommittee is reformulating Commission Resolution 3181 (the Delegation of Authority) to provide a stronger and more consistent oversight role for the Commission. By strengthening Commission oversight, the public can better hold the Port accountable for its actions. Commissioners Patricia Davis and Gael Tarleton are leading the subcommittee, whose goals are to:

- Strengthen Commission oversight of the Port's capital plan and procurement policies.
- Clarify the responsibilities of both the Commission and the CEO and their roles in setting and implementing policy.
- Ensure that the Port is using best practices in organizational governance and contract management.
- Foster public trust by displaying transparency and accountability.

- Ensure that Commission practices reflect recent legislation and performance audit findings.

Since February, the subcommittee has met weekly with internal Port staff to discuss issues, draft changes and edit revisions to the current Resolution 3181. It has also hosted three public meetings where experts on both governance and construction management were invited to review, suggest and comment on revisions to the Resolution. To increase public awareness of its work, the subcommittee posted a draft of the revised Resolution and several other explanatory documents on the Port of Seattle website and solicited public feedback during the public comment period from May 15 to June 30. Work continues on editing the Resolution, and the subcommittee will introduce the new Resolution to the full Commission on August 5 for review and discussion. The Commission will consider the new resolution on August 12 (First Reading) and August 26 (Second Reading).

Fraud and Ethics

The Port takes the auditor's comments and recommendations regarding fraud and ethics very seriously and has taken a number of steps to determine whether any fraudulent activity occurred, to prevent fraud from occurring in the future, and to strengthen the Port's employee ethics policy.

On January 22, the Commission passed a motion creating a Special Investigative Committee to investigate the findings of the State Auditor's Performance Audit. The Commission authorized retaining the firm of McKay Chadwell, PLLC, on February 12 as its independent legal counsel to conduct a thorough internal investigation based on the audit recommendations. Commissioners Bill Bryant and Gael Tarleton are overseeing the work of the independent legal counsel.

Of specific concern are: 1) Possible alteration of invoices to circumvent the Commission's authority and state law (Finding 1E); 2) Possible awarding of contracts without competition or in circumvention of competition requirements (Findings 2A, B, C & D); 3) Possible circumvention of the Small Works Roster Program (Finding 2F); 4) Possible procurement violations and concealment of "unusual procurement" from the Commission (Finding 3A); and 5) Possible project management and contract awarding conflicts (Finding 3D).

The Port has also implemented a new policy, "Fraud Awareness and Prevention, Loss of Public Funds and Assets." The policy established the Port's Fraud Response Committee and outlined specific Commission actions in the event of suspected fraud, which is defined as "any wrongful or criminal deception intended to result in financial or personal gain." The Port's newly revised policy on "Standards of Performance and Conduct, Corrective Action and Discipline" now includes a reference to the new policy.

The Port has also revised the “Ethics Policy for Port Employees.” This policy assists employees in recognizing and avoiding conflicts between personal or professional interests and the interests of the Port.

The Port established a confidential fraud hotline; the number (877-571-5237) is posted on the Port’s web site. Reports to the hotline are compiled by an outside service and directed to the Commission President and the Port’s General Counsel. The Special Investigative Committee also established a separate hotline (206-233-2835) through which employees can discuss concerns regarding fraudulent activity or vulnerability to fraud directly with the independent legal counsel for the Commission.

Centralized Project Controls

In response to recommendations related to construction project controls, a team of department representatives undertook a comprehensive evaluation of the Seaport Project Office Tracking System (SPOTS), the Port Aviation Cost Trend (PACT) system, and the Project Management Information System (PMIS), an application used by Port Construction Services. A newly created team of key department representatives is developing recommendations that identify gaps in systems capabilities, seek ways to improve the efficiency of the existing applications, and establish requirements for a future enterprise-wide system. The team collected information on commercially available software that would satisfy the requirements identified during the comprehensive system evaluation. A report recommending purchase and implementation of an enterprise-wide project delivery system to replace PACT and SPOTS was completed on June 14. Timing for implementation of this new system is currently being determined.

Training

Audit recommendations have led to re-training on engineers’ estimates, change order estimates, proper change order documentation, change order negotiations, schedule requirements and consultant service agreements. In the process, Port senior management has:

- Issued interim guidance and provided training on existing procedures and guidelines to ensure that Port staff are following current requirements.
- Revised existing and developed new procedures and guidelines.
- Updated standard operating procedures and manuals.
- Provided training to support these new guidelines.

A training curriculum was developed and provided to all Port staff who manage construction contracts and consultant service agreements. We will provide training for all new and existing staff as procedures and guidelines change.

Internal Audit Manager

Based on your recommendation, the Internal Audit function of the Port now reports jointly to the Port Commission Audit Committee, led by Commissioners Hara and Tarleton, and to the CEO. At the direction of the Commission, the Audit Committee also includes a volunteer citizen member with years of experience in the field of government audits. The Internal Audit Manager and her staff meet monthly with the Audit Committee in public session, with the CEO and with senior staff. The Internal Audit Manager is establishing an annual audit work plan, which the Audit Committee members will approve, as well as reviewing the resulting audit reports. In addition, the Internal Auditor may be terminated only by joint agreement of the Audit Committee and the CEO. These changes strengthen the organizational independence of the internal audit function at the Port. As part of its work, the Internal Audit Manager has briefed the Committee on audit issues raised in your Performance Review.

In closing, this performance audit has given the Port Commission and the CEO an opportunity to enhance the effectiveness of Port systems, safeguard public resources and be worthy of the public trust. As part of our commitment to maintaining the highest standards of performance and our desire for on-going improvement, we will continue to review our operations and seek out the practices of other government agencies to ensure that the Port has developed and implemented the "Best Practices" for capital project delivery.

Sincerely,



John Creighton, President
Port of Seattle Commission