

**ATTESTATION REPORT
OF THE
NEBRASKA DEPARTMENT OF HEALTH
AND HUMAN SERVICES
WELL DRILLERS FUND**

JULY 1, 2015, THROUGH DECEMBER 31, 2017

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Issued on August 29, 2018

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NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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BACKGROUND

The Nebraska Department of Health and Human Services (DHHS) – Well Drillers Fund is used to administer the Water Well Standards and Contractors’ Practice Act. Neb. Rev. Stat. § 46-1202 (Reissue 2010) states the following:

The purpose of the Act is to (1) Provide for the protection of ground water through the licensing and regulation of water well contractors, pump installation contractors, water well drilling supervisors, pump installation supervisors, water well monitoring technicians, and natural resources ground water technicians in the State of Nebraska; (2) protect the health and general welfare of the citizens of the state; (3) protect ground water resources from potential pollution by providing for proper siting and construction of water wells and proper decommissioning of water wells; and (4) provide data on potential water supplies through well logs which will promote the economic and efficient utilization and management of the water resources of the state.

DHHS licenses individuals in the water well profession, employs field staff to conduct inspections of domestic, irrigation, and livestock water wells and provides education and training to licensed water well drillers and pump installers.

The Water Well Standards and Contractors’ Licensing Board (Board) was created by Neb. Rev. Stat. § 46-1217 (Reissue 2010) to protect the health, safety and welfare of the public. The Board is composed of 10 members, 6 of whom are appointed by the Governor. The other four members are the Chief Executive Officer of DHHS, the Director of Environmental Quality, the Director of Natural Resources, and the Director of the Conservation and Survey Division of the University of Nebraska or their designated representatives.

Per Neb. Rev. Stat. § 46-1218(1) (Reissue 2010), appointed Board members serve five-year terms.

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KEY OFFICIALS AND AGENCY CONTACT INFORMATION

Water Well Standards and Contractors' Licensing Board Members

Name	Title	Term Ending
Tracy McConnell	Chairman	October 1, 2018
Tonny Beck	Vice-Chairman	October 1, 2020
Lynn Webster		October 1, 2021
Dave Hansen		October 1, 2021
Michael Salmon		October 1, 2018
Brian Whitesel		October 1, 2020
David Miesbach	Nebraska Department of Environmental Quality	
Sue Lackey Olafsen	University of Nebraska Conservation & Survey Division	
Howard Isaacs	Nebraska Department of Health and Human Services	Retired on March 5, 2018
Mike Thompson	Secretary – Nebraska Department of Natural Resources	

Nebraska Department of Health and Human Services Executive Management

Name	Title
Courtney Phillips	Chief Executive Officer
Judy Martin	Deputy Director of Community and Environmental Health
Bo Botelho	Chief Operating Officer

Nebraska Department of Health and Human Services
301 Centennial Mall South
P.O. Box 95026
Lincoln, NE 68509
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SUMMARY OF COMMENTS

During our examination of the Nebraska Department of Health and Human Services (DHHS) – Well Drillers Fund, we noted certain deficiencies and other operational matters that are presented here. The following comments are required to be reported in accordance with Government Auditing Standards: Comment #4, “Lack of Procedures Over Licenses,” which is considered to be a significant deficiency, Comments #1, “Over \$1 Million in Costs Not Charged to the Well Drillers Fund,” and #2, “Clean Well Technologies, Inc. (Clean Well) Projects,” which are considered to be material noncompliance and material weaknesses, and Comment #3, “Lack of Procedures Over Revenues,” which is considered to be a material weakness.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the following areas:

