



Office of the Washington State Auditor
Pat McCarthy

Accountability Audit Report

Spokane County Fire Protection District No. 3

For the period January 1, 2019 through December 31, 2021

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**Office of the Washington State Auditor
Pat McCarthy**

January 19, 2023

Board of Commissioners
Spokane County Fire Protection District No. 3
Cheney, Washington

Report on Accountability

Thank you for the opportunity to work with you to promote accountability, integrity and openness in government. The Office of the Washington State Auditor takes seriously our role of providing state and local governments with assurance and accountability as the independent auditor of public accounts. In this way, we strive to help government work better, cost less, deliver higher value and earn greater public trust.

Independent audits provide essential accountability and transparency for District operations. This information is valuable to management, the governing body and public stakeholders when assessing the government's stewardship of public resources.

Attached is our independent audit report on the District's compliance with applicable requirements and safeguarding of public resources for the areas we examined. We appreciate the opportunity to work with your staff and value your cooperation during the audit.

Sincerely,

Pat McCarthy, State Auditor
Olympia, WA

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AUDIT RESULTS

Results in brief

This report describes the overall results and conclusions for the areas we examined.

As referenced above, we identified areas where the District could make improvements. These recommendations are included with our report as a finding.

In keeping with general auditing practices, we do not examine every transaction, activity, policy, internal control, or area. As a result, no information is provided on the areas that were not examined.

About the audit

This report contains the results of our independent accountability audit of Spokane County Fire Protection District No. 3 from January 1, 2019 through December 31, 2021.

Management is responsible for ensuring compliance and adequate safeguarding of public resources from fraud, loss or abuse. This includes the design, implementation and maintenance of internal controls relevant to these objectives.

This audit was conducted under the authority of RCW 43.09.260, which requires the Office of the Washington State Auditor to examine the financial affairs of all local governments. Our audit involved obtaining evidence about the District's use of public resources, compliance with state laws and regulations and its own policies and procedures, and internal controls over such matters. The procedures performed were based on our assessment of risks in the areas we examined.

Based on our risk assessment for the years ended December 31, 2021, 2020 and 2019, the areas examined were those representing the highest risk of fraud, loss, abuse, or noncompliance. We examined the following areas during this audit period:

- Procurement – public works
- Accounts payable – electronic funds transfers
- Self-insurance for unemployment
- Open public meetings – compliance with minutes, meetings and executive session requirements
- Financial condition – reviewing for indications of financial distress

SCHEDULE OF AUDIT FINDINGS AND RESPONSES

Spokane County Fire Protection District No. 3 January 1, 2019 through December 31, 2021

2021-001 The District did not comply with state bid law when renovating its fire stations.

Background

Under state law (RCW 39.04.020), governments must estimate the total costs for public works projects, including materials, supplies, equipment, labor, and applicable sales and use taxes, to determine how to appropriately procure these items at the lowest cost. For fire districts, state law (RCW 52.14.110) requires that they competitively bid public works projects of more than \$30,000. State law (RCW 52.14.120) also requires fire districts to retain the services of a general contractor when public works projects require three or more specialty contractors.

State law (RCW 39.04.155) also allows fire districts to adopt a resolution authorizing the use of a small works roster, which allows public works projects to be procured up to \$350,000 without requiring formal bidding procedures. When using the small works process, state law (RCW 39.04.200) requires an entity to make a list available once per year that identifies all contracts awarded through the small works roster. The list includes the contractor/vendor name, amount of contract, brief description of the work, the date the project was awarded, and where the bid quotations may be obtained for public inspection. The District adopted the small works roster process under Resolution 02-4.

Description of Condition

We reviewed the District's procurement method for the renovation of Fire Stations #31 and #311, which totaled \$160,010 and \$323,046, respectively. We identified the following areas of noncompliance with state bid laws for each renovation project:

Station #31

- The District did prepare plans and specifications; however, the governing body did not formally approve the plans and specifications. Also, the District did not retain a cost estimate which is required by state law for the project.

- The District separately procured six specialty contractors through the small works roster to complete cabinets, countertops, windows, HVAC, fire alarm, and painting for a total of \$103,020.
- The District used its own employees for day labor, totaling \$10,950, and related supplies were \$46,040. The labor was used for framing, sheetrock, flooring, insulation, window trim, baseboard trim, plumbing and electrical. State law does not authorize fire districts to use their own employees for day labor.
- The District should have used the small works roster to procure a general contractor to complete all project elements described above.
- The District did not make available a list, at least once per year, identifying all contracts awarded through the small works roster that includes the contractor/vendor name, amount of contract, brief description of the work, the date the project was awarded, and where the bid quotations may be obtained for public inspection, as required by state law.

