

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 27, 2018

Mr. Alfonso L. Carney, Jr.
Chair
Dormitory Authority of the State of New York
515 Broadway
Albany, NY 12207

Re: Monitoring of Prevailing Wage
Compliance on Construction Contracts
Report 2018-F-30

Dear Chair Carney:

Pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law, we have followed up on the actions taken by officials of the Dormitory Authority of the State of New York (Authority) to implement the recommendations contained in our audit report, *Monitoring of Prevailing Wage Compliance on Construction Contracts* (Report 2015-S-99) issued April 4, 2017.

Background, Scope, and Objective

The Authority is a public benefit corporation established in 1944. The Authority's purpose is to finance and construct buildings for a variety of public and not-for-profit entities, including universities, health care facilities, and State agencies. Most Authority construction contracts require the contractors to pay prevailing wages in accordance with Article 8, Section 220 of the State Labor Law (Article 8). Article 8 established requirements to ensure that contractors of taxpayer-funded public works construction projects pay the rate set by law for public work projects (prevailing wage) as follows:

- Projects must be identified as public work at the bid solicitation;
- Contractors must file an original payroll that includes each worker's name, address, hours and days worked, hourly rate, and job title;
- Wages should not be paid at less than the prevailing wage rate for the locality where the work is performed;
- Prevailing wage notification must be conspicuously posted at the job site; and
- All prevailing wage rate complaints must be investigated.

The Department of Labor (Labor) is responsible for enforcing Article 8 requirements and for investigating all prevailing wage complaints. Agencies that let contracts for public work projects, such as the Authority, also have a role in monitoring contractor compliance with Article 8 requirements. Labor requires that such agencies and authorities:

- Advertise a project as public work;
- Provide contractors with the appropriate prevailing wage rate schedule for the project; and
- Perform a payroll review of the certified payrolls submitted by contractors.

To solicit bids for contract, the Authority advertises projects in the New York State Contract Reporter (the State's official publication of procurements), in newspapers, and on its website, including a link to the bid package. The bid package includes a Project Manual with the appropriate prevailing wage rate schedule and requirements for advertisement as a public work project. The Authority also informs prospective contractors at the pre-bid meeting that the project is subject to prevailing wage requirements.

Labor's payroll review requires the Authority to check the payrolls for completeness, including reviewing for a notarized Application for Payment, a contractor certification form with original signatures, and Certified Payrolls containing each worker's name, address, last four digits of the Social Security number, work classification, rate of pay, hours worked, and deductions.

The Authority also has an Enhanced Prevailing Wage Enforcement Funding Agreement (Agreement) with Labor to fund a Public Work Wage Investigator (Investigator) dedicated to reviewing Authority construction projects in the New York City (NYC) area for prevailing wage compliance. Per the latest Agreement, the Authority funds up to \$139,000 annually for salary, fringe benefits, and non-personal services and administrative costs. During the scope of our audit, Labor reported that it initiated six case investigations of Authority projects in the metro NYC area.

The Authority initiated 135 construction contracts totaling about \$360.5 million during the period April 4, 2017 through October 31, 2018. The projects in the NYC area totaled about \$175.9 million, or 48 percent of the total.

The objective of our follow-up was to assess the extent of implementation, as of October 31, 2018, of the recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that the Authority has made some progress addressing the issues identified in our original audit. Of the two prior audit recommendations, one was implemented and one was partially implemented.

Follow-Up Observations

Recommendation 1

Ensure Authority project managers and/or field representatives periodically verify prevailing wage postings on job sites. Require verifications of wage postings to be documented.

Status – Partially Implemented

Agency Action – The Authority’s procedures require project managers, field representatives, and internal auditors to check for prevailing wage signs when on site. Additionally, the Authority periodically reminds staff to check for the signs when visiting projects. The Authority Office of Professional Integrity attends kick-off meetings and conference calls, performs unannounced site visits, and should check prevailing wage signs. However, the Authority has not developed a process to document its efforts to ensure that prevailing wage rates are posted. In the past, the Authority had a plan to retain photographs of prevailing wage signs taken on the job sites. However, the plan was not implemented. Consequently, the Authority was unable to provide us with any documentation that it verified the actual posting of signs.

Recommendation 2

Require Labor to provide the Authority with periodic reports that sufficiently detail the nature and results of the Investigator’s monitoring efforts regarding Authority construction projects. Request and obtain adequate supporting documentation to ensure the Authority receives the services it pays for as prescribed by the Agreement.

Status – Implemented

Agency Action – The Authority requested that Labor add information on the status of Authority projects the Investigator worked on to its quarterly reports. We reviewed Labor’s quarterly reports for six quarters ending September 2018 and found that they contain sufficient detail of the nature and results of the Investigator’s enforcement efforts at Authority construction projects. Each of the six reports indicated a progression of work on the projects.

Major contributors to this report were Todd Seeberger, Michele Krill, and Richard Canfield.

We thank the management and staff of the Authority for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

Walter J. Irving
Audit Manager

cc: DASNY Audit