1. ***Over \$1 Million in Costs Not Charged to the Well Drillers Fund (Fund):*** Over one million dollars of Well Drillers costs were allocated to other credentialed professions during the period July 1, 2015, through December 31, 2017. After correcting this long-term error, the Fund is in serious risk of becoming unsustainable, amplifying the need for DHHS to provide sufficient support for how the fees assessed by the Fund were determined. Significant adjustments were made to the financial schedule.
2. ***Clean Well Technologies, Inc. (Clean Well) Projects:*** A potential conflict of interest between the Program Manager and one of the owners of Clean Well was not disclosed. Additionally, DHHS staff approved contract payments that were more than \$100,000 above the amount authorized by the Water Well Standards and Contractors’ Licensing Board (Board). Furthermore, nearly \$29,000 in payments to Clean Well were found to be questionable and likely overpaid, as well as almost another \$40,000 in questionable payments to other entities related to the project overall.
3. ***Lack of Procedures Over Revenues:*** DHHS did not have any procedures to ensure that all money that was due to the Fund was received and deposited or that all money received was correctly coded to the Fund. Adjustments were made to the financial schedule for all revenue lines. Additionally, there were no procedures for immediately endorsing checks, securing money, or ensuring receipts were coded correctly.
4. ***Lack of Procedures Over Licenses:*** We noted several instances in which DHHS failed to maintain information required to credential a Well Driller licensee. We also noted numerous concerns related to the issuance of refunds for license exam fees, including refunds not being issued timely or at all. Lastly, both the records retention policies regarding pending applications and the administrative rules and regulations regarding continuing competency requirements for reinstatements were inconsistent and contradictory.
5. ***Uncollected Fines and Penalties:*** According to Board minutes, four individuals were each assessed at least \$25,000 in fines or penalties; however, none of those fines or penalties have been received, and there has been no follow up by DHHS to collect this money.

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SUMMARY OF COMMENTS

(Concluded)

6. ***Declaratory Orders:*** During the period tested, 71 declaratory orders did not have the corresponding \$100 fee collected, resulting in \$7,100 in apparently uncollected fees. Additionally, there appears to be no statutory or regulatory authorization or support for the Board's method of issuing such orders.
7. ***Online Well Registration Subscriptions:*** The documentation provided by Nebraska Interactive regarding the number of active water well contractor subscribers was so inadequate that DHHS may have been overbilled by approximately \$9,500 during the attest period. In addition, the APA questions the interpretation of certain language in the "Subscription Services Agreements" – believing that, as a result of such possible misinterpretation, DHHS may have overpaid Nebraska Interactive significantly for the services provided.
8. ***Asset Tracking Issues:*** Two assets were not found to be in the physical custody of DHHS. One of these assets, costing \$7,389, was missing entirely. The other asset, costing \$27,708, was in the custody of a former subcontractor and had yet to be collected by DHHS despite the contract having ended nearly a year ago. Additional issues were noted regarding accurate asset acquisition dates and asset tagging.
9. ***Expenditures Issues:*** Four areas of concern were noted related to expenditures tested, with the inaccuracy of the DHHS well inspections database being an underlying issue among three of them. This database appeared to be missing a significant number of inspections, as only a few, if any, of the well inspectors' travel expense reimbursements or TSB vehicles' usage could be supported by the database. Similarly, none of the time for temporary employees hired to inspect wells was supported by the inspections database. The fourth issue related to a duplication of indirect costs, as well as inaccurate indirect cost rates being used.
10. ***Missing Payroll Documentation:*** We found that documentation was not maintained for required IRS forms, nor to support all payroll deductions, hours paid, and the coding of employee time.

More detailed information on the above items is provided hereinafter. It should be noted that this report is critical in nature, containing only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the DHHS – Well Drillers Fund.

Draft copies of this report were furnished to DHHS to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this report. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next examination.

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COMMENTS AND RECOMMENDATIONS

1. Over \$1 Million in Costs Not Charged to the Well Drillers Fund

Over one million dollars of Well Drillers costs were allocated to other credentialed professions during the period July 1, 2015, through December 31, 2017. Of the \$1,100,447 in Well Drillers Fund (Fund) expenditures incurred, the Fund was charged only \$90,060, leaving other professions to cover the remaining \$1,010,387. After correcting this long-term error, the Fund is in serious risk of becoming unsustainable. There was insufficient support to determine how the fees assessed by the Fund were determined. Given the fund balance sustainability concerns, it is even more critical for these fees to be set at appropriate rates in order to cover properly the costs of the Fund. Additional information related to these concerns is detailed below.

