



January 19, 2012

Representative Ann Rivers
469 John L O'Brien Building
PO Box 40600
Olympia, WA 98504-0600

Dear Representative Rivers:

Re: *Columbia River Crossing*

Thank you for the opportunity to communicate to you and your colleagues the results of my findings as they relate to my forensic accounting analysis of the Columbia River Crossing (CRC) project.

While my work is funded by a private citizen, the results of my findings are not a private matter. My client wishes for any findings to be shared with the citizens of Washington and Oregon, their elected officials, and other interested parties who need the information to make informed decisions.

Executive Summary

As a Certified Public Accountant and Certified Fraud Examiner it is my professional opinion - based upon the information I have reviewed, and measured against the continued difficulties I've experienced with Columbia River Crossing (CRC) project office members – that the accounting and contracting practices for the CRC project are characterized by irregularities and planning missteps on many fronts. The magnitude of these irregularities, in terms of quantity, amount, and qualitative aspects of the project, are more than adequate to indicate that this project is suffering from a severe lack of accountability, transparency, and oversight. It is my further opinion that these irregularities are of a sufficient depth to warrant an intervention on the project, and perhaps a termination or delay until procedures are in place that provide for centralized accounting and financial decision making, and compliance with federal and state contracting standards. Whether there is sufficiency to elevate these irregularities to a definition that would warrant the assertion of civil or criminal practices is not the subject of my comments today. Such definition could not be ascribed without further scrutiny and investigation. That responsibility from here forward falls to you – the elected officials who run these states – in your representation of your constituents, the citizens of Washington (and Oregon).

Findings will be presented as part of the following categories:

- Sources and Uses of Funds
- Lack of Appropriate Project Reporting
- Questionable Contracting Practices
 - David Evans and Associates Contract History
 - Lack of Competitive Bid Process
 - Significant Cost Increases
 - Unauthorized Payments to Contractor
- Task Order Discrepancies
 - Ongoing pattern of over-time and over-budget tasks
 - Questionable Task Order descriptions
 - Discrepancies between CRC “Briefing Paper” and actual Task Order language
- Non Compliance with Public Records Requests
- Significant Factors Requiring Further Investigation

The details of my work to-date are presented below. I reserve the right to amend these findings if new or additional information becomes available.

Background

I was hired in April 2011, when my client, a private citizen, received 724 electronic “.PDF” files after submitting a public records request to the Columbia River Crossing office requesting documentation that provided support for CRC project expenditures. These files contained thousands of documents each, were not indexed or organized in any meaningful way, and were so large that they often caused computers to stop functioning (or “crash”).

My initial response to my client was that he must have asked for the wrong documents in his public records request. I indicated that the CRC project was most likely receiving federal funds and as such, would be required to have basic financial reporting. He indicated that he had scheduled a meeting with the CRC project office and requested that I accompany him to make the request in person.

My client and I met with CRC and Washington State Department of Transportation (WSDOT) staff on April 14, 2011 at the CRC project offices located at 700 Washington Street in Vancouver, Washington. There were at least 5 CRC/WSDOT representatives on hand to meet with us in person (including CRC director, Doug Ficco; WSDOT Records manager, Cathy Downs; and WSDOT Administrative Services Director, Rick Phillips); as well as at least 3 additional WSDOT staff members who had dialed in via teleconference from Olympia.

It seemed unusual to have so many CRC/WSDOT representatives attending what was supposed to be a two hour “public records review” meeting. It appeared that these representatives wanted to provide us with even more detailed data right away, since they started the meeting with a presentation of a Microsoft Excel spreadsheet purporting to be a “data dump” from the WSDOT accounting software. This spreadsheet contained tens of thousands of lines of data.

