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Report ZA2023014  
February 1, 2023

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## DOT's Oversight Is Not Sufficient To Ensure the City of Seattle Meets Requirements for Managing Federal Transportation Funds



## DOT's Oversight Is Not Sufficient To Ensure the City of Seattle Meets Requirements for Managing Federal Transportation Funds

*Self-initiated*

Office of the Secretary of Transportation | ZA2023014 | February 1, 2023

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### What We Looked At

The Department of Transportation (DOT) and its Operating Administrations (OA) are charged with overseeing billions of dollars in grant funds for projects aimed at building, maintaining, and enhancing our Nation's transportation system. Between fiscal years 2014 and 2019, the City of Seattle's Department of Transportation (SDOT) received \$259.8 million in grants and cooperative agreements from the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA). Over the past few years, our office received hotline complaints concerning federally funded SDOT projects that are subject to DOT's oversight. Given the significant amount of Departmental funds allocated to SDOT projects and concerns raised by the hotline complaints we received, we initiated this review. Our objective was to assess the Department's oversight of Federal funds received by SDOT.

### What We Found

Our review identified weaknesses in the OAs' oversight regarding (1) execution of change orders that lacked required approval signatures, (2) approval of a \$140 million project estimate and contingency amounts with limited support, (3) the inability to track where and how Federal funds were spent, and (4) procedures to ensure that Federal funds transferred from FHWA to FTA are used in a timely manner or put to better use. In addition, weaknesses related to OST's and FRA's oversight of a project's cost estimates and contingency rates resulted in \$21 million in lapsed funds that could be put to better use. Also, as part of our efforts to determine how the grant funds were used, we identified \$10.7 million in questioned costs due to a lack of adequate supporting documentation. Further, we identified \$3.6 million in transferred FHWA funds that remain unobligated more than 6 years after being transferred, resulting in these funds lapsing. Lastly, we found that FTA had not deobligated \$3.8 million in other transferred funds that have been inactive since 2017. By increasing focus on these issues, DOT will be better positioned to ensure the City of Seattle and SDOT effectively manage and use the Federal taxpayer dollars they receive.

### Our Recommendations

We made 14 recommendations to improve DOT's management and oversight of Federal funds provided for SDOT projects. DOT concurred with recommendations 1, 2, and 4–14, and provided an alternative action from FHWA for recommendation 3 that meets the intent of our recommendation. We consider all recommendations as resolved but open pending completion of the planned actions.

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## Memorandum

Date: February 1, 2023

Subject: ACTION: DOT's Oversight Is Not Sufficient To Ensure the City of Seattle Meets Requirements for Managing Federal Transportation Funds | Report No. ZA2023014

From: Carolyn J. Hicks *Carolyn J. Hicks*  
Assistant Inspector General for Acquisition and Procurement Audits

To: Assistant Secretary for Administration  
Federal Highway Administrator  
Federal Railroad Administrator  
Federal Transit Administrator

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The Department of Transportation (DOT) and its Operating Administrations (OA) are charged with overseeing the expenditure of billions of dollars in grant funds for projects aimed at building, maintaining, and enhancing our Nation's transportation system.<sup>1</sup> The proper administration and oversight of these funds is critical in helping prevent fraud, waste, and abuse of taxpayer dollars. Between fiscal years 2014 and 2019, the City of Seattle's Department of Transportation (SDOT) received \$259.8 million in grants<sup>2</sup> and cooperative agreements<sup>3</sup> from the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA).<sup>4</sup> The City of Seattle receives Federal funding for SDOT projects as either (1) direct financial assistance awards from a DOT OA or (2) pass-through financial assistance awards, wherein an OA allocates funds to Washington State DOT (WSDOT) to oversee SDOT projects.

Over the past few years, the Office of Inspector General (OIG) received hotline complaints concerning federally funded SDOT projects that are subject to DOT's

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<sup>1</sup> DOT Budget Highlights FY 2020-2022.

<sup>2</sup> Per 2 Code of Federal Regulations (CFR) 200.51, a grant agreement is a legal instrument of financial assistance between a Federal awarding agency or pass-through entity (e.g., WSDOT) and a non-Federal entity (e.g., SDOT). A grant agreement is used to enter into a relationship to carry out a public purpose authorized by a law of the United States.

<sup>3</sup> Per 2 CFR 200.24, a cooperative agreement is a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a subrecipient. It is distinguished from a grant in that it provides for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.

<sup>4</sup> Office of Inspector General (OIG) analysis of FHWA, FTA, and FRA data as of May 20, 2020.

oversight. Moreover, prior State audits and Federal reviews illustrated a number of weaknesses in the oversight of grant funds awarded to the City of Seattle.

Given the significant amount of Departmental funds allocated to SDOT projects and concerns raised by the hotline complaints we received, we initiated this review. Our objective for this self-initiated audit was to assess the Department's oversight of Federal funds received by SDOT.

We conducted this audit in accordance with generally accepted Government auditing standards. Exhibit A details our scope and methodology, exhibit B lists the organizations we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of DOT representatives during this audit. If you have any questions concerning this report, please contact me or Darren L. Murphy, Program Director.

cc: The Secretary  
DOT Audit Liaison, M-1  
FHWA Audit Liaison, HCFB-32  
FRA Audit Liaison, RFCO-1  
FTA Audit Liaison, TBP-30

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## Results in Brief

### **DOT's oversight is not sufficient to ensure Federal transportation funds received by the City of Seattle are managed in accordance with Federal requirements.**

Our review identified weaknesses in OAs' oversight regarding (1) execution of change orders that lacked required approval signatures, (2) approval of a \$140 million project estimate and contingency amounts with limited support, (3) the inability to track where and how Federal funds were spent, and (4) procedures to ensure that Federal funds transferred from FHWA to FTA are used in a timely manner or put to better use. Specifically:

- **Change orders.** While FHWA, FTA, and FRA have review processes in place to monitor SDOT grant awards, the OAs could strengthen procedures for overseeing the approval of SDOT change orders.<sup>5</sup> For example, FRA guidance on change orders does not include additional details such as requiring reviews of recipient change orders to ensure they are approved. In addition, based on our review of sampled SDOT grants,<sup>6</sup> we identified three FHWA- and one FTA-funded change orders—totaling \$540,825<sup>7</sup>—that lacked one or more approvals from authorized officials per Federal, State, and OA-specific guidance.<sup>8</sup>
- **Project cost estimates and contingency rates.** Weaknesses related to the Office of the Secretary of Transportation's (OST) and FRA's oversight of a project's cost estimates and contingency rates resulted in \$21 million in lapsed funds that could be put to better use.<sup>9</sup> First, OST approved SDOT's funding application for a project with an estimated cost of \$140 million, but with only limited documentation to support the cost estimate. Ultimately, the project ended up costing nearly 62 percent less than the estimate. More specifically, after assuming oversight

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<sup>5</sup> Per FHWA's Companion Resource for Change Orders, a change order is any alteration to the original construction contract. FTA's Third Party Contracting Guidance defines a change order as "an order authorized by the recipient directing the contractor to make changes, pursuant to contract provisions for such changes" (FTA Circular 4220.1F).

<sup>6</sup> For the 21 projects in our sample, we reviewed 444 change orders that resulted in monetary and/or administrative contract changes. Of those, SDOT was unable to provide documented authorizations for four change orders funded by FHWA and FTA—representing approximately 1 percent of the total change orders we reviewed.

<sup>7</sup> Three for FHWA totaling \$228,592; one for FTA totaling \$312,233.

<sup>8</sup> Per 23 CFR 635.120 and FTA Circular 4220.1F Chapter VII 2. a. (1). In addition, per WSDOT Construction Change Order Process Guide, all change approvals are required by the Change Order Checklist.

<sup>9</sup> According to OST, the Department had until September 30, 2022, to use the \$21 million on other projects, but if the funds were not re-obligated by then, the funds will lapse and be removed from FHWA balances in fiscal year 2023.

responsibility from OST for the project,<sup>10</sup> FRA reduced the project's cost estimate to \$75.1 million over a period of 2 years (at SDOT's request), with the final project costing \$53.8 million—resulting in a total of approximately \$21 million in unneeded funds. In addition, FRA allowed SDOT to maintain contingency<sup>11</sup> rates higher than FRA's "Rules of Thumb" ranges.<sup>12</sup> As a result, approximately 72 percent of the unused \$21 million involved excess contingency funds. Further, FRA told us that it does not deobligate project funds until closeout—even if the funds are not needed. However, FRA's grant guidance does not prohibit the deobligation of funds prior to closeout. To date, the unused funds have been considered lapsed and the remaining \$21 million will not be available for reallocation and will be swept from FHWA balances. As a result, FRA missed an opportunity to consult with OST and FHWA in an effort to reallocate funding to other transportation projects sooner.

- **Tracing funds.** DOT's oversight did not ensure the City of Seattle met requirements for tracing Federal funds. Specifically, the City of Seattle, (and by extension, SDOT)<sup>13</sup> could not demonstrate that it—as required by Federal regulations—properly traces and accounts for funds received from the Department. For example, due to weaknesses in its financial management, SDOT was unable to provide us with an accurate listing of obligation and expenditure information for the FHWA, FRA, and FTA funds it received for our sample of awards.<sup>14</sup> As a result, we could not fully determine how our sample of grant and cooperative agreement awards—totaling \$229.7 million—was used. For example, SDOT initially provided a list of contracts and expenditures that only accounted for \$100.3 million, or 44 percent of our \$229.7 million grant sample. In addition, despite receiving a revised list from SDOT, it was still not possible to fully trace funds from award to expenditure. By not ensuring the City of Seattle traces funds as required, DOT's ability to oversee the use of these funds is limited. Moreover, as part of our efforts to determine how the grant funds were used, we identified \$10.7 million in questioned costs due to a lack of adequate supporting documentation.

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<sup>10</sup> The South Lander project design is for a bridge going over a railroad. Per the Department, "grade Crossing projects are administered by both FHWA and FRA, depending on the source of program funding." As such, OST assigned the project to FRA for administration.

<sup>11</sup> According to FRA's Capital Cost Estimating Guidance, "contingencies address project conditions that are not known, were not anticipated, or were incompletely defined or omitted for a variety of reasons."

<sup>12</sup> According to FRA, even though the entirety of its FRA Capital Cost Estimating Guidance is not fully applicable to the South Lander project, the total contingency percentages in the Agency's guidance should be used for comparison purposes for this project.

<sup>13</sup> The City of Seattle, in its entirety, is a single recipient. SDOT—which is one of several departments within the City—receives Federal funds through the City.

<sup>14</sup> FHWA—34 grant awards, totaling \$143.3 million; FRA—1 cooperative agreement, with costs of \$57.6 million; FTA—11 grants, totaling \$28.8 million.

- **Transferred funds.** The City of Seattle did not follow FHWA and FTA guidance to obligate transferred FHWA funds<sup>15</sup> in a timely manner. Specifically, per FHWA policy, funds should be obligated in the same fiscal year as the transfer.<sup>16</sup> In addition, per FTA guidance,<sup>17</sup> transferred funds have a period of availability of 4 years for the project to which the funds were transferred. If the funds are not awarded in a grant within that FTA administrative 4-year period, the funds lapse, but only to that specific project and remain available to be allocated to other eligible projects.<sup>18</sup> However, we identified one occurrence where \$3.6 million in transferred FHWA funds for an intended project remains unobligated more than 6 years after being transferred, resulting in these funds lapsing. However, FTA did not notify WSDOT of the lapsed funds so that they could be put to better use.<sup>19</sup> In addition, FTA has not deobligated \$3.8 million in other transferred funds that have been inactive since 2017. While FTA notes that there is no expenditure deadline for these funds, DOT guidance calls for a documented review of all unliquidated obligations inactive for 12 or more months to determine whether deobligation should occur.<sup>20</sup> However, FTA has not provided support showing that this review has been conducted; as such, these funds could be put to better use.

