

INTERNAL AUDIT REPORT

Operational Audit – Capital
Terminal 117 Sites 23– 25 Restoration Project



January 2020 – June 2023

Issue Date: June 16, 2023

Report No. 2023-08

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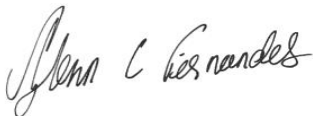
Executive Summary

Internal Audit (IA) completed an audit of the Terminal 117 Sites 23 – 25 Restoration Project (Project) for the period January 2020 through June 2023. The audit was performed to provide an independent assessment of performance, with the purpose of determining how goals and objectives were achieved and to determine if there were opportunities for improvement.

The Project was the first at the Port to use the Heavy Civil General Contractor/Construction Manager (GC/CM) project delivery method. Scarsella Brothers Inc. was selected to be the GC/CM in August of 2020 with a cost of \$14,211,077, with a Maximum Allowable Construction Cost (MACC) of \$10,378,373. Washington State Law (RCW 39.10.908) requires an independent audit for heavy civil GC/CM projects. In addition to this audit, the Port contracted with the firm, Branch, Richards & Co., P.S. (Branch Richards), to perform an independent construction cost control and cost verification audit. A summary of Branch Richards work to date is reflected in Appendix B. Construction began in 2020 and the project, named the Duwamish River People’s Park, opened in the summer of 2022.

Our audit focused on a review of bid package procurement processes and expenses, self-performed work, and Negotiated Support Services (NSS), including COVID-19 expenses. In general, Port management’s monitoring aligned with policies, procedures, and the unique state law requirements of GC/CM projects. However, our audit identified opportunities where internal controls could be enhanced or developed. These opportunities are listed below and discussed in more detail beginning on page six of this report.

1. **(Low)** The GC/CM did not include a notification of their intent to bid on the public solicitation for subcontract work, as required by state law (RCW 39.10.390). Additionally, the Trucking bid package was competitively bid for Site 25, but not for Site 23. Since the time of these solicitations in 2020, the Central Procurement Office has updated their processes to assure future solicitations comply with state laws.
2. **(Low)** The Port was overbilled by approximately \$44,728 for Street Sweeping and \$122,385 for Traffic Control subcontract expenses. Payments were made on a percentage of completion basis rather than actual hours, as required by the contract. The Construction Management project team were aware of the overbilling and correction needed, prior to the start of the audit.



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Responsible Management Team:

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Stephanie Jones Stebbins, Managing Director, Maritime
Sandra Kilroy, Senior Director, Engineering, Environment, and Sustainability
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Background

Between 1937 to 1993, the Duwamish Manufacturing Company and Malarkey Asphalt Company used the site for asphalt shingle manufacturing which left the site with contaminated soil and sediments. The Port acquired the land in 1999, which was designated as an Early Action Area (EEA) as part of the Lower Duwamish Waterway Superfund site by the U.S. Environmental Protection Agency (EPA). The Port and the City of Seattle worked together to conduct multiple large-scale cleanups with EPA oversight.

The large-scale cleanups were done in two phases. The first phase was for the uplands and sediments cleanup which included the removal of pavement, derelict structures, and about 60,000 tons of soil and sediment. Following that, another round of cleanup was done for streets and stormwater. This work included storm drainage pipes under the streets, sidewalks, environmentally friendly landscaping, installation of art, signage, and rain gardens which will improve the stormwater quality. These two phases were completed in 2015 and 2016.

Beginning in 2020, the Port broke ground on the Duwamish River People's Park. This Project began in 2020 with the purpose of restoring 14 acres of habitat and shoreline access on the west bank of the Lower Duwamish Waterway in South Park, Seattle. This Project contributes to salmon recovery in the region, which can also support the endangered Southern Resident orca population. This area along the river is also used by tribal fishers to harvest chinook, coho, pink, chum, and steelhead salmon as they practice their Treaty Fishing Rights during the salmon migration season.

This Project was unique in that it established the Port's first "habitat credit bank" which enabled third parties to invest in habitat projects, as mitigation credits, to comply with the Clean Water Act and the Endangered Species Act. Any revenue generated by the Port will help fund additional habitat restoration projects in the Green-Duwamish Watershed and Elliott Bay. In addition, the site serves as a learning lab for environmentalists seeking skills training and hands-on experience with careers in habitat restoration and marine wildlife conservation.

Some of the park's features include:

- Pathway and bridge to 275-foot-long pier
- Gathering area, seating, and entrance to shoreline pathways and viewpoints
- Public art and interpretive features
- Interpretive trail to 0.5 acre restored marsh and riparian area
- Marsh platform and steppingstone pathway
- Hand-carried boat launch
- 5.5 acres of restored marsh and native riparian shoreline
- 750 feet of lighted pathway to viewpoints and interpretive information
- Access stairway to 35-foot-high waterway and habitat viewing platform

The Port contracted with Scarsella Brothers Inc. to be the GC/CM of the project in August of 2020. The original contract amount was \$14.2 million. Considering executed change orders and the closing of open change order trends, the final contract amount is projected to be approximately \$14.9 million.

Source: [Duwamish River People's Park | Port of Seattle \(portseattle.org\)](https://portseattle.org/duwamish-river-people-s-park)

Audit Scope and Methodology

We conducted the engagement in accordance with Generally Accepted Government Auditing Standards and the International Standards for the Professional Practice of Internal Auditing. Those standards require that we plan and conduct an engagement to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our engagement objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our engagement objectives.

We used a judgmental method to determine the samples selected for our audit test work. The results of this work cannot be projected to the population as we did not select a random sample.

The period audited was January 2020 through June 2023 and included the following procedures:

External Audit Review

- We met with the external audit firm: Branch, Richards & Co., P.S. to understand their processes and areas reviewed during their audit.
- We obtained a copy of their draft audit report and workpapers.
- We reviewed their recommendations, including corrections on billing errors and confirmed that corrections had been made.

Bid Packages and Self Performed Work

- We interviewed the Central Procurement Office (CPO) personnel to understand subcontract bidding oversight internal controls.
- We reviewed the Contract Agreement's criteria for bidding, self-performed work, applicable Washington State Laws, and the Subcontract Plan.
- We obtained supporting documentation and verified that the Port and the GC/CM complied with criteria established in the Contract, Washington State Law, and the Subcontract Plan.
- We reviewed Related Parties to determine if any of Scarsella's related parties were awarded bid packages.

Negotiated Support Services (NSS)

- We interviewed the Construction Management personnel to understand procedures and internal controls.
- We reviewed the contract's criteria for NSS.
- We selected five NSS areas to focus our testing.
- We reviewed Construction Bulletins, related to each NSS area.
- We obtained and reviewed supporting documentation for compliance with NSS.

Schedule of Findings and Recommendations

1) Rating: Low

The GC/CM did not include a notification of their intent to bid on the public solicitation for subcontract work, as required by state law (RCW 39.10.390). Additionally, the Trucking bid package was competitively bid for Site 25, but not for Site 23. Since the time of these solicitations in 2020, the Central Procurement Office has updated their processes to assure future solicitations comply with state laws.

Total estimated subcontract costs were approximately \$4.8 million. We reviewed the procurement process for compliance with Washington State laws for the four subcontract bid packages in which the GC/CM was a bidder, listed in Table 1.

Table 1: Subcontract scope and contractual estimate amount

Subcontract Scope	Estimate
Street Sweeping	\$ 212,160
Traffic Control	\$ 213,354
Trucking	\$ 458,019
Water Treatment	\$ 474,080

In all four subcontract bid packages, the GC/CM did not include a notification of their intention to bid in the public solicitation, as required by state law (RCW 39.10.390). Additionally, we determined that one of the four subcontract bid packages, Trucking, did not meet the requirement of RCW 39.10.380 which states in part, “All subcontract work and equipment and material purchases shall be competitively bid with public bid openings and require the public solicitation of the bid documents.”

Trucking work for Site 25 was performed first and we verified the public solicitation procurement process was followed. The GC/CM was the successful bidder in the amount of \$206,100. However, for Site 23, Trucking subcontract work did not follow the required public solicitation process. During interviews, we were told the project’s Resident Engineer (at the time) directed Scarsella to move forward with continuing the Trucking work for Site 23. Without going through the procurement process, outside subcontractors did not have the opportunity to bid on the Trucking bid package for Site 23.

We discussed these items with the Central Procurement Office (CPO) personnel and the Construction Management project team. CPO personnel explained that these bid packages were awarded in 2020 and since then, their procurement processes were updated, and current processes now address the concerns we identified. We reviewed CPO procurement documents, established in May 2022, and concur our concerns have been addressed.

Recommendations

Continue using procurement processes that assure compliance with state laws.

Management Response/Action Plan

Engineering – Construction Management (CM) appreciates the updated CPO processes to help identify these issues earlier. CM will focus on implementing training for awareness of GC/CM processes including CPO management of bid packages when the GC/CM is bidding the work.

2) Rating: Low

The Port was overbilled by approximately \$44,728 for Street Sweeping and \$122,385 for Traffic Control subcontract expenses. Payments were made on a percentage of completion basis rather than actual hours, as required by the contract. The Construction Management project team were aware of the overbilling and correction needed, prior to the start of the audit.

The contract estimates total subcontract costs of \$4,792,308 for the project. We reviewed expenses associated with a sample selection of four subcontract bid packages, listed in Table 2.

Table 2: Subcontract scope and amount paid, as of Pay Application 15

Subcontract Scope	Amount Paid
Street Sweeping	\$ 169,728
Traffic Control	\$ 163,202
Trucking	\$ 456,036
Water Treatment	\$ 474,080

We reviewed supporting documentation in the form of bid proposals, third-party invoices, and labor hours. We identified two instances in which the Port overpaid for subcontract work.

Street Sweeping

During our testing, we noted the amount paid through Pay Application 15 was \$169,728. We were able to verify \$125,000 with third party invoices, provided by Scarsella. The overpayment occurred because Pay Applications were paid as portions of a lump sum, rather than based on actual labor hours incurred. Our testing confirmed current amounts should be 924 hours at \$125/hour, plus the \$9,500 for premiums, totaling \$125,000. The Construction Management project team already identified this discrepancy, prior to the audit, and agreed with the correction needed. The project is currently on hold, but the correction will be made on the next Pay Application, crediting an amount of \$44,728 for this subcontract work.

Traffic Control

During the cost development phase, and prior to a Competitive Bid package, Scarsella coded designated traffic control work to *Traffic Control and Coordination*. After traffic control work went to bid, Scarsella was awarded the work by having the lowest bid of two proposers. The total traffic control and coordination work was budgeted at \$317,429.

We performed a reconciliation and identified \$122,385 as an overpayment. The Port's CM team also performed a reconciliation and identified the same overpayment amount.

Recommendations

CM should continue with their plans to move forward with collection of overpayment.

Management Response/Action Plan

Engineering – Construction Management (CM) and Central Procurement Office – Construction Contracting (CPO) recognize this as a training and oversight opportunity for project teams to further understand the set-up of Heavy Civil GC/CM contract items for proper payment and tracking. We will be doing the training on the processes that are in place that allowed us to catch this in advance of this audit.

Appendix A: Risk Ratings

Findings identified during the audit are assigned a risk rating, as outlined in the table below. Only one of the criteria needs to be met for a finding to be rated High, Medium, or Low. Findings rated Low will be evaluated and may or may not be reflected in the final report.

Rating	Financial Stewardship	Internal Controls	Compliance	Public	Commission/ Management
High	Significant	Missing or not followed	Non-compliance with Laws, Port Policies, Contracts	High probability for external audit issues and / or negative public perception	Requires immediate attention
Medium	Moderate	Partial controls Not functioning effectively	Partial compliance with Laws, Port Policies Contracts	Moderate probability for external audit issues and / or negative public perception	Requires attention
Low	Minimal	Functioning as intended but could be enhanced	Mostly complies with Laws, Port Policies, Contracts	Low probability for external audit issues and/or negative public perception	Does not require immediate attention

Appendix B: GC/CM Project External Audit Review Summary

Branch, Richards & Co., P.S. (Branch Richards) overall scope of work was to perform sufficient testing and attest procedures on Pay Applications submitted by Scarsella to allow conclusions to be made on whether any costs invoiced were not reimbursable due to a lack of accounting support or unallowable per contract terms.

As of the date of this report, Branch Richards' review is mostly complete, however, there are a few remaining items to complete on the project. Once Branch Richards completes their review, they will issue a final report which we will provide to the Audit Committee. Table 3 details the work performed. Table 4 details their preliminary results.

Table 3: Areas reviewed

Area	Description
Negotiated Self-Performed Work	Tested underlying cost support for a sample of labor, materials, supplies, and equipment that were invoiced.
Labor Costs	Traced labor hours to Scarsella's Burdened Labor Reports and verified billed labor costs were properly supported.
Equipment Costs	Agreed equipment hour use to Scarsella's supporting documentation and verified that equipment rates did not exceed the Equipment Watch Blue Book report.
Materials Costs	Reviewed supporting vendor invoices, agreed the invoiced cost to Scarsella's Job Cost Report and verified that the cost totals were equal to the posting of materials on the Job Cost Report summary and ultimately to the pay applications.
Other Costs	Obtained invoices and logs to test the accuracy of the quantities and costs from invoices to job cost postings.
General Conditions	Determined whether accounting records supported, on a reasonable basis, the total costs invoiced under the cost items making up the General Conditions.

Source: Branch, Richards & Co., P.S.

Table 4: Preliminary results

Item	Description	Contract Amount	Actual Costs Incurred per System				Total Cost	Total Billed Thru Aug	Cost (Under) Over VS. Billed
			Labor Cost	Equipment Cost	Material Cost	Other Cost			
103.001	Temp Erosn&Sdmt Controls	232,393	69,904	12,986	243	58,371	141,504	185,914	44,410
106.001	Excavation to Subgrade	775,782	154,101	105,714	9,612	218	269,645	775,782	506,137
108.001	Off-site Dispsl-Subtitle D	892,215	62,935	75,001		2,165,589	2,303,525	2,022,977	(280,548)
109.001	Log Edge	223,737	66,006	42,121	138,361	2,024	248,512	223,737	(24,775)
110.001	Log Footer	131,265	22,626	16,528	18,309		57,462	106,306	48,844
111.001	Log Toe	145,980	55,669	31,541	16,275	1,734	105,218	145,980	40,762
112.001	Log Crib Wall	157,683	39,563	38,703	16,320	111	94,698	157,683	62,985
705.001	Environmental Clean-Up	-	29,788	24,739		2,476	57,003	-	(57,003)
		2,559,055	500,592	347,331	199,120	2,230,523	3,277,566	3,618,379	340,812

Source: Branch, Richards & Co., P.S.