In an attempt to stop the deluge of detail and to start where most accountants do, I asked whether I could first review basic financial statements (i.e., a balance sheet and income statement). The goal was to quickly understand the financial “picture” of the CRC project. I was told that there were no financial statements. Being a former governmental auditor, and understanding that balance sheets and income statements are private industry financial statement terminology; I asked for the same thing using government agency terminology: a statement of net assets and a statement of revenues, expenditures, and changes in fund balance. I was informed that because the CRC was a “project office and not an agency” they were not required to keep basic financial statements. I then asked for a “job cost report”; basically, a high level report that would show the expenditures, by type of cost (e.g. engineering, administrative, etc.) for the project. I was told that no “job cost” reports existed.

I asked how Mr. Ficco, the project manager, made decisions about approving expenditures and how he determined whether or not expenditures were within budget. He indicated that because the CRC project was a multi-state project, reporting was “quite difficult.” I learned at the meeting that the majority of expenditures were paid by WSDOT and that Oregon Department of Transportation (ODOT) reimbursed WSDOT. I learned that some expenditures were also paid directly by ODOT. However, there was no apparent standard reporting system in place to track budgets and costs for the project as a whole.

The meeting ended with a demonstration of the Excel spreadsheet that purportedly contained WSDOT payments of CRC expenditures. This data was provided to us on disc; and we were also provided with a 636 page WSDOT “Chart of Accounts” reference manual that would reportedly give us an additional “road map” to understanding the data in the spreadsheet.

My client retained me to make sense of the accounting “data dump” and to determine whether the documents in the 724 PDF files supported the data provided during this meeting.

Findings and Observations

Sources and Uses of Funds

As of May 2011 (the most recent information provided), the CRC Project had **\$152.7 million** in available funding from various sources (see Exhibit A). In summary, this report indicates that \$15M has come from the Federal Highway Administration, \$62.2M from the State of Oregon, and \$75.5M from the State of Washington. To-date it appears that Washington State has funded \$13.3M more towards the project than Oregon (i.e., the states do not appear to be “equally sharing” project costs¹).

According to the WSDOT accounting data provided; a total of \$125.3M has been spent by WSDOT for CRC related expenditures from project inception in May 2005 through June 2011 (most recent information provided). A summary of these expenditures, summarized by total amount paid to individual vendors, can be found at Exhibit B. This analysis has uncovered the following:

- \$88.5M (or 70.63%) has been paid to a single vendor, David Evans and Associates
- \$18.4M (or 14.71%) is related to journal vouchers

¹ As per the January 2006 Interstate Funding Agreement, Section 1 -1.2

- A journal voucher is essentially a payment made from another fund and later transferred into the CRC “fund.” The nature of these transactions has had the effect of losing essential “audit trail” information related to dates, payees, and purpose of these expenditures.
- Vendor names have been entered into the WSDOT system more than once, creating doubts about the veracity of the accounting system.
 - Standard accounting practices call for vendors being entered into an accounting system once.
 - Allows for proper tracking of costs by vendor
 - Allows for accurate tax (e.g.1099) and other regulatory reporting

According to ODOT source data, a total of **\$5.7M** has been spent by that agency during the same period (see Exhibit C).

By adding the \$125.3M paid by WSDOT and the \$5.7M paid by ODOT, it appears that CRC expenditures occurring from inception through June 30, 2011 totaled **\$131 Million**.

Lack of Appropriate Project Reporting

The Governmental Accounting Standards Board (GASB) is the recognized independent organization that establishes accounting and reporting standards for governmental units². GASB Concept Statement No.1 *Objectives of Financial Reporting* provides the framework for governmental unit financial reporting. This Statement indicates, among other things:

- The primary users of governmental financial reports are the citizenry, legislative and oversight bodies, and investors and creditors.
- Financial reports are used primarily to compare actual financial results with adopted budgets; to assess financial condition and results of operations; to assist in determining compliance with finance-related laws, rules, and regulations; and to assist in evaluating efficiency and effectiveness.
- All governmental activities, whether performed through separate, legally constituted entities or as departments of government, are nevertheless a part of government and are publicly accountable.
- Financial reports should possess these basic characteristics: understandability, reliability, relevance, timeliness, consistency, and comparability.