In sum, these findings illustrate a number of weaknesses in the Department's oversight of grant funds awarded to the City of Seattle. These weaknesses limit

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<sup>15</sup> Per FHWA Order 4551.1, dated August 12, 2013, funds for eligible transit projects or transportation planning may be transferred to FTA and administered under chapter 53 of Title 49, per 23 U.S.C. 104(f)(1), except that the Federal share requirements of the original fund category continue to apply.

<sup>16</sup> Per FHWA Order 4551.1, dated August 12, 2013, "when a transfer is processed, obligation authority is generally transferred in the same manner and amount as the program funds, per 23 U.S.C. 104(f)(4). To avoid loss of obligation limitation, the funds subject to annual obligation limitation should be fully obligated in the same fiscal year as the transfer is made."

<sup>17</sup> Per FTA's Grant Guidance for Flex Funds: "Flex funds have a period of availability of 4 fiscal years under FHWA's apportionment. The 4-year period of availability begins when funds are transferred to FTA plus 3 additional years. For instance, flex funds transferred in FY 2017 will no longer be available as of October 1, 2020. Lapsed Flex funds become available to the State for redistribution while the funds remain at FTA."

<sup>18</sup> According to FTA's Standard Guidance for Grants, funds that are lapsing or that have lapsed will be credited to the State governor's apportionment balance to benefit the entire State for later approved transit projects, and not necessarily for the sole use of the original recipient.

<sup>19</sup> Per FTA's standard grant guidance, the governor will have the authority to decide transit projects for which the lapsed funds will be used. To that end, the governor or the governor's designee must inform the Regional Office in writing of his/her decision on the use of the funds. The governor may elect to direct that the funds be used for the original project or for another eligible project in the UZA [urbanized area] for which they were originally transferred, or he/she may direct that the funds be made available for a different eligible project somewhere else in the State. The guidance also instructs the FTA regional office to send a letter to the State DOT, advising them that lapsed funds are available.

<sup>20</sup> Per DOT guidance, all unliquidated obligations inactive for 12 or more months must be selected for review—with documentation to support the determination of whether delivery of goods or services or performance is expected to occur or if deobligation should occur. DOT Memorandum, *Guidance on Review of Obligations and Undelivered Orders (UDOs)* (February 27, 2013).



the Department's ability to reasonably ensure that its grant funds are being more efficiently expended by SDOT in full accordance with Federal, Departmental, and OA requirements and guidance.

We are making recommendations to improve DOT's management and oversight of Federal funds provided for SDOT projects.

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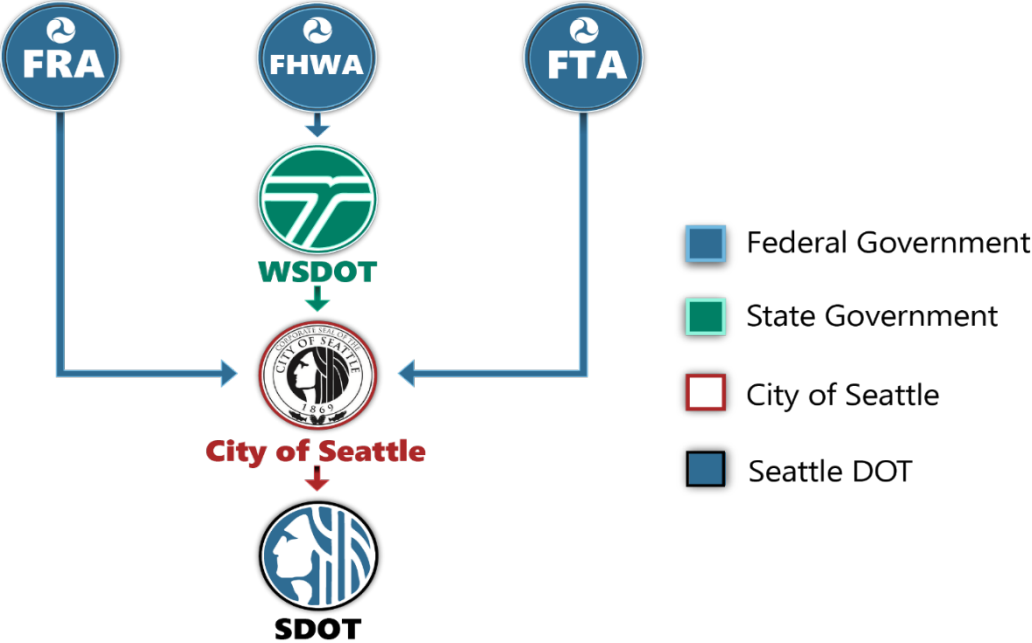
## Background

The City of Seattle is a recipient of Federal and State grants, which it then allocates to City departments as needed. Within the City of Seattle, several departments provide execution and oversight of the city's transit projects, including SDOT.<sup>21</sup> SDOT, one of many departments within the City of Seattle, focuses on areas involving streets, traffic signals, bike lanes, sidewalks, and some bridges within the City of Seattle. To maintain this infrastructure, DOT provides funding to the City of Seattle, and in turn, SDOT receives those funds either by (1) direct financial assistance awards from an OA or (2) financial assistance awards wherein an OA obligates funds to WSDOT to oversee SDOT projects (see figure 1).

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<sup>21</sup> The other City of Seattle Departments are Seattle City Center, Finance and Administrative Services, and the Office of Civil Rights.

Figure 1. Flowchart of FHWA, FRA, and FTA<sup>22</sup> Funds Provided for SDOT Projects



Source: OIG analysis

As a recipient of Federal transportation funds, the City of Seattle (and by extension, SDOT) is subject to oversight from DOT OAs, such as FHWA, FRA, and FTA. Each DOT OA has its own oversight and monitoring activities (see table 1).

<sup>22</sup> According to FTA, Agency funds are apportioned to Puget Sound Regional Council (PSRC), the Metropolitan Planning Organization for the City of Seattle, which distributes grant funds to designated transit agencies.

Table 1. DOT Grant Oversight Reviews and Reports

Operating Administration	Oversight Reviews	Description	Review Frequency
FHWA/WSDOT	Project Management Review (PMR)	Reviews are completed on grantee projects using a PMR checklist. <sup>23</sup> WSDOT completes these reviews on FHWA’s behalf to assess whether SDOT administered the project in accordance with Federal aid requirements for all project phases, including consultant services and contract administration. <sup>24</sup> If a local agency is compliant with all items outlined in the PMR checklist, the local agency may receive and retain Certification Acceptance (CA) authority status. <sup>25</sup>	3 years
FHWA	Stewardship Indicators Summary Reports	FHWA Washington Division Office conducts these reviews to evaluate whether oversight delegation to WSDOT under the FHWA Stewardship Agreement is being used effectively. The program areas are reviewed against stewardship program area indicators such as contract administration, local agency, design, and preconstruction.	Annually
FTA	Review of Milestone Progress Report (MPR) and Federal Financial Reports (FFR)	FTA Regional Offices review MPRs and FFRs submitted by recipients that document project progress, significant events, relevant activities, and any changes to the award budget or schedule. Reports are submitted by recipients quarterly or annually, depending on factors such as the amount of the grant or recipient’s population size.	Quarterly or Annually
FTA	Oversight Assessment Tool	Serves as baseline information for each grantee’s capacity to comply with Federal grant requirements and determines the level of risk the grantee’s program may present.	Annually

<sup>23</sup> According to the Department, the PMR is used as a standardized method for evaluating local agencies to determine if an agency can administer FHWA funded projects to ensure reasonable compliance.

<sup>24</sup> The PMR checklist, jointly developed by WSDOT and FHWA Washington Division Office, consists of items such as proper approval review, compliance with Federal aid requirements, and adequate documentation.

<sup>25</sup> Per WSDOT’s Local Agency Guidelines, CA authority means that WSDOT has delegated project development and construction administration to a local agency under the Stewardship Agreement with FHWA. Thus, that local agency can manage and approve its own projects at the local level when developing FHWA-assisted projects.

Operating Administration	Oversight Reviews	Description	Review Frequency
FTA	Triennial Review	Evaluates Urbanized Area Formula Program <sup>26</sup> grantees' grant management performance and compliance with current FTA requirements.	3 years
FRA	Monthly and Quarterly Monitoring	Conducts reviews of all grant agreements through the post-award phase, including budget, schedule, payment status, and potential concern areas.	Monthly, Quarterly
FRA	Annual Risk-Based Monitoring	Conducts a comprehensive formal baseline review of all progress and financial reporting information on select grants. Grants are chosen based on a monitoring risk model.	Annually

Source: OIG analysis

For FHWA-funded projects, WSDOT's oversight role is documented via a Stewardship and Oversight agreement between FHWA and WSDOT. The Stewardship and Oversight Agreement between FHWA's Washington Division Office and WSDOT formalizes delegated roles and responsibilities to address how the Federal-Aid Highway Program will be administered in the State of Washington. WSDOT's delegated roles and responsibilities may include reviewing or approving project development (e.g., designs, specifications, estimates, contract awards, and inspections). For example, WSDOT performs PMRs and documentation reviews "in order to be reasonably certain that local agencies are administering FHWA funds in accordance with the Local Agency Guidelines." However, while a State DOT may assume certain project approval authorities per 23 USC 106, FHWA is ultimately accountable for ensuring that the Federal-Aid Highway Program is delivered within established requirements.<sup>27</sup>

The City of Seattle is also subject to annual single audits conducted by the Washington State Auditor's Office (WSAO). For calendar years 2014 through 2020, WSAO has identified issues within the City that could impact SDOT. For example, in December 2020, WSAO issued its single audit report for calendar year 2019. In the report, WSAO found that the City had inadequate internal controls for ensuring compliance with Federal cost principle requirements for programs under the U.S. Department of Housing and Urban Development (HUD). WSAO also found that the City had inadequate internal controls for subrecipient monitoring for Department of Homeland Security programs. Furthermore,

<sup>26</sup> The Urbanized Area Formula Funding program (Sec. 5307 funds) makes Federal resources available to urbanized areas, with a population of 50,000 or more for transit planning, capital investments, and operating assistance.

<sup>27</sup> In addition, WSDOT may delegate their assumed responsibilities from FHWA to local public agencies (LPAs) such as the City of Seattle, for locally administered projects. However, State DOTs are still required to provide adequate oversight of subrecipients, including oversight of any assumed responsibilities delegated to a LPA and how it will share this information with FHWA.

WSAO's latest report, published in March 2022 for calendar year 2020, found the City did not have adequate internal controls in place to ensure compliance with Federal reporting requirements; period of performance requirements; matching, level of effort, and earmarking requirements; and obligation, expenditure, and payment requirements for U.S. HUD.

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## DOT's Oversight Is Not Sufficient To Ensure the City of Seattle Meets Requirements for Managing Federal Transportation Funds

Gaps in DOT's oversight of transportation funds awarded to the City of Seattle resulted in \$540,825 in change orders that were missing one or more required approval signatures, as well as approval of a \$140 million project estimate and contingency amounts with limited support. In addition, we identified weaknesses in DOT's oversight of the City of Seattle's ability to properly trace and account for Federal transportation funds received. Further, FTA's practices for overseeing transferred funds allow funds to remain unused for extended periods of time.