The Uniform Credentialing Act, which is set out at Neb. Rev. Stat. §§ 38-101 to 38-1,142 (Reissue 2016, Supp. 2017) contains provisions for the licensing and regulation of a variety of professions, such as nursing, cosmetology, and well drillers. According to the Act, the expenses related to credentialing these professions can be either variable costs or base costs. Neb. Rev. Stat. § 38-153 (Reissue 2016) describes variable costs, by stating, in part, “Variable costs of credentialing are the costs that are unique to a specific profession or business” Meanwhile, Neb. Rev. Stat. § 38-152 (Reissue 2016) outlines base costs by stating, in part, “Base costs of credentialing are the costs that are common to all professions and businesses”

On a quarterly basis, the Nebraska Department of Health and Human Services (DHHS) calculates the total of these base costs and allocates them to each profession based on the number of credentials issued in that quarter. The accumulated base costs include five different types of costs:

1. DHHS Licensure Unit staff salaries, travel costs, and other operating expenditures
2. License Investigators’ salaries, travel costs, and other operating expenditures
3. DHHS Public Health administrative costs
4. Costs related to operating a Licensee Assistance Program
5. Well Drillers staff salaries, Water Well Standards and Contractors’ Licensing Board (Board) travel costs, and other operating expenditures

The Well Drillers costs do not appear to be base costs that are “common to all professions.” These costs would more accurately seem to qualify as variable costs that are unique to the Well Drillers profession and, therefore, should not be allocated as base costs to other professions. Due to the error in classifying the Well Drillers costs as base costs instead of variable costs, DHHS was essentially causing all other credentialed professions to cover the costs of the Fund.

Provided below is a breakdown of the \$1.1 million of Well Drillers expenditures that were included as base costs and allocated among all other credentialed professions for the period July 1, 2015, through December 31, 2017:

	<u>Amount</u>
Well Drillers Staff Salaries and Benefits	\$ 785,236
Indirect Costs Allocated to Well Drillers	\$ 302,984
Board Travel Costs	\$ 10,158
Other Miscellaneous Well Drillers Costs	\$ 2,069
Total	\$ 1,100,447

The Fund paid for only \$90,060 out of the \$1,100,447 in costs incurred, leaving other professions to cover the remaining \$1,010,387. Those professions received no services or benefits from the

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COMMENTS AND RECOMMENDATIONS

(Continued)

1. Over \$1 Million in Costs Not Charged to the Well Drillers Fund (Continued)

more than \$1 million of Fund costs assigned to them. This practice has been going on for well over 10 years, likely longer, so it is reasonable to assume that millions of dollars in Well Drillers costs have been covered by other professions over the years.

The APA proposed an adjustment to DHHS to correct the error going back to July 2015 based on DHHS-prepared spreadsheets. As a result of the adjustment, the following professions should be refunded for the amounts overcharged, and the Fund would be assessed the \$1,042,678 in expenses that should not have been allocated.

Credentialed Profession	Amount Overcharged
Nursing	\$ 292,622
Cosmetology	\$ 118,493
Medicine	\$ 93,727
Pharmacy People	\$ 74,650
Medication Aide	\$ 64,021
Mental Health	\$ 60,835
Emergency Medical Service	\$ 56,449
Dentistry	\$ 34,875
Water Operator	\$ 32,857
Physical Therapy	\$ 22,380
Radiography	\$ 21,868
Advanced Practice Registered Nurse	\$ 18,015
Swimming Pool Operator	\$ 17,694
Occupational Therapy	\$ 17,657
Massage	\$ 16,407
Veterinary Medicine	\$ 14,362
Respiratory Care	\$ 10,356
Audiology & Speech	\$ 9,252
Alcohol & Drug Counsel	\$ 8,424
Well Drillers**	\$ 7,389
Funeral Directors	\$ 5,852
Advanced Emergency Medical Care	\$ 5,779
Chiropractic	\$ 5,499
Optometry	\$ 5,281
Nursing Home Admin	\$ 5,120
Psychology	\$ 4,882
Medical Nutrition	\$ 4,867
Asbestos	\$ 3,817
Athletic Training	\$ 3,163
Radon	\$ 2,594
Lead	\$ 1,262
Hearing Aid	\$ 903
Podiatry	\$ 814
Environmental Health	\$ 512
Total*	\$ 1,042,678

