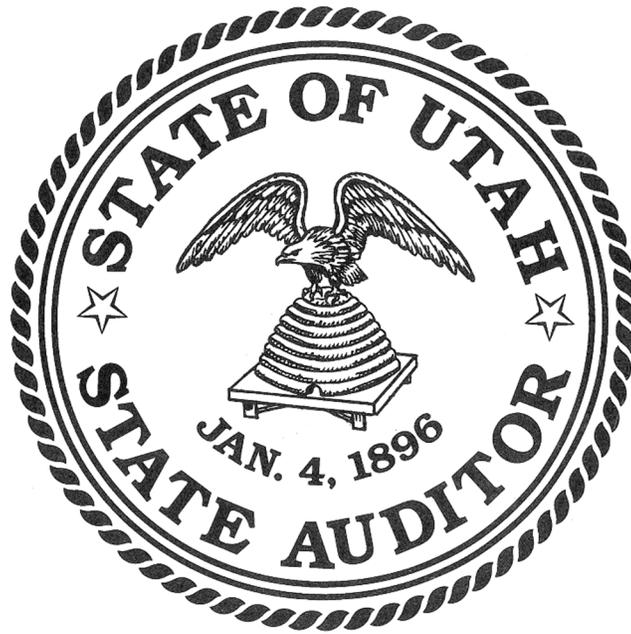


Department of Environmental Quality

Management Letter
For the Year Ended June 30, 2020

Report No. 20-04



OFFICE OF THE STATE AUDITOR

AUDIT LEADERSHIP:

John Dougall, State Auditor
Ryan Roberts, CPA, Audit Supervisor
Caleb Tindall, CPA, Staff Auditor

Department of Environmental Quality
FOR THE YEAR ENDED JUNE 30, 2020

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<u>Finding Type:</u>	<u>Applicable To:</u>
MW Material Internal Control Weakness	s State Financial Statements
SD Significant Deficiency of Internal Control	f Federal Program
MN Material Noncompliance	
RN Reportable Noncompliance or Illegal Acts	



OFFICE OF THE
STATE AUDITOR

MANAGEMENT LETTER NO. 20-04

February 25, 2021

Kimberly D. Shelley, Executive Director
Department of Environmental Quality
195 North 1950 West
SLC, Utah 84116

Dear Ms. Shelley:

This management letter is issued as a result of the Department of Environmental Quality (Department's) portion of the statewide single audit for the year ended June 30, 2020. We tested the Congressionally Mandated Projects (CFDA# 66.202), administered by the Division of Air Quality, a division of the Department of Environmental Quality. Our final report on compliance and on internal control over compliance issued to meet the reporting requirements under federal *Uniform Guidance* will be issued under separate cover. This report will also provide further detail as to considerations made during the course of the audit regarding internal controls and compliance and the limited purposes of those considerations. The purpose of this letter is to communicate with Department management concerns identified during the course of our audit.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees to prevent or to detect and correct on a timely basis instances of noncompliance. A *material weakness in internal control* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that material noncompliance will not be prevented, or detected and corrected on a timely basis.

Based on the audit procedures performed, we identified certain deficiencies in internal control (Findings 1-3) which we consider to be significant enough to merit the further attention of management and those charged with governance.

The Department's written responses to and Corrective Action Plans for these findings will be included in the final report identified in the first paragraph above.

The purpose of this communication is solely to describe the scope of our testing of internal control over compliance and the results of that testing and not to provide an opinion on the effectiveness of the Department's internal control over compliance. Accordingly, this communication is not suitable for any other purpose. However, pursuant to *Utah Code* Title 63G Chapter 2, this report is a matter of public record, and as such, its distribution is not limited.

We appreciate the courtesy and assistance Department personnel extended to us during the course of our audit, and we look forward to a continuing professional relationship. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Ryan Roberts". The signature is written in a cursive style with a large, sweeping flourish at the end.

Ryan Roberts, CPA

Audit Supervisor

801-671-5808

ryanroberts@utah.gov

cc: David McNeill, Section Manager, Congressionally Mandated Projects
Craig Silotti, Finance Director

FINDINGS AND RECOMMENDATIONS

1. Inadequate Controls Over and Noncompliance with Subrecipient Monitoring Requirements

Federal Agency: Environmental Protection Agency

CFDA Number and Title: CFDA 66.202 Congressionally Mandated Projects

Federal Award Number: EM 96838601

Questioned Costs: N/A

Pass-through Entity: N/A

Prior Year Single Audit Report Finding Number: N/A

We reviewed the sub-award contract for the Congressionally Mandated Projects (Program) and noted insufficient documented controls over the desk and on-site monitoring reviews, as well as review and follow-up of the subrecipient's Single Audit.

