



Corrective Action Plan Follow-up Review: Audit of Prevailing Wage Monitoring and Investigation Processes

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Final Follow-up Report

Audit Plan Code: 22-16.F

Management implemented a corrective action plan (CAP) with six activities to address the original audit report findings, observation, and recommendations. As such, this report represents the close-out of the CAP.



Contents

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Corrective Action Plan (CAP) Follow-Up Review

Background	1
Objective and Scope	1
Methodology.....	1
Inherent Limitations	1
Summary of Results	2
Original Recommendations and Status of CAP Activities	2
Exhibit A – Summary of Original Audit Results	6

Abbreviations

BOT	Board of Trustees
CAP	Corrective Action Plan
CP	Certified Payroll
EPISD	El Paso Independent School District
GC	General Contractor
IIA	Institute of Internal Auditors
IRS	Internal Revenue Service
PWR	Prevailing Wage Rate
TGC	Texas Government Code



Background

The Institute of Internal Auditors' (IIA) International Standards for the Professional Practice of Internal Auditing, Performance Standard 2500 - Monitoring Progress, require we "...establish and maintain a system to monitor the disposition of results communicated to management." Internal Audit has established the Corrective Action Plan (CAP) process to meet this requirement. The process includes monitoring and reporting whether management has implemented corrective actions to address audit findings, observations, and recommendations.

Internal Audit issued the Prevailing Wage Monitoring and Investigation Processes Audit Report (original audit report) to District management and administration on October 21, 2021. The [original audit report](#) is posted on the EPISD's website. We performed the audit as part of the Board-approved 2020-2021 and 2021-2022 Internal Audit Plans. The objective of the audit was to determine whether the processes to monitor and address issues with prevailing wage rates and workers' classifications provide reasonable assurance that:

1. Violations are identified,
2. Initial determinations are made in accordance with the timeline in the Texas Government Code 2258, and
3. Investigations of complaints are performed consistently, thoroughly, and timely.

The audit scope comprised the 2016 Bond construction projects managed by Jacobs Program Management Co. during the period of January 1, 2020, to December 31, 2020.

The original audit report included four (4) findings, one (1) observation, and seven (7) recommendations. For reference, a summary of the original audit report findings and observation is provided in **Exhibit A**. District management and administration agreed with our recommendations and developed a corrective action plan (CAP) with six (6) activities.

Objective and Scope

The objective and scope of this follow-up review was to determine whether management implemented the six (6) CAP activities or took other actions to address the four (4) findings, one (1) observation, and seven (7) recommendations outlined in the Prevailing Wage Monitoring and Investigation Processes Audit Report.

Methodology

To achieve the objective of our follow-up review, we:

- Held meetings and communicated with persons responsible for carrying out the CAP activities.
- Reviewed supporting documentation maintained by management as evidence of completion of the CAP activities provided to Internal Audit.

Inherent Limitations

This was a limited scope follow-up review covering only the actions taken by administration to address the original audit findings, observation, and recommendations stated in the Objective and Scope section of this report. No representations of assurance are made to other areas or periods not covered by this follow-up review.

Summary of Results

CAP Activities	Implemented	Overall CAP Status
6	6	Closed

Management implemented a CAP with six (6) activities to address the four (4) findings, one (1) observation, and seven (7) recommendations in the original audit report.

As part of CAP activities one (1), three (3), and four (4), management had to determine whether they should evaluate instances outlined in the original audit report to confirm compliance with the PWR Statute. Management rated the instances as low risk and determined they would not evaluate them further. The decision was documented on a Risk Acceptance Form signed by the process owner and approved by the respective Executive Cabinet member. Signing the form includes accepting responsibility for direct and indirect costs that may be incurred due to potential incidents related to the identified risks.

This report represents the close-out of this CAP.