**The disparity between the \$1,042,678 of allocated costs shown here and the \$1,100,447 of expenditures in the breakdown on the previous page is due to the timing differences between when the original expenditure was incurred and when DHHS performed the allocations.*

***The net effect caused the Well Drillers Fund to be undercharged \$1,035,289.*

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COMMENTS AND RECOMMENDATIONS

(Continued)

1. Over \$1 Million in Costs Not Charged to the Well Drillers Fund (Continued)

After the adjustment was made, the impact on the Fund's balance, as of December 31, 2017, was a reduction of \$1,043,091. This adjustment, when combined with others, caused the overall fund balance to drop from \$1,466,289 to \$423,198. This adjusted Fund balance does not account for another year of improperly calculated base cost allocations, as the July 2017 through December 2017 allocations had not yet been completed as of December 31, 2017.

The dramatic reduction in its balance gives rise to concerns regarding the ability of the Fund to sustain itself as it begins to cover its own costs for the first time in more than 10 years. During the 30-month period examined, the Fund brought in approximately \$800,000 in revenues but actually incurred over \$2,000,000 in expenses; the fees are clearly insufficient to sustain the Fund.

State statute requires the credentialing fees to be sufficient to cover credentialing costs. Specifically, Neb. Rev. Stat. § 38-151(3) (Reissue 2016) states the following:

When fees are to be established pursuant to section 38-155 for individuals or businesses other than individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the department, with the recommendation of the appropriate board if applicable, shall base the fees on the cost of the credentialing system and shall include usual and customary cost increases, a reasonable reserve, and the cost of any new or additional credentialing activities. For individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the Water Well Standards and Contractors' Licensing Board shall establish the fees as otherwise provided in this subsection. All such fees shall be used as provided in section 38-157.

DHHS had no documentation whatsoever to support how the \$150 license and exam fee was determined. DHHS also did not have support for how it determined the \$30 and \$70 portion of the well registration fee. The well registration fee also includes an amount for the Department of Natural Resources. These fees account for the vast majority of the Fund revenues.

The fees are initially determined by the Well Water Standards Board in accordance with State statute. Upon determination, the fees are then established in DHHS's administrative rules and regulations. Specifically, the license fee is set by Title 178 NAC 11-003.01(1), which states, in part, "A fee of \$150 for any regular or temporary hardship, initial or renewed license issued under the Act." Likewise, the well registration fee is set by Title 178 NAC 11-003.01(2), which provides, as is relevant, the following:

A fee for each water well required to be registered by the Department of Natural Resources. The fee for water wells designed and constructed to pump 50 gallons per minute or less and each monitoring and observation well is \$30. The fee for a water well designed and constructed to pump more than 50 gallons per minute is \$70.

As previously noted, § 38-151(3) requires the license fees to be sufficient to cover credentialing costs. Likewise, Neb. Rev. Stat. § 46-1224(1) requires the well registration fees also to be sufficient to cover cost, as follows:

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COMMENTS AND RECOMMENDATIONS
(Continued)

1. Over \$1 Million in Costs Not Charged to the Well Drillers Fund (Concluded)

Except as otherwise provided in subsections (2) through (4) of this section, the board shall set reasonable fees in an amount calculated to recover the costs incurred by the department and the board in administering and carrying out the purposes of the Water Well Standards and Contractors' Practice Act . . . (3) The board shall set a fee of not less than twenty-five dollars and not more than forty dollars for each water well which is required to be registered and which is designed and constructed to pump fifty gallons per minute or less and each monitoring and observation well and a fee of not less than forty dollars and not more than eighty dollars for each water well which is required to be registered and which is designed and constructed to pump more than fifty gallons per minute.

Good internal control requires procedures to ensure: 1) costs are allocated properly in accordance with State statute; 2) documentation is maintained for how fees are determined; and 3) fees are reasonable to cover costs. Without such procedures, there is an increased risk that fund balances will be inaccurate, and fees will be insufficient to cover costs.

We recommend DHHS ensure base cost allocations are performed in accordance with State statute to prevent one profession's costs from being incorrectly allocated to other professions. We also recommend DHHS ensure fees charged for licenses and well registrations are sufficient to cover costs, and the documentation to support rate determinations is maintained.