Station #311

- While the contract to renovate the station was correctly procured, and the District did prepare plans, specifications, and a cost estimate, they were not formally approved by the governing body which is required by state law.

The State Auditor's Office conferred with the Attorney General's Office in reaching our conclusions.

Cause of Condition

The District disagrees with the State Auditor's Office's interpretation of state law for creating government-approved plans, using District employees for public works projects, and hiring a general contractor when three or more specialty contractors are needed for public works projects. District officials said they thought that splitting the renovation projects into smaller components and using District employees would be more efficient and cost-effective. District officials also said they did not know about the state law requiring a yearly small works roster list.

Effect of Condition

When the District does not approve plans, specifications, and cost estimates before the bidding process, its public works projects could potentially go over budget or exclude some required elements. Further, individually procuring specialty

contractors can potentially result in higher prices for the overall project. In addition, performing public works projects using day labor can leave the District with limited recourse in the event of a defective building, as well as increased liability if damages occur.

Recommendation

We recommend the District comply with state law by:

- Acquiring formal board approval of the plans, specifications and cost estimates of each public works project and retain accurate project cost estimates to determine what bidding requirements and state laws apply before awarding contracts or initiating work
- Discontinuing the practice of hiring individual specialty contractors when three or more will be required for a public works project
- Discontinuing using District employees to complete public works projects

District's Response

The District respectfully disagrees with the Auditor's Finding as outlined above.

Station 31 Response.

- 1. The governing body did approve the plans, specification, and cost estimate. The District recognizes that it did not provide formal documentation of the approval; including retaining the cost estimate for this project. The District will take steps to remedy that oversight in the future.*
- 2. The District complied with the competitive bidding requirements applicable to each portion of the contracting. The District was not required to submit a single bid for the project as it was using its own general contractor. The District took this approach in accordance with the law to avoid paying overhead and profit to a general contractor in order to generate savings to its taxpayers.*
- 3. The Auditor concludes that the District should not use District employees to complete public works projects but cites no legal authority that prohibits the use of District employees to perform public works projects. The District respectfully disagrees with this premise and conclusion. The District is unaware of any legal authority that prohibits the District from using its own employees to build a fire station. RCW 52.12.0201 gives fire protection district broad authority to "enter into and to perform any and all necessary contracts, to appoint and employ the necessary . . . employees . . . and to do any and all*

lawful acts required and expedient to carry out the purpose of this title.” The purpose of a fire protection district is to provide fire protection and emergency medical services. In order to fulfill this purpose the District necessarily requires stations to house its equipment and employees and it is necessary and expedient that such facilities be constructed using the lowest cost methods available. The decision to use District employees for portions of the construction is within the discretion of the Board of Commissioners. Fire Districts across the state use employees for various public works projects including janitorial services, building maintenance and repair services, landscaping services, etc. The Board of Commissioners believe the cost savings generated by using District employees outweighs any risk of limited recourse for defective work and the Board believes it has the discretion to balance costs and risks.

- 4. The District obtained and used the donated services of a general contractor (SCFPD3/Volunteer Firefighter Inc. (Reg: CC SCFPDF1976DE)) to oversee the project in accordance with RCW 52.14.120. As a fire District, the District is not required to use competitive bidding when using the services of a general contractor.*
- 5. The District recognizes that it did not make available a list, at least once per year, identifying all contracts awarded through the small works roster. The District will take steps to remedy that oversight in the future but this noncompliance should not result in a finding.*

Station #311 Response

- 1. The governing body did approve the plans, specification, and cost estimate. The District recognizes that it did not provide formal documentation of the approval. The District will take steps to remedy that oversight in the future.*

Auditor’s Remarks

Our Office has been reporting concerns regarding the District’s bid compliance since 2008 and have issued findings in four out of the last six audits. We reaffirm our finding and will review the status of this issue during our next audit.

Applicable Laws and Regulations

RCW 39.04.010 – Definitions – states in part:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(4) “Public work” means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with chapter 39.12 RCW

RCW 39.04.020 – Plans and specifications – Estimates – Publication – Emergencies:

Whenever the state or any municipality shall determine that any public work is necessary to be done, it shall cause plans, specifications, or both thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board, or agency having by law the authority to require such work to be done. The plans, specifications, and estimates of cost shall be approved by the director, supervisor, commissioner, trustee, board, or agency and the original draft or a certified copy filed in such office before further action is taken.

