

# Schedule of Federal Audit Findings and Questioned Costs

**Port of Benton  
Benton County  
January 1, 2013 through December 31, 2013**

**1. The Port lacked adequate internal controls to ensure compliance with federal Davis-Bacon Act (prevailing wage) requirements.**

<b>CFDA Number and Title:</b>	11.300 Investments for Public Works and Economic Development Facilities
<b>Federal Grantor Name:</b>	U.S. Department of Commerce, Economic Development Administration
<b>Federal Award/Contract Number:</b>	07-01-06597
<b>Pass-through Entity Name:</b>	NA
<b>Pass-through Award/Contract Number:</b>	NA
<b>Questioned Cost Amount:</b>	\$0

## **Description of Condition**

The Port spent approximately \$1.7 million in Public Works and Economic Development Facilities grant funds. The funds were used to build a wine and culinary center.

The Davis-Bacon Act applies to federally funded construction projects that exceed \$2,000. The Act requires contractors to pay federally prescribed prevailing wages to laborers. To document compliance, recipients of federal funds must obtain certified payrolls for all contractors and subcontractors on a weekly basis.

During the course of our audit, we identified internal control weaknesses which are considered significant deficiencies. The Port hired an engineering firm to manage the project, which included the collection and review of weekly certified payrolls for compliance with prevailing wage requirements. The firm did not have a process to ensure it obtained weekly certified payrolls from all of the subcontractors and did not ensure that they were submitted and reviewed timely. The Port did not adequately monitor the firm to ensure compliance with the Davis-Bacon Act.

## **Cause of Condition**

The firm used an outdated list of subcontractors obtained at the beginning of the project to determine which subcontractors it needed to obtain certified payrolls from. Because the list was from the beginning of the project, it did not include all of the subcontractors actually used.

The Port obtained weekly certified payroll reports from the firm after the end of the project. The Port's process did not ensure the reports were collected in a timely manner and all required reports were obtained. The Port did not obtain all of the certified payrolls that the firm had on hand and so was unable to view all of the documents for compliance.

### **Effect of Condition and Questioned Costs**

Weekly certified payrolls were not obtained for four out of 28 contractors and subcontractors used. Furthermore, 13 weekly certified payrolls were not obtained for two contractors. Without adequate internal controls in place to ensure all weekly certified payrolls are received, the Port cannot demonstrate the contractors or subcontractors paid workers the prevailing wage. The Port could be liable for paying additional wages if prevailing wage was not paid.

### **Recommendation**

We recommend the Port ensure all the weekly certified payrolls have been collected and reviewed and ensure compliance with prevailing wage requirements.

### **Port's Response**

*The Port of Benton appreciates the efforts of the State Auditor's Office in auditing the projects that are funded by the federal government. The Port of Benton has never received a finding. The Port strives for financial reports that are both transparent and correct. Our Bond Rating and our financial strength are very important to our Commissioners and Staff as we are responsible stewards of the taxpayers' assets.*

*The Port does agree that there were deficiencies in the monitoring of the certified payroll reports. The architectural firm that was retained to be the project manager did not perform their obligation to ensure that weekly certified payrolls were being obtained. The Contractor also had a contractual obligation to provide the Port with weekly certified payrolls.*

*The Port of Benton disagrees with the reporting level of a finding. The fact that the Port did not monitor 100 percent of the certified payroll reports does not constitute this level of reporting. The Port believes this should be a management representation letter. There were zero questioned cost amounts. As of today no contractors or subcontractors have made any claims for incorrect prevailing wages.*

*The Port has implemented procedures to ensure compliance with the Davis-Bacon Act for any future federal construction grants.*

### **Auditor's Remarks**

We appreciate the Port's response and recognize that the Port is committed to ongoing quality improvement and working to improve its procedures on projects that are federally

funded. Without the necessary internal controls to ensure the proper spending of federal money there exists a higher risk that errors and irregularities may occur and go undetected. These kinds of non-compliance with federal requirements are typically reported by us at a higher level.

We wish to thank the Port's staff and management for their cooperation and assistance during our audit. We look forward to working with the Port on this issue and will follow up on it during the next audit.

## **Applicable Laws and Regulations**

U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, states in part:

Subpart C, *Auditees*; Section 300 *Auditee responsibilities*.

The auditee shall: (b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

(c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs

Title 29, Code of Federal Regulations, Section 5.5, *Contract provisions and related matters*, states in part:

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):...

(8) *Compliance with Davis-Bacon and Related Act requirements*. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

Title 29, Code of Federal Regulations, Section 3.3, *Weekly statement with respect to payment of wages*, states in part:

(b) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work,

or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by this part 3 and part 5 of this title during the preceding weekly payroll period. This statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages, and shall be on the back of Form WH 347, "Payroll (For Contractors Optional Use)" or on any form with identical wording. Copies of Form WH 347 may be obtained from the Government contracting or sponsoring agency or from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site.

U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, Section 500, states in part:

(a) The audit shall be conducted in accordance with GAGAS.

*Government Auditing Standards*, December 2011 Revision, paragraph 4.23 states:

**4.23** When performing GAGAS financial audits, auditors should communicate in the report on internal control over financial reporting and compliance, based upon the work performed, (1) significant deficiencies and material weaknesses in internal control; (2) instances of fraud and noncompliance with provisions of laws or regulations that have a material effect on the audit and any other instances that warrant the attention of those charged with governance; (3) noncompliance with provisions of contracts or grant agreements that has a material effect on the audit; and (4) abuse that has a material effect on the audit.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 265, as follows:

**.07** For purposes of generally accepted auditing standards, the following terms have the meanings attributed as follows:

**Material weakness.** A deficiency or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

**Significant deficiency.** A deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit attention by those charged with governance.