

# **PERFORMANCE AUDIT REPORT**

## **Wage Rates for Construction of the Coliseum at Kansas State University**

**A Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
April 1986**

# ***Legislative Post Audit Committee***

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## ***Legislative Division of Post Audit***

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## **PERFORMANCE AUDIT REPORT**

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#### **OBTAINING AUDIT INFORMATION**

This audit was conducted by Mary Beth Green, Senior Auditor, and Jim Davis and Rick Riggs, Auditors, of the Division's staff. If you need any additional information about the audit's findings, please contact Ms. Green at the Division's offices.

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# WAGE RATES FOR CONSTRUCTION OF THE COLISEUM AT KANSAS STATE UNIVERSITY

## Summary of Legislative Post Audit's Findings

**What is the history of prevailing wage rates and their utilization in Kansas?** K.S.A. 44-201 et seq. requires contractors and subcontractors for State construction projects to pay their workers the prevailing wage rates for the locality where the work is performed. To enforce this requirement, in 1985 the Department of Administration began including schedules of specific hourly wage rates in State building contracts. Prior to 1985, the Department of Administration did not require contractors for State building projects to pay specific hourly wage rates. The rate schedules currently used are not required by law but were developed by the Department of Human Resources, in accordance with Executive Order No. 84-68. Bid specifications for construction of a new coliseum at Kansas State University were the first to include the wage rates developed by the Department of Human Resources.

**What are the prevailing wage rates for construction of the coliseum at Kansas State University, and how are those rates established?** The Department of Human Resources uses information submitted by construction contractors to establish wage rates for various types of workers, such as carpenters, electricians, and laborers. Separate rates are developed annually for each county and first- and second-class city. The August 1985 bid specifications for construction of the coliseum at Kansas State University included the Riley County wage-rate schedule. That schedule listed specific hourly wage rates for 21 types of workers. Because the construction bids submitted in August 1985 were higher than the estimated cost, bids for constructing a revised coliseum will be opened in October 1986. Those bids will include wage rates issued by the Department of Human Resources in March 1986. Because this audit was begun before these new rates were issued, it examined the rates established for Riley County in April 1985.

**Are the Riley County wage rates prevailing and reasonable?** If the wage rates established for Riley County represent the true prevailing wages in that county, it is reasonable to expect that the Department's determinations would not vary significantly among similar counties, nor from one year to the next. The auditors found that some Riley County rates were significantly higher or lower than the corresponding rates in Geary, Saline, and Reno Counties, and the rates required on federal projects in Riley County. Several Riley County rates also changed significantly from 1985 to 1986. One reason for such variations is that 12 of the 21 rates established for Riley County were each based on information supplied by one contractor. Other reasons for the variations include the fact that the Department of Human Resources relies on information voluntarily supplied by contractors, and that some data may be weighted too heavily under the Department's current survey methodology. The report makes recommendations for improving the State's procedures for establishing wage rates to be paid on building projects.



## **WAGE RATES FOR CONSTRUCTION OF THE COLISEUM AT KANSAS STATE UNIVERSITY**

State law requires contractors and subcontractors executing contracts for State construction projects to pay their workers the prevailing wage rates for the locality where the work is performed. In 1985, the Department of Administration began including schedules of specific hourly wage rates in State building contracts. These rate schedules list the minimum wages workers are to be paid on State projects. The wage-rate schedules are developed by the Department of Human Resources, in accordance with Executive Order No. 84-68. Wage rates listed in the schedules are based on contractor surveys administered annually by the Department of Human Resources.

In August 1985, bid specifications for construction of a new coliseum at Kansas State University became the first to include the wage rates developed by the Department of Human Resources. Separate rates were established for all counties and first- and second-class cities, and the Coliseum bid documents included the rates developed for Riley County.

Recently, legislative concerns have been raised about the reasonableness of those rates. To address those concerns, the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct an audit examining the State's prevailing wage rates for Riley County. This audit addresses three questions:

- 1. What is the history of prevailing wage rates and their utilization in Kansas?**
- 2. What are the prevailing wage rates for construction of the coliseum at Kansas State University, and how are those rates established?**
- 3. Are the Riley County wage rates prevailing and reasonable?**

To answer these questions, the auditors interviewed officials from the Departments of Administration and Human Resources, the Board of Regents, and Kansas State University. They reviewed Kansas statutes, Attorney General opinions, and court cases to determine the history of prevailing wages in the State. The Riley County wage rates and the Department of Human Resources' supporting documentation for those rates were examined. Finally, the Riley County rates were compared to wage rates established for several other counties and the rates required on federal building projects in Riley County.

In general, the auditors found that nearly half the Riley County wage rates were based on single survey responses, and that some Riley County rates are significantly higher or lower than the corresponding rates established for surrounding and similar counties. Further, they found that the survey methodology used by the Department of Human Resources to develop the State's wage rates has several weaknesses that may affect the validity of the final wage-rate determinations. The Department has refined its survey procedures since these rates were issued, but further changes are needed to ensure that the established rates more accurately reflect the prevailing wage rates in Riley County. These and other findings are discussed in this report.

## What Is the History of Prevailing Wage Rates and Their Utilization in Kansas?

State law requires contractors and subcontractors for State and municipal construction contracts to pay their workers prevailing wage rates. K.S.A. 44-201 *et seq.* was enacted by the Legislature in 1891 to establish an eight-hour day for workers on these projects. K.S.A. 44-201 was intended to protect workers on public projects against employers who wanted to pay less than a full day's wage for an eight-hour work day. The statute also required contractors to pay workers the "current rate of per diem wages" on State and municipal projects.

In 1931, K.S.A. 44-201 was amended to define the "current rate of per diem wages" as the rate of wages paid to "the greater number of workmen, laborers or mechanics in the same trade, occupation, or work of a similar nature" in the locality where the work is being performed. If a greater number is not being paid the same rate, then the statute specifies that the current rate will be the average of the rates being paid. The statute also defines a locality as a county or a first- or second-class city.

### **The Departments of Administration and Transportation Include Prevailing Wage Requirements in State Construction Contracts**

The major State construction projects requiring payment of prevailing wages are building projects and highway construction projects. State law requires the Department of Administration to approve contracts for all building construction projects. The Department of Transportation is responsible for highway construction contracts. The Department of Administration has only included specific hourly wage rates in building contracts since August 1985. The Department of Transportation has used specific rates for more than 20 years.

**Prior to 1985, the Department of Administration did not require contractors for State building projects to pay specific hourly wage rates.** Before August 1985, the Department of Administration required contractors to pay the current rate of per-diem wages on all State building projects. However, the Department did not specify the hourly wage rates contractors had to pay their workers.

In a 1978 opinion, the Attorney General stated that to comply with K.S.A. 44-201, the State must include specific wage rates in all contracts for State building projects. However, later in 1978 the Kansas Supreme Court held that K.S.A. 44-201 did not require the inclusion of specific wage rates in State building construction projects. In 1982, the Kansas Supreme Court ruled that public agencies having the authority to enter into contracts for public works also have the authority to fix the terms of those contracts so long as the terms do not violate State law or public policy. As a result of these two decisions, the Department of Administration may include specific hourly rates in State building contracts but is not required by law to do so.