DHHS Response: DHHS will review and adjust its base cost allocation process to ensure entries are performed in accordance with state statute.

Unlike other professions and occupations under the Uniform Credentialing Act, the Department is not empowered to establish fees for the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment. These duties are reserved for the Water Well Standards and Contractors' Licensing Board, as provided in 38-151.

APA Response: We strongly recommend DHHS consistently communicate with the Water Well Standards and Contractors' Licensing Board regarding the deficiency in revenues over costs.

2. Clean Well Technologies, Inc. (Clean Well) Projects

While testing a sample of expenditures and related contracts, the Auditor of Public Accounts (APA) noted numerous issues related to the Nebraska Department of Health and Human Services (DHHS)'s contract with Clean Well Technologies, Inc. (Clean Well). Initial testing quickly revealed two rather significant issues. First, a potential conflict of interest between the Program Manager and one of the two contractor's owners was not disclosed. Second, DHHS staff approved contract payments that were in excess of the amount authorized by the Water Well Standards and Contractors' Licensing Board (Board).

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COMMENTS AND RECOMMENDATIONS

(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

The potential financial implications that could result from these major areas of concern caused the APA to expand its testing related to this contract. In fact, the APA performed a review of all payments made by the Well Drillers Fund (Fund) to Clean Well, even those made prior to our 30-month attest period. This review was severely impeded by the fact that none of the DHHS staff involved in the Clean Well project was still on staff, as well as the fact that the APA lacks any technical expertise related to water well rehabilitation practices. Despite these impediments, nearly \$29,000 in payments to Clean Well were still found to be questionable and likely overpaid, as well as almost another \$40,000 in questionable payments to other entities related to the project overall, as summarized in the table below.

Description	Amount Overpaid	Amount Questioned	Total
Duplicated Services Billed	\$ 6,782		\$ 6,782
Contract Non-Compliance	\$ 17,151		\$ 17,151
Questionable Per Diems		\$ 2,209	\$ 2,209
Questionable Mileage		\$ 2,547	\$ 2,547
Subtotal for Clean Well Payments	\$ 23,933	\$ 4,756	\$ 28,689
Other Questionable Payments		\$ 39,452	\$ 39,452
Total for Project Overall	\$ 23,933	\$ 44,208	\$ 68,141

The APA also noted instances of Clean Well payments being coded to the wrong funding source. Total payments made to Clean Well amounted to \$653,075. All payments related to two contracts with Clean Well, which were both for work on the Annular Seal Research Task Force project.

This project was essentially researching and rehabilitating various contaminated well sites, as determined by DHHS. DHHS received a \$715,000 grant from the Nebraska Environmental Trust (NET) to be used on certain well sites. According to the Board minutes, well sites in Chester, Aurora, Ashland, and Mead were to be funded by this grant. Meanwhile, well sites in Cedar Bluffs, Edgar, Laurel, and Wauneta were funded by the Fund, based upon a Board authorized amount. The following table shows the payments made by well site.

Well Site	Well Drillers Fund	NET Grant	Total Spent
Cedar Bluffs	\$ 16,473		\$ 16,473
Edgar	\$ 70,610		\$ 70,610
Chester		\$ 56,239	\$ 56,239
Laurel	\$ 192,598		\$ 192,598
Wauneta*	\$ 142,257	\$ 1,090	\$ 143,347
Aurora*	\$ 1,210	\$ 114,373	\$ 115,583
Ashland		\$ 522	\$ 522
Mead*	\$ 16,729	\$ 40,974	\$ 57,703
Totals	\$ 439,877	\$ 213,198	\$ 653,075

**As noted at the end of this comment, some payments were not coded to the correct funding source for the Wauneta, Aurora, and Mead projects.*

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COMMENTS AND RECOMMENDATIONS

(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

Further details on all issues surrounding the Clean Well contract and payments are detailed below.

Conflict of Interest

During testing of the Clean Well contract, it was noted that the Program Manager, Tom Christopherson, was responsible for authorizing the initiation of payments to Clean Well for the project. Mr. Christopherson was also charged with monitoring the contract progress and reporting such progress to the Board at each meeting. Essentially, Mr. Christopherson was the primary point of contact for Clean Well regarding the project.

