

Schedule of Audit Findings

King County
September 27, 2005

3. The County did not comply with state law governing the use of Real Estate Excise Tax proceeds when it spent \$878,688.

Description of Condition

During the first quarter of 2004, King County received \$19.8 million in Real Estate Excise Tax. In September 2004, the County used \$878,688 of this money to purchase land use rights in the lower Green River agricultural area as part of its Farmland Conservation Program.

State law (RCW 82.46.010) governs the use of REET 1 proceeds, stating they are to be used for capital projects specified in a capital facilities plan, comprehensive plan or for housing assistance. Capital projects are defined as public works projects and include acquisition, construction and rehabilitation of public facilities or infrastructure.

Land purchases may sometimes meet the criteria contained in state law. Such as purchases of land for parks or recreation areas. Purchase of land for the purpose of conservation is not an authorized use of these funds.

Cause of Condition

The County believes the purchase of land rights for farmland conservation is a public work as defined by state law.

Effect of Condition

When restricted revenues are used for unallowable purposes, taxpayers do not receive the full intended benefit of the revenue.

Recommendation

We recommend the County ensure that all restricted revenues are used for legal purposes.

County's Response

The use of Real Estate Excise Tax (REET) 1 funds for the acquisition was based on the county's interpretation that the purchase of land rights for farmland conservation is a public work as defined in state law. This interpretation rested on the understanding that the acquisition of the development rights to preserve farmland also expressly preserved the land as open space, that open space fits within the definition of the term "park", and that parks are authorized to be funded by REET 1 in RCW 82.46.010(6). The county will seek legislative clarification that supports our belief that these expenditures are eligible for REET funding. However, until that clarification is received, future distributions of REET 1 will conform to the interpretation presented by the auditor.

Auditor's Remarks

We thank the County for the assistance we received during the audit.

Applicable Laws and Regulations

RCW 82.46.010 Tax on sale of real property authorized—Proceeds dedicated to local capital projects—Additional tax authorized—Maximum rates.

(1) The legislative authority of any county... shall identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and shall indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The legislative authority of any county . . . may impose an excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. The revenues from this tax shall be used by any . . . county with a population of five thousand or less and any . . . county that does not plan under RCW 36.70A.040 for any capital purpose identified in a capital improvements plan and local capital improvements, including those listed in RCW 35.43.040.

After April 30, 1992, revenues generated from the tax imposed under this subsection in counties over five thousand population . . . are required or choose to plan under RCW 36.70A.040 shall be used solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450. However, revenues (a) pledged by such counties . . . to debt retirement prior to April 30, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (b) committed prior to April 30, 1992, by such counties . . . to a project may continue to be used for that purpose until the project is completed.

(3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the legislative authority of any county . . . may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-half of one percent of the selling price.

(4) Taxes imposed under this section shall be collected from persons who are taxable by the state under Chapter 82.45 RCW upon the occurrence of any taxable event within the unincorporated areas of the county or within the corporate limits of the city, as the case may be.

(5) Taxes imposed under this section shall comply with all applicable rules, regulations, laws, and court decisions regarding real estate excise taxes as imposed by the state under Chapter 82.45 RCW.

(6) As used in this section . . . "**capital project**" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets; roads; highways; sidewalks; street and road lighting systems; traffic signals; bridges; domestic water systems; storm and sanitary sewer systems; parks; recreational facilities; law enforcement facilities; fire protection facilities; trails; libraries; administrative and/or judicial facilities; river and/or waterway flood control projects by those jurisdictions that, prior to June 11, 1992, have expended funds derived from the tax authorized by this section for such purposes; and, until December 31, 1995, housing projects for those jurisdictions that, prior to June

11, 1992, have expended or committed to expend funds derived from the tax authorized by this section or the tax authorized by RCW 82.46.035 for such purposes.