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### Gaps in DOT's Oversight of City of Seattle Transportation Grants Resulted in Unapproved Change Orders and Approval of a Poorly Supported \$140 Million Cost Estimate

While FHWA, FTA, and FRA have oversight mechanisms in place to monitor grants awarded to the City of Seattle for SDOT projects (see table 1 above), our review identified potential risk areas that could benefit from stronger grant oversight controls.

#### **FHWA, FRA, and FTA Have Opportunities To Better Detect and Prevent SDOT's Execution of Change Orders Lacking Required Signatures**

Opportunities exist for FHWA, FTA, and FRA to strengthen change order oversight controls for grants awarded for SDOT projects. Per Federal regulations, grantees must establish and maintain effective internal controls over the Federal award that provides reasonable assurance that it is managed in compliance with

Federal statutes, regulations, and the terms and conditions of the award.<sup>28</sup> Accordingly, FHWA, FRA, and FTA have each established various oversight mechanisms to monitor grantees' compliance with general project management requirements (see table 1). Yet, based on prior oversight reviews (see exhibit D), as well as our own findings in this report, a greater focus on change order controls may be warranted.

A change order is any alteration to the original construction contract that occurs during the course of a project. Change orders can affect the cost, schedule, design details, and/or specification requirements. According to FHWA guidance, change orders should contain information such as labor, materials, or equipment cost details; cost information; and why the change order was needed.<sup>29</sup> Similarly, according to FTA guidance, change orders should include information such as time or material records, cost of the change, schedule, and why the change order was needed.<sup>30</sup>

However, based on our review of prior FHWA and FTA oversight reviews, insufficient change order documentation has been identified by both agencies as an issue for the City of Seattle—particularly for FHWA-funded projects.<sup>31</sup> For example, WSDOT's Stewardship Indicator Summary reports<sup>32</sup> consistently identified deficiencies with the City of Seattle's change order documentation for fiscal years 2014 to 2019. Though the number of instances are not quantified in the reports, noted change order deficiencies included missing or insufficient agency documentation or justifications. WSDOT's 2014 PMR<sup>33</sup> also found one deficiency involving missing change order documentation. In addition, FTA reported in its fiscal year 2014 triennial review that one SDOT change order lacked adequate supporting documentation. Specifically, SDOT lacked supporting rationale for the change order and evidence that a cost analysis was performed.

In addition to documentation requirements, FHWA guidance requires that change orders be approved by a designated recipient official.<sup>34</sup> For FTA-funded projects, FTA guidance "expects the recipient's authorized official to approve any

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<sup>28</sup> 2 CFR 200.303(a).

<sup>29</sup> Per FHWA Change Order Companion Resource, August 2012.

<sup>30</sup> FTA Circular 4220.1F and FTA Best Practices Procurement and Lessons Learned Manual, October 2016.

<sup>31</sup> While FRA conducted quarterly and annual reviews, we found there is no indication that a change order review was conducted or required.

<sup>32</sup> These reports are conducted annually by WSDOT, which provides them to FHWA (FHWA delegates this responsibility to WSDOT). Specific change order criteria that are reviewed in these reports include completeness of documentation and whether change orders exceed 5 percent.

<sup>33</sup> WSDOT conducts these reviews every 3 years and provides them to FHWA, with a focus on one selected project. As part of those reviews, change orders are assessed to identify: (1) the purpose of the change order, (2) cost adjustments, (3) changes in number of work days, and (4) whether the change orders are properly justified with supporting documents.

<sup>34</sup> Per 23 CFR 635.120.

proposed change order before it is issued.”<sup>35</sup> Yet our review identified three FHWA-funded change orders and one FTA-funded change order that lacked one or more required approval signatures<sup>36</sup> (see table 2). Our review determined that SDOT did not obtain required approvals for four changes orders—totaling \$540,825. (We did not identify any change order approval issues for FRA.<sup>37</sup>)

Table 2. Description of Change Orders That Lack Required Signatures

Change Order	Amount	Reason for Change Order	Criteria for Missing Approvals	Reason for Insufficient Approval, According to SDOT
FHWA Change Order #61; Federal Award 9999648	\$75,600	Bike path widening installing signs, replacing ramps, irrigation rerouting	Missing required Capital Projects & Roadway Structures (CPRS) Division Director’s signature per SDOT policy for all change orders greater than \$50,000 up to \$100,000	SDOT initially told us that the corrected/final signed copy of these change orders exists in hard copy format only and could not be retrieved at this time due to the COVID-19 pandemic. However, SDOT later confirmed that copies of the change orders showing the CPRS Division Director’s signatures do not exist.
FHWA Change Order #65; Federal Award 9999648	\$69,373	Bridge conduit revisions, modifications to the signal and drainage systems		
FHWA Change Order #68; Federal Award 9999648	\$83,619	Convert soil measurement from tons to cubic yards and adjust quantity		

<sup>35</sup> FTA Circular 4220.1F Third Party Contracting Guidance.

<sup>36</sup> For the 21 projects in our sample, we reviewed 444 change orders that resulted in monetary and/or administrative contract changes. Of those, SDOT was unable to provide documented authorizations for four change orders funded by FHWA and FTA—representing approximately 1 percent of the total change orders we reviewed.

<sup>37</sup> The FRA change orders we reviewed were properly approved within SDOT and WSDOT criteria.

Change Order	Amount	Reason for Change Order	Criteria for Missing Approvals	Reason for Insufficient Approval, According to SDOT
FTA Change Order #6; Federal Award WA-95-X024 / WA-88-0002	\$312,233	Unforeseen conditions including lead paint removal; miscellaneous detail revisions	Missing required CPRS Division Director's signature per SDOT policy for all change orders greater than \$50,000 up to \$100,000	In response, SDOT initially told us that the corrected/final signed copy of these change orders exists in hard copy format only and could not be retrieved at this time due to the COVID-19 pandemic. While SDOT later provided the document, the CPRS Division Director's approval signature was still missing.
Total	\$540,825			

Source: OIG summary of SDOT-provided change order documentation

Change order approvals serve as an important internal control for ensuring contract changes are reasonable and in compliance with Federal, State, and local procurement and project management guidance. Without proper approvals, there is an increased risk for several issues, including but not limited to labor or material mischarging, product substitution, and unauthorized work. Further, missing authorization signatures are an indication of internal control weaknesses, which can put Federal funds at risk. According to Office of Management and Budget (OMB) Circular A-123, OMB has indicated that failure to follow applicable statutes or regulations, such as failing to obtain a required signature in a contract prior to payment, warrants a review of internal controls.<sup>38</sup>

Though we did not identify any similar change order approval issues on the single FRA project we reviewed, we did find that FRA guidance only notes that recipients should have a change order procedure that includes a documented, systematic approach to managing change orders. However, FRA's guidance does not provide additional details such as requiring designated official reviews of recipient change orders to ensure their proper approval.<sup>39</sup> As such, FRA runs the risk of paying for unauthorized work without more detailed instructions on future projects.

We understand that FHWA, FRA, and FTA's recipient oversight reviews cannot identify every instance of noncompliance. However, further management attention on SDOT's internal controls for change order approvals would help FHWA, FRA, and FTA identify and correct similar problems involving future SDOT contracts—especially given the prior FHWA and FTA review findings, as well as the substantial infusion of IIJA funds for future projects.

<sup>38</sup> OMB Memorandum M-21-19 Appendix C to OMB Circular A-123, March 5, 2021.

<sup>39</sup> FRA Monitoring Procedure 20-Project Management Plan Review, August 2014.



## Weaknesses in OST and FRA's Oversight of a Project's Cost Estimates and Contingency Rates Resulted in Funds That Could Have Been Put to Better Use

In 2016, OST approved an SDOT project grant application with a poorly supported cost estimate of \$140 million. Less than 5 years later, the project ended up costing just \$53.8 million, raising questions about the initial estimate. In addition, FRA allowed SDOT to maintain a \$25.6 million contingency amount through project closeout that SDOT could not fully support. This resulted in about \$21 million in remaining unobligated funds that could be put to use on other transportation projects.

### *OST Selected a Project With a Poorly Supported \$140 Million Cost Estimate*

In 2016, OST approved SDOT's application to receive funding from OST's Fostering Advancements in Shipping and Transportation for the Long-Term Achievement of National Efficiencies (FASTLANE) program for the South Lander project.<sup>40</sup> The FASTLANE funding was designated for large projects with a cost of \$100 million or more,<sup>41</sup> and the project's initial cost estimate was \$140 million, satisfying that requirement. However, we found that SDOT did not fully support its cost estimate. Moreover, the final cost of the South Lander project has since significantly decreased to \$53.8 million, only 54 percent of the required threshold for FASTLANE funding.

When we tried to obtain support for the \$140 million cost estimate, we encountered a number of issues. For example, according to SDOT and confirmed by OST, the \$140 million estimate was developed in 2008, and OST was unable to provide supporting documentation for it. Likewise, when we followed up to determine if SDOT had supporting documents for the 2008 estimate, SDOT provided us with a one page summary of potential costs and a budget overview—but the summary included potential costs of \$152 million, exceeding the \$140 million estimate provided in the FASTLANE application. Moreover, according to an SDOT official, the document was never provided to OST.

In addition, in the FASTLANE Notice of Funding Opportunity (NOFO),<sup>42</sup> OST recommended that applicants provide a detailed project budget estimate and

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<sup>40</sup> Located in Seattle's regionally designated Duwamish Manufacturing/Industrial Center, the South Lander Street Grade Separation and Railroad Safety Project supports essential access between Port of Seattle terminals, intermodal facilities, and the State highway system.

<sup>41</sup> Delaware, Hawaii, Idaho, Maine, Nebraska, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, Wyoming, and the District of Columbia were allowed a lower threshold of \$100 million for large projects. The State of Washington is not one of those excepted States.

<sup>42</sup> Per 2 CFR 200.204, a NOFO is a formal announcement of a Federal funding opportunity. The NOFO provides information on the award, who is eligible to apply, the evaluation criteria for selection of an awardee, required components of an application, and how to submit the application.

statement of work.<sup>43</sup> The information provided in SDOT’s application package<sup>44</sup> included: (1) a project narrative and (2) a Benefit Cost Analysis (BCA) summary (and related calculations).<sup>45</sup> However, among these items, there was only a high-level table breakdown of the project’s cost estimate in its application for FASTLANE funding. For instance, as shown in figure 2, SDOT proposed needing a total of \$120 million to cover construction costs in 2018 and 2019, but did not include any details on how that amount was calculated or what it included.

Figure 2. SDOT’s Project Estimate Provided to OST in Its FASTLANE Application

Figure 5: South Lander Street Project Budget (spending in millions of dollars)						
Project Phase Completion	2003-2007	2017	2018	2019	2020	2021
Prior Project Development	\$2.5					
Preliminary Engineering & Environmental		\$14.3				
Right of Way		\$0.7				
Construction		\$3 <sup>5</sup>	\$75	\$45		
Closeout					\$1	\$1

Source: SDOT, *Narrative for FASTLANE Grant Application for the South Lander Grade Separation and Railroad Safety Project* (April 14, 2016)

Although SDOT did not provide a detailed statement of work, as recommended in the NOFO criteria, OST has authority to request additional information when deemed necessary. However, OST did not request further details and only relied on the information in the application. In fact, OST officials told us that the Department does not conduct a separate independent review of all applicants’ cost estimates during the application evaluation phase.