RCW 39.04.155 – Small works roster contract procedures – Limited public works process – Definitions:

(1) This section provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property that may be used by state agencies and by any local government that is expressly authorized to use these provisions. These provisions may be used in lieu of other procedures to award contracts for such work with an estimated cost of three hundred fifty thousand dollars or less.

RCW 39.04.200 – Small works roster or purchase contracts – Listing of contracts awarded required:

Any local government using the uniform process established in RCW 39.04.190 to award contracts for purchases must post a list of the contracts awarded under that process at least once every two months. Any state agency or local government using the small works roster process established in RCW 39.04.155 to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property must make available a list of the contracts awarded under that process at least once every year. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract, and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for public inspection.

RCW 52.14.110 – Purchases and public works – Competitive bids required – Exceptions:

Insofar as practicable, purchases and any public works by the district shall be based on competitive bids. A formal sealed bid procedure shall be used as standard procedure for purchases and contracts for purchases executed by the board of commissioners. Formal sealed bidding shall not be required for:

- (1) The purchase of any materials, supplies, or equipment if the cost will not exceed the sum of forty thousand dollars. However, whenever the estimated cost does not exceed seventy-five thousand dollars, the commissioners may by resolution use the process provided in RCW 39.04.190 to award contracts;
- (2) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of thirty thousand dollars, which includes the costs of labor, material, and equipment;
- (3) Contracts using the small works roster process under RCW 39.04.155; and
- (4) Any contract for purchases or public work pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

RCW 52.14.120 – Purchases and public works – Competitive bidding procedures:

- (2) A public work involving three or more specialty contractors requires that the district retain the services of a general contractor as defined in RCW 18.27.010.

RELATED REPORTS

Financial

Our opinion on the District's financial statements and compliance with federal grant program requirements is provided in a separate report, which includes the District's financial statements. That report is available on our website, <http://portal.sao.wa.gov/ReportSearch>.

Federal grant programs

We evaluated internal controls and tested compliance with the federal program requirements, as applicable, for the District's major federal program, which is listed in the Schedule of Findings and Questioned Costs section of the separate financial statement and single audit report. That report is available on our website, <http://portal.sao.wa.gov/ReportSearch>.

INFORMATION ABOUT THE DISTRICT

Spokane County Fire Protection District No. 3 was established in 1945 and provides fire suppression and protection services and emergency medical aid to approximately 15,000 residents in the southeast portion of Spokane County.

The District is administered by an elected, three-member Board of Commissioners and has 24 full-time employees. The District's annual budgets for fiscal years 2019, 2020 and 2021 were \$5 million, \$6.75 million and \$7.34 million, respectively. The District operates 11 fire stations with the administrative offices near Cheney.

Contact information related to this report	
Address:	Spokane County Fire Protection District No. 3 10 S. Presley Drive Cheney, WA 99004
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Information current as of report publish date.

Audit history

You can find current and past audit reports for Spokane County Fire Protection District No. 3 at <http://portal.sao.wa.gov/ReportSearch>.

ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the Washington State Constitution and is part of the executive branch of state government. The State Auditor is elected by the people of Washington and serves four-year terms.

We work with state agencies, local governments and the public to achieve our vision of increasing trust in government by helping governments work better and deliver higher value.

In fulfilling our mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, we hold ourselves to those same standards by continually improving our audit quality and operational efficiency, and by developing highly engaged and committed employees.

As an agency, the State Auditor's Office has the independence necessary to objectively perform audits, attestation engagements and investigations. Our work is designed to comply with professional standards as well as to satisfy the requirements of federal, state and local laws. The Office also has an extensive quality control program and undergoes regular external peer review to ensure our work meets the highest possible standards of accuracy, objectivity and clarity.

Our audits look at financial information and compliance with federal, state and local laws for all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits and cybersecurity audits of state agencies and local governments, as well as state whistleblower, fraud and citizen hotline investigations.

The results of our work are available to everyone through the more than 2,000 reports we publish each year on our website, www.sao.wa.gov. Additionally, we share regular news and other information via an email subscription service and social media channels.

We take our role as partners in accountability seriously. The Office provides training and technical assistance to governments both directly and through partnerships with other governmental support organizations.

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