



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Official Audit Report – Issued May 21, 2020

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## University of Massachusetts Building Authority

For the period July 1, 2016 through June 30, 2018





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Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

May 21, 2020

Mr. Victor Woolridge, Chair of the Board of Directors  
University of Massachusetts Building Authority  
1 Beacon Street, Suite 300  
Boston, MA 02210

Dear Mr. Woolridge:

I am pleased to provide this performance audit of the University of Massachusetts Building Authority. This report details the audit objectives, scope, methodology, finding, and recommendation for the audit period, July 1, 2016 through June 30, 2018. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to the University of Massachusetts Building Authority for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMBump".

Suzanne M. Bump  
Auditor of the Commonwealth

cc: Barbara J. Kroncke, Executive Director

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## LIST OF ABBREVIATIONS

DLS	Department of Labor Standards
OPM	owner's project manager
OSA	Office of the State Auditor
UMBA	University of Massachusetts Building Authority

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## EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the University of Massachusetts Building Authority (UMBA) for the period July 1, 2016 through June 30, 2018.

In this performance audit, we determined whether UMBA properly administered its design and construction contracts in accordance with its policies and monitored the payment of invoices and the processing of change orders. We also reviewed the activities of UMBA's owner's project managers (OPMs) related to the completion and closeout process for contracts closed during our audit period and ensured that its contractors complied with the Prevailing Wage Law (Sections 26–27H of Chapter 149 of the General Laws), as stipulated by UMBA's contracts.

Below is a summary of our finding and recommendation, with links to each page listed.

<b>Finding 1</b> <b>Page <a href="#">7</a></b>	Certified payrolls submitted to UMBA's OPMs contained errors in job classifications and pay rates.
<b>Recommendation</b> <b>Page <a href="#">8</a></b>	UMBA should establish a policy detailing the process for its OPMs to follow when monitoring certified payrolls.

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## OVERVIEW OF AUDITED ENTITY

The University of Massachusetts Building Authority (UMBA) is an independent public body created by Chapter 773 of the Acts of 1960. It was created to provide structures for use in attending, working at, or visiting the University of Massachusetts, which has five campuses: Amherst, Boston, Dartmouth, Lowell, and the Worcester Medical School. The UMBA board of directors consists of 11 members appointed by the Governor.

The University of Massachusetts president's office is responsible for developing a capital plan that entails prioritizing projects, identifying funding sources, and ensuring that strategic and campus priorities are addressed. UMBA works with the university president's office and each campus to manage UMBA-financed projects and other capital projects in the capital plan.

UMBA provides a technical review of each project, before it is approved by the university's board of trustees, to evaluate the project scope for feasibility and the cost estimates for accuracy. A project must go before the trustees for two separate approval votes: a preliminary vote and the full project approval vote. Trustee approval is required to initiate or finance any capital projects requiring university borrowing, as well as any capital projects over \$10,000,000 in cost. The president's approval is required for capital projects between \$2,000,000 and \$10,000,000 in cost.

UMBA is responsible for the construction of facilities, and it hires architects, engineers, and construction firms to design and build them. UMBA contracts with an owner's project manager (OPM) to oversee each project from design to completion, including monitoring cost, managing contractors and subcontractors, and managing the project schedule while communicating progress to UMBA. The OPM is also required to maintain and monitor prevailing wage records. Sections 26–27H of Chapter 149 of the Massachusetts General Laws (the Prevailing Wage Law) were created to ensure that all workers (including registered apprentices<sup>1</sup>) engaged in public works projects, except those who perform strictly supervisory functions, are paid a minimum hourly rate set by the Department of Labor Standards (DLS) for their job classifications. DLS provides prevailing wage rate sheets that list all the various job classifications of the tradespeople<sup>2</sup> involved in public works projects and the minimum hourly rate to be

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1. Apprentices working on projects are required to register with the Division of Apprentice Standards. Once registered, apprentices may be paid the rate provided on the prevailing wage rate sheets. Apprentices who did not register with the Division of Apprentice Standards must be paid at the journey worker's rate for their trades.
  2. Tradespeople are workers who require special skill or training.

paid. Employers such as contractors and subcontractors must submit payroll documents weekly to the OPM containing the name, address, job classification, hours worked, and wages paid for each employee working on the project, which the employer certifies as accurate.