Given the lack of documentation supporting how SDOT developed its \$140 million estimate for the FASTLANE application, OST cannot verify that it had a full understanding of the project’s estimated costs when selecting the South Lander project for funding. Further, the lack of support for the project’s initial estimate indicates a potential lack of internal controls for OST to determine compliance with program requirements and eligibility for discretionary grants.

<sup>43</sup> Per the FASTLANE NOFO, “DOT recommends that the project narrative adhere to the following basic outline to clearly address the program requirements and make critical information readily apparent. In addition to a detailed statement of work, detailed project schedule, and detailed project budget, the project narrative should include a table of contents, maps, and graphics, as appropriate to make the information easier to review.”

<sup>44</sup> Dated April 14, 2016.

<sup>45</sup> According to the FASTLANE NOFO, a project narrative should include information regarding the project’s description, location, parties, cost effectiveness, readiness, and funds used. The BCA summary and calculations delineate the project’s expected outputs and costs and assist in determining if the project is cost effective.

*The Project's Final Cost Is Less Than Half of What Was Originally Estimated, Raising Questions About the Initial \$140 Million Estimate*

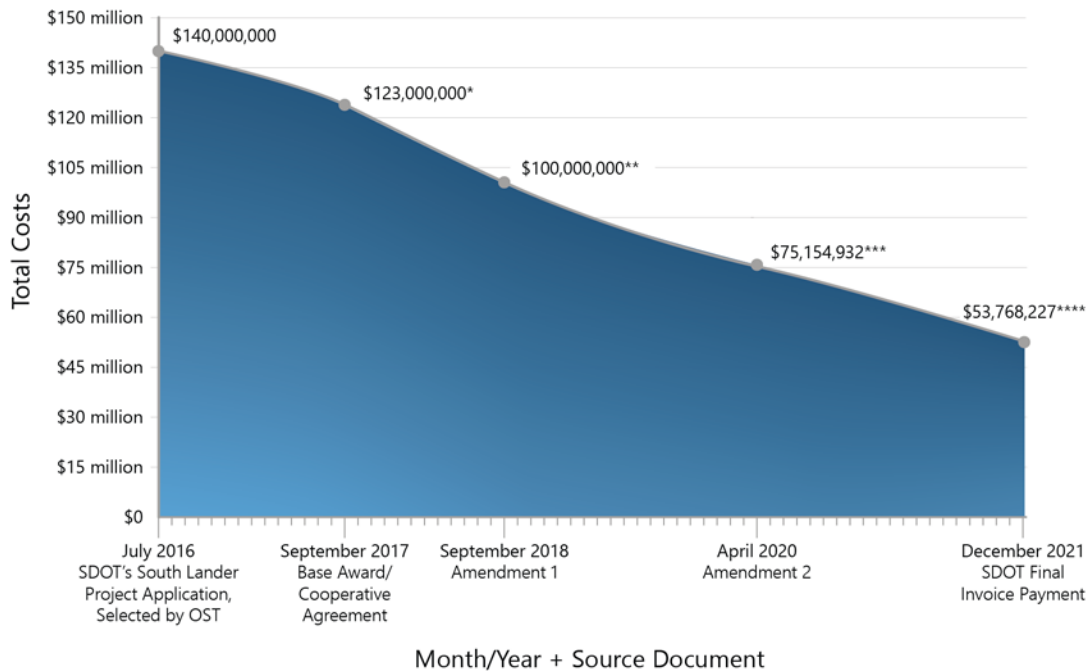
After OST selected SDOT's application for a FASTLANE grant, FRA became responsible for overseeing the execution of the project.<sup>46</sup> When FRA assumed the project in 2017, the Agency reduced the original \$140 million estimate to \$123 million. According to FRA, this reduction occurred because the design was further refined after OST approved the project application. Specifically, FRA told us that the \$123 million estimate was based on a completed engineer's estimate as well as the results from geotechnical reviews and a constructability report.

Over the next 3 years, SDOT reduced the project's estimated costs twice more for reasons shown in figure 3 below. In the end, the project's final cost, totaling \$53.8 million, is less than 40 percent of what was estimated in the OST-approved FASTLANE grant application. These significant reductions in the project's cost estimates indicate that OST could have paid closer attention to the support behind the original project estimates prior to approving the FASTLANE grant. Doing so may have prevented the over-allocation of these Federal funds.

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<sup>46</sup> OST determines modal assignments for project administration, and grade crossing projects are administered by both FHWA and FRA, depending on the source of program funding. In this case, OST assigned the project to FRA for administration.

Figure 3. Cost Estimate Reductions During the Life of the South Lander Project



Sources: OIG analysis of SDOT's Application Narrative, Cooperative Agreement, Amendments 1 & 2, Grant Adjustment Request Forms (GARF) 1 and 2,<sup>47</sup> and SDOT Final Invoice Payment

*Reason for Cost Reductions:*

\* FRA reevaluated project cost after a construction design estimate was 60-90 percent completed.

\*\* SDOT submitted a GARF (approved by FRA via Amendment 1<sup>48</sup>) due to Tasks 1-4 coming under budget.<sup>49</sup>

\*\*\* SDOT submitted a GARF (approved by FRA via Amendment 2<sup>50</sup>) due to the releasing of soft costs<sup>51</sup> and contingency costs.

\*\*\*\* SDOT reduced these numbers due to Construction, Construction Management, & Contingency coming under estimates.

<sup>47</sup> Per FRA's *Grant Management Manual*, a completed GARF specifies the category and type(s) of adjustment requested and provides a detailed justification for the request. This process is completed by the grantee and reviewed/approved by FRA officials.

<sup>48</sup> Amendment 1 entailed a substitute of the Catalog of Federal Domestic Assistance number, replaced the Terms and Conditions, and updated sections of the Statement of Work (SOW), and section updates to reflect reduced total project costs and increased the Federal contribution. In this amendment, FRA received a transfer of FHWA funds totaling \$12,594,692 (National Highway Freight Program (NHFP) = \$3,000,000; Surface Transportation Program (STP) = \$9,594,692).

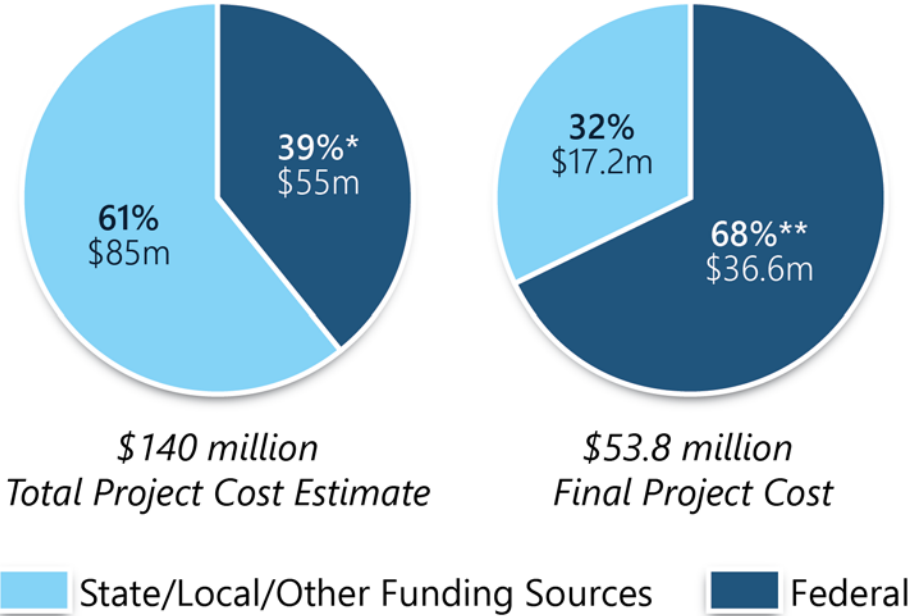
<sup>49</sup> These included: Task 1-Professional Services; Task 2-Right of Way; Task 3-Construction; and Task 4-Construction Management.

<sup>50</sup> Amendment 2 entailed an update to the Project Estimate/Budget section of the SOW and section updates that reflect reduced total project costs to \$75.1 million.

<sup>51</sup> According to the 2010 Transportation Research Board's Transit Cooperative Research Program Report 138, "Estimating Soft Costs for Major Public Transportation Fixed Guideway Projects," soft costs are the capital expenditures that are required to complete an operational transit project but that are not spent directly on activities related to brick-and-mortar construction, vehicle and equipment procurement, or land acquisition.

Further, as a result of these reductions, the Federal share of the final project cost<sup>52</sup> is now more than the State/local/other share—the opposite of what was envisioned in the original estimate (see figure 4). Specifically, SDOT’s application initially called for a Federal contribution of 39 percent of the total project cost, and now the Federal contribution accounts for 68 percent. Although the Federal share remained within the allowed 80 percent grant limit,<sup>53</sup> it is much higher than originally envisioned for the project.

Figure 4. Federal Vs. State/Local/Other Funding Shares for the South Lander Project



Sources: SDOT Application Narrative, & Final Invoice Payment

\* In its application, SDOT requested a grant amount of \$55 million in FASTLANE funding but OST only approved the application for \$45 million. However, the application noted an additional \$10 million in anticipated Federal funds through FHWA’s STP and Congestion Mitigation and Air Quality Improvement Program. WSDOT, local, and other agencies (within the City of Seattle) contributions totaled \$85 million.

\*\* At project completion, total Federal funds used was \$36,575,236 while State and local funds used decreased to \$17,192,992.

By April 2021, both SDOT and FRA were aware that the project was physically completed and that the actual cost for the project totaled \$53.8 million, with some \$21 million in Federal funds determined to be unneeded. (See exhibit E for

<sup>52</sup> The Federal share at closeout includes \$24 million from FASTLANE; \$3 million from NHFP; and \$9.6 million from STP.

<sup>53</sup> Per the NOFO, FASTLANE grants may be used for up to 60 percent of future eligible project costs. Other Federal assistance may satisfy the non-Federal share requirement, but total Federal assistance for a project receiving a grant may not exceed 80 percent of the future eligible project costs.

how the \$21 million was calculated.) The project's period of performance ended June 2021, and SDOT was then responsible for submitting final closeout reports, including a final reimbursement request, which would confirm the actual total cost. SDOT submitted its final reimbursement request in November 2021, and FRA approved it in December 2021. When we raised the issue of the \$21 million with FRA, Agency officials told us that they do not deobligate funds until grant closeout even if the funds are not needed. When we asked FRA if this is a written policy, FRA officials referred us to the Agency's Grants Management Manual, which notes that deobligation of funds is an action taken as part of closeout. However, the manual does not explicitly prohibit deobligating un-needed funds prior to closeout.

Moreover, as a point of comparison, when we reviewed FHWA's policies regarding when excess grant funds can be deobligated, we found that the Agency requires recipients to adjust their obligations to reflect current cost estimates.<sup>54</sup> Specifically, FHWA allows a de-obligation of Federal funds if supported by current costs estimates. As SDOT began reporting revised estimates as early as 2020, the unneeded funds on the South Lander project could have been identified and deobligated sooner if similar guidance was in place. Ultimately, SDOT submitted its final request for payment in October 2021 and FRA completed its grant closeout in December 2021, resulting in the \$21 million in unused FASTLANE funds being deobligated and returned to FHWA.