However, one of the two owners of Clean Well, Bill Christopherson, is the brother of the Program Manager, Tom Christopherson. This close familial relationship gives rise to concerns regarding the appearance, if not the actual existence, of a conflict of interest.

Clean Well did not disclose the relationship between its ownership and the DHHS project lead. In its response to the Request for Proposals (RFP), Clean Well specifically agreed to the following:

By submitting a proposal, bidder certifies that there does not now exist any relationship between the bidder and any person or entity which is or gives the appearance of a conflict of interest related to this Request for Proposal or project. The bidder certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or appearance of conflict of interest. The bidder certifies that it will not employ any individual known by bidder to have a conflict of interest.

Furthermore, the APA reviewed the business filings on the Nebraska Secretary of State's website in an attempt to validate the ownership structure of Clean Well. According to that information, the required bi-annual tax report had not been filed for the 2018 & 2019 biennium. Therefore, as of April 16, 2018, Clean Well was no longer an active corporate entity authorized to do business in the State of Nebraska.

Board Authorization Overspent

DHHS staff failed to monitor properly the contract with Clean Well, as the payments made pursuant thereto exceeded the amount authorized by the Board. The Board originally approved \$250,000 for the project. During the second year of the contract, specifically on February 8, 2016, the Board approved an additional \$65,000 in funding to complete the final project in Wauneta. As such, the maximum amount that should have been paid by the Well Drillers Fund (Fund) for the project was \$315,000. Instead, \$423,028 in payments were approved by DHHS staff, resulting in the Board authorization being exceeded by more than \$100,000. The table below illustrates the overage by well site.

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(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

Well Site	Board Authorization	Amount Paid*	Over (Under) Authorized
Cedar Bluffs	\$ 0	\$ 16,473	\$ 16,473
Edgar	\$ 65,000	\$ 70,610	\$ 5,610
Laurel	\$ 100,000	\$ 192,598	\$ 92,598
Wauneta	\$ 150,000	\$ 143,347	\$ (6,653)
Totals	\$ 315,000	\$ 423,028	\$ 108,028

**Amount paid is the total paid for the project regardless of the funding source. As noted at the end of this comment, some payments were not coded to the correct funding source for the Wauneta, Aurora, and Mead projects.*

At the November 9, 2016, Board meeting, Tom Christopherson, the Project Manager, explained that the Wauneta project exceeded the budget by \$58,000 and Laurel by \$52,000. Board members wanted better information to explain what was happening at each site and asked if the other sites were having “elaborate” costs as well. At the June 23, 2017, Board meeting, Mr. Christopherson alluded somewhat vaguely to “unforeseen circumstances that required the use of more units of a certain parameter which in the end raised the cost of each site.” Despite being primarily responsible for overseeing the project, Mr. Christopherson does not appear to have been adequately monitoring the contract, as expenditures exceeded significantly the authorized amount – and the explanation subsequently provided did little to illuminate the cause of the overage.

It is important to note that the contract with Clean Well did not accurately specify a maximum amount to be spent on the project. Instead, the contract included a cost sheet that designated per-unit costs for labor related to testing, sampling, rehabilitating, and/or decommissioning existing wells, etc. Exact amounts could not be established, as the specific wells to be a part of this project would later be determined by DHHS, and the number of units (test holes, samples, mileage, hours of testing, etc.) would be dependent upon the condition of the wells selected. Therefore, when the quantities were entered on the service contract award, they were little more than meaningless numbers, and the \$2,490,987 maximum amount that was calculated was not indicative of the actual expected costs of the project. This information is important, as it illustrates the need for DHHS to have monitored the contract expenditures properly in relation to the amount approved by the Board. Given the lack of definitive spending parameters in the contract, the Board approval (and grant award amount) would have been the only limitation placed on the project’s spending.

Duplicate Services Billed

The APA noted three instances in which duplicate services appear to have been billed. The duplicated services, amounting to \$6,782 in potential overpayments, are shown in the table below.

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COMMENTS AND RECOMMENDATIONS

(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

Invoice No.	Invoice Date	Entity	Invoice Description	Qty	Rate	Amount
19	7/22/2015	Edgar	Mileage for Vehicle #2 from Mead to Edgar	135	\$1.95	\$ 263
25	10/27/2015	Laurel	Grout tubes #1 & #2 for Well 84-1A (25 foot depth on #1 and 45 foot depth on #2, but 50 foot minimum for each per contract)	100	\$ 60	\$ 6,000
30	1/10/2016	Laurel	Mileage from Gretna to Laurel for two vehicles	266	\$1.95	\$ 519
						\$ 6,782

The first instance related to mileage for Vehicle #2 from Mead to Edgar and back. However, the previous Invoice 18 stated that Vehicle #2 “remained in Edgar, was not brought back to yard.” Therefore, the Vehicle #2 mileage on Invoice 19 should be only one way, not a round trip, resulting in the duplication of 135 miles at \$1.95 per mile, or \$263.

In the second instance, two grout injection tubes were previously billed for Well 84-1A in Laurel on Invoice 20 for \$3,000 each. Invoice 20 specified that #1 was for 25 feet, and #2 was for 45 feet. Invoice 25 again billed for two grout tubes at the same footage and depth; therefore, this appears to be for \$6,000 in duplicated services.

The third and final instance was for mileage from Gretna to Laurel on September 28, 2015, for two vehicles, amounting to \$519. Mileage for two vehicles from Gretna to Laurel on the same date was billed on Invoice 28 for 272 miles at \$1.95 per mile, or \$530. It was then billed again on Invoice 30 for 266 miles at \$1.95 per mile, or \$519. This appears to be a duplicate of those mileage charges.

Contract Non-Compliance

When comparing the Clean Well invoices to the contractual rates and services, the APA noted three separate concerns amounting to nearly \$17,151 in potential overpayments. The first relates to per diems billed for work performed on a contract that did not allow for per diems, resulting in \$16,050 apparently being overpaid. The second concern relates to the use of higher renewal rates, when the lower original rates should have been used, causing \$372 to be overbilled. The final concern relates to excessive e-logging footage billed, leading to \$729 being overpaid.

Each of these concerns is discussed in greater detail below.

Per Diems

The APA noted that the contractor appeared to be structuring invoices to bill for per diems when the contract applicable to the work performed did not allow for per diems. Per diems are a flat daily rate agreed upon for various incidental costs, such as food, lodging, and/or wages. Two separate contracts were signed between DHHS and Clean Well for similar work on the well research project. The first contract (Contract 61717) was for the majority of the work and included such services as drilling test holes, e-logging test holes, rehabilitating wells, collecting water samples, mileage, and per diems. This first contract went through a formal bidding process. The second contract (Contract 65510) began about a year after the first and was primarily for monitoring wells only. The second contract was not formally bid and did not allow for a per diem.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WELL DRILLERS FUND

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

The APA noted one instance in which DHHS approved a per diem payment to be paid from the second monitoring contract. The APA also noted numerous instances in which the contractor appears to have billed a per diem against the first contract (Contract 61717) for monitoring work performed under the second contract (Contract 65510), and DHHS staff approved and paid for those per diems. The contractor and/or DHHS staff appear to have intentionally structured the invoices this way to allow the per diems to be paid despite the lack of authorization in the second well monitoring contract. The table below details the per diem overpayments.

Invoice No.	Begin Date	End Date	People	Days	Rate	Amount	Notes
16	5/27/2015	5/27/2015	3	1	\$100	\$ 300	Invoice specifically stated, "This per diem is for the monitoring wells drilled . . ."
26	8/11/2015	8/15/2015	4	8	\$125	\$ 4,000	The dates of service when this work was performed were from 8/11/2015 to 8/15/2015, which is only five days, but the contractor billed for eight days (for four people). Additionally, two per diem lines were billed on this invoice.
33	12/15/2015	12/16/2015	2	2	\$125	\$ 500	Invoice was paid under the well monitoring contract, which does not allow for a per diem.
37	2/29/2016	3/12/2016	3	9	\$125	\$ 3,375	Invoice indicates work was performed on only three dates (2/29/16, 3/7/16, and 3/12/16), but the contractor billed for nine days (for three people).
44	6/21/2016	6/28/2016	6	10	\$125	\$ 7,500	The dates of service when this work was performed were from 6/21/2016 - 6/28/2016, which is only 8 days, but the contractor billed for 10 days (for 6 people). Additionally, two per diem lines were billed on this invoice.
46	7/11/2016	7/13/2016	1	3	\$125	\$ 375	Two per diems were billed on this invoice and the first one appears to cover all of the work on the invoice.
						\$ 16,050	

Rate Renewal

On July 22, 2015, the contractor billed the Fund for Invoice 19, using renewal rates that were all higher than the original contract rates. The contract renewal with the increased rates was not effective until July 20, 2015. Based on the service dates for the work performed on the City of Edgar's wells, which ranged from July 7, 2015, to July 17, 2015, the original contract rates should have been used instead.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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COMMENTS AND RECOMMENDATIONS

(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

Additionally, mileage should have been charged at \$1.89 per mile, not \$1.95, resulting in \$79.68 being overpaid. Installing and removing a pump should have been charged at \$9.20 per foot, not \$10.00, resulting in \$192 being overpaid. The six-hour step test should have cost \$1,000, not \$1,100, resulting in \$100 being overpaid. The total invoice was overpaid by \$371.68, as illustrated in the table below.

Invoice Description	Qty	Renewal Rate	Amount Paid	Original Rate	Amount Overpaid
Set pump and 8 inch column 120ft in depth July 7 2015	120	\$ 10.00	\$1,200.00	\$ 9.20	\$ 96.00
Mileage/Mobilization Vehicle # 1 Mead Ne. to Edgar Ne. 135 miles. Edgar Ne. to Mead Ne. 135 miles [270 miles total] @ \$1.95 per mile	270	\$ 1.95	\$ 526.50	\$ 1.89	\$ 16.20
Mileage/Mobilization Vehicle # 2 Mead Ne. to Edgar Ne. 135 miles. Edgar Ne. to Mead Ne. 135 miles [270 miles total] @ \$1.95 per mile.	270	\$ 1.95	\$ 526.50	\$ 1.89	\$ 16.20
6 hr. step pump test. [Edgar pool well] July 8 2015	1	\$ 1,100	\$1,100.00	\$ 1,000	\$ 100.00
Mileage/Mobilization Gretna Ne. to Edgar Ne. 124 miles. Edgar Ne. to Gretna Ne. 124 miles [248 total miles] @ \$1.95 per mile	248	\$ 1.95	\$ 483.60	\$ 1.89	\$ 14.88
Remove pump and column 120ft in depth. July 17 2015	120	\$ 10.00	\$1,200.00	\$ 9.20	\$ 96.00
Mileage/Mobilization Vehicle # 1 Mead Ne. to Edgar Ne. 135 miles. Edgar Ne. to Mead Ne. 135 miles [270 miles total] @ \$1.95 per mile	270	\$ 1.95	\$ 526.50	\$ 1.89	\$ 16.20
Mileage/Mobilization Vehicle # 2 Mead ne. to Edgar Ne. 135 miles. Edgar Ne. to Mead Ne. 135 miles [270 miles total] @ \$1.95 per mile	270	\$ 1.95	\$ 526.50	\$ 1.89	\$ 16.20
			\$6,089.60		\$ 371.68

E-Log

The contractor overbilled the Fund for e-logging services on Invoice 5, dated September 25, 2014. According to the invoice, a 73-foot test hole was dug and e-logged. Both the drilling and the e-logging were billed separately at 100 feet. The contract sets a 100-foot minimum for drilling a test hole; however, e-logging does not have a 100-foot minimum. Therefore, this service should have been billed using actual feet, resulting in an overpayment of \$729.

Questionable Per Diems

The Clean Well contract requires services to be billed for only two men per well. As illustrated by the following table, however, the APA noted numerous instances in which the contractor billed per diems for more than two men per well.

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WELL DRILLERS FUND

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

Invoice No.	Begin Date	End Date	Qty	Days	Rate	Amount Paid	Amount Questioned	Notes
5	9/3/2014	9/5/2014	276	n/a	\$1.89	\$ 521.64	\$ 521.64	Work was performed on one well; therefore, the per diem for the third man for two