The CRC lacks consolidated reporting. Expenditures are knowingly paid from two separate agencies (WSDOT and ODOT), yet no reconciliation or oversight over these expenditures is apparent.

² www.gasb.org

In the months since our initial meeting with CRC officials, we have been provided with “Expenditure Summary” and “Cost Report Sorted by Consultant and Agency” reports. Unfortunately, neither of these reports reconcile to the purported source data provided via the above-mentioned “data dumps”.

As an example:

- WSDOT expenditure data through June 30, 2011 indicates that at least \$2,071,035 in rent payments has been paid to vendor “Vancouvercenter” (see Exhibit B). However, the June 30, 2011 “Cost Report Sorted by Consultant and Agency” does not list “Vancouvercenter” as a vendor (see Exhibit D).

To date we have not been provided, nor have seen published on the CRC website (www.columbiarivercrossing.com) any meaningful financial reporting, such as budget to actual reports, job cost reports, or reconciliations of discrepancies between the WSDOT and ODOT accounting systems and the CRC “reports”.

It is important to note that we requested in person meetings with the CRC project office (on October 13, 2011 and again on October 18, 2011) to try and understand some of these reporting related discrepancies, to which the project office replied on October 24, “Finally, as to your request for a meeting, we are uncertain whether a meeting at this time would be necessary or productive in lending additional clarity to the question you raised.”³

Questionable Contracting Practices

David Evans and Associates Contract

To date, the CRC project expenditures have been directed towards preliminary engineering and design work as well as preparation of federally mandated environmental impact statements (EIS). This work is apparently performed by or overseen by the project’s major contractor, David Evans and Associates (the firm was paid \$88.5M or 70.63% of total project expenditures through June 30, 2011).

Before providing the process by which the contract between WSDOT and David Evans and Associates was initiated; it is important to note the relationship between WSDOT and this contractor with respect to the CRC. David Evans and Associates participated in or led the following Portland/Vancouver I-5 “studies” prior to the 2005 formation of the CRC project office:

- January 27, 2000: Portland/Vancouver I-5 Trade Corridor Freight Feasibility and Needs Assessment
- March 20, 2001: Portland/Vancouver I-5 Transportation and Trade Partnership Draft Corridor Improvement Option Packages
- June 2002: Portland/Vancouver I-5 Transportation and Trade Partnership Final Strategic Plan
- April 2003: Regional Economic effects of the I-5 Corridor/Columbia River Crossing Transportation Choke Points

³ Email from CRC Public Records (Michael A. Williams, PE) to Tiffany Couch 10/24/2011 9:21AM

- 2004/2005: I-5 Columbia River Crossing Partnership: Traffic and Tolling Analysis

Lack of Competitive Bid Process

In February 2005, an initial “Call for Consultants” was published asking for bids to provide environmental and design services for the CRC Project. Anticipated costs were to be “in excess of \$20M, with an initial agreement to be in excess of \$6M” (see Exhibit E). Consultants were required to submit “Statements of Qualifications (SOQ)” no later than February 23, 2005.

Based on conversations with project office staff, we understand that only a single potential contractor, David Evans and Associates submitted an SOQ.

Significant Cost Increases

On May 16, 2005 a Professional Services Consultant Agreement between the CRC project office and David Evans and Associates was executed with a “Maximum Amount Payable” of **\$50 million** (see Exhibit F). It is unclear why the contract price was valued at \$50M, as it does not appear to match the \$20M in anticipated costs (or the \$6M in present funding) published in the February 2005 “Call for Consultants.”

It was noted that David Evans and Associates’ billing rate schedule allowed for each billable labor hour to be marked up by a 172.82% Overhead Rate and a 31.0% Fee (Profit). The total markup on each billable labor hour was negotiated to be a factor of 204.32% (for example, a state rate for a Bridge Engineer of \$40 per hour would actually cost the CRC \$121.73 per hour). The billing rate schedule for this contractor can be found at Exhibit G.

