



Office of the Washington State Auditor
Pat McCarthy

Accountability Audit Report

Port of Peninsula

For the period January 1, 2021 through December 31, 2022

Published September 24, 2024

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Office of the Washington State Auditor Pat McCarthy

September 24, 2024

Board of Commissioners
Port of Peninsula
Ocean Park, Washington

Report on Accountability

The Office of the Washington State Auditor takes seriously our role of providing state and local governments with assurance and accountability as the independent auditor of public accounts. In this way, we strive to help government work better, cost less, deliver higher value and earn greater public trust.

All governments must demonstrate their commitment to transparency and accountability by following the requirements of the Open Public Meetings Act and conducting their business in full view of their communities. In addition, they are required by law to provide sufficient documentation to allow our Office, or any member of the public, insight into their financial operations.

As our audit shows, the Port has not met important measures of accountability to the public in terms of proper management of its finances and in making the Board's meetings and resulting minutes accessible to the public. In addition to the multiple findings in this audit, we have conveyed to the Board in person our objections to the many delays and obstacles our auditors encountered while attempting to complete an independent review of Port operations.

Full transparency and accountability – in actions and documentation – generate public confidence; their absence diminishes public trust in the governments that serve them.

Attached is our independent audit report on the Port's compliance with applicable requirements and safeguarding of public resources for the areas we examined.

Sincerely,

A handwritten signature in black ink that reads "Pat McCarthy". The signature is written in a cursive, flowing style.

Pat McCarthy, State Auditor

Olympia, WA

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AUDIT RESULTS

Results in brief

This report describes the overall results and conclusions for the areas we examined. In the areas we examined, Port operations did not comply, in all material respects, with applicable state laws, regulations, or its own policies. Additionally, the Port did not provide adequate controls over safeguarding of public resources in the areas we examined.

As referenced above, we identified areas where the Port could make improvements. These recommendations are included with our report as findings. We recommend the Port establish internal controls to ensure compliance with state law and the safeguarding of public funds from loss or misappropriation in the following areas:

- Revenue collection, lease agreements, and disbursements
- Open public meetings
- Annual filing of financial reports

In keeping with general auditing practices, we do not examine every transaction, activity, policy, internal control, or area. As a result, no information is provided on the areas that were not examined.

About the audit

This report contains the results of our independent accountability audit of the Port of Peninsula from January 1, 2021 through December 31, 2022.

The Port supports economic development and maintains the piers and docks in the Ocean Park area of Pacific County. An elected, three-member Board of Commissioners governs the Port and appoints a Port Manager who is responsible for its day-to-day operations.

During the audit, we heard from former employees, Commissioners and citizens with concerns about the operations of the Port, including concerns over documentation retention, transparency of Board meetings and overall management practices.

Management is responsible for ensuring compliance and adequate safeguarding of public resources from fraud, loss or abuse. This includes the design, implementation and maintenance of internal controls relevant to these objectives. The Board, as governing body, has ultimate responsibility for ensuring adequate controls are in place, even if it delegates the primary responsibility of designing, implementing and maintaining internal controls to management. The Board and management bear responsibility for the overall lack of transparency and accountability demonstrated at the Port.

This audit was conducted under the authority of RCW 43.09.260, which requires the Office of the Washington State Auditor to examine the financial affairs of all local governments. Our audit involved obtaining evidence about the Port's use of public resources, compliance with state laws and regulations and its own policies and procedures, and internal controls over such matters. The procedures performed were based on our assessment of risks in the areas we examined.

Based on our risk assessment for the years ended December 31, 2022 and 2021, the areas examined were those representing the highest risk of fraud, loss, abuse, or noncompliance. We examined the following areas during this audit period:

- Accounts receivable – adjustments and collections
- Payroll – gross wages and benefit deductions
- Accounts payable – general disbursements
- Tenant leases – compliance with contract terms and vacancy testing
- Land purchase – fair market assessment
- Open public meetings – compliance with minutes, meetings and executive session requirements
- Financial condition – reviewing for indications of financial distress

SCHEDULE OF AUDIT FINDINGS AND RESPONSES

Port of Peninsula January 1, 2021 through December 31, 2022

2022-001 The Port lacked sufficient oversight of financial operations.