According to OST, the Department had until September 30, 2022 to use the \$21 million on other FHWA projects.<sup>55</sup> However, when we later followed up with OST, we were told that the funds had not been reobligated prior to the deadline, and therefore were considered lapsed. In such an instance, OST told us that the funds will need to be "swept" from FHWA's balances—thus making the funds available for reallocation to other transportation programs. Yet, as of October 6, 2022, OST and FHWA had taken no action to make the \$21 million available for reallocation. All in all, FRA, OST, and FHWA missed the opportunity to put these funds to use sooner on other transportation projects.

#### *FRA Allowed SDOT To Retain an Excessive Contingency Budget on the South Lander Project*

Of the \$21 million in lapsed funds on the South Lander Project, approximately \$15 million (approximately 72 percent) entailed unused contingency funds.<sup>56</sup>

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<sup>54</sup> We used the FHWA policy for comparative purposes as the funding was initially given to FHWA and the project would have been under FHWA's cognizance had the project not been moved to FRA. Further, the funds are reflected on FHWA's financial management records.

<sup>55</sup> Per OST, "under 23 USC 118(c), the deobligation of this project in FY 2022 resulted in these funds remaining available for re-obligation until September 30, 2022."

<sup>56</sup> According to FRA's Capital Cost Estimating Guidance, contingency "covers unforeseen conditions, particularly during procurement and construction, and is typically established as a percentage of the Total Project Cost."

While maintaining a contingency fund is necessary to account for unforeseen costs and conditions with a project, retaining contingency funds once the risk has been reduced may result in holding unnecessary funds that could be put to better use on another project. As such, it is important to effectively assess a project's risks to determine the amount of contingency truly needed. To assess potential risks, SDOT prepared a risk register that shows its computation of contingency costs and risk exposure.<sup>57</sup>

However, we found that FRA approved a contingency estimate for the project that was not fully supported by SDOT. Specifically, the estimated contingency cost for the project's budget shown in the cooperative agreement between SDOT and FRA was \$25,605,000, but the support SDOT provided in its risk register only amounted to \$9,047,250. When we asked SDOT and FRA about this discrepancy, SDOT did not provide a justification for why the approved contingency was so much higher than the amount cited in its risk register. While FRA stated that the \$25.6 million contingency was appropriate based on several factors,<sup>58</sup> we cannot verify the accuracy of this amount due to the lack of support.

Furthermore, we found that the South Lander project maintained a higher percentage of contingency funds than FRA's guidance presents as a rule of thumb.<sup>59</sup> For example, at 50 percent completion, the minimum contingency rates generally range between 7 and 12 percent. However, at 90 percent project completion,<sup>60</sup> SDOT's estimated contingency rate was 30 percent. This may have occurred in part because SDOT officials told us that they were unaware of FRA's contingency guidelines—even though the guidance is mentioned in the cooperative agreement.

FRA's allowance for a higher contingency fund through closeout resulted in keeping \$15 million more than what was needed on the project—which is approximately 72 percent of the total \$21 million in lapsed funds. Had FRA deobligated funds following completion of milestones where significant changes in risk occurred, those excess contingency funds could have been used on other projects.

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<sup>57</sup> According to SDOT, its risk registers are "a tool for evaluating and tracking future contingency use only and are not used to document/detail the total contingency for a project. Both contingency ranges and risk registers are tools that are part of a toolbox used when determining contingency."

<sup>58</sup> FRA cited factors including (1) significant project risks associated with unknown underground conditions, existing older and vulnerable utilities, and challenges associated with deep foundation requirements; and (2) the project crosses over an extremely active rail line.

<sup>59</sup> According to FRA, even though the entirety of its FRA Capital Cost Estimating Guidance is not fully applicable to the South Lander project, the total contingency percentages in the Agency's guidance should be used for comparison purposes for this project.

<sup>60</sup> Per Amendment 2.

Overall, our findings indicate that closer scrutiny by OST and FRA was warranted to ensure SDOT adequately and accurately supported its project costs—including contingency—for the South Lander project.

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## DOT's Oversight Has Not Ensured the City of Seattle Meets Federal Requirements for Tracking and Accounting of DOT-Awarded Funds

DOT's oversight did not ensure the City of Seattle met requirements for tracking and accounting for DOT grant funds. As a result of this deficiency, DOT did not fulfill its responsibility to effectively monitor the funds it awards for SDOT projects.

### **Weaknesses in the City of Seattle's Financial Management Practices Hinder the Department's Efforts To Oversee and Monitor SDOT's Use of DOT Funds**

Federal regulations require that recipients' financial management systems include records documenting compliance with those regulations.<sup>61</sup> Additionally, Federal funds must be traceable to a level of expenditures adequate to establish that such funds have been used properly. In turn, DOT is responsible for overseeing whether the City of Seattle (the City) meets these requirements for Federal transportation funds. However, we identified weaknesses in the City's financial management practices that could hinder OST, FHWA, FRA, and FTA's ability to effectively monitor SDOT's use of DOT funds.<sup>62</sup>

#### *Prior Reviews Have Identified Weaknesses in the City of Seattle's Financial Management Practices*

Prior oversight reviews have signaled increased risk and identified significant weaknesses with the City's financial management practices. For example:

- In its 2014 triennial review, FTA noted that the City does not have a centralized method for managing FTA-funded grants. Specifically, FTA noted that certain City business functions such as procurement, contract administration, and project management are decentralized, thereby requiring each business unit to have the subject matter expertise (e.g., knowledge, training, and skills) and documented practices to manage the compliance requirements. FTA also noted that the City lacks policies and

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<sup>61</sup> 2 CFR 200.302(a).

<sup>62</sup> SDOT uses the City of Seattle's financial management system.



procedures needed to coordinate compliance activities across multiple lines of authority and responsibilities.

- In its 2015 and 2016 single audits, WSAO reported that the City's Human Service Department paid over \$3 million to subrecipients without requiring adequate supporting documentation for costs incurred.
- In 2018, WSAO's single audit cited concerns regarding the accuracy of the City's financial statements, stating that the City did not have adequate internal controls in place to ensure compliance with Federal program requirements. For example, WSAO reported that the City spent \$3.6 million in awarded funds from U.S. HUD—but lacked an effective method for properly identifying and tracking these funds. As a result, WSAO concluded that "the City cannot ensure it used revenue to reduce the federal funds committed to the program before seeking reimbursement from the federal agency." In addition, WSAO also stated that "City operations are highly decentralized making the process of accounting for and reconciling all financial activity challenging." Our review found similar challenges with the City's decentralized process when we attempted to trace Federal funding awarded to the City of Seattle, as discussed later in this report.

Moreover, when we asked how FHWA, FRA, and FTA determined the adequacy of the City's accounting system before or after obligating DOT funds, the OAs responded accordingly:

- FHWA officials said they did not specifically review whether the City has a sufficient accounting system to manage Federal funds. Instead, FHWA relies on single audits and oversight from WSDOT to ensure subrecipients have sufficient accounting controls to keep track of Federal funds in accordance with Federal regulations. In turn, WSDOT allows the City to self-certify that the accounting system is able to segregate and manage Federal funds. Yet, we identified a number of problems with the City's ability to track Federal funds, as discussed later in this report.
- FTA stated that direct awardees are required to undergo triennial reviews, and if any issues are identified, FTA will address them. According to FTA, triennial reviews require recipients to have financial management systems in place to accurately account for and report on Federal funds. Before receiving a grant award, FTA also requires recipients to annually certify that it will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives. However, the language in the triennial review only states that "the grantee must demonstrate the ability to match and manage FTA grant funds." There is no mention of accurately accounting for or reporting on Federal funds. Yet, we have found significant issues with the City of Seattle's ability to

properly account for Federal funds, as discussed later in this report. We also note that in 2018, FTA consolidated oversight methods, which resulted in eliminating some financial management oversight areas from their monitoring processes. Eliminated areas included reconciling FTA and recipient award balances, financial procedures for tracking expenditures by line item, and receiving and disbursing FTA funds.<sup>63</sup>

- According to FRA, the cooperative agreement between FRA and the City of Seattle requires the City to maintain accounts in a manner consistent with Federal requirements. In addition, FRA stated it has an oversight checklist that includes steps to verify recipient accounting. Yet FRA also noted that while the City self-certifies that its accounting system is consistent with the financial management standards in 2 CFR 200, FRA has not performed an in-depth review of expenditures during its scheduled monitoring activities between fiscal years 2015 and 2019.

These statements as well as a number of weaknesses that we have identified involving the tracing, accounting, and documentation of Federal funds (as described below) highlight the need for DOT agencies to better identify risks and mitigation strategies as well as engage in stronger oversight of the City's management of DOT funds awarded for SDOT projects.

#### *Weaknesses in SDOT's Financial Management System Limit the Ability To Trace and Monitor Funds*

Our review identified issues with SDOT's financial data that limit the ability to trace Federal funds, pointing to limitations in DOT's oversight. Per Federal grant management regulations,<sup>64</sup> financial records for projects awarded Federal funds must:

- provide account identification for all Federal awards received and expended, including (or based on) the Federal Award Identification Number (FAIN);<sup>65</sup>
- provide information pertaining to the Federal awards, authorization, financial obligations, unobligated balances, assets, expenditures, income, and interest;

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<sup>63</sup> According to FTA's Contractors Manual Fiscal Year 2022, also known as Comprehensive Oversight Reviews and Technical Assistance Program Guide.

<sup>64</sup> 2 CFR 200.302(b)(1), (3).

<sup>65</sup> 2 CFR 200.302 states that the financial management system of each non-Federal entity must provide for the following: "Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the Assistance Listings title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any."

- adequately identify the source and application of the awarded funds; and
- be supported by source documentation.

Federal regulations further require that the recipient's financial management systems must be sufficient to permit (1) preparation of reports documenting compliance with Federal regulations and (2) the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to Federal statutes, regulations, and the terms and conditions of the Federal award.<sup>66</sup>

However, we found that the City of Seattle's financial management system is not capable of meeting these requirements. For instance, SDOT was not able to provide us with a complete and accurate record of obligations and expenditures by the FAIN for each of the unique grants or awards it receives. As a result, we were unable to fully determine how our sample of grant and cooperative agreement awards—totaling \$229.7 million—were used.

In response to our finding, SDOT acknowledged that the FAIN is not available in the City's financial management system and reports. According to an SDOT official, "the City of Seattle creates unique project and activity codes for each grant-funded project. Additionally, starting in 2018, the City began using unique grant funding sources to tag all grant revenues and expenditures." However, we encountered several difficulties when we used the City's financial management methods to trace how Federal grant awards were expended across contracts in our samples. For example:

- When we asked for a list of contracts funded by our sample of grant and cooperative agreement awards for fiscal years 2014 to 2019,<sup>67</sup> SDOT officials told us that tracking multi-grant/multi-year requests is difficult for them. SDOT officials stated that the Agency maintains a Master Grant Tracker—but the tracker is not part of the City's official accounting system. Moreover, while SDOT's tracker maintains information on projects, source of funding (grants), and award amounts, it does not record obligations and expenditures for each grant per Federal requirements.<sup>68</sup>

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<sup>66</sup> 2 CFR 200.302(a).

<sup>67</sup> Our total universe is comprised of 86 grants and cooperative agreements (valued at \$259.8 million), whose periods of performance ended between fiscal years 2014 and 2019. From this universe, we selected a statistical sample of 46 grants and cooperative agreements valued at \$229.7 million. FHWA—34 grant awards, totaling \$143.3 million; FRA—1 cooperative agreement, valued at \$57.6 million; and FTA—11 grants, valued at \$28.8 million.