We noted that the Department does not have a sufficient control over evaluation of subrecipient risk or communication of required sub-award information as required by 2 CFR section 200.332. Due to the insufficient controls, we noted the following noncompliance:

- a. The Department did not complete an evaluation of subrecipient risk. 2 CFR section 200.332(b) states that the passthrough entity must "evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the sub-award for purposes of determining the appropriate subrecipient monitoring." Although the Department was performing other monitoring procedures, they were unaware of the risk evaluation being required. By not performing an evaluation of risk for each subrecipient, the Department may not be appropriately monitoring the subrecipient.
- b. The sub-award contract was missing four of the 13 required elements at the time of the sub-award. 2 CFR section 200.332(a)(1) states that the passthrough entity must clearly identify the sub-award by including 13 various federal award identification elements. The Department staff believed they had included all items on the sub-award contract at the time of the sub-award and was unaware of missed elements. By not clearly identifying the sub-award information to the subrecipient, the subrecipient may not be aware of all Federal guidelines for the award.

Recommendation:

We recommend the Department implement a system of documented internal controls to ensure:

- a. desk and onsite monitoring reviews are being completed as required by 2 CFR section 200.332(d),
- b. reviews of the subrecipient's Single Audit results and follow-up are being completed as required by 2 CFR section 200.332(d)(3),
- c. an appropriate evaluation of risk is being completed for each subrecipient as required by 2 CFR section 200.332(b), and

- d. the sub-award contract clearly identifies all the required elements in accordance with 2 CFR section 200.332(a)(1).

Entity's Response:

We agree that the department's contract with the subrecipient was missing 4 of the 13 required elements of the federal award for proper identification. We also agree that the department needs to conduct and document a formal risk assessment and subsequent monitoring efforts for subrecipients. We did informally assess the risk of the subrecipient's ability to conform with the requirements of the program and we determined and conducted various monitoring activities as a result. These included audits by our internal auditor, field visits, and detailed review of supporting documentation. We also reviewed the subrecipient's annual single audit report.

Corrective Action Plan:

The department has developed a Subrecipient Monitoring Risk Assessment form to document our risk assessment, monitoring plan, and monitoring results. The Department will also modify its Subaward Terms and Conditions contract attachment to include the additional 4 elements to properly identify federal awards.

Contact Person: Craig Silotti, Finance Director, 801 536-4460

Anticipated Correction Date: April 1, 2021

2. Lack of Control Over Suspension and Debarment

Federal Agency: Department of Environmental Quality

CFDA Number and Title: CFDA 66.202 Congressionally Mandated Project

Federal Award Number: EM - 96877701

EM - 96877501

EM - 96877601

EM - 96838701

EM - 96838601

Questioned Costs: N/A

Pass-through Entity: N/A

Prior Year Single Audit Report Finding Number: N/A

The Department does not have a control in place to verify that vendors and subrecipients receiving funds under the Congressionally Mandated Projects are neither suspended nor debarred. 2 CFR 180.300 requires that before entering into a covered transaction, the Department verify that vendors are not excluded or disqualified by: (a) checking the Excluded Parties List System (EPLS) maintained by the U.S. Government System for Award Management (SAM), (b) collecting a certification from the entity, or (c) adding a clause or condition to the agreement with the entity. The Department believed that another department was verifying suspension and debarment. The lack of control could lead to the Department using or paying a vendor or subrecipient who is suspended or disbarred.

Recommendation:

We recommend the Department design and implement an adequate control over suspension and debarment to ensure that vendors and subrecipients receiving federal funds are not suspended or debarred.

Entity's Response:

We agree with the finding and recommendation. We have a suspension and debarment clause in our standard terms and conditions but those were not attached to the contracts in question. The contracts in question were designed with the assistance from the Office of the Attorney General and that particular clause was not included nor did we perform a check against the Excluded Parties List System.

Corrective Action Plan:

We will either ensure that the standard terms and conditions containing the clause is included and/or work with the Office of the Attorney General to include an appropriate suspension and debarment clause in custom contracts.

Contact Person: Craig Silotti, Finance Director, 801 536-4460

Anticipated Correction Date: April 1, 2021

3. Incorrect Sub-Recipient and Contractor Determinations

Federal Agency: Environmental Protection Agency

CFDA Number and Title: CFDA 66.202 Congressionally Mandated Projects

Federal Award Number: EM 96838701

Questioned Costs: N/A

Pass-through Entity: N/A

Prior Year Single Audit Report Finding Number: N/A

The Department has not established a procedure to properly identify a service provider as either a vendor or a subrecipient. 2 CFR section 200.331 states that “a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor.” The Department inappropriately determined two vendors as subrecipients. However, based on the terms of the agreement and actual services provided by the vendors, both relationships were that of a contractor. The correct determination is critical to guarantee that proper monitoring of federal funds is performed.

Recommendation:

We recommend the Department develop a process to properly classify federally-funded contractual relationships as either subrecipients or contractors.

Entity's Response:

The Department does have a process to properly classify federally funded contractual relationships as subrecipients or contractors. In this particular case the person completing the checklist thought that due to the contactor being another governmental entity it should have been classified as a subrecipient. That understanding was incorrect.

Corrective Action Plan:

The department will conduct additional training to applicable department employees and perform better reviews of completed checklists.

Contact Person: Craig Silotti, Finance Director, 801 536-4460

Anticipated Correction Date: April 14, 2021