Background

The Port receives revenue from property taxes, customers services, and residential and commercial rental properties. The Port received \$462,269 and \$312,364 in 2021 and 2022, respectively, from services charges, and \$40,947 and \$33,722 in 2021 and 2022, respectively, from revenue for commercial and residential property leases. The Port has a general operational fund and a restricted industrial development fund that it uses for completing industrial projects.

The Washington State Constitution, Article VIII, section 7 prohibits any local government from bestowing a gift or lending money, property or its credit to a private party. To ensure it does not gift public funds, the Port is expected to receive fair market value on all leases and charge customers appropriate late fees when they do not make timely payments on accounts.

The Port has seven full-time employees and had expenditures of \$1,242,392 and \$1,329,487 in 2021 and 2022, respectively. Port Commissioners and management are responsible for establishing processes to ensure payroll and accounts payable transactions are accurate and allowable under state law and Port policies. Additionally, Port management is responsible for the timely disbursement of benefit payments to applicable state and federal agencies.

Description of Condition

The Port did not have established policies, procedures and oversight over its financial operations. Specifically, we identified the following concerns:

Billings and Receivables

The Port charges for goods and services such as fuel, moorage, ice and other miscellaneous goods and services. Customers can pay for these at the time of service or charge it to their account.

During 2022, the Port stopped providing formal billing statements for customer accounts and instead relied on customers to make payments based on the handwritten receipts it provided at the time of service. The Port did not formally communicate this process change to its customers.

As a result, the Port's outstanding and unpaid receivable balance increased significantly from prior years. The Port did not provide documentation to support that it attempted to collect past due balances or notify customers of past due balances in 2022.

The Port's internal records showed that it should have received \$656,438 in charges for goods and services, however the Port only reported \$312,364 in revenues for those charges on its 2022 annual report. This indicates the process change affected the amounts collected during 2022.

Lease Agreements

The Port lease records were not up to date and available for audit. It took the Port approximately three months to provide a list of leases we requested. Many of the Port's lease agreements were expired and past any applicable renewal periods. Port management said that these lease agreements are now in "holdover" or month-to-month status. Additionally, the Port was unable to provide adequate documentation to support one selected lease.

For two of the expired leases that we reviewed, the agreements required the Port to increase its rental rates every two years. The Port did not provide support that it increased rental rates consistently in accordance with the agreements since inception. As a result, the Port was unable to demonstrate that it received fair market value for leased properties.

Additionally, the Port purchased food, propane and utensils for \$3,316 on behalf of a lessee and did not charge the lessee for this purchase until 15 months later.

Payroll

The Port deducted \$57,980 from employee paychecks in 2022 for benefits such as retirement, IRS withholdings and other required withholdings. It did not pay these amounts to the respective required state and federal agencies during the audit period. The Port subsequently paid these amounts in 2023.

Accounts Payable

The Port did not adequately support all its accounts payable transactions to demonstrate that they were for a valid business purpose. Specifically, this included meals and food purchases of \$112 despite no policy allowing meal purchases, as well as late fees of \$117 for various accounts in 2022. Additionally, the Port Commissioners did not review and approve all warrants in accordance with state law and the *Budgeting, Accounting and Reporting System* (BARS Manual), which requires governing bodies to approve warrants no later than the next regular Board meeting from the date of issuance.

Cause of Condition

Billings and Receivables

The Port did not have a finance manager for the majority of 2022, which was the position responsible for billings and receivables. Management did not dedicate the time and resources to ensure customer accounts were current while the position was empty. Management also did not consider the impact of the change in process to stop providing monthly billing statements without formally communicating this to customers.

Lease Agreements

Port Commissioners and staff knew that lease rates were not at market value but chose not to increase them. Additionally, the Port did not prioritize the formal documentation of lease agreements after they expired.

Payroll/Accounts Payable

Port Commissioners and management did not effectively oversee payroll and accounts payable disbursements to establish a control environment dedicated to complying with state law, safeguarding Port resources and ensuring transactions were for valid business purposes. Additionally, the Port did not dedicate adequate time and resources to establish effective policies over disbursement activity.