Original Recommendations and Status of CAP Activities

The original recommendations, the person(s) responsible, and the status of the CAP activities are outlined below:

We recommended Facilities and Construction leadership develop and formalize (document) operating procedures for following up on PWR complaints and potential violations. Such procedures should include, at a minimum:

- 1.1. Identify the person(s) or position(s) who will be responsible for following up on PWR complaints and potential violations.
- 1.2. Outline the steps to be performed when a PWR issue is received.
 - Set expectations for communicating with the GC.
 - Indicate how to reach a recommendation to present it to the BOT for initial determination in the case of complaints.
- 1.3. Define the steps needed to conduct a thorough investigation.
 - Set expectations for communication with affected parties (e.g., GC, subcontractor, worker, etc.). Performing this step thoroughly is essential to ensure a balanced investigation where all relevant perspectives are evaluated.
 - Identify the supporting documentation needed to resolve the different types of PWR issues.
 - Describe the expected review process over the supporting documentation.
 - Describe how the investigation and its results should be documented.
- 1.4. Define the steps needed to close a PWR issue.
 - Evaluate additional evidence provided by GC, if any, to rebut results. After the evaluation is performed, document whether the original conclusion changed or continued to stand.
 - Describe how to assess the penalty fee(s), if any.
 - Request evidence from the GC to verify that workers were restituted wage shortages if needed.
 - Establish guidelines to withhold payments due to PWR issues.

1

- 1.5. Establish reasonable timelines for the different steps on the process to resolve PWR issues.
 - Include compliance with the 31-day period stipulated in TGC 2258.052 to present initial determination to the BOT for third-party complaints.
 - Define a time period to communicate with and request a response from affected parties (e.g., GC, subcontractor, worker, etc.).

For consistency, we recommended Facilities and Construction consider expanding the new operating procedures to the projects managed by EPISD.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 1 as follows:

Activity 1: “Develop and formalize operating procedures for following up on PWR complaints and potential violations that include: identify the positions responsible for following up on PWR complaints and potential violations; outline the steps to be performed when a PWR issue is received; Define the steps needed to conduct a thorough investigation; define the steps needed to close a PWR issue; establish reasonable timelines for the different steps on the process to resolve PWR issues.”

Person Responsible: Director, Facilities and Construction

Status: Implemented

2

We recommended Facilities and Construction leadership train employees (whose duties include monitoring/investigating PWR issues) in the new operating procedures. We also recommended Facilities and Construction leadership ensure that the employees performing the investigations become familiar or are reminded of the following:

1. Texas Government Code 2258 requirements
2. The applicable contract with the GC
3. The standards for applicable apprenticeship program

If Facilities and Construction identified additional criteria necessary to perform investigations, we recommended this be included as part of the training.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 2 as follows:

Activity 2: “Develop training for employees who will be conducting the PWR investigations to include knowledge of Texas Government Code 2258; the applicable construction contract; the standards for applicable apprenticeship program.”

Persons Responsible: Director, Facilities and Construction

Status: Implemented

3

We recommended Facilities and Construction determine:

1. Whether overtime rates should be reviewed
2. The extent of the review
3. Who should perform the review
4. Frequency of the review

If it was determined overtime rates should be reviewed and the related potential violations should be followed up on, we recommended Facilities and Construction determine whether the

instances described in Finding 2.1 (in the original audit report) should be evaluated to confirm the workers were paid correctly.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 3 as follows:

Activity 3: “Determine whether overtime rates should be reviewed as part of the PWR investigation process. If it is determined overtime rates should be reviewed and the related potential violations should be followed up on, Facilities and Construction will determine whether the instances described in Finding 2.1 should be evaluated to confirm the workers were paid correctly.”

Persons Responsible: Executive Director, Facilities and Construction

Status: Implemented. Management determined overtime rates should be reviewed as part of the PWR investigation process. However, they will not evaluate further the instances described in the original audit report. The decision was documented on the Risk Acceptance Form.

4

We recommended Facilities and Construction determine whether the current monitoring over apprenticeships is sufficient. If the monitoring was not sufficient, we recommended Facilities and Construction determine:

1. The level of monitoring over apprentices’ ratios
2. Who should perform the monitoring
3. Frequency of the monitoring
4. Who should follow up on potential violations identified, if any

We also recommended Facilities and Construction determine whether the instances described in Finding 2.2 (in the original audit report) should be evaluated to confirm the workers were paid correctly.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 4 as follows:

Activity 4: “Determine the level of apprenticeship monitoring required as part of the PWR investigation process. Determine whether the instances described in Finding 2.2 should be evaluated to confirm the workers were paid correctly.”