**In 1985, the Department of Administration began requiring contractors to pay specific hourly wage rates on State buildings.** In August 1985, the Department of Administration began including specific hourly wage rates in bid specifications and contracts for State building projects. The wage rates used by the Department of Administration are developed by the Department of Human Resources. Executive Order No. 84-68, dated January 4, 1984, directed the Department of Human Resources to devise a method to periodically determine the wages required by K.S.A. 44-201 to be paid on State and municipal projects in the various localities of the State. After

the Governor approved the resulting methodology, the Department of Human Resources developed hourly wage rates for various classifications of workers on building projects in all counties and first- and second-class cities in the State. The Department's procedures for establishing wage rates will be discussed in more detail later in the report.

The Department of Administration has historically required contractors to pay specific hourly wage rates on building projects involving federal funds. The federal Davis-Bacon Act, as amended in 1935, authorizes the U.S. Secretary of Labor to establish the prevailing wages to be paid on federal projects. Separate wage rates are issued for four major categories of construction: building, residential, heavy, and highway. The Department of Administration requires payment of the Davis-Bacon building rates on State building projects involving at least 25 percent federal funds.

**The Department of Transportation has required contractors to pay specific hourly wage rates on highway projects since 1965.** The Department of Transportation requires all contractors for State highway projects to pay the Davis-Bacon wage rates for federal highway projects. The Davis-Bacon highway rates are included in all highway construction contracts, including projects that do not involve federal funds. The inclusion of these rates was the subject of the 1982 Supreme Court case mentioned in a previous section. In that case, the Court held that public agencies having the authority to enter into contracts for public works also have the authority to fix the terms of those contracts so long as the terms do not violate State law or public policy. Therefore, the Department of Transportation has the authority to include the Davis-Bacon wage rates in all State highway construction contracts.

This audit focused on the wage rates included in State building contracts, rather than highway construction contracts. Therefore, the auditors did not examine the Department of Transportation's imposition of the federal Davis-Bacon wage rates in detail. Although the U.S. Department of Labor's procedures for developing federal wage rates will be discussed later in the report, the remainder of the audit will examine only the wage rates included in State building contracts.

### **Bid Specifications For Five Major Projects Have Included The Department of Human Resources' Wage Rates**

The auditors found that the wage rates developed by the Department of Human Resources had been included in bid specifications for five major State building projects as of March 1, 1986. Each of these five projects had an estimated cost of more than \$500,000. The wage rates were also included in approximately 150 contracts of less than \$500,000.

The Coliseum at Kansas State University was the largest and first project to include the wage rates in its bid specifications. That project's original estimated cost was \$16.1 million. The original Coliseum contract was not awarded, and the first major project successfully bid that included wage rates was the renovation of Weber Hall at Kansas State University. The revision of the original contract for construction of the Coliseum is discussed in more detail in the box on page five. The four major projects that have actually included the Department of Human Resources rates, and their estimated costs and funding sources, are summarized in the table on the top of the next page.

As the table shows, the estimated cost of these projects ranged from \$650,000 for the new locking system at Kansas State Penitentiary to \$6.1 million for the Weber Hall renovation. Funding sources for these projects included the General Fund, the Educational Building Fund, the Institutional Building Fund, and the Property Contingency Fund.

**Major State Building Contracts Awarded That Included the Wage Rates  
Developed By the Department of Human Resources  
As of March 1, 1986**

<u>Project</u>	<u>Contract Amount</u>	<u>Source of Funds</u>
Kansas State University, Weber Hall Renovation	\$ 6,090,000	Educational Building Fund
Osawatomie State Hospital, Biddle Building Addition	1,260,000	Institutional Building Fund
Department of Administration, Santa Fe Renovation, Project A	1,240,000	General Fund Property Contingency Fund
Department of Corrections, Kansas State Penitentiary, New Locking System, B Cellhouse	650,000	General Fund

**What Are the Prevailing Wage Rates For Construction  
Of the Coliseum at Kansas State University,  
And How Are Those Rates Established?**

To determine what wage rates will be used for construction of the Coliseum at Kansas State University, the auditors interviewed officials from the University, the Board of Regents, and the Departments of Administration and Human Resources. They also examined the Department of Human Resources' procedures for developing the State's prevailing wage rates.

The auditors found that the Department of Human Resources uses information provided by contractors to develop prevailing wages for various types of workers in each county and first- and second-class city. The wage rates issued by the Department in April 1985 for Riley County were included in the August 1985 contract for construction of the Coliseum. When the contract is re-bid in September 1986, it will include the updated wage rates for Riley County issued by the Department of Human Resources in March 1986. Because this audit was begun before the new rates were issued, it examines the earlier wage rates and bid.

**The Department of Human Resources Annually Surveys Contractors  
To Determine the Prevailing Wages Paid in Each Locality**

The Department establishes the State's prevailing wage rates by surveying building contractors. The mailing list for the survey was originally compiled from unemployment insurance records and listings supplied by a reporting service specializing in providing project information to the construction industry, as well as to the U.S. Department of Labor and other states.

The Department requests information on projects that have been worked on in the last year. The survey form asks respondents to list the hourly wage rate and fringe benefits paid to different classifications of workers, by project. Contractors are allowed to specify their own worker classifications, but are instructed not to list information for certain employees, including those in apprenticeship or informal training programs. Contractors are not asked to identify individual workers. Therefore, workers who are employed on more than one project may be reported more than once.

The Department uses the information submitted by contractors to develop wage rates for each locality. When contractors submit their completed survey forms, Department personnel review the information and compute prevailing wage rates for each county and first- and second-class city in the State. The Department

### **An Overview of the New Kansas State University Coliseum**

K.S.A. 1985 Supp. 76-6a369(a) authorizes the Board of Regents to construct a new coliseum at Kansas State University. It will be used for basketball games, concerts, lectures, and University-wide activities such as commencements.

Bids for construction of this coliseum were opened in August 1985. Five bids were received, and all were substantially higher than the estimated construction cost of \$14.5 million. The lowest bid for construction was approximately \$18 million. As a result, the entire project was reviewed and revised by the project architect, Kansas State University officials, and the Board of Regents. The project architect is currently completing revised drawings for the coliseum. Bids for construction of the revised project will be opened in October 1986, with construction scheduled to begin by December 1986. The estimated completion date is October 1988.

The estimated construction cost of the coliseum, as revised, is \$16 million. The total estimated cost of the facility, including architectural and contingency fees, is \$17.5 million. Funding will consist of \$8.5 million in donations, \$7 million in student fees, and \$2 million from the University's athletic department.

establishes separate rates for each county and city because K.S.A. 44-201 defines the current rate of per-diem wages as the rate being paid in a particular county or first- or second-class city. The State's procedures for developing and imposing the established rates are shown in the figure on page seven.

Within each locality, wage rates are established for various classifications of workers, such as carpenters, electricians, laborers, painters, and plumbers. If the same hourly wage rate was paid on more than 50 percent of the reported projects, that rate becomes the established wage rate for that locality. If no single rate is paid in more than 50 percent of the reported cases, all the rates for that classification are averaged. The fringe benefit rate is established using the same process, and is added to the base rate to get a total hourly wage rate. An example of a wage rate computation using this methodology is provided in the box on page eight.