Effect of Condition

Billings and Receivables/Lease Agreements

Without adequate controls to ensure it collects revenue timely, the Port risks being unable to provide its necessary functions to the community since a large portion of its revenue comes from customer services and lease agreements. Additionally, the Port's overall lack of control and oversight of its financial operations increases the risk that misappropriation or misuse of Port resources could occur and that it would not prevent or detect it in a timely manner.

The Port did not adequately manage revenues, which resulted in financial disarray and the Port being unable to maintain a positive general fund balance to ensure sustainable operations. The Port had to borrow funds from its industrial development fund to cover expenditures for the general fund. The Port was unable to pay back the interfund loan on time due to lack of funds in the general fund and instead had to renew the interfund loan.

The Port did not provide documentation to support that it performed a formal lease rate evaluation in recent years. As a result, lease revenues are likely significantly less than fair market value, which could be considered a gifting of public funds. Because the Port did not maintain adequate documentation of its leases, we were unable to quantify the potential revenue that the Port would have received if leases were at market rates.

Payroll/Accounts Payable

Unpaid taxes and benefit payments that were due to the state or IRS accrued late fees and interest charges. Fees resulting from improper financial management are not an appropriate use of public funds.

State law and the BARS Manual require governing bodies to approve warrants timely to ensure adequate oversight and monitoring of disbursements. By overriding this required control structure, the Port is both out of compliance with these requirements and at risk of misappropriation.

Without adequate documentation and policies to support disbursements, the Port is unable to demonstrate that it used public funds appropriately.

Recommendation

We recommend the Port implement processes and controls to ensure it adequately oversees and manages its financial operations in accordance with state law. Specifically, we recommend that the Port:

- Create specific policies over all major financial operations
- Ensure that it formally notifies customers of billing practice changes and makes every effort to collect past due amounts from customers
- Complete a formal lease evaluation to ensure lease amounts are at market value
- Retain adequate documentation for all lease agreements
- Timely pay state and federal agencies for required taxes and benefit payments
- Ensure that the governing body approves all warrants according to state law and the BARS Manual
- Ensure that it supports all purchases with a valid business purpose

Port's Response

The Port of Peninsula has been consistently committed to supporting our local economy, particularly through the unprecedented challenges of the global COVID-19 pandemic. Our efforts to keep the Port operational 7 days a week during COVID-19 were vital to our community, especially for our shellfish growers, fishermen, crabbers, processors, local workers and their families.

Our strategy of maintaining low moorage, lease, and service rates for our local seafood industry has been central to our mission of fostering economic development. Looking ahead, the Port is dedicated to aligning our lease, moorage, and service rates with market values as recommended in SAO's guidance, ensuring that we continue to serve our community responsibly and sustainably. During the COVID-19 emergency, the Port extended flexibility to its users in the repayment of Port charge accounts. Since the end of the COVID Emergency, the Port has enacted more stringent collection practices.

While we respect the SAO's viewpoint, we believe it is essential to highlight several differences of interpretation: The Port maintained a strong financial position and strategically employed an internal loan, a prudent approach commonly used by local agencies. This decision allowed the Port to pay interest back into its own funds, ensuring that public money remained available for Port use to support our local economy. It is also important to note that all warrant expenditures have been approved by the Port Commission, reflecting our adherence to rigorous financial oversight. Any delays in payments, while subsequently handled, were an inevitable result of the unprecedented challenges and disruptions brought on by the COVID-19 pandemic. We appreciate the SAO's partnership and appreciate the insights provided.

Auditor's Remarks

The Board has a fiduciary responsibility to ensure adequate oversight of financial operations, including retaining sufficient documentation and the appropriate use of funds. We reaffirm our finding and will review the status of the Port's corrective action during our next audit.

Applicable Laws and Regulations

RCW 43.09.200, Local government accounting – Uniform system of accounting.

RCW 40.14.070, Destruction, disposition, donation of local government – Record retention schedules – Sealed records.