I was provided with documentation that indicates the David Evans and Associates contract was increased by \$45M (90%) in June 2008 (see Exhibit H). Documentation included with this 3-page “Supplemental Agreement” indicates that the “Services we included in the terms of the original contract, but the funding wasn’t.” Essentially, it appears that \$45M in supplemental funding was provided to this contractor without a change in scope of work.

I also noted an additional “Supplemental Agreement” dated May 9, 2011 that provided for an additional \$10M in funding (again, with no apparent change in scope of work) for this contractor (see Exhibit I).

To date, the David Evans and Associates contract is now estimated to cost \$105 million; 120% more than the originally executed price.

Unauthorized Payments to Contractor

I was provided with a WSDOT Internal Audit report, dated January 26, 2010 wherein the WSDOT auditor reviewed Architectural and Engineering agreements to “determine if WSDOT is adequately managing these agreements”. The auditor’s report identifies various issues and provides for recommendations. The auditor clearly indicates that the CRC project office was included in his scope of work.

On page 6 of the report, the auditor indicated that during the selection of 68 consultant agreements, they found that the agreements and task orders did not include language regarding the 4% markup on subconsultant costs.

Continuing on page 7, the auditor recommends that the “current master agreements be supplemented to include the cost in the payment terms, if management intends to pay the 4% markup.”

I reviewed David Evans and Associates’ contract and discovered that the Master Agreement did not have any language regarding an allowance to bill the CRC 4% on all subconsultant costs. However, starting with Task Order AC (January 2007), David Evans and Associates began charging the CRC Project the 4% markup (for example, if a subconsultant billed David Evans and Associates \$100,000, David Evans and Associates increased that bill to \$104,000).

Through June 2011, David Evans and Associates billed the CRC **\$1,455,421** in markups on subconsultant costs (see Exhibit J).

On page 6 of his report, the auditor indicates that “on August 12, 2009 the Department discontinued the policy allowing mark up on subconsultant costs.” We found that **\$384,366** in subconsultant markup charges was billed to WSDOT by David Evans and Associates after August 2009; including markup charges on new and amended task orders (see Exhibit K).

We do not understand why the auditor’s recommendation was to “supplement” current master agreements, instead of “clawing back” unauthorized payments.

Task Order Discrepancies

Work performed by CRC contractors are dictated by “task orders” – basically a summary document that references a contract number, a start and end date to the work, the cost of the work and any percentage being funded by federal aid, as well as a description of the work.

David Evans and Associates Task Orders

It appears that 11 different Original Task Orders were issued, specifying the work to be performed by David Evans and Associates as it related to the above-mentioned \$50 million (now \$105M) contract. It is important to note that these task orders were often changed by “Task Order Amendments” – basically change orders that describe additional work to be performed, additional time necessary to perform tasks, or changes in responsibility of work between subcontractors.

We have summarized our analysis of the David Evans and Associates Task Orders at Exhibit L.

The following are our observations regarding that analysis:

- **11 original Task Orders totaled \$78,512,676**

It appears that the total of these task orders exceeded the original contract price of \$50M.

- **A total of 63 change orders, totaling \$25,173,913, were approved**

The ending Task Order value for the David Evans contract is now \$103,686,590, 32% over original estimated Task Order costs.
- **Of the 11 Task Orders, only 3 were completed within original budget and on time**

Each of these on-time, on-budget Task Orders was valued at \$150,000 or less.
- **Task Orders AD and AF (dated 2007 and 2008) appear to contradict work described in Task Order AH (dated 2010), adding \$36,094,040 in costs related to EIS activities**

Task Orders AD (start date of March 1, 2007) and AF (start date of September 1, 2008) clearly indicate that David Evans and Associates will “Publish the Draft Environmental Impact Statement (DEIS), Obtain the Locally Preferred Alternative (LPA), Publish the Final Environmental Impact Statement (FEIS), Obtain full grant from FTA, and Obtain a Record of Decision”. These two task orders essentially scope out the project from beginning to end (obtaining the Record of Decision marks the end of the environmental and public process and allows for the project to move forward with construction planning).

