

**Office of the Washington State Auditor (SAO)
Port of Brownsville (Port)
Accountability Audit Report
For the period January 1, 2017 through December 31, 2019
Published January 21, 2021
Report No. 1027689**

Schedule of Audit Findings and Responses

2019-002 The Port did not comply with state grant requirements for its Boat Launch project.

Port's Full Response:

The following represents the Port's full response to the SAO's Accountability Finding 2019-002 that was originally provided in full to SAO. The SAO's published version included a summary version of the Port's full response.

The Port of Brownsville would like to thank the Washington State Auditor's Office for its review of the Port's compliance with the state grant requirements for its Boat Launch project. The Port acknowledges prior deficiencies in its compliance with various components of the state grant for its Boat Launch project. Most if not all of the issues raised in the audit related to the conduct of the Port's prior CPA and prior contracted engineering firm who was hired to manage the project. The Port Commission recognized the need to replace the Port's CPA and has retained a new outside CPA firm with extensive experience and specifically Washington Public Port experience.

In reviewing the files, it appears that the Port Commission did not receive the proper direction and/or guidance from its former contracted engineering firm, former staff, former CPA or former legal counsel regarding the issues identified by the Washington State Auditor's Office that were identified in relation to the Boat Launch project. Specifically, had the Port received the proper direction from its former professional staff and/or former consultants, it believes it would have prevented these findings pertaining to procurement of the engineering services, the public works and the allowable costs eligible for matching funds. It also does not appear that the Port received the guidance necessary in regards to the allowability of awarding a new contract for engineering services to a new firm owned by the former project manager from the previously awarded firm without putting out a new request for proposals.

The Port has committed to devoting the resources necessary to review, control and monitor all future projects so that they are in compliance with the state and local rules and regulations governing such projects. The Port Commission along with Port staff have made it a priority to attend multiple finance presentations to assist in their awareness of the rules pertaining both to grant management and to procurement requirements.

The Port Commission has held the port management accountable for the failure to follow port policies and state law. Over the last two years, the Port relieved the former Port general manager of his duties, and retained an interim general manager with experience managing Washington Public Ports. The Port has also contracted with a new CPA firm and a new legal firm, both professional firms with long-term Port expertise to assist the Port in compliance with future grant and procurement requirements. The Port is committed to obtaining the resources necessary to assist in guiding them on all future projects.

The Port has reviewed the items identified and has contacted the granting agency in regards to the items in question, in particular, the unallowed costs that were reimbursed to the Port and will work with the granting agency to repay these amounts to the granting agency immediately.

The following are the items identified by the Washington State Auditor's Office and the Port's responses to the noted items that were not in compliance with the state grant requirements for its Boat Launch project:

Procurement – engineering services

At the time that original engineering firm contacted the Port that they could no longer provide engineering services, the Port believed that they could award a new contract for engineering services to the new firm owned by the former project manager from the previously contracted awarded firm and did not put out a new request for proposals. The Port's then staff apparently believed that the time sensitive project was not completed; the prior out of state engineering firm was closing its local office and that such activities supported the Port being able to act on an emergency basis. The audit of the details involved reflected that utilizing the emergency provision did not apply in this situation and a new request for proposals was required.

The Port has expanded its scope of professionals and resources to assist them in future decisions pertaining to grant and procurement matters and will consult with this additional guidance and resources that they have assembled on a go-forward basis. The Port's staff has developed a procurement policy to bring forward for Port Commission approval that will address the procedures for the retention of architectural and engineering services.

Procurement – public works

While the Port relied on the stated expertise of the engineering firm that was hired to manage and fulfill certain aspects of complying with the state grant, that such reliance did not relieve the Port of certain responsibilities. The audit revealed that the state required prevailing wage information in the bid specification and contract was not included by the engineering firm.

Subsequently, the Port has researched and obtained the correct language for all future bid specifications and contracts. In addition, the Port will consult with its new legal firm to review all contracts in the future to provide guidance in this area. The Port's staff has developed a

procurement policy to bring forward for Port Commission approval that will address the procedures for the bidding of public works and related contractual requirements.

The Port did not obtain a signed statement from the winning bidder certifying that it complied with the responsible bidder criteria before entering into the contract. The Port relied on the stated expertise of the engineering firm that was hired to manage and fulfill certain aspects of grant compliance and relied that all such requirements had been obtained and were met before awarding the contract.

For future projects the Port has developed additional guidance and resources to assist them in monitoring the rules and regulations pertaining to such requirements.

The Port could not provide documentation showing it gave final acceptance of the project before releasing the retainage. In addition, the Port did not obtain the required approvals from the Department of Labor and Industries and the Department of Revenue before releasing retainage. At the time, the Port felt that its monthly updates to the Port Commission along with the congratulatory statements from the Port Commission on the public's use of the completed project met this requirement.

In the future the Port will formally document its acceptance of the project before releasing retainage and will not rely on the outside contracted engineering firm that the required procedures were met. For future projects the Port will obtain the required approvals from the respective state agencies directly before releasing retainage and will not rely on the outside contracted engineering firm that such approvals had been obtained by the engineering firm.

Allowable costs

The audit identified \$7,445 of unallowable pre-award costs and \$2,659 in duplicate charges by the engineering firm that were inappropriately reimbursed. The Port had a 25% match in the project, and according to the Washington State Auditor's Office has been reimbursed for \$7,578 of unallowable costs. The Port relied on the expertise of the outside contracted engineering firm to properly identify and approve all eligible expenditures and the Port felt strongly at the time that all expenditures submitted for reimbursement had met the requirements for reimbursement. The Port now realizes that a more detailed review shows that these reimbursed costs did not meet the requirements. The engineering firms billing invoices did not easily reflect that they had included a duplicate charge.

Currently the Port has developed additional review processes on all expenditures throughout the Port operations and will utilize these additional procedures to verify all future invoices before being paid and submitted for reimbursement.

Summary

The Port is committed to strengthening its internal controls over grant management to ensure compliance with state grant and procurement requirements. The Port has used this audit process to assist them in identifying the areas that the Port needs to develop additional resources to be in compliance including attendance at multiple finance presentations, ongoing review of the BARS manual, hiring new CPA and legal firms with state-wide Port expertise and to develop additional internal procedures to govern all such activities. The Port is engaging in a review of all of its procurement and related policies to assure compliance with state law, and will engage in internal training of staff and Commissioners related to these policies. The Port appreciates the State Auditor Office's audit of the grant files to help the Port to improve its oversight and monitoring of future projects.