Budgeting, Accounting and Reporting System (BARS Manual), 3.1.3 – Internal Controls

Budgeting, Accounting and Reporting System (BARS Manual), 3.1.4, Original Supporting Documentation

Washington State Constitution, Article VIII, Section 7, Credit Not To Be Loaned

Title 26 CFR subsection 31.3402, Requirement of withholding.

RCW 41.40.048, Employer's contribution – Computation – Billing.

RCW 51.16.155, Failure or refusal of employer to report or pay premiums due – Collection.

The *Budgeting, Accounting and Reporting System* (BARS Manual) 3.8.5, Voucher Certification and Approval

Chapter 42.24 RCW Payment of Claims for Expenses, Material, Purchases – Advancements

SCHEDULE OF AUDIT FINDINGS AND RESPONSES

Port of Peninsula January 1, 2021 through December 31, 2022

2022-002 The Port did not comply with the Open Public Meetings Act's requirements to timely document meeting minutes.

Background

The Washington Open Public Meetings Act (OPMA) requires the Port to conduct any discussions and business decisions, including approval of vouchers and resolutions, in an open public forum. A meeting subject to the OPMA occurs when a quorum of commissioners gathers to conduct Port business. The OPMA requires the Port to adequately document these meetings and make minutes publicly available.

The Port is responsible for ensuring compliance with the OPMA by holding regularly scheduled meetings to allow for both transparency of Port business and key decisions Port Commissioners make.

Description of Condition

The Port did not ensure it complied with the OPMA requirements for meeting minutes. Our audit found the Port did not promptly prepare meeting minutes for meetings held in 2022 and 2023. Specifically, the Port did not provide any 2022 minutes for audit until December 2023 and did not provide any 2023 minutes for audit until July 2024.

The Port cancelled meetings and was unable to demonstrate that it consistently cancelled these meetings in accordance with guidance outlined by the Attorney General.

Cause of Condition

The Port did not dedicate adequate time and resources to ensure that it followed all OPMA requirements.

Effect of Condition

When the Port does not properly conduct and record open public meetings, it has no official record of the business it conducted. This limits transparency and the public's knowledge and understanding of the Port's operations, including spending activity.

Recommendation

We recommend the Port:

- Prepare and retain records that clearly demonstrate compliance with the OPMA. Minutes should provide an accurate record of the Port's actions and be available for public inspection promptly.
- Provide adequate public notice of a cancellation or adjustment of a meeting.

Port's Response

The Port takes its obligations under the Open Public Meetings Act (OPMA) very seriously. We believe that our practices not only comply with but in most instances, they exceed the requirements set forth by OPMA.

We recognize that our differing views on OPMA compliance stem from the State Auditor's Office (SAO) reliance on Attorney General recommendations, which are advisory and not actual law. Although we must agree to disagree with the SAO on certain aspects of their interpretation of OPMA compliance, both agencies share a commitment to transparency and public accountability.

We appreciate the SAO's thorough review and recommendations regarding the OPMA. We are committed to upholding the highest standards in our operations. We will continue to ensure our practices consistently meet or exceed OPMA requirements. For the latest updates on the Port's meetings and activities, we invite the public to visit our website and Facebook page.

Auditor's Remarks

The *Attorney General Open Government Resources Manual* includes summaries of and links to relevant statutes, court decisions, formal Attorney General Opinions and Public Records Act Model Rules, all of which the Port should be following, and is therefore an authoritative resource the Port should look to for guidance and interpretation of state law. We reaffirm our finding and will review the status of the Port's corrective action during our next audit.

Applicable Laws and Regulations

Chapter 42.30 RCW, Open Public Meetings Act

Attorney General Open Government Resources Manual, 2016, Chapter 3.6D

SCHEDULE OF AUDIT FINDINGS AND RESPONSES

Port of Peninsula January 1, 2021 through December 31, 2022

2022-003 The Port lacked adequate internal controls over financial reporting to ensure compliance with timely annual report submissions.

Background

Federal and state agencies, the Board of Commissioners and the public rely on the information included in financial statements and reports to make decisions. The Port is responsible for designing, implementing and maintaining internal controls that provide reasonable assurance its financial reporting is reliable.