During our audit period, UMBA had 83 projects in various stages of construction, on which it spent a total of approximately \$614 million dollars.

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## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the University of Massachusetts Building Authority (UMBA) for the period July 1, 2016 through June 30, 2018.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did UMBA follow the capital project review and approval process for the design and construction contracts required by the "Capital Planning, Land and Facilities Use Policy"?	Yes
2. Did UMBA ensure adequate reporting and documentation for the administration of contracts during the audit period? Specifically,	
a. Did UMBA monitor the payments of invoices as required by the "Agreement for Professional Services between Owner and Owner's Project Manager"?	Yes
b. Did UMBA monitor the processing of change orders for projects as required by the "Agreement for Professional Services between Owner and Owner's Project Manager"?	Yes
c. Did UMBA's owner's project managers (OPMs) monitor compliance with the Prevailing Wage Law?	No; see Finding <u>1</u>
3. Did UMBA ensure that the OPMs complied with the "Completion and Closeout" section of the "Agreement for Professional Services between Owner and Owner's Project Manager" for all projects closed during the audit period?	Yes



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To achieve our audit objectives, we gained an understanding of the internal controls we deemed significant to our audit objectives by interviewing UMBA management and evaluating the controls' effectiveness specifically for project approvals and payment of invoices.

We performed the following procedures to obtain sufficient, appropriate audit evidence to address our audit objectives.

- We selected a nonstatistical judgmental sample of 5 projects from a population of 10 projects that were determined to be in the early stage phase and had received approval from the board of trustees to determine whether there was sufficient documentation, such as the board of trustees' meeting minutes, quarterly capital project reports, project justifications, project schedules, financial planning reports, and estimated project cost reports, to allow the university's board of trustees to approve the projects.
- We selected a nonstatistical judgmental sample of 60 out of a population of 1,288 invoices paid during our audit period and verified that there was sufficient supporting documentation, such as invoice cover letters, capital project invoice review signoff sheets, invoices, and evidence of payment, to authorize the payments.
- We selected a nonstatistical judgmental sample of 5 of the 14 projects with the highest total project costs, selecting at least 1 each from the Amherst, Dartmouth, Lowell, and Boston campuses. There were no projects with expenditures at the Worcester Medical School. We also selected 3 projects that had exceeded their budgets by at least 10% and required approval from UMBA's board of directors. These 8 projects had a total of 172 change orders; we tested all 172. We verified that there was sufficient supporting documentation to authorize the change orders, such as change order logs, original contracts, and the change orders themselves.
- We selected a nonstatistical judgmental sample of 5 out of 21 construction-phase projects with expenditures. The 21 projects consisted of 6 projects on the Amherst campus, 8 on the Boston campus, 3 on the Dartmouth campus, and 4 on the Lowell campus. There were no projects with expenditures at the Worcester Medical School. We selected our sample of 5 projects by choosing the project with the highest expenditure amount for each campus, ensuring that each project selected had a different OPM. On two campuses, the projects with the highest expenditure amounts were managed by the same OPM; for one of those two campuses, we selected the project with the second-highest expenditure amount. For each project, we selected a nonstatistical judgmental sample of 10 weeks of certified payrolls from the audit period. The 10 weeks of payroll tested for the 5 projects contained a total population of 3,344 contract employees. We traced the job classification and pay rate for each employee from the certified payrolls to the Department of Labor Standards' prevailing wage rate sheets to determine whether the pay rates based on the payroll classifications matched the amounts on the sheets.
- We selected all 16 projects that the auditee had classified in its database under the "Completed" and "Closeout" project phases. We did this to ensure that the OPMs had complied with the "Completion and Closeout" section of the "Agreement for Professional Services between Owner and Owner's Project Manager" for all projects closed during the audit period.

We reviewed the closeout checklist, occupancy permit, and certificate of completion for each project.

Whenever sampling was used, we applied a nonstatistical sampling approach, and as a result, we could not project our results to the entire population.

### **Data Reliability**

We requested general ledger fixed assets and accounts payable reports generated from Sage Intacct (UMBA's accounting / project management system package) and reconciled them to the audited financial statements for fiscal years 2017 and 2018 to determine their completeness and accuracy. We compared UMBA's accounts payable data from Sage Intacct to its construction requisition database to trace and confirm active projects with expenditures during our audit period.

We determined that the data were sufficiently reliable for the purpose of our audit objectives.

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## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### 1. Certified payrolls submitted to the University of Massachusetts Building Authority's owner's project managers contained errors in job classifications and pay rates.

We found 1,608 employees of the University of Massachusetts Building Authority's (UMBA's) contractors, from a sample of 3,344 who worked on public works projects during our audit period, whose job classifications on certified payrolls did not match the Department of Labor Standards' (DLS's) prevailing wage rate sheets, so we could not determine whether they were paid the appropriate prevailing wage. Of the employees whose classification did match DLS's prevailing wage rate sheets, 90 were paid less by the contractors than the required prevailing wage according to DLS's prevailing wage rate sheets. The five owner's project managers (OPMs) who oversaw these contracts stated that they monitored contractor compliance with the Prevailing Wage Law by reviewing project contracts and spot-checking pay rates; however, we could not verify that this was done, because the OPMs did not maintain documentation to substantiate the review. As a result, UMBA and its OPMs cannot determine whether the certified payrolls given to the OPMs by contractors are accurate and in agreement with DLS's prevailing wage rate sheets.

#### Authoritative Guidance

The Massachusetts Prevailing Wage Law for public works projects, Sections 26–27H of Chapter 149 of the Massachusetts General Laws, requires contractors to pay the prevailing wage.

The website of the Executive Office of Labor and Workforce Development, in a section titled "A guide to the Prevailing Wage Law for awarding authorities," states, "During the construction project, it is [the awarding authority's] responsibility to check contractors' compliance with the prevailing wage law."

UMBA's "Agreement for Professional Services between Owner and Owner's Project Manager" states,

**§ 4.3.7 Prevailing Wage.** *The OPM shall maintain and monitor records of compliance with the Massachusetts Prevailing Wage Law. . . .*

**§ 6.2 Oversight and Monitoring.** *The Owner [UMBA] shall endeavor to oversee and monitor generally the performance of the OPM to ensure that the OPM performs its obligations in a satisfactory manner in conformance with the terms and conditions of this Agreement.*

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## Reasons for Noncompliance

UMBA has not established a documented process for its OPMs to use to monitor the accuracy of the certified payroll information submitted by UMBA public works contractors.

## Recommendation

UMBA should establish a policy detailing the process for its OPMs to follow when monitoring certified payrolls.

## Auditee's Response

*UMBA has established sufficient monitoring procedures for its OPMs to verify whether the private construction companies' certified payroll submissions are in agreement with DLS's rate sheets.*

*UMBA requests from the Commonwealth's Department of Labor Standards the rate sheets and classifications of work for each project it bids. The rate sheets and work classifications are included in the contract documents.*

*UMBA hires OPMs to maintain and monitor records of compliance which is done by collecting certified payroll attestation documents signed by contractors and subcontractors under the pains and penalties of perjury pursuant to MGL Ch. 149. The OPM's are licensed by the Commonwealth's Inspector General's Office as a Massachusetts Certified Public Purchasing Official (MCPPO) and receive training on prevailing wage procedures. UMBA's OPMs collect the certified payroll records on a weekly basis. The payroll records are maintained (M.G.L. c. 149§27B) for the statutorily required period of time and are made available for public reviewing.*

*The Commonwealth's Attorney General (AG) is the enforcement authority under the prevailing wage statute. If the awarding authority or an aggrieved party becomes aware that a contractor or a subcontractor is not in compliance with the prevailing wage law it shall notify the AG's office. The AG shall investigate and if such a violation exists, the AG shall bring an enforcement action against the violating party. Results of an investigation by the AG may include: sending a warning to the worker's employer (contractor), penalize the employer civilly and/or criminally or allow the worker a private right of action to sue [the] employer for unpaid wages.*

*Along with continuing to collect and maintain certified payroll records submitted by the contractor and subcontractor under the pains and penalties of perjury, UMBA has added language to its OPM guidelines strengthening its monitoring processes.*

## Auditor's Reply

The Office of the State Auditor (OSA) acknowledges that UMBA takes measures to ensure that its OPMs are licensed and made aware of current prevailing wage rates and job classifications, but we do not agree that it has established effective monitoring controls over this activity. In its response, UMBA

asserts that its OPMs, rather than UMBA itself, are responsible for ensuring that the contractors UMBA hires on public works projects comply with all the requirements of the Prevailing Wage Law. This would include ensuring both the accuracy of job classifications and the rates paid to workers who are subject to the law. Although UMBA is correct in pointing out that its OPMs are contractually required to monitor contractor compliance with the Prevailing Wage Law, it is concerning to OSA that UMBA fails to recognize that as a contracting agency, it is responsible for ensuring that its OPMs effectively meet all of their contractual obligations, including those related to Prevailing Wage Law compliance.

As noted above, when we reviewed the certified payroll information submitted to UMBA's OPMs, we found numerous job classifications and wage rates that did not match those established by DLS. Therefore, we are concerned about how effectively OPMs monitor—or even are able to monitor—compliance with the Prevailing Wage Law, particularly for the workers whose job classifications did not match DLS's prevailing wage rate sheets. UMBA requires that its OPMs “maintain and monitor records of compliance with the Massachusetts Prevailing Wage Law”; however, neither the OPM contract nor UMBA's policies describe the method to be used by its OPMs to monitor compliance with this law. The current procedure of the OPMs is to collect the certified payrolls and conduct spot checks on job classifications and prevailing wage rates. UMBA's OPMs relied on the contractors and subcontractors to certify payrolls for the accuracy of job classifications and pay the correct prevailing wage on job classifications. In its response, UMBA does not comment on the specific problems OSA identified with the certified payroll information we reviewed. Further, it is important to point out that UMBA never indicated to OSA, either during our audit or in its response, that it was aware of and addressing these problems; this indicates that it was not effectively monitoring this process and ensuring that its OPMs identified, investigated, and addressed any potential Prevailing Wage Law violations.

We are aware that the Commonwealth's Attorney General is the enforcement authority for the Prevailing Wage Law. However, awarding authorities like UMBA must establish effective monitoring controls to ensure that any contractors they hire for public works projects use documented processes designed to effectively detect, investigate, and (if necessary) report any potential noncompliance to the Office of the Attorney General for resolution.

In its response, UMBA indicates that it is adding language to its OPM guidelines that will strengthen the monitoring process over this activity. Since UMBA did not provide OSA with a copy of this new language, OSA cannot comment on how effective this measure will be in addressing the issues OSA identified in

this area. However, in OSA's opinion, at a minimum, as noted above, this language should require that OPMs use a documented process designed to effectively detect, investigate, and (if necessary) report any potential noncompliance to the Office of the Attorney General for resolution. Moreover, simply establishing a better process for its OPMs to follow will not, in OSA's opinion, fully address this issue unless UMBA establishes effective monitoring controls to ensure that its OPMs consistently adhere to the established process.