The value of these two Task Orders was originally \$45,263,923; with work scheduled to be completed by December 31, 2009. These two Task Orders were amended via 37 change orders, valued at \$11,560,820. These change orders increased the value of the Task Orders AD and AF to \$56,824,743 and pushed the end date out by 17 months, to May 31, 2011.

Task Order AH, dated May 1, 2010 appears to contradict the work allegedly happening under AD and AF. In fact, the wording on Task Order AH is as follows: “Advance the CRC Project through the DEIS and begin the FEIS and Biological Assessment Activities.” The value of Task Order AH was \$15,791,944 and was expected to be completed on May 1, 2011.

It is unclear why Task Order AH purports to be “finishing the DEIS” and “beginning the FEIS” activities; when it was clear that this work was fully scoped and well under way under Task Orders AD and AF.

Further, Task Order AH was amended 7 times, adding \$8,741,276 to the original value. The effect of these Task Order Amendments brought the value of Task Order AH to \$24,533,220 and added extended estimated time to complete by 13 months (to June 30, 2012).

In summary, it is clear that Task Orders AD and AF were meant to advance the CRC project through the Record of Decision. What is unclear is why a new Task Order, apparently duplicating work that was already scoped and budgeted for, was created. It is also unclear why a total of 44 Task Order Amendments were necessary. The effect of these changes added **\$36,094,040 and 30 months** to the originally planned EIS work.

- **CRC “Briefing Paper” dated December 1, 2011 has a different description of Task Order AF**

On December 1, 2011 the CRC issued a “Briefing Paper” to respond to public comments I have allegedly made. On page 3 of that paper (see Exhibit M), the CRC describes the purpose of Task Order AF to be the “Continuation of the NEPA process and project refinement”. It is important to note, however, that the actual Task Order wording states that several key milestones will be realized during Task Order AF, advancing the project from the FEIS through the Record of Decision. I have included Task Order AF Statement of Work documentation (also at Exhibit M) to show the discrepancy between the CRC’s report to you and the actual language in the document.

Public Records Requests

All documents analyzed have been retrieved by following RCW 42.56, Washington States Public Records Act. State agencies are required, as per RCW 42.56.520 to respond to requests for records promptly. In fact, “within five business days of receiving a public record request, an agency (et al) must respond by either (1) providing the record; (2) providing an internet address and link to the specific record; (3) acknowledge the request and provide a reasonable estimate of time the agency will respond or (4) deny the request.

On July 12, 2011 I wrote to Tim Ford, Washington State Assistant Attorney General and Open Government Ombudsman (see Exhibit N). My email pointed out that each of the 7 public records requests I (or my client) had sent to the CRC project office or WSDOT had remained unanswered. Several requests remained completely ignored more than 30 days. These were clearly a violation of state statute.

While many of my requests have eventually been answered, we are concerned about a pending public records request that I sent on July 5, 2011 (197 days ago). On July 5, 2011 I asked the CRC project office for bids, contracts, and invoices for 11 of its top contractors (see Exhibit O, page 2). Bids, contracts, and invoices are specific documents and what would be considered to be documents kept in the normal course of business for a project such as the CRC. To date, the CRC has not been compliant with my request. In fact, they have been compliant with just a single contractor (David Evans and Associates) out of the 11 vendors requested; and, only partially compliant with four other contractors. To date, I’ve received no documentation for payments made to Enviroissues, Parametrix, Tom Markgraf, and others. In contrast, I have received numerous documents (sometimes duplicates of documents, constituting hundreds of pages) that were never requested at all. I have included a summary of the CRC’s responsiveness to our July 5th request at Exhibit O.