State law (RCW 43.09.230) requires the Port to submit an annual financial report to the State Auditor's Office within 150 days after the end of its fiscal year, with accurate, summarized financial information and supporting schedules.

Description of Condition

The Port did not submit the required annual reports to our Office within 150 days of fiscal year-end for 2021 and 2022. The Port filed its 2021 annual report 318 days late and its 2022 annual report 344 days late.

Cause of Condition

The Port experienced turnover in its key accounting position, which caused a delay in it submitting its 2021 annual report by the required deadline. Additionally, the Port did not dedicate adequate time and resources to filing the 2022 annual report by the required deadline.

Effect of Condition

Delays in the availability of complete financial reports prevent Port officials, the public and other interested parties from obtaining timely information. Such delays and inaccuracies also hinder public transparency and our Office's efforts to compile statistical and financial information that the Legislature and others use.

Further, the Port's failure to respond impeded our Office's ability to audit the government in a timely manner, as state law requires.

Recommendation

We recommend the Port establish internal controls to ensure timely financial reporting in accordance with state law.

Port's Response

The extraordinary challenges of the COVID-19 Pandemic and staffing shortages during the 2021-2022 audit period are undeniable. Amid these challenges, the Port made the strategic decision to remain open 7 days a week, recognizing the essential role our operations play in sustaining local workers, the shellfish industry, crabbers, fishermen, local seafood processors, the tourism industry, local families and our local economy as a whole.

While the 2021 and 2022 reports were filed outside the standard timeframe, this was due to pandemic-related disruptions, worker shortages, COVID illnesses; All of which are components of those highly extenuating circumstances of the time. The Port firmly believes its actions complied with Governor Inslee's Proclamation 20-34.4, which provided extensions under RCW 43.09.230 and superseded and extended those annual filing deadlines specifically because of the COVID Declaration of Emergency. We appreciate the Auditor's recommendation and have already taken proactive measures for ongoing compliance and accountability.

Auditor's Remarks

The Governor's Proclamation 20-34.4 referenced in the Port's response was only applicable for fiscal year ending 2019. All subsequent years were required to be filed in accordance with state law. We reaffirm our finding and will review the status of the Port's corrective action during our next audit.

Applicable Laws and Regulations

RCW 43.09.230, Local Government Accounting – Annual Reports – Comparative Statistics.

INFORMATION ABOUT THE PORT

The Port of Peninsula, located in Pacific County, was incorporated in 1928. The Port offers a marina, boat ramp, leased properties, boat hoist, commercial ice, moorage, and fuel sales.

An elected, three-member Board of Commissioners governs the Port. Five full-time marina employees support the Port's services. The Port operated with average annual revenues of about \$1.5 million in fiscal years 2021 and 2022.

Contact information related to this report

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Information current as of report publish date.

Audit history

You can find current and past audit reports for the Port of Peninsula at <http://portal.sao.wa.gov/ReportSearch>.

ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the Washington State Constitution and is part of the executive branch of state government. The State Auditor is elected by the people of Washington and serves four-year terms.

We work with state agencies, local governments and the public to achieve our vision of increasing trust in government by helping governments work better and deliver higher value.

In fulfilling our mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, we hold ourselves to those same standards by continually improving our audit quality and operational efficiency, and by developing highly engaged and committed employees.

As an agency, the State Auditor's Office has the independence necessary to objectively perform audits, attestation engagements and investigations. Our work is designed to comply with professional standards as well as to satisfy the requirements of federal, state and local laws. The Office also has an extensive quality control program and undergoes regular external peer review to ensure our work meets the highest possible standards of accuracy, objectivity and clarity.

Our audits look at financial information and compliance with federal, state and local laws for all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits and cybersecurity audits of state agencies and local governments, as well as state whistleblower, fraud and citizen hotline investigations.

The results of our work are available to everyone through the more than 2,000 reports we publish each year on our website, www.sao.wa.gov. Additionally, we share regular news and other information via an email subscription service and social media channels.

We take our role as partners in accountability seriously. The Office provides training and technical assistance to governments both directly and through partnerships with other governmental support organizations.

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