

**SCHEDULE OF FEDERAL AWARD FINDINGS AND
QUESTIONED COSTS**

**Whitworth Water District No. 2
Spokane County
January 1, 2015 through December 31, 2015**

2015-001 The District did not have adequate internal controls to ensure compliance with federal Davis-Bacon Act (prevailing wage) requirements.

CFDA Number and Title:	66.458 Capitalization Grants for Clean Water State Revolving Funds
Federal Grantor Name:	Environmental Protection Agency
Federal Award/Contract Number:	NA
Pass-through Entity Name:	Washington State Department of Ecology
Pass-through Award/Contract Number:	DM13-952-124
Questioned Cost Amount:	\$0

Description of Condition

During fiscal year 2015, the District had three loans and spent a total of \$1,370,587 in Capitalization Grants for Clean Water State Revolving Funds for construction of Water Mains and Booster Stations. Two of the loans had Davis-Bacon Act (prevailing wage) requirements.

The objective of capitalization grants is to create and maintain Clean Water State Revolving Funds to encourage construction of wastewater treatment facilities to meet the enforceable requirements of the Clean Water Act and increase the emphasis on nonpoint source pollution control and protection of estuaries.

For federally funded construction projects in excess of \$2,000, the Davis-Bacon Act requires contractors and subcontractors to pay prevailing wages to laborers prescribed by the Department of Labor. The Act also requires recipients of federal funds to obtain weekly certified payrolls for all contractors and subcontractors to ensure prevailing wages are paid.

The District hired an engineering firm to manage the project, which included ensuring compliance with prevailing wage rate requirements. Our audit found the

engineering firm failed to collect all certified payrolls for one of the loans (project number DM13-952-124) which had subcontractors. The firm did not have a process in place to ensure subcontractors used on the project filed weekly certified payrolls. Additionally, the District did not have a process in place to adequately monitor the firm to ensure compliance with the Davis-Bacon Act.

We consider this internal control deficiency to be a material weakness which led to material non-compliance.

Cause of Condition

The engineering firm had an unexpected staff change during the 2015 fiscal year that halted the monitoring of certified payrolls. This resulted in the firm not obtaining or monitoring certified payrolls from subcontractors. Additionally, the District was not aware it needed to monitor the firm.

Effect of Condition and Questioned Costs

Weekly certified payroll reports were not obtained for all subcontractors used on the project. The District failed to receive 76 out of 145 certified weekly payroll reports from the subcontractors. Without adequate internal controls in place to ensure all weekly certified payroll reports are received, the District cannot demonstrate the subcontractors paid workers prevailing wages as required by the Davis-Bacon Act. The District could be liable for paying additional wages if prevailing wages were not paid.

Recommendation

We recommend the District establish and follow internal controls to ensure compliance with Davis-Bacon Act requirements including a process to ensure all the weekly certified payrolls have been collected and reviewed.

District's Response

If the contracted engineering firm is unable to fulfill the responsibility of monitoring and verifying that all certified payrolls are collected for district projects, then the district manager will assume responsibility for making contact with the contractors to be certain weekly certified payrolls are submitted to Whitworth Water District. The district manager will review and verify weekly certified payrolls are accurate and submitted with an engineering firm representative.

Auditor's Remarks

We appreciate the District's commitment to resolving the issues noted and will follow up during the next audit.

Applicable Laws and Regulations

Title 2 Code of Federal Regulations Section 200.303 – Internal controls.

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: . . .

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively. . .

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control

over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of the event is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Remote. The chance of the future event or events occurring is slight.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Title 29, Code of Federal Regulations, Section 5.5 – *Contract provisions and related matters*, states in part:

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) *Minimum wages.*

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid

unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. . .

(3) *Payrolls and basic records.*

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work . . .

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency) . . .

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract . . .

(6) *Subcontracts.*

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5

Title 29, Code of Federal Regulations, Section 3.3 – *Weekly statement with respect to payment of wages*, states in part:

(b) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by this part 3 and part 5 of this chapter during the preceding weekly payroll period. This statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages, and shall be on the back of Form WH 347, “Payroll (For Contractors Optional Use)” or on any form with identical wording