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**D.C. Isn't Monitoring Davis-Bacon Act Compliance or Complaints, Audit Shows**  
*Policies, procedures need improvements to fix "accountability gap" on ensuring prevailing wages for workers on school modernization projects*

**WASHINGTON** – The District of Columbia does not currently have policies and procedures in place to ensure whether contractors are paying workers on D.C. construction projects prevailing wages required by the Davis-Bacon Act, nor does D.C. have an effective process in place to track workers' complaints, according to a report on the School Modernization Program released today by the Office of the D.C. Auditor (ODCA).

"Davis-Bacon is a holdover from D.C.'s time as part of the federal government, and we've never had the kind of stringent oversight needed. We are recommending local law to improve that oversight," said D.C. Auditor Kathy Patterson. "We not only need better processes in place to prevent contractors from intentionally or inadvertently shortchanging employees for work done on D.C. construction projects, but we need to do a better job at tracking workers' complaints about D.C. contractors who may not be following the law."

ODCA is mandated by D.C. Code §38-2973.05 to prepare an annual report on the use of capital funds by the District of Columbia's Public Schools (DCPS). The Department of General Services (DGS) manages the capital improvement and construction program for District government facilities, including the modernization or new construction of schools. In FY 2014, ODCA renewed its commitment to audit the District of Columbia's public school modernization program on an annual basis. This is the fifth ODCA report describing the state of the program and includes recommendations for improving it.

**Need for local Davis-Bacon law**

DGS refers all Davis-Bacon related complaints to the D.C. Department of Employment Services (DOES), which in turn refers these cases to the U.S. Department of Labor. ODCA determined that neither DGS nor DOES could provide ODCA with any information on the status of these cases, nor could they provide ODCA with any information on the scope of the problem in the District (i.e. number of cases, dollar values, etc.). Neither agency had information on a recent court case that prompted a nearly \$200,000 judgment against a school modernization contractor.

The finding led to a recommendation that the D.C. Council conduct a fact-finding oversight hearing, and draft and enact a local law providing implementation guidelines for the District's compliance with and enforcement of Davis-Bacon. The recommendation calls for a D.C. government agency to have explicit authority, responsibility, and funding to ensure that any prevailing wage law violations result in appropriate action by D.C. agencies, including debarment of a contractor.

**Impossible to verify D.C. compliance with Davis-Bacon law**

ODCA found that the Department of General Services (DGS) does not have sufficient processes in place to prevent, detect and/or correct violations of the Davis-Bacon Act, which requires contractors

to pay "prevailing wage rates on all federal government and District construction projects in excess of \$2,000. These rates, which are set at the federal level by the U.S. Department of Labor, stipulate wages by classification, i.e. carpenter, electrician, roofer.

DGS currently employs two processes to monitor compliance with the law:

- Reviewing payroll records that are certified and submitted by contractors.
- Conducting jobsite visits on selected projects to interview workers and determine if they are performing tasks in accordance with their labor classification.

ODCA was not able to verify that either of these processes are operating effectively, and concluded that that DGS needs to develop effective and robust processes to mitigate the risk associated with Davis-Bacon Act compliance, the report said. Risks include the possibility of contractors shortchanging workers to increase their profits and/or lowering their bids.

### **Improvements needed in close out, transfer of projects**

The report also shows that DGS needs to improve its processes for closing out school modernization projects and demonstrate its processes for transferring custody of school modernization projects once they are complete. ODCA selected a sample of 14 items from school modernization project completion checklists that showed some were marked complete with documentation, some complete without documentation, one marked complete in error and one marked complete with another agency responsible for the documentation.

Neither DGS nor ODCA could verify that the project close-out was completed properly. DGS is currently working on developing a set of checklists which the construction division can use to ensure school modernization projects are completed properly.

In addition, the report showed that DGS could not demonstrate it had a process in place for transferring custody of projects from DGS's Construction Division to its Facilities Management Division, which maintains the school. Without supporting documentation to verify that each item in the process was completed, DGS can't be certain it has addressed each of the risks associated with the transfer process, including making sure facilities staff have the training required to support the new building. DGS is currently working on procedures for ensuring each project is properly transferred.

Among the report's other findings are that DGS did not demonstrate that it has a process in place to verify the accuracy of invoices prior to payment approval. In response to its findings, ODCA made six recommendations relating to improving overall internal controls, improving the invoice approval process, and finishing new processes for the close-out/transfer of projects upon completion.

ODCA will be researching and drafting a white paper focused on the state of internal control development in the District, with a particular focus on the operational controls that govern how the District's employees do their jobs, with the intention that the white paper will culminate in a set of formal recommendations for the D.C. Council and Mayor.

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*The mission of the Office of the District of Columbia Auditor (ODCA) is to support the Council of the District of Columbia by making sound recommendations that improve the effectiveness, efficiency, and accountability of the District government. Learn more at [www.dcauditor.org](http://www.dcauditor.org).*