Persons Responsible: Executive Director, Facilities and Construction

Status: Implemented. Management determined the level of apprenticeship monitoring; however, they will not evaluate further the instances described in the original audit report. The decision was documented on the Risk Acceptance Form.

5

We recommended Facilities and Construction discuss and come to an agreement with Jacobs leadership regarding the following:

1. The manner Jacobs will document the completion of the monitoring controls for the interviews and the CP review procedures.
2. The expected timelines for submitting quarterly CP reviews.

Facilities and Construction should have documented any decisions reached as part of their discussion with Jacobs. If needed, we recommended Jacobs’ Procedures be updated as well.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 5 as follows:

Activity 5: “Define process by which Jacobs Group will document completion of monitoring controls and set timelines for submitting certified payroll (CP) reviews to the district.”

Persons Responsible: Executive Director, Facilities and Construction

Status: Implemented

6

We recommended Facilities and Construction follow up on the 18 potential violations referenced in Finding 3.1.1 and the instance with the blank classification described in Finding 3.1.2 (in the original audit report).

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 6 as follows:

Activity 6: “Investigate 18 potential PWR violations discovered during Audit process and not previously identified by Jacobs during their CP review and the instance with blank classification in finding 3.1.2.”

Persons Responsible: Executive Director, Facilities and Construction

Status: Implemented

7

We recommended Facilities and Construction determine the course of action and the documentation needed to verify PWR compliance for instances where an IRS Form 1099-MISC is obtained instead of CP, as described in Finding 3.2.2.1.c (in the original audit report). Furthermore, Facilities and Construction should have verified whether the instance identified in that finding complied with the PWR Statute.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 1 as follows:

Activity 1: “Develop and formalize operating procedures for following up on PWR complaints and potential violations that include: identify the positions responsible for following up on PWR complaints and potential violations; outline the steps to be performed when a PWR issue is received; Define the steps needed to conduct a thorough investigation; define the steps needed to close a PWR issue; establish reasonable timelines for the different steps on the process to resolve PWR issues.

Persons Responsible: Director, Facilities and Construction

Status: Implemented. Management made a determination to only accept certified payrolls as proof of payroll and not evaluate further the instance identified. The decision was documented on the Risk Acceptance Form.

Exhibit A – Summary of Original Audit Results

Finding	Summary Finding
1	The Facilities and Construction Department (Facilities and Construction) has performed prevailing wage rate (PWR) investigations. However, in some instances, the investigations were not timely, consistent, or thorough. As of August 6, 2021, Facilities and Construction did not have formal (written) investigation procedures.
2	The District may not have identified potential PWR violations for overtime and apprentices' ratios as these were not monitored.
3	Jacobs implemented controls to monitor PWR. While testing said controls, we did not identify systematic deficiencies. Rather, we noted sporadic instances of missing documentation (i.e., missing interviews and certified payroll) and unidentified potential violations totaling \$4.3K (less than 0.02% of the \$30.2M in pay applications in our sample that were reviewed by Jacobs). We also noted instances of untimely reporting attributed to the COVID-19 pandemic.
4	Three (3) of the eight (8) third-party complaints in our scope were presented to the Board of Trustees (BOT) after the 31-day period stipulated in the Texas Government Code 2258.052 and Board Policy CV (Legal). As discussed during the February 16, 2021 BOT meeting, Facilities and Construction was under the impression the three (3) complaints did not have to be presented to the BOT as they were labeled "supplemental."

Observation	Summary Observation
1	There is no documentation to support a comparison was performed between the interviews and their corresponding CP to identify discrepancies in workers' classifications or wage rates. The comparison is outlined in Jacobs' Procedures, but those procedures do not indicate how this comparison should be documented. According to Jacobs, they are addressing the observation in their updated procedures.

The complete [original audit report](#) is available on the EPISD website.



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