

Brian Sonntag
Washington State Auditor
Insurance Building
PO Box 40021
Olympia, WA 98504-0021

April 11, 2011

Dear Mr Sonntag:

Thank you for responding to the concerns we expressed through the State Auditor's Office Hotline. We appreciate the efforts of the auditors assigned to investigate our concerns and the work of other parties involved in your process. We wish however that your office had a better understanding of our concerns or had involved us more in your investigative process. It also would have been helpful to the process if we had been given an opportunity to review your report before it was released as the final results. If given the opportunities stated above we would have advised your auditors that they were NOT investigating our concerns or they had misinterpreted our concerns.

In your letter dated March 17, 2011 you identified our concerns as:

- Is violating state law (RCW 39.10.440-450) by using on-call contracts for public works services.
- Awarded a contract to a nonresponsiveble bidder.
- Is violating state law (RCW 39.80.040) in the awarding of architectural and engineering contracts.

Our concerns are:

- King County is utilizing a procurement process that they refer to as Work Order Contracting which is an alternative public works contracting process not authorized by state law.
- Awarded a contract to a non-responsible bidder.
- Is violating state law in the awarding of architectural and engineering contracts utilizing their Work Order Contracting process which is prohibited by state law.

Items one and three of the concerns stated in your letter are not the concerns we requested your office investigate. Item number two was correctly stated but your investigation missed important information that we will gladly share with you that supports our concern.

We look forward to meeting with you and clarifying any misunderstandings so that there can be an investigation of our concerns. We understand that your process requires

working with King County to obtain information. We hope that your process also includes gathering information from all sources including us.

Please contact us at erye@comcast.net, Fred_Leajack@frontier.com, gilabororg@aol.com, lvinson@vinsonbrothers.com, so we can discuss this audit and how to proceed from this point.

Sincerely,



Eddie Rye, Jr, Community Coalition for Contracts and Jobs



Fred Anderson, National Association of Minority Contractors



Grover Johnson, A. Phillip Randolph Institute



Larry Vinson, Puget Sound Minority Contractors

cc Representative Bob Hasegawa, 11th Legislative District
Representative Sharon Tomiko Santos, 37th Legislative District
Capital Projects Advisory Review Board (CPARB)



**Washington State Auditor
Brian Sonntag**

March 17, 2011

Eddie Rye, Jr.
5560 S Holly St.
Seattle WA, 98118

Robert Armstead
P.O. Box 6668
Bellevue WA, 98008

Dear Mr. Rye and Mr. Armstead:

Thank you for your contacting the State Auditor's Office Hotline. You expressed concerns that King County:

- Is violating state law (RCW 39.10.440-450) by using on-call contracts for public works services.
- Awarded a contract to a nonresponsive bidder.
- Is violating state law (RCW 39.80.040) in the awarding of architectural and engineering contracts.

We recently investigated your concerns as part of our audit of the County. We would like to share the results with you.

Public works services

You asserted the County's on-call contracts for public work services are synonymous with job order contracts and are subject to job order contracting requirements in state law.

Information from the Municipal Research and Services Center of Washington states entities can have "on call" contracts for public works. State law (RCW 36.32.245(4)) states the bid invitation must state the character of the work, not the specifications. We reviewed seven on-call contracts for public work services executed from July 2009 through June 2010 and determined they were procured in compliance with state law.

Bid award

You asserted the County awarded a contract for the West Point Treatment Plant Waste-to-Energy project to a nonresponsible bidder.

This project was funded in part by an U.S. Environmental Protection Agency (EPA) grant. During the procurement of this project, the County became aware of a change in the Code of Federal Regulations regarding Disadvantaged Business Enterprise (DBE) participation. The County issued addendum No. 8 to incorporate these changes. The apparent low bidder did not meet the DBE goal and had to submit good faith effort (GFE) documentation to demonstrate the bidder made every reasonable effort to meet the DBE goal. The County's initial finding was that the bidder had not met the GFE standard. The County requested additional information from the bidder, which is allowable, and found the bidder to be responsible.

We examined documentation on the procurement of this contract. This documentation included the invitation to bid, the addendum, and emails between the EPA, the County and the bidder. We also examined a memo from the County's DBE Liaison Officer to the County's Finance Director that stated: "The determination of Business Development and Contract Compliance (BDCC) regarding the sufficiency of this bidder's good faith efforts is a fact-specific judgment; meeting quantitative formulas is not required, nor possible. BDCC has determined that [the bidder] has complied with the Good Faith Efforts requirements and is a responsible bidder in this matter."

Our review determined the County awarded the contract to a responsible bidder.

Compliance with state law

You asserted the County procured architectural and engineering contracts which use work orders out of compliance with state law (RCW 39.80.040).

We examined the procurement files of four architectural and engineering contracts with work orders issued during July 2009 through June 2010. We determined these contracts were procured in compliance with the law.

Thank you for taking the time to submit your concerns. If you have any questions, please contact me at (206) 615-0555.

Sincerely,



Carol Ehlinger
Audit Manager, Central King County

H-10-321