**If the Department does not receive survey responses for certain classifications of workers in a locality, it does not specify the wage rate to be paid those workers.** For example, the Department did not receive any information on wages paid to bricklayers in Riley County. As a result, contractors are only required to comply with K.S.A. 44-201 and pay bricklayers the "current rate of per diem wage" in Riley County. The prevailing wage rate is then determined by free-market conditions.

### **Appeals of the Established Wage Rates Must Be Made To The Department of Human Resources**

Agencies, workers, and contractors may appeal any wage rate or set of rates to the Department of Human Resources. The appellant must present additional or different information that changes the wage determination made by the Department. This new information must be reported, in writing, by project and locality. Once a specific rate has been appealed and modified, the modified rate becomes the established rate until another modification is made or until a new survey is completed. Only one appeal has been filed with the Department of Human Resources. A labor union and a contractor organization filed a joint appeal of one wage rate for Shawnee County, and the Department determined that the appealed rate should be adjusted.

Kansas State University appealed the April 1985 Riley County wage rates to the Department of Administration. In August 1985, Kansas State University appealed the wage rates attached to the August 1985 Coliseum bid specifications. That appeal was filed with the Department of Administration, which deleted 11 of 21 wage rates from the Coliseum specifications. Because the appeal was made and approved by the Department of Administration, instead of the Department of Human Resources, all 21 wage rates for Riley County were again included in the bid specifications for the renovation of Weber Hall at Kansas State University. Further, because the Department of Human Resources will issue new rates before the Coliseum project is re-bid, the contract documents will include the updated wage rates.

### The Construction Contract for the Coliseum At Kansas State University Included Wage Rates For 21 Types of Workers

Building contracts for projects at Kansas State University include the wage rates developed by the Department of Human Resources for Riley County. Statewide, the Department received information on workers in approximately 100 different classifications for the April 1985 rates. In Riley County, the Department received data on 33 different classifications but only made rate determinations for 21 of the more commonly used crafts. The following table shows the wage rates that accompanied the August 1985 bid specifications for the Coliseum.

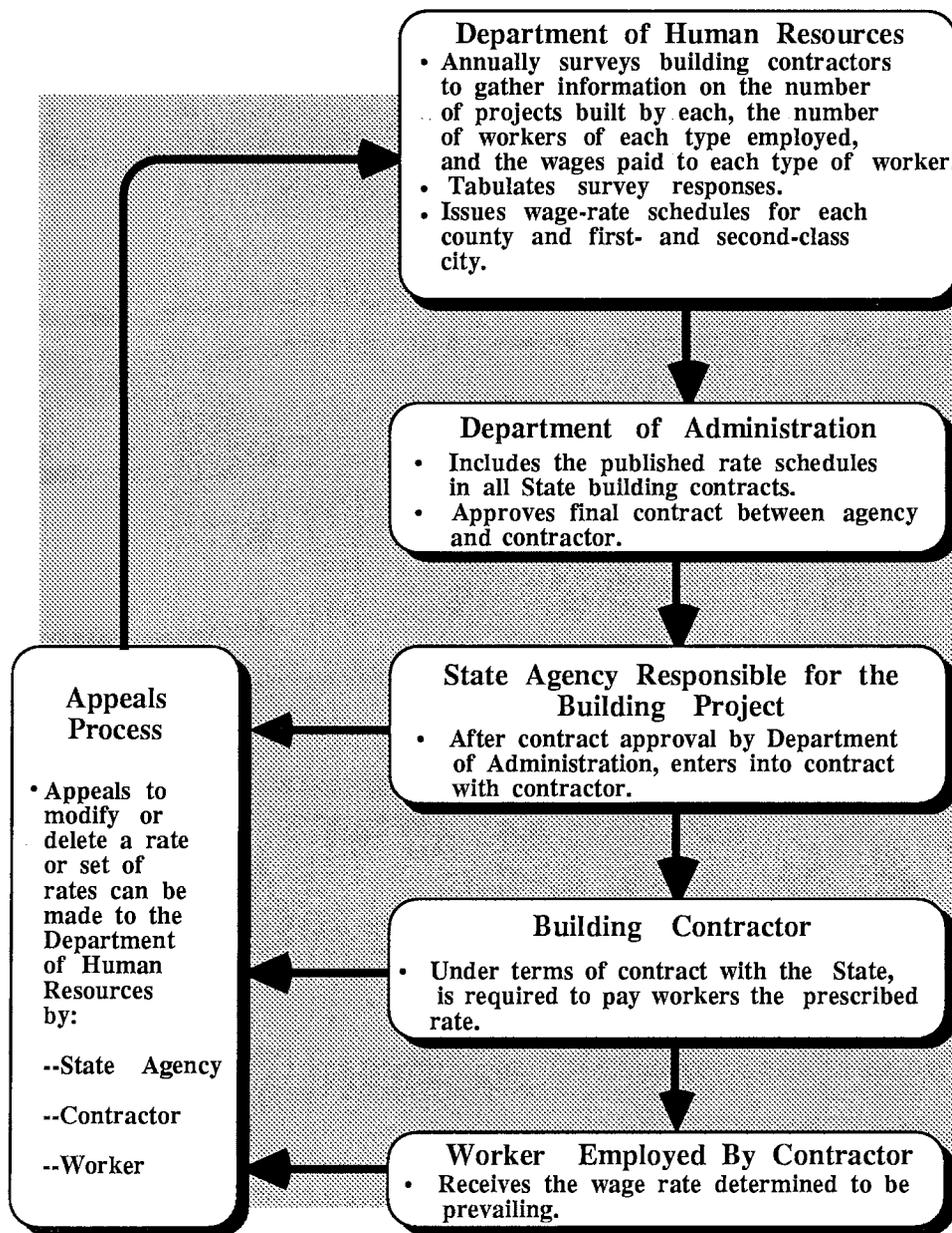
<u>Worker Class</u>	<u>Base Wage Rate</u>	<u>Fringe Benefits</u>	<u>Total Hourly Wage</u>
Carpenter	\$ 11.09	\$ 1.33	\$ 12.42
Drywall Hanger	9.50	0.00	9.50
Drywall Finisher	9.50	0.00	9.50
Electrician	8.00	1.32	9.32
Floor Layer	11.45	3.21	14.66
Glazier	13.27	0.30	13.57
Structural Iron Worker	8.00	0.00	8.00
General Laborer	6.34 (a)	0.00	6.34 (a)
Mason Tender	9.50	2.05	11.55
Operating Engineer	13.50	4.02	17.52
Painter	13.60	1.25	14.85
Pipefitter	17.65	2.09	19.74
Plumber	17.65	2.26	19.91
Crane Operator	14.00	3.77	17.77
Backhoe Operator	13.75	3.77	17.52 (b)
Bulldozer Operator	13.75	3.77	17.52
Motor Grader Operator	13.75	3.77	17.52
Roller Operator	13.35	3.77	17.02 (c)
Scraper Operator	13.75	3.77	17.52
Roofer	8.00	0.00	8.00
Sheet Metal Worker	13.68	4.57	18.25

(a) Legislative Post Audit calculations show this figure should be \$6.43, not \$6.34. The Department of Human Resources entered one survey twice and omitted another survey.