<sup>68</sup> Per 2 CFR 200.302(a), the State and other non-Federal entity's financial management system must be sufficient to trace funds to a level of expenditures adequate to establish that the funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

- Without a report documenting the obligations and expenditures of those grants in our sample, it took several months for SDOT to (1) give us a manually compiled list of contracts and expenditures, (2) revise it, and (3) provide supporting documentation—and yet, even after this effort, the information was still incomplete and inaccurate.<sup>69</sup> To determine how the grant funds were being used, SDOT had to reach out to different City departments for data on construction contracts, consultant contracts (e.g., engineering and design), and other expenses. Examples of inaccuracies we found include:
  - The manually compiled list SDOT first provided only accounted for \$100,328,931, or 44 percent of our grant sample.
  - SDOT revised the list and provided additional explanations, but the list was still not complete. Moreover, because SDOT does not use the FAIN to identify Federal funds used on each project, we could not use the revised list to link expenditures to our sample of 46 awards. As such, we attempted to trace the funds by reaching out to WSDOT for additional records, and then created a cross-walk of project numbers to the FAIN. However, when we attempted to trace the project expenditures back to the 46 awards, we were still unable to trace expenditures for all the awards in our sample.<sup>70</sup>
  - Moreover, we found that the City of Seattle’s records did not provide adequate source documentation to support the expenditure of \$10.7 million for 10 awards in our sample (4 FHWA and 6 FTA) (see table 5).

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<sup>69</sup> Per SDOT, “the OIG request covered multiple years involving two separate City accounting systems and some older records not available electronically, which did make it more difficult and time-consuming to pull together for OIG’s review.” OST also cited COVID-19 restrictions as part of the reason for the delays as SDOT was physically locked out of going into the office to acquire the documentation.

<sup>70</sup> We also found that WSDOT was not keeping track of FHWA-funded consultant contracts worth approximately \$3,701,523 because WSDOT did not start tracking such contracts until fiscal year 2018.

Table 5. Questioned SDOT Costs

Awards	Expended Amount
4 FHWA awards	\$753,839
6 FTA awards	\$9,946,977
10 total awards	\$10,700,816

Source: OIG analysis of data provided by FHWA, FTA, and SDOT

According to Federal regulations,<sup>71</sup> costs must be adequately documented to be considered as allowable. Yet when we asked about the 10 awards, SDOT did not provide adequate support for these expenditures.

SDOT stated that funds for four FHWA awards (totaling \$753,839) were used to pay SDOT staff for project design, outreach, or labor hours for internal staffing.<sup>72</sup> However, SDOT did not provide sufficient support for the billing records, such as time cards and detailed expenses to support these costs. Our finding is similar to a prior WSAO audit finding that the City paid \$297,204 in salaries and wages for another Federal program<sup>73</sup> but lacked documentation to show the actual time employees worked. The remaining funds were related to six FTA awards (totaling \$9,946,977) for which SDOT provided incomplete information, such as a lack of detailed support for lump sum payments. FTA does not require detailed supporting documentation at the time of reimbursement for its formula programs.

In response to our findings, SDOT sent us additional documentation for some awards, such as timecards and progress billing spreadsheets. Yet, for 6 of the 10 awards, SDOT's billing spreadsheets indicate that they had been recently updated. However, because we did not have the original information to compare these changes to, we could not verify the purpose or accuracy of the changes. Moreover, for the remaining four awards, we found other issues such as incorrect award information, a lack of support for billing spreadsheets, and/or the expenses did not appear to match the purpose of the grant. Such issues with the supporting documentation that SDOT provided in its follow-up responses raise concerns as to its accuracy and reliability. As a result, we question \$10.7 million in costs due to inadequate documentation.

<sup>71</sup> 2 CFR 200.403(g). Except where otherwise authorized by statute, costs must be adequately documented to meet the general criteria in order to be allowable under Federal awards.

<sup>72</sup> SDOT refers to these staffing costs as "local forces."

<sup>73</sup> The program was funded by HUD.

Finally, we found that SDOT did not deobligate \$988,494 in funds for 24 out of the 28 closed awards in our sample,<sup>74</sup> even though FHWA and FTA had deobligated the funds in their records. Although the deobligation closes the accounting on the Federal side, this discrepancy between the OAs' and SDOT's financial data illustrates the City's failure to comply with 2 CFR 200.302(b)(3), which requires each recipient to account for the status of all Federal awards, including having records that contain information pertaining to Federal awards, authorizations, financial obligations, and unobligated balances.

By not ensuring the City of Seattle traces funds as required, DOT's ability to oversee the use of these funds is limited.

### **FTA Lacks an Effective Process for Promoting the Timely Obligation and Tracking of Transferred Funds**

Of the \$229.7 million in our sample provided to the City of Seattle, roughly 7.9 percent (or \$18.2 million) represents funding that was transferred from FHWA to FTA<sup>75</sup> for specific projects.<sup>76</sup> However, we found that \$3.6 million of those funds were not obligated in a timely manner. In addition, we identified \$3.8 million in transferred funds that have not been used in more than 5 years. Further, FTA lacks an effective process for tracking the status of transferred funds.

#### *FTA Did Not Ensure That Transferred Funds Were Fully Obligated or Used in a Timely Manner*

Under certain circumstances, Federal law allows Federal-Aid Highway Program funding for public transportation projects to be transferred (i.e., flexed) and administered by FTA.<sup>77</sup> Specifically FHWA can approve a State's request to transfer FHWA funds to a specific project administered by FTA for various reasons; for example, FTA may have greater expertise to administer a project, or there may be a cost savings associated with a project that has multiple components. Once the funds are transferred, they become subject to FTA's requirement<sup>78</sup> that all federally funded transit projects that are within metropolitan planning boundaries (e.g., projects within the City of Seattle) must

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<sup>74</sup> From our sample of 46 awards, 28 FHWA and FTA awards were closed.

<sup>75</sup> According to FTA, Federal law (23 U.S.C. § 104(f); 49 U.S.C. § 5334(i)(1)) allows Federal-Aid Highway Program funding for public transportation projects to be transferred to and administered by FTA.

<sup>76</sup> SDOT projects receiving transferred funds included: King Street Station Renovation, Madison Corridor Bus Rapid Transit, Center City Connector, First Hill-Broadway Streetcar, and Seattle Bike Stations.

<sup>77</sup> Per FHWA Order 4551.1, dated August 12, 2013, funds for eligible transit projects or transportation planning may be transferred to FTA and administered under chapter 53 of Title 49, per 23 U.S.C. 104(f)(1), except that the Federal share requirements of the original fund category continue to apply.

<sup>78</sup> FTA Circular 9030.1E, dated January 16, 2014.

be included in the Statewide transportation improvement program (STIP) and approved by the metropolitan planning organization (MPO).<sup>79</sup>

Once approved by FHWA, funds are transferred to FTA, recorded in Delphi (DOT's official accounting system), and finally allocated to FTA for processing the grant award. Per FHWA policy, funds subject to annual obligation limitation should be fully obligated in the same fiscal year the transfer is made.<sup>80</sup> Furthermore, under FTA guidance, funds transferred from FHWA to FTA have a period of availability of 4 fiscal years. The 4-year period of availability begins when funds are transferred to FTA plus 3 additional years.<sup>81</sup> If the funds are not awarded within that 4-year period, the funds lapse.<sup>82</sup> When this happens, FTA guidance stipulates that the regional office sends a letter to the State DOT, advising them that lapsed funds are available for use Statewide.<sup>83</sup> According to FTA's guidance "the governor or the governor's designee must inform the Regional Office in writing of his/her decision on the use of the funds. The governor may elect to direct that the funds be used for the original project or for another eligible project in the UZA [urbanized area] for which they were originally transferred, or he/she may direct that the funds be made available for a different eligible project somewhere else in the [S]tate."

We identified one occurrence where \$3.6 million was not obligated in the same fiscal year as the transfer, per FHWA guidance,<sup>84</sup> or within FTA's 4-year period of availability—resulting in these funds lapsing on the intended project. However, FTA did not send a letter to WSDOT letting them know that lapsed funds were available for other projects, as described in FTA's guidance.

Specifically, in 2016, FHWA transferred \$8.5 million to FTA for a Seattle street car project,<sup>85</sup> but the project was cancelled and the grant was closed the same day FTA received the funding. Eventually, FTA did obligate \$4.9 million of the transferred funds to a different project, although this did not occur until 2019—

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<sup>79</sup> An MPO is the policy board designated by the governor and local governments to carry out the metropolitan transportation planning process. According to an FTA official, "FTA does not decide what projects come to FTA for funding. That is left to the MPO process and recipients' decision on how to program funds."

<sup>80</sup> Per FHWA Order 4551.1, "when a transfer is processed, obligation authority is generally transferred in the same manner and amount as the program funds, per 23 U.S.C. 104(f)(4). To avoid the loss of obligation limitation, funds subject to annual obligation limitation should be fully obligated in the same fiscal year the transfer is made."

<sup>81</sup> FTA's guidance gives the following example to illustrate this point: For instance, flex funds transferred in fiscal year 2017 will no longer be available as of October 1, 2020. FTA, *FY 2018 – 2019 Standard Guidance for Grants* (August 3, 2018) and *FY '15-'16 SOPs for Grant Making* (September 2, 2015).

<sup>82</sup> Lapsing funds are funds that will expire but will remain available to the State if they are not obligated in an agreement within the period of availability.

<sup>83</sup> FTA, *FY 2018 – 2019 Standard Guidance for Grants* (August 3, 2018) and *FY '15-'16 SOPs for Grant Making* (September 2, 2015).

<sup>84</sup> FHWA Order 4551.1.

<sup>85</sup> The First Hill-Broadway Streetcar project was intended to extend the First Hill Street Car line to the Capitol Hill Link light rail system.

some 3 years later.<sup>86</sup> However, the remaining \$3.6 million still has not been obligated more than 6 years after the initial transfer. When asked why the remaining \$3.6 million of the initial \$8.5 million had not been obligated or put to better use, FTA told us that \$3,349,754 had been set aside for another SDOT project that was later put on hold, so the funds were never obligated. In addition, the remaining \$250,246 funds have not been allocated to any project. As such, the full \$3.6 million have lapsed and remain unused for over 6 years instead of being put to better use on more immediate projects.

Furthermore, shortly after receiving the initial \$8.5 million of transferred FHWA funds, FTA submitted additional transfer requests to FHWA totaling \$12.2 million in funds for use on two other projects. Ultimately, WSDOT denied these transfer requests and instead suggested using the idle transferred funds that were intended for the cancelled street car line extension project. Subsequently, the funds from the cancelled project were set aside for the two other projects.

#### *FTA Has Not Deobligated Transferred Funds Tied to an Inactive Project*

We also identified an additional \$3.8 million in transferred FHWA funds for a different SDOT project that could have been put to better use. Specifically, in 2017, FTA obligated \$3.8 million to a project<sup>87</sup> but according to FTA's 2019 financial records, these funds had been inactive for more than 2 years, and were still inactive as of May 2022—more than 5 years later.<sup>88</sup> When we inquired about these funds in November 2021, FTA stated that since SDOT was still reviewing that project, the Agency did not intend to deobligate the funds. However, FTA did not give a timeframe as to how long it would allow the funds to remain obligated to the City of Seattle. Later, in August 2022, FTA told us that because the project remained in the Capital Investment Grant pipeline, the Agency did not consider it inactive or intend to deobligate the funds. FTA also noted that there is no legal expenditure deadline. However, according to DOT guidance, all unliquidated obligations inactive for 12 or more months must be selected for review—with documentation to support the determination of whether delivery of goods or services or performance is expected to occur or if deobligation should occur. Yet FTA has not provided support showing that this review has been conducted.