Factors Requiring Further Investigation

The Fraud Examiner’s Manual, published by the Association of Certified Fraud Examiners, is an industry accepted tool that assists professionals and auditors in understanding typical financial transactions and fraud schemes; determining the likelihood of accounting, reporting, and contract irregularities and errors; and, conducting investigations.

Located at Exhibit P is a table that includes typical patterns of irregularities often seen in public sector and contract-related engagements. These indicators are presented in the left hand column of Exhibit P (and are cited verbatim from the 2011 Fraud Examiner’s manual). The middle column makes note of my own determination regarding the presence of each indicator, and the right hand column provides my explanation as to the reason for my answer in the middle column. It is important to note that affirmative answers to these indicators are only indicative of irregularities; they are not conclusive and require further analysis.

It is my professional opinion that the preponderance of affirmative responses, in addition to the in-depth work and inquiries I have made, strongly suggest that additional investigation related to the CRC project is necessary. The number of “undeterminable, potential and unknown” answers in the middle column does not detract from my opinion. A well-managed contract should be expected to answer “NO” to substantially all of these indicators.

Closing Comments

As a forensic accountant and former government-agency auditor, I am gravely concerned about the management and oversight of taxpayer dollars being spent by the CRC. I am not alone in identifying such grave concerns. I encourage you to place my own findings in context with the significant findings of other experts who have extensively studied other areas of the CRC project:

Joe Cortright – Economist

Ted Wheeler – Oregon State Treasurer

Kevin Peterson – Transit and Transportation Architect and Planner

Thomas A. Rubin, CPA – Transportation Finance Expert

John Charles – Transportation Policy Expert

Robert Liberty – Former Metro Councilor; University of Oregon Sustainable Cities Initiative

The substantial evidence that has been published by me and the experts listed above only further suggest the urgent need for you to intervene, terminate or delay further spending, and further investigate the CRC Project. Currently, the actual construction project is slated to cost taxpayers \$3.2 billion (**before** accounting for any construction cost overruns, financing and interest costs, and operation and maintenance of the light rail).

I would welcome the opportunity to provide additional documentation or answer any questions you may have as it relates to my analysis of the Columbia River Crossing.

If you have any questions or comments, please don't hesitate to call me at 360.573.5158.

Sincerely,

A handwritten signature in blue ink that reads "Tiffany R. Couch". The signature is written in a cursive style with a large initial 'T' and a decorative flourish at the end.

Tiffany R. Couch, CPA/CFF, CFE

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EXHIBIT B: *WSDOT Accounting Data – Summary of CRC Expenditures*

EXHIBIT C: *ODOT Accounting Data – Total CRC Expenditures*

EXHIBIT D: *Cost Report Sorted by Consultant and Agency*

EXHIBIT E: *February 2005 Notice to Consultants*

EXHIBIT F: *Original \$50M David Evans & Associates CRC Contract (Page 1 and 14 only)*

EXHIBIT G: *David Evans and Associates Billing Rate Schedule*

EXHIBIT H: *David Evans & Associates Supplemental Contract - \$45M*

EXHIBIT I: *David Evans & Associates Supplemental Contract – \$10M*

EXHIBIT J: *4% Markup on Subconsultant Costs*

EXHIBIT K: *4% Markup on Subconsultant Costs – Paid after August 2009*

EXHIBIT L: *Task Order Analysis*

EXHIBIT M: *CRC Briefing Paper and Actual Task Order AF Scope of Work Section*

EXHIBIT N: *Tiffany Couch email to Washington Assistant Attorney General, Tim Ford*

EXHIBIT O: *July 5, 2011 Request for Documents and CRC Responsiveness to-date*

EXHIBIT P: *Factors Requiring Further Investigation*

EXHIBIT Q: *Curriculum Vitae - Tiffany Couch, CPA/CFF, CFE*