(b) Legislative Post Audit calculations show this figure should be \$16.55, not \$17.52. The Department apparently selected one of two survey responses for the classification, rather than averaging the two responses.

(c) Legislative Post Audit calculations show that this figure should be \$17.12, not \$17.02. The Department apparently made an addition error when adding the base and fringe rates.

## The Process of Determining Prevailing Wage Rates



Prevailing wage rates are set by the Department of Human Resources based on surveys mailed each year to building contractors. Separate rates are established for each county and first- and second-class city. Any contractor, worker, or State agency may appeal any rate or set of rates to the Department of Human Resources. Although the Department of Administration is the agency that requires the rates to be included in all State building contracts, under the current procedures all appeals to modify wage determinations must be made to the Department of Human Resources.

As the table shows, the Department's 1985 schedule of prevailing wages includes hourly and fringe benefit rates for 21 classifications of workers. The base hourly rates varied from \$6.34 for general laborers to \$17.65 for plumbers and pipefitters. The dollar value of fringe benefits paid ranged from \$0.00 to \$4.57.

### Determining Prevailing Wage Rates: An Example

To determine a prevailing wage rate, the Department of Human Resources surveys contractors to find out the hourly wage and fringe benefits they paid on projects during the previous year. The completed surveys show that area contractors employed so many carpenters on one project, for example, or so many plumbers on another. Department staff enter the survey data on a computer and sort the data according to the kinds of workers the contractors employed. The results for laborers in one county might look like this:

<u>Project Number</u>	<u>Workers Employed</u>	<u>Base Wage</u>	<u>Fringe Benefits</u>
1	2	\$ 5.50	\$ 0.00
2	4	6.00	0.00
3	1	8.00	2.57
4	15	7.55	0.00
5	3	6.75	1.25

As the table shows, the contractor doing project number one employed two laborers at

\$5.50 per hour with no fringe benefits. The contractor doing project number three employed just one laborer on that project at \$8.00 an hour plus \$2.57 an hour in fringe benefits.

According to State law, the prevailing wage is the wage that is being paid to the greater number of workers in a particular trade. So if one wage is reported for a worker classification more than 50 percent of the time, the Department of Human Resources designates that as the prevailing wage. If no one wage rate is paid in 50 percent of the cases, the prevailing wage is the average of all wages paid. In this example, one base wage occurs 15 out of 25 times--the \$7.55 an hour paid on project number four. Zero fringe benefits were paid in a total of 21 of 25 cases; only the one worker on project three and the three workers on project five were paid any fringes. The total hourly wage established for laborers in this example would be \$7.55 per hour--\$7.55 base wage plus zero fringe benefits.

### Are the Riley County Wage Rates Prevailing and Reasonable?

To answer this question, the auditors reviewed the Department of Human Resources' survey methodology and examined the calculations for Riley County. They compared the Department's survey procedures with those used by other states and the U.S. Department of Labor. The Riley County wage rates were also compared with the corresponding rates established for Geary, Saline, and Reno Counties. Finally, the Riley County rates were compared with the rates required on federal building projects in Riley County.

If the wage rates established for Riley County represented the true prevailing wages in the County, it is reasonable to expect that the Department's determinations would not vary widely among similar localities, nor from one year to the next. However, the auditors found that some of the rates established for Riley County appeared to be significantly higher or lower than those for the same worker classes in surrounding and similar counties. Several rates also changed significantly in Riley County from 1985 to 1986. At least part of the reason for such variations is that Riley County's rates were not based on a sufficient or representative number of survey responses. Twelve of the 21 rates were each based on information provided by one contractor. Other reasons contributing to disparities between Riley County's prevailing rates and the rates established by the Department of Human Resources include the fact that the survey reporting is voluntary, and that some survey data

may be weighted too heavily under the Department's current survey procedures and methodology. Finally, the auditors found calculation errors in three of the Riley County wage-rate determinations. These and other findings are discussed in the following sections.

### Some Riley County Wage Rates Are Significantly Higher or Lower Than Corresponding Rates In Similar Counties

The auditors compared the Riley County wage rates to the rates established for Geary, Saline, and Reno Counties, and for federal projects in Riley County. Geary County rates were selected because that county borders Riley County, and Saline County and Reno County have comparable populations. Wage rates in other bordering counties--Clay, Pottawatomie, Marshall, and Washington--will not be discussed because each of those counties had a limited number of established wage rates.

In comparing rates established for other counties and federal projects in Riley County, the auditors identified three wage rates that appeared to be significantly higher or lower than the rates for most other localities. Other rates varied significantly from county to county. These rates are summarized in the following table.

Selected Wage-Rate Determinations  
for the Jurisdictions Reviewed

<u>Worker Class</u>	<u>Riley County</u>	<u>Geary County</u>	<u>Saline County</u>	<u>Reno County</u>	<u>Davis-Bacon</u>
Carpenter	\$ 12.42	\$ 12.95	\$ 8.58 (a)	\$ 9.36	\$ 13.48
General Laborer	6.34 (b)	10.30	5.28	5.00	11.55
Operating Engineer	17.52	17.52	6.00	7.25	none
Plumber	19.91	18.48	18.76	15.73 (c)	19.63
Crane Operator	17.77	17.77	17.37	16.37	17.77
Backhoe Operators	17.52	17.53	10.00	17.12	17.77
Roofer	8.00	8.00	7.50	none	15.95
Sheet Metal Worker	18.25	18.25	8.60	18.12	18.22
<b>Electrician</b>	<b>9.32</b>	18.15	15.58	16.80	18.15
<b>Floor Layer</b>	<b>14.66</b>	10.00	9.00	none	12.76
<b>Painter</b>	<b>14.85</b>	12.44	5.50	9.00	14.44

The worker classes and wage rates in boldface appear to be significantly higher or lower than most of the other county and federal wages reviewed for that class.

(a) Legislative Post Audit computations show this figure should be \$8.64.

(b) Legislative Post Audit computations show this figure should be \$6.43

(c) Legislative Post Audit computations show this figure should be \$13.60

As the table shows, the Department-determined wage rate for a painter in Riley County--a rate based on a single survey response--appears high in relation to most other rates for painters. The Riley County rate for floor layers is \$1.90 per hour higher than the Davis-Bacon rate and \$4.66 an hour higher than the Geary County rate. The rate for an electrician in Riley County appears low in comparison with other counties and with the electricians' Davis-Bacon rate. Further, the rates for seven worker classes in Saline County--carpenters, floor layers, laborers, operating engineers, painters, backhoe operators, and sheet metal workers--are significantly less than the rates in Riley County. The plumbers' rate is fairly constant in these selected counties, but the Riley County rate is higher than all other counties and the rate established for federal projects in Riley County.

Despite similar populations or locations, each county listed in the table may have unique characteristics that affect the prevailing wage rate for the area. For instance, there may be a significant number of federal construction projects at Fort Riley and therefore, the Geary County wage rates may reflect payment of the Davis-Bacon wage rates. The Wichita labor market may affect the Reno County rates more than it affects the other counties' rates. Even so, significant variations between the counties would not appear to be reasonable. For instance, it does not appear reasonable for the State to establish a minimum wage of \$9.32 an hour for electricians in Riley County and \$15.58 an hour for electricians in Saline County.

### Some Riley County Wage Determinations Vary Significantly From 1985 to 1986

Barring major changes in the local economy, it is reasonable to expect that actual wage rates for a given worker class would not vary significantly from one year to the next. In March 1986, the Department of Human Resources issued updated wage rates based on a new set of survey responses. The Department of Administration will begin using these updated rates later in 1986; the exact date has not been determined. For Riley County, five of the Department of Human Resources' 1986 wage determinations show significant differences from the corresponding 1985 rates. The table below illustrates these changes. Rates for eight other worker classifications in Riley County did not change from 1985 to 1986.

#### Changes in Riley County Wage-Rate Determinations From 1985 to 1986

<u>Worker Class</u>	<u>1985 Wage Rate</u>	<u>1986 Wage Rate</u>	<u>Dollar Difference</u>
Painter	\$14.85	\$10.00	\$ (4.85)
Roofer	8.00	6.10	(1.90)
Scraper Operator	17.52	15.77	(1.75)
Carpenter	12.42	11.78	(0.64)
Plumber	19.91	19.63	(0.28)
Pipefitter	19.74	19.63	(0.11)
Sheet Metal Worker	18.25	18.74	0.49
Iron Worker	8.00	8.75	0.75
General Laborer	6.34	8.25	1.91
Electrician	9.32	17.35	8.03

As the table shows, five of the wage rates that changed from 1985 to 1986 have major variations. The hourly wage for electricians rose from \$9.32 an hour to \$17.35, an 86 percent increase. Painters' wage rates fell by \$4.85, nearly a third, and general

laborers' determined wage rate rose by \$1.91, also about a third. The hourly rate for roofers fell by \$1.90 and the rate for scraper operators fell by \$1.75 an hour. This wide variance from one year to the next may indicate that the 1985 rates for these classes may not have been reasonable or prevailing. The auditors did not review the accuracy or validity of the Riley County's new 1986 wage-rate determinations, nor did they compare them with other counties' new rates. Some of the 1986 rates, particularly the rates for painters and electricians, appear to be more reasonable in comparison with the 1985 rates for other jurisdictions.

**Many Riley County Wage Determinations  
Were Based on Very Few Survey Responses**

The auditors found that 12 of the 21 Riley County rate determinations were based on information provided by only one contractor employing that classification of worker. Further, 10 of those 12 rates were based on information provided on a single project. These 12 rates and the number of contractors, projects, and workers included in each computation are summarized in the table below. Appendix A shows the number and characteristics of the survey responses for all 21 Riley County wage rates.

**Prevailing Wage Survey Response for Riley County  
Wage Rates Issued April 23, 1985**

<u>Worker Class</u>	<u>Number of Contractors</u>	<u>Number of Projects</u>	<u>Number of Workers(a)</u>
* Drywall Hanger	1	1	6
* Drywall Finisher	1	1	3
* Glazier	1	1	7
* Structural Iron Worker	1	1	3
* Mason Tender	1	1	2
* Painter	1	1	4
* Bulldozer Operator	1	1	2
* Motor Grader Operator	1	1	1
* Roller Operator	1	1	1
* Scraper Operator	1	1	2
Floor Layer	1	4	10
Operating Engineer	1	7	16

\* Deleted from original bid specifications for the Coliseum by the Secretary of Administration

(a) A single worker may be counted more than once if that worker was employed on more than one project during the year.

As the table shows, 10 of these 12 rates were deleted from the original bid documents for the Coliseum when Kansas State appealed those rates to the Secretary of Administration. The Department of Human Resources does not consider the number of survey responses received when making a wage determination. Consequently, some determinations may be based on a small portion of the actual wages paid in the County. For example, the wage rate established for painters in Riley County was based on information supplied by one contractor. That contractor reported the rate paid to his employees for painting a swimming pool in Riley County. Presumably, a number of

painting contractors operate in Riley County, but only one responded to the survey. Yet the Department based the Riley County painter's rate on that single response.

A wage rate based on a single survey response could represent the prevailing wage being paid, if the responding contractor was the only one who performed that type of work in the county. However, the Department of Human Resources does not have this information when it issues prevailing wage rates for a locality.

Some of the factors that limit the sufficiency of the information available to make wage determinations include the voluntary nature of the survey and the statutory definition of a locality.

**The Department relies on wage-rate information voluntarily reported by contractors.** The validity of the survey results depends on the number and types of responses received from contractors. For the 1985 survey, about 45 percent of the Riley County contractors surveyed by the Department responded. The response rate for Riley County was actually higher than the Statewide response rate of approximately 42 percent. The Department's mailing list for the 1985 survey included some firms that are no longer in business, that have moved, or that did not perform building construction during the survey period. These factors may have contributed to the low response rate. Because the Department sends surveys to all known building contractors in a locality and contractors respond voluntarily, the resulting survey data represent neither the whole population of contractors nor a random sample of them. Because the contractors that return the survey are self-selected, the Department cannot know if the wage information they report is typical of all contractors.

Some other states contacted by the auditors have mandatory reporting laws. For example, Kentucky and Wisconsin law requires contractors to make all wage information available to state officials. These officials indicated, though, that the reporting laws are not always enforced. Wage rate procedures used by eight other states and the federal government are summarized in the box on page 13.

**The Department's wage-rate determinations are limited to a single county or first- or second-class city.** Separate wage rates are established for each county and city because K.S.A. 44-201 defines the locality for the current rate of per-diem as the county or first- or second-class city. Only wages paid on projects located in the individual county or city are considered in rate determinations. Other states and the federal government often expand the scope of their determinations to get a suitably large database from which to make wage determinations. Federal procedures allow U.S. Department of Labor wage analysts to vary either the time or geographic scope of its survey, or both. Wisconsin, Missouri, and Kentucky also permit data from surrounding counties to be considered.

### **The Department's Survey Methodology May Inaccurately Analyze the Survey Data That Are Available**

After the Department collects the survey responses from each county, the information is entered into a computer and sorted by worker class. The prevailing wage for each kind of worker is then determined either by averaging or by selecting the wage rate that occurs more than 50 percent of the time. Interested parties may appeal to the Department to modify an established rate by gathering additional data that conform to the Department's methodology. This process may not be flexible enough to generate accurate wage-rate determinations.

**FEDERAL AND STATE PREVAILING WAGE PROCEDURES**

<b>Entity</b>	<b>Obtaining Information</b>	<b>Setting Rates</b>	<b>Scope of Determinations</b>	<b>Other Features</b>
U.S. Department of Labor	Survey contractors; voluntary reporting	Amount paid to at least 50%; if none then average	By county, but may include data from surrounding counties	Rate-determined federal projects are excluded from the survey
Kentucky	Survey contractors; mandatory reporting	Amount paid to at least 50%; if none, then average	By county, but may include data from surrounding counties	Rates imposed only if contract exceeds \$280,000
Minnesota	Survey contractors; voluntary reporting	Amount paid to largest number (not necessarily 50%); higher amount picked if there is a tie	By worker, at the rate most recently paid in that county	Each worker is counted only one time
Missouri	Survey contractors; voluntary reporting	Set by state Department of Labor and Industrial Relations	By county, but may include data from surrounding counties	Different rates are set for projects more and less than \$5 million
Oklahoma	Adopted federal Davis-Bacon rates			Rates imposed only if contract exceeds \$600,000
Wisconsin	Survey contractors; mandatory reporting	Amount paid to largest number, not necessarily 50%	By county, but may include data from surrounding counties	Rate-determined projects are excluded from the survey
Colorado	Does not set rates; law was repealed in 1985			
Iowa	Adopted federal Davis-Bacon rates.			
Nebraska	Does not set rates; rates determined by market			

The auditors contacted the U.S. Department of Labor and a sample of other states to determine how prevailing wages for building projects are established. They contacted officials in the four surrounding states and Iowa, Kentucky, Minnesota, and Wisconsin.

The entities that set prevailing wage rates obtain information by surveying contractors and labor unions. Surveys are done as needed and responses are voluntary, unless otherwise noted in the table. Prevailing wages are generally determined on a county basis, but some jurisdictions may include information from surrounding counties if insufficient data is available on projects within a given county. Some entities only impose wage rates if contracts exceed specified dollar amounts.

**Contractors Contacted By the  
Auditors Think Some Department  
Wage Rates Are Too High**

The auditors surveyed a sample of Riley County contractors to measure whether the contractors thought the Department's wage rates were higher or lower than the actual prevailing wages in Riley County.

The survey was mailed to a sample of 20 contractors; eight firms responded. All together, these companies employed 10 of the 21 worker classes with Department-prescribed wage rates. The survey asked the firms if these wage rates were very low, somewhat low, about right, somewhat high, or very high. The results are shown below:

**Responses of  
Riley County Contractors**

<u>Worker Class</u>	<u>About Right</u>	<u>Some-what High</u>	<u>Very High</u>
Carpenter	1	--	3
Laborer	1	5	--
Plumber	--	--	1
Sheetmetal Worker	--	1	--
Equipment Operators			
-- Crane	--	--	3
-- Backhoe	--	--	3
-- Bulldozer	--	--	2
-- Grader	--	--	2
-- Roller	--	--	1
-- Scraper	--	--	1

As the table shows, one contractor thought that the carpenters' rate was about right. The other three contractors employing carpenters thought that the Department rate was very high. Five contractors employing laborers thought that the Department rate was somewhat high, as was the rate for sheetmetal workers according the one contractor employing that class. The responding contractors thought that the Department's wage rates for all the other worker classes employed were very high in comparison to the contractor's perception of actual prevailing wages in the county.

The Department's wage-determination system does not consider the amount of time a worker spends on a given project. Only the number of projects and the number of employees working on each project are counted. In other words, an employee who worked on 10 projects during a year may be counted 10 times, while an employee who worked on only one project for the entire period may be counted only once. Hence, the first employee's wage rate would have 10 times more impact on the Department's wage determination than the second worker's, even though both may have been employed for the same number of hours during the year.

Although the present system may not be the most accurate available, Department officials indicated that adding a time-weighting factor to the survey procedure could actually result in less information being submitted. Officials say that many small employers may have neither the time nor the office help to compile and report the number of hours worked at a given wage rate by each worker class. Further, Department officials indicated that all contractors, regardless of size, might resist the additional paperwork.

During the course of the audit, a Board of Regents' staff member suggested to the auditors that the Department of Human Resources could request that contractors report the number of days rather than hours worked at each rate by each kind of worker. This information might be more readily available to the contractor, and could result in more accurate wage determinations.

**The Department requires appeals to follow the established methodology.** For example, contractors, unions, workers, or State agencies appealing wage rates are not allowed to present time-weighted survey data during an appeal, even though this method may be more exact. Similarly, in some cases it might be appropriate to consider wages paid on projects in surrounding counties. Alternatively, considering projects completed longer ago than the usual one year might in some cases produce a broader base of usable information.

## The Department Made Mathematical or Procedural Errors In a Few Wage Rate Determinations

The auditors reviewed all the survey forms used in determining the prevailing wage rates for Riley County. In most cases, the wage-rate determinations were processed and calculated correctly, although the Department made errors on three of the rates. The most significant error was in the hourly wage rate established for backhoe operators. The Department of Human Resources specified that the prevailing wage for backhoe operators should be \$17.52 an hour. This rate includes \$13.75 for base hourly pay and \$3.77 in fringe benefits. The auditors determined the rate issued by the Department for this worker classification should have been \$16.55 an hour, a difference of \$.97 an hour. Department staff apparently selected one of two survey responses reported for the class, rather than averaging the two responses as the methodology directs.

The auditors also found that the Department understated the calculated wage rate for general laborers by \$.09 by entering one survey twice and omitting another response. The final error was made when the total hourly rate was computed for roller operators. The Department calculated a base hourly rate of \$13.35 an hour plus \$3.77 an hour in fringes for this classification. The total hourly rate specified on the wage rate schedule was listed as \$17.02. The correct total hourly rate should have been listed as \$17.12 (\$13.35 plus \$3.77).

The auditors also reviewed the survey documents supporting the wage determinations for Reno, Saline, Geary, Pottawatomie, Marshall, and Washington Counties. In most cases, the Department's wage-rate determinations were processed and calculated correctly. However, in six of the seven counties, Department staff had made an error on at least one rate determination. For all the counties reviewed, the Department made 121 separate wage rate determinations. Nine of those determinations--about seven percent--were incorrect.

### Conclusion

The State's prevailing wage law, K.S.A. 44-201 et seq., was enacted in 1891 to establish an eight-hour work day for public construction projects. K.S.A. 44-201 requires that contractors pay "the current rate of per diem wages" and defines that rate. It does not require the State to develop or use schedules of specific prevailing wages for State projects. The Department of Administration's current practice of including rates developed by the Department of Human Resources in State building contracts is the result of Executive Order No. 84-68. This practice has not been codified or mandated by legislation. In addition, determining and specifying wage rates for State building projects has a fiscal impact on the State, particularly if the State's established rates are higher than the true prevailing wage rates.

For Riley County, the auditors found that some of the State's wage rates may not reflect the actual prevailing wages being paid in that locality. The data and methodology that generated these rates may be flawed, resulting in rates that are not accurate. Further, the same methodology is used to establish wage rates for all counties and first- and second-class cities in the State. For these reasons, the Legislature may wish to review the State's procedures for establishing wage rates for building projects.

## Recommendations

1. The Legislature should review the State's current practice of requiring that specific wage rates be paid on State building projects. Among other items, the Legislature should consider:
  - a. clarifying the responsibilities of the Departments of Administration and Human Resources
  - b. giving the Departments of Administration and Human Resources the authority to promulgate rules and regulations for establishing wage rates
  - c. making wage rate reporting by contractors mandatory
  - d. expanding the definition of the locality for prevailing wages

As necessary, legislation should be enacted codifying the State's prevailing wage policy and procedures.

2. For wage rates developed using the current system, the Departments of Administration and Human Resources should ensure that wage rates are only included in State contracts when the rates are based on sufficient and representative data.
3. Given the problems found in this audit, officials from Kansas State University and the Departments of Administration and Human Resources should carefully review the 1986 Riley County rates before including them in the construction contract for the Coliseum at Kansas State University. Officials should ensure that individual rates are based on sufficient information.

## APPENDIX A

### Number and Characteristics of the Department of Human Resources Survey Responses for the Riley County Wage Determinations

WORKER CLASS	DEPARTMENT TOTAL HOURLY WAGE RATE	NUMBER OF CONTRACTORS RESPONDING	NUMBER OF PROJECTS	NUMBER OF WORKERS REPORTED(a)
Carpenter	\$ 12.42	13	25	95
Drywall Hanger	9.50	1	1	6
Drywall Finisher	9.50	1	1	3
Electrician	9.32	8	16	50
Glazier	13.57	1	1	7
Structural Iron Worker	8.00	1	1	3
General Laborer	6.34(b)	15	38	177
Mason Tender	11.55	1	1	2
Painter	14.85	1	1	4
Plumber	19.91	3	60	130
Equipment Operator:				
--Crane	17.77	2	32	40
--Backhoe	17.52(c)	2	2	2
--Bulldozer	17.52	1	1	2
--Motor Grader	17.52	1	1	1
--Roller	17.02(d)	1	1	1
--Scraper	17.52	1	1	2
Roofer	8.00	2	11	49
Sheetmetal Worker	18.25	4	52	143
Pipefitter	19.74	2	38	70
Floorlayer	14.66	1	4	10
Operating Engineer	17.52	1	7	16

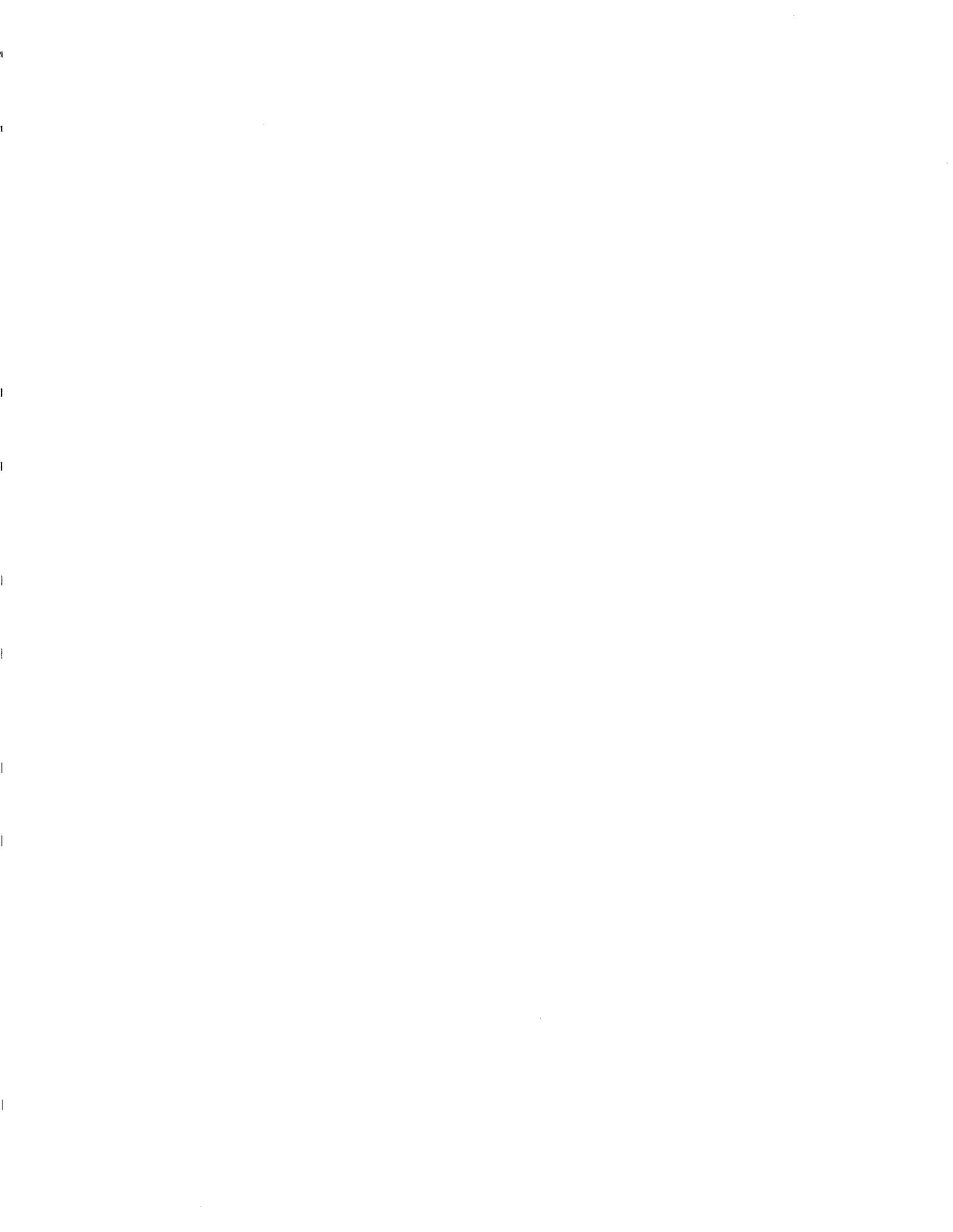
- (a) A single worker may be counted more than once if that worker was employed on more than one project during the year.
- (b) Legislative Post Audit calculations show that this figure should be \$6.43, not \$6.34. The Department entered one survey twice and skipped another.
- (c) Legislative Post Audit calculations show that this figure should be \$16.55, not \$17.52. The Department apparently selected one of two survey responses reported for the class, rather than averaging the two.
- (d) Legislative Post Audit calculations show that this figure should be \$17.12, not \$17.02. The Department apparently made an addition error when adding the base and fringe wage rates.

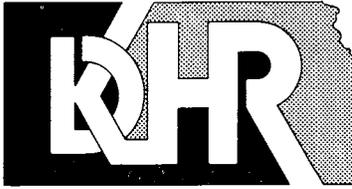


## **APPENDIX B**

### **Agency Responses**

Copies of the draft audit report were sent to the Departments of Administration and Human Resources, Kansas State University, and the Board of Regents on April 22, 1986, for review. All four agencies submitted written responses to the audit, and those responses are presented in this Appendix.





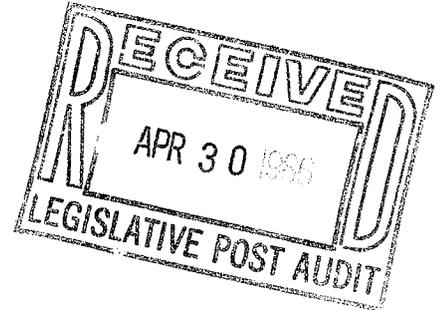
OFFICE OF THE SECRETARY  
401 S.W. Topeka Avenue, Topeka, Kansas 66603  
913-296-7474

John Carlin, Governor

Larry E. Wolgast, Secretary

April 30, 1986

Meredith Williams  
Legislative Post Auditor  
109 West 9th, Suite 301  
Mills Building  
Topeka, Kansas 66612-1285



Dear Mr. Williams:

Thank you for the opportunity to participate and respond to the post audit report, Wage Rates for Construction of the Coliseum at Kansas State University. The system used to determine the wage rates was developed by the Department and input was provided by the Department of Administration, Division of Architectural Services, contractor associations and worker organizations.

The amount of information necessary to determine a rate is always a major concern. It was determined at the outset that a rate would be set by whatever amount of information was received for that worker classification. It is important to show rates paid to workers within the geographical boundaries of the designated localities (counties and first and second class cities). There are no statistics available that count every worker per craft within each county in Kansas. Without this statistic, a "true" prevailing wage may be non-existent.

The "sufficient information" criteria espoused by the post audit report is open ended. Is one, five, eleven, fifty or one hundred a sufficient representative number? With an unknown universe it is appropriate to conclude that for statistical determination, a rate would be made per classification if the employee worked within the locality, no matter how many jobs were reported. There was no preconceived rate schedule. The rural nature of this state precluded us from setting a threshold on information that would be used to make a determination. One worker on one project was sufficient as long as there was a mechanism to correct a rate thought to be inaccurate. But that correction cannot be made by phone call or by one complaint letter. Evidence must be reported in the same manner as the survey that established the rate.

An unreasonable rate, by definition, would be a rate that is contrary to law (a rate under \$3.35 per hour) or a rate that was above a collective bargained rate. Anything in between was conceivable and could not be ruled

Meredith Williams  
April 30, 1986  
Page Two

out. If we had predetermined a rate and found evidence to prove it, then any rate to the contrary would be unreasonable. Our rates reflect actual wages paid on projects being worked in the various localities of Kansas.

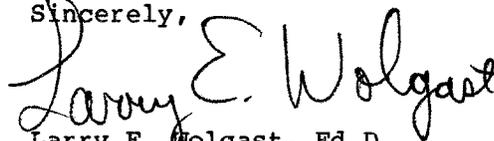
A major task was to establish the process for the survey. The administering of the survey lasted nine (9) months. There was no threshold placed on the total cost of the project or the number of workers needed to establish a rate. No contractor is denied the opportunity to participate, but neither are they required to report. Over six thousand (6,000) employer/contractors who reside in the state were contacted twice to give evidence. Contractors were encouraged to report. A rate would be issued no matter how many responses were received. Those contractors choosing not to respond could either live with the rate or change them through an appeal.

The rates determined by the Department are reflective of what is paid in the locality. They are based on information provided by contractors and workers doing work in each locality. The "prevailing rate" sought in the post audit report may only be achieved if the total number provided an indication of a going rate or an averaged rate. If that rate is believed to be excessive or deficient, there is an appeal procedure that may be utilized.

Merely requiring contractors to report will not simplify the problem. More staff will be required to take action against those who refuse and a system will have to be set up to compile the names of every employer working within the state in the construction trades. Contractors have the power now to control the determinations that are made provided they are willing to show their work and designate their rates. If we were to wait until we received all the information available, it would promote non-compliance by contractors as a means to eliminate the determinations. It would be like saying if we do not receive taxes from all, we will not charge taxes to any.

Thank you for the opportunity to comment on the post audit report. The staff who visited the agency was most polite and courteous. We look forward to working with you in the future.

Sincerely,



Larry E. Wolgast, Ed.D.  
Secretary of Human Resources

LEW:JHH:lm

cc: Secretary Shields

STATE OF KANSAS



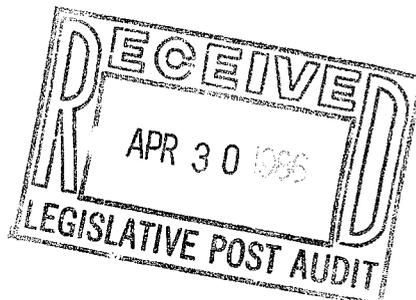
DEPARTMENT OF ADMINISTRATION  
Office of the Secretary

JOHN CARLIN,  
Governor  
ALDEN K. SHIELDS,  
Secretary of Administration

Room 263-E  
State Capitol Building  
Topeka, Kansas 66612-1572  
(913) 296-3011

April 30, 1986

Meredith Williams  
Legislative Post Auditor  
Legislative Division of Post Audit  
109 West 9th, Suite 301  
BUILDING MAIL



Dear Mr. Williams:

I have reviewed your draft audit report, Wage Rates for Construction of the Coliseum at Kansas State University. In general, the portion of the report relating to my Department's role appeared accurate. The Department of Administration has commenced using the updated wage survey results on projects being let by the State.

Regarding the wage survey methodology, it is hoped that the appeals process will be utilized to address any perceived inaccuracies. The voluntary nature of the wage survey reporting results in less wage data being available than would be the case under a mandatory reporting situation. However, as contractors realize the benefits of a better response rate to surveys, greater participation in wage surveys may be achieved. In this regard, your report should assist in an understanding of the benefits of greater participation in the wage surveys.

Thank you for the opportunity to respond to the draft of your report.

Sincerely,

A handwritten signature in cursive script that reads "Alden K. Shields".

Alden K. Shields  
Secretary of Administration

AKS:cm



**Office of the President**

Anderson Hall  
Manhattan, Kansas 66506  
913-532-6221

April 24, 1986



Meredith Williams  
Legislative Post Auditor  
109 West 9th, Suite 301  
Mills Building  
Topeka, Kansas 66612-1285

Dear Mr. Williams:

Thank you for a preliminary draft copy of your performance audit report, Wage Rates for Construction of the Coliseum at Kansas State University.

We have reviewed the report in terms of the accuracy of the items involving Kansas State University and find them to be essentially correct. We would only point out that the Department of Administration is using the updated 1986 wage rates on the Chemistry/Bio-Chemistry Building-Phase I project which is currently out for bids.

Sincerely,

Duane Acker  
President

/dmd

cc: George Miller  
Mike Johnson  
Larry Garvin  
Vince Cool



# KANSAS BOARD OF REGENTS

Suite 609      Capitol Tower      400 S.W. Eighth  
Topeka, Kansas 66603      Telephone (913) 296-3421

April 28, 1986



Mr. Meredith Williams  
Legislative Post Auditor  
Legislative Division of Post Audit  
109 West 9th, Suite 301  
Mills Building  
Topeka, Kansas      66612-1285

Dear Mr. Williams:

Thank you for the draft copy of the performance audit report for Wage Rates for Construction of the Coliseum at Kansas State University.

We do not have any comments, corrections or clarifications.

Sincerely,

Stanley Z. Koplik  
Executive Director

SZK:rd