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<sup>86</sup> According to FTA, the funds were repurposed by the Puget Sound Regional Council (PSRC)—which is the MPO for the City of Seattle—including \$4.9 million for a bus rapid transit project.

<sup>87</sup> The Center City Connector project was for the purchase of 10 new streetcar vehicles, which were to be used to support the Center City Connector Streetcar line. According to FTA, the Agency requested a transfer of \$7.3 million from FHWA for the Center City Connector project and “the State/FHWA approved a portion of the request, \$3.8M, pending PSRC’s amendment of the STIP. After PSRC amended the STIP, FHWA transferred \$3,820,246 to FTA.”

<sup>88</sup> According to FTA, the project is on hold for multiple reasons including light rail expansion in the same area and a heavy rail car design. Per FTA, “the original streetcars SDOT anticipated buying proved to be too heavy to run along the planned corridor.”



Lastly, FTA stated the Agency accounts for all FHWA-transferred funds using several methods.<sup>89</sup> However, we found that the Agency lacks an effective process for tracking the status of these funds. Specifically, we asked FTA for a report showing when the previously discussed \$8.5 million in transferred funds were received, when they were obligated to an award, and what FAIN number was assigned for tracking. In response, FTA provided the Apportionment<sup>90</sup> Detail Report<sup>91</sup> and a manual spreadsheet maintained by FTA's Region 10 office to record transfers. However, these methods did not include all of the information we requested. For example, the Apportionment Detail report FTA provided does not show the previously discussed \$8.5 million transferred funds, nor does it identify when or where the funds were eventually obligated. Moreover, the regional spreadsheet does not keep track of the obligation date or status of the funds and does not interface with the Transit Award Management System (TrAMS) or Delphi. As a result, we could not use these methods to trace or verify the status of the funds.

Without an effective oversight method to ensure FTA can fully trace transferred funds provided to SDOT and easily show when and to which project they were obligated, transferred funds could potentially go unobligated for extended periods of time instead of being put to better use.

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## Conclusion

Each year, DOT awards billions in grants supporting State and local transportation projects—and the Department must now also oversee \$766 billion in additional funding provided for COVID-19 relief and infrastructure investment. Effective stewardship of these funds depends in part on the Department's ability to identify and address weaknesses in recipients' grant oversight and financial management practices. While DOT has some oversight processes in place, we identified significant weaknesses in the Department's management and oversight of grant funds provided to SDOT. By increasing focus on the issues identified in this report, including change orders, cost estimates, financial oversight, and transferred funds, DOT will be better positioned to ensure the City of Seattle and

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<sup>89</sup> Additional methods mentioned by FTA were the Notice of Authority Available for Obligation (FHWA calls this a Non-Allocation Transfer, or NAT); information on FHWA's transfer form (SF-1576); FTA's master spreadsheet for transferred funds; and the Agency's Transit Award Management System (TrAMS).

<sup>90</sup> According to DOT's Financial Management Policy Manual, an apportionment is a distribution of amounts available for obligation in an appropriation or fund account into amounts available for specified time periods, activities, projects, objects, or combinations thereof.

<sup>91</sup> Within TrAMS, FTA maintains its Apportionment Detail Report that shows the total amount of program funds set aside for the City of Seattle, including appropriation code, total transferred in, and total amount recovered at closeout. FTA also refers to this as the Cumulative Apportionment Report.

SDOT properly manage and effectively use the Federal taxpayer dollars they receive.

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## Recommendations

To improve the Department's oversight of Federal funds awarded for SDOT projects, we recommend that the Assistant Secretary for Administration:

1. Develop and implement—for each discretionary grant program that relies on cost estimates to establish compliance with program requirements and eligibility—a risk-based process for validating cost estimates prior to the execution of grant award agreements, as well as document the Department's review of the cost estimates.
2. Direct FHWA and FTA to coordinate with grantees to ensure the City of Seattle develops and implements appropriate internal controls to track Federal funds in accordance with 2 CFR 200.302(b)(1) and (3).

To improve the Department's oversight of Federal funds awarded for SDOT projects, we recommend that the Federal Highway Administrator:

3. Remove \$21 million in lapsed funding identified in this report from FHWA's unobligated balances. Implementing this recommendation could put \$21 million in funds to better use on other transportation programs.
4. Advise WSDOT as part of stewardship and oversight activities to include change orders in WSDOT's next project management review of SDOT.
5. Direct the FHWA WA Division to review WSDOT's established process of reviewing subrecipients' supporting documentation for internal staffing charges (e.g., billing records, invoices, timecards) to ensure compliance with 2 CFR 200.403.
6. Work with WSDOT to collect adequate supporting documentation for \$753,839 in internal staffing costs identified by OIG or recover from WSDOT any portion that is determined to be unallowable or unsupported.

To improve FRA's oversight of Federal funds awarded for SDOT projects, we recommend that the Federal Railroad Administrator:

7. Incorporate change orders as a focus area in FRA's annual review process.
8. Develop and implement policy to evaluate whether to deobligate funds when there is a significant reduction in project costs prior to closeout.

To improve FTA's oversight of Federal funds awarded for SDOT projects, we recommend that the Federal Transit Administrator:

9. Include a sample of SDOT's change orders as part of FTA's triennial reviews. In doing so, FTA could better detect and prevent the risk for paying for unapproved change orders.
10. Require FTA Region 10 to conduct a review of the City of Seattle's internal controls for supporting documentation of expenditures billed to Federal awards to ensure compliance with 2 CFR 200.403.
11. Recover the \$9,946,977 in costs we identified for which SDOT provided incomplete information or provide a justification for accepting the costs.
12. Direct FTA Region 10 to notify WSDOT in writing that the \$3.6 million in lapsed funds identified in this report have been credited to the State and are available for other eligible transit projects. Implementing this recommendation could put up to \$3.6 million in funds to better use.
13. Require FTA Region 10 to review \$3.8 million in inactive funds identified in this report and determine whether they will be used, and if not, deobligated. Implementing this recommendation could put up to \$3.8 million in funds to better use.
14. Implement procedures and related mechanisms to show when unobligated transferred funds are obligated and to what projects.

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## Agency Comments and OIG Response

We provided DOT with our draft report on November 21, 2022, and received its response on December 16, 2022, which is included as an appendix to this report. OST concurred with recommendations 1, 2, and 4–14 (and associated monetary findings totaling \$39.1 million) and provided appropriate planned actions and completion dates. OST provided an alternative action from FHWA for recommendation 3 that meets the intent of our recommendation. Accordingly, we consider all recommendations as resolved but open pending completion of the planned actions.

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## Actions Required

We consider all recommendations resolved but open pending completion of the planned actions.

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## Exhibit A. Scope and Methodology

This audit was conducted between November 2019 and November 2022. We conducted this audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Our objective for this self-initiated audit was to assess the Department's oversight of Federal funds received by SDOT. During the audit, we conducted a site visit to the FHWA Washington Division and WSDOT offices. Due to COVID-19 restrictions, we did not conduct additional site visits to FTA's Region 10 office or to SDOT—remaining field work was conducted remotely.

The scope of this audit encompasses a total universe of 86 grants and cooperative agreements from FHWA, FRA, and FTA for a combined total of \$259.8 million, where Federal funds were awarded between October 1, 2014, and September 30, 2019. From this universe, we developed a two-stage sample. First, we selected a statistical sample of 46 grants and cooperative agreements with project costs of \$229.7 million (Stage 1 sample).<sup>92</sup> Second, using our Stage 1 statistical sample of grants and cooperative agreements, we selected an additional sample of 62 underlying contracts and expenditures for our review (Stage 2 sample).<sup>93</sup> We reviewed departmental, OA, WSDOT, and SDOT grant and contract management policy and guidance; project files; and financial management records for our Stage 1 sample. For our Stage 2 sample, we reviewed project and contract files as well as associated invoices. We also interviewed officials from OST, FHWA, FRA, FTA, WSDOT, and SDOT.<sup>94</sup>

To test the completeness of the Stage 1 sample, we obtained grant universes from FHWA, FRA, and FTA and obtained access to each of the OAs' electronic grant tracking programs and search parameters to assess whether the universes were accurate and complete. After identifying some initial discrepancies, we followed up with the OAs and resolved them. To test the completeness of our Stage 2 sample, we obtained universes of OA-funded contracts from WSDOT and SDOT. We compared both universes and discussed any noted discrepancies with

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<sup>92</sup> FHWA—34 grant awards, totaling \$143.3 million; FRA—1 cooperative agreement, for a project cost of \$57.6 million; FTA—11 grant awards, totaling \$28.8 million.

<sup>93</sup> For the 46 grant awards we selected in Stage 1, SDOT provided a universe of 76 contracts and expenditures, totaling over \$100 million. For our Stage 2 sample, we selected 62 of the 76 contracts and expenditures.

<sup>94</sup> Including FHWA's Washington Division Office and FTA's Region 10 Office.

SDOT to resolve them. Based on these activities, we determined that both samples were sufficiently reliable for purposes of this audit.

To assess FHWA's, FRA's, and FTA's oversight in monitoring SDOT's contract management of grant awards and modifications (i.e., change orders), we reviewed relevant criteria and the oversight mechanisms used to monitor grantees compliance with Federal regulations, statutes, and terms and conditions of the award (see exhibit D). We also reviewed electronic copies of our sample of 62 contracts, which consisted of the base agreement and modifications/change orders. In addition, for each OA in our sample, we interviewed officials and reviewed the oversight mechanisms. Lastly, we developed a standardized checklist and used it to test SDOT's internal controls for executing change orders by determining if they contained required approval signatures, as well as to track the number of modifications per contract. To verify our findings, we conducted multiple follow-ups with OA program offices, WSDOT officials, and SDOT officials.

To assess OST's and FRA's internal oversight controls of SDOT's cost estimates for the South Lander Project, we reviewed relevant criteria for developing a cost estimate and conducted interviews with OST, FRA, and SDOT to learn how the cost estimates were developed. In addition, we reviewed the South Lander project's application, cooperative agreement, amendments, budget summaries, and supporting documentation for the cost estimates. We conducted multiple follow ups with FRA and SDOT to verify our findings.

To assess the Department's financial management practices and internal controls, we: (1) reviewed relevant Federal and OA-specific guidance; (2) reviewed purchase orders and undelivered orders; and (3) interviewed officials from FHWA, FRA, FTA, WSDOT, and SDOT. In addition, we intended to trace the awards from our Stage 1 sample to SDOT's obligations and expenditures. However, we encountered challenges as SDOT was not able to provide us with a complete and accurate record of obligations and expenditures. As a result, we were unable to fully determine how our sample of grant and cooperative agreement awards—totaling \$229.7 million—were used. Lastly, we tested Departmental and OA internal controls for transferring funds from FHWA to FTA by conducting interviews and requesting supporting documentation that demonstrated compliance with relevant Federal and OA-specific policies or guidance. To verify our findings, we conducted follow-up interviews with officials from OST, FHWA, FRA, and FTA.

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## **Exhibit B.** Organizations Visited or Contacted

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### **Department of Transportation**

Office of the Secretary of Transportation

Federal Highway Administration

Federal Highway Administration Washington Division Office

Federal Railroad Administration

Federal Transit Administration

Federal Transit Administration Region 10

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### **Other Organizations**

City of Seattle Department of Transportation

Seattle Center Monorail

Washington State Department of Transportation

Office of the Washington State Auditor

Seattle Office of City Auditor

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## Exhibit C. List of Acronyms

CA	Certification Acceptance
CFR	Code of Federal Regulations
DOT	Department of Transportation
FAIN	Federal Award Identification Number
FASTLANE	Fostering Advancements in Shipping and Transportation for the Long-Term Achievement of National Efficiencies
FFR	Federal Financial Reports
FHWA	Federal Highway Administration
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
HUD	Housing and Urban Development
MPO	Metropolitan Planning Organization
MPR	Milestone Progress Report
NHFP	National Highway Freight Program
NOFO	Notice of Funding Opportunity
OA	Operating Administration
OIG	Office of Inspector General
OMB	Office of Management and Budget
OST	Office of the Secretary for Transportation
PMR	Project Management Review
PSRC	Puget Sound Regional Council
ROW	Right of Way
SDOT	Seattle Department of Transportation
SOW	Statement of Work
STIP	Statewide Transportation Improvement Program
STP	Surface Transportation Program
TrAMS	Transit Award Management System
WSAO	Washington State Auditor's Office
WSDOT	Washington State Department of Transportation

## Exhibit D. Relevant Findings for the City of Seattle From Prior Oversight Reviews and WSAO Single Audit Reports for Fiscal Years 2014 to 2020

Operating Administration	Oversight Reviews	Relevant Findings	Date(s)
FHWA/WSDOT	Project Management Review	<ul style="list-style-type: none"> <li>14 out of 38 projects had incomplete change order documentation, such as only having contractor estimates on file and no agency independent justification documentation, insufficient agency documentation, or having documentation in other locations.</li> <li>7 agencies had change orders that exceeded 5 percent of the contract amount.</li> </ul>	November 14, 2014
		<ul style="list-style-type: none"> <li>22 out of 41 projects had incomplete change order documentation, such as only having contractor estimates on file and no agency independent justification documentation, insufficient agency documentation, or having documentation in other locations.</li> <li>7 agencies collectively had 8 change orders that exceeded 5 percent of the contract amount.</li> </ul>	November 2, 2015
		<ul style="list-style-type: none"> <li>5 out of 26 projects had missing independent justification documentation and 4 projects had insufficient agency documentation.</li> <li>7 agencies collectively had 9 change orders that exceeded 5 percent of the contract amount.</li> </ul>	December 12, 2016
		<ul style="list-style-type: none"> <li>6 out of 32 projects had missing agency documentation.</li> <li>3 agencies had change orders that exceeded 5 percent of the contract amount.</li> </ul>	November 20, 2017
		<ul style="list-style-type: none"> <li>3 out of 25 projects were missing agency documentation.</li> <li>5 agencies had change orders that exceeded 5 percent of the contract amount.</li> </ul>	January 4, 2019
		<ul style="list-style-type: none"> <li>4 out of 16 projects were missing agency documentation.</li> <li>5 agencies had change orders that exceeded 5 percent of the contract amount.</li> </ul>	November 19, 2019



Operating Administration	Oversight Reviews	Relevant Findings	Date(s)
FTA	Oversight Assessment Tool	<ul style="list-style-type: none"> <li>Financial Management: Inconsistent submission of Single Audit records in OTrak.</li> <li>Late disadvantaged business enterprise (DBE) reports and lack of goal documentation.</li> </ul>	March 26, 2014
		<ul style="list-style-type: none"> <li>Technical Capacity: Concerns with staff's technical capacity.</li> <li>Procurement: Lack of adequate competition and sole source justification from another review, and procurement policies have not been updated to ensure meeting FTA Federal requirements.</li> </ul>	November 14, 2014
		<ul style="list-style-type: none"> <li>Procurement: Insufficient documentation to support change orders.</li> <li>Grants Management: Insufficient information in Milestone Progress Reports and Federal Financial Reports.</li> <li>DBE: Late reports submitted over the last 3 Federal fiscal years.</li> </ul>	November 9, 2015
FTA	Triennial Review	<ul style="list-style-type: none"> <li>Financial Management and Financial Capacity: Ineligible expenses charged and excess cash problems.</li> <li>Technical Capacity: Insufficient technical capacity, inadequate oversight of contracted services, and no procedure for inspection/supervision of work.</li> <li>Procurement: Procurement solicitation files not available, insufficient documentation to support change orders, and contractor procurement oversight deficiencies.</li> <li>DBE: Program has not been updated, and incomplete goal submittal.</li> </ul>	October 25, 2014
		<ul style="list-style-type: none"> <li>Procurement: Lack of required cost/price analysis.</li> <li>DBE: Corrective action plan not completed.</li> </ul>	May 23, 2017
FRA	Monthly, Quarterly, Annual Monitoring	<ul style="list-style-type: none"> <li>No significant findings.</li> </ul>	October 31, 2017 thru July 13, 2020

Operating Administration	Oversight Reviews	Relevant Findings	Date(s)
WSAO	Single Audit Report	Lack of adequate internal controls in ensuring compliance with Federal reporting requirements for U.S. HUD.	September 27, 2018
		Lack of adequate internal controls in ensuring compliance with Federal reporting, ensuring compliance with Federal cost principle, ensuring compliance with Federal program income, and ensuring compliance with Federal period of performance requirements for U.S. HUD.	November 7, 2019
		Lack of support for charged expenditures for grants and adequate internal controls in ensuring compliance with Federal cost principle requirements for U.S. HUD, and lack of adequate internal controls in ensuring compliance for subrecipient monitoring requirements for U.S. Department of Homeland Security.	December 24, 2020
		Lack of adequate internal controls for Federal reporting, ensuring compliance with Federal rehabilitation, ensuring compliance with Federal period of performance; ensuring compliance with matching, level of effort, and earmarking; ensuring compliance with obligation, expenditure, and payment; and ensuring compliance for subrecipient monitoring requirements for U.S. HUD.	March 31, 2022

Source: OIG analysis

# Exhibit E. Breakdown of \$21 Million That Was Deobligated From the South Lander Project

Task Per Cooperative Agreement	Base Award	Amendment 1	Amendment 2	Final Invoice	Amount to Be Returned
Task 1 for Professional Services	\$10,600,000	\$8,225,000	\$2,994,400	\$2,477,456	NA <sup>95</sup>
Task 2 for Right Of Way Acquisition (ROW) <sup>96</sup>	\$6,000,000	\$975,000	\$212,800	\$207,472	NA <sup>97</sup>
Task 3 for Construction	\$43,300,000	\$33,679,945	\$38,109,544	\$33,854,694	\$3,984,038
Task 4 for Construction Management <sup>98</sup>	\$37,495,000	\$31,515,055	\$11,643,196 <sup>99</sup>	\$9,658,928	\$1,959,773
Task 5 for Unallocated Contingency	\$25,605,000	\$25,605,000	\$22,194,991	\$7,569,677	\$15,075,645
<b>Total</b>	<b>\$123,000,000</b>	<b>\$100,000,000</b>	<b>\$75,154,932</b>	<b>\$53,768,227</b>	<b>\$21,019,456</b>

Sources: Cooperative Agreement, Amendments 1 & 2, and SDOT's Final Invoice

<sup>95</sup> Although Amendment 2 and final invoice costs do not align, it is noted that Task 1 was funded using Non-Federal Contributions.

<sup>96</sup> Per *FTA Final Guidance on the Application of 49 U.S.C. § 5323(q) to Corridor Preservation for a Transit Project* a ROW is real property interests needed for facilities directly adjacent to the fixed guideway. "The purpose of corridor preservation under this provision to be any real property interest in a linear configuration needed for a core capacity."

<sup>97</sup> Although Amendment 2 and final invoice costs do not align, it is noted that Task 2 was funded using Non-Federal Contributions.

<sup>98</sup> According to FRA officials, "Construction Management costs (within Task 4) encompassed all construction costs outside of the construction contract. Task 4 primarily included costs for activities peripheral to construction. This includes design, engineering, construction management, consulting, insurance, legal, etc."

<sup>99</sup> According to SDOT officials, for the base award and Amendment 1, Task 4 included contingency costs that should have instead been recorded under Task 5. The correction was made in Amendment 2.

## Exhibit E. Breakdown of \$21 Million That Was Deobligated From the South Lander Project

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## Exhibit F. Major Contributors to This Report

DARREN MURPHY	PROGRAM DIRECTOR
AISHA EVANS	PROJECT MANAGER
TERI MOUNTS	SENIOR MANAGEMENT AND PROGRAM ANALYST
ADRIAN VALENZUELA	SENIOR MANAGEMENT AND PROGRAM ANALYST
STACIE SEABORNE	SENIOR MANAGEMENT AND PROGRAM ANALYST
RACHEL MENCIAS	SENIOR AUDITOR
AMY BERKS	DEPUTY CHIEF COUNSEL
AUDRE AZUOLAS	CHIEF COMMUNICATIONS OFFICER
ANGELICA PEREZ	VISUAL COMMUNICATIONS SPECIALIST
WILLIAM SAVAGE	IT SPECIALIST
MAKESI ORMOND	STATISTICIAN

# Appendix. Agency Comments



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

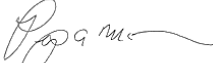
Assistant Secretary  
for Administration

1200 New Jersey Avenue, SE  
Washington, DC 20590

## Memorandum

**Subject:** INFORMATION: Management Response to Office of Inspector General (OIG) Draft Report on DOT's Oversight of the City of Seattle Requirements for Managing Federal Transportation Funds | Project No. 19Z3002Z000

**Date:** December 16, 2022

**From:** Philip McNamara   
Assistant Secretary for Administration

**To:** Charles A. Ward  
Assistant Inspector General for Audit Operations and Special Reviews

The Department of Transportation (DOT) is charged with stewardship of billions of taxpayer dollars relating to grants and financial assistance activities across a broad range of programs. With the implementation of the Bipartisan Infrastructure Law, we are seeing a significant increase in the Department's grants and financial assistance activities. The Department takes seriously its responsibilities for ensuring the proper administration of the funding and activities associated with its oversight of grants and financial assistance programs. This includes providing appropriate oversight to ensure that the City of Seattle meets the requirements for managing federal transportation funds.

Based on our review of the draft report, we concur with OIG's recommendations 1-2 and 4 -14 as written, including the \$39.1 million in financial impact. We plan to complete actions to address these recommendations as outlined in the chart below. For recommendation 3, FHWA agrees to mark the \$21 million in lapsed funding identified by OIG as "expired" as a part of FHWA's existing procedures which will occur no later than January 31, 2023. For recommendation 7, FRA provided OIG with supporting documentation to address the finding on incorporating change orders into its annual review process and requests OIG close the recommendation upon issuance of the final report.

Recommendations	Implementation Dates
1	June 30, 2023
2, 3	January 31, 2023
4, 9-14	December 31, 2023
5, 6	September 30, 2023
8	July 31, 2023

We appreciate the opportunity to review the OIG draft report. Please contact Willie Smith, Senior Procurement Executive at (202) 366-4212, or Mary Sprague, Office of Administration Special Programs at (202) 366-3564 with any questions.

U.S. Department of Transportation  
Office of Inspector General

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# Fraud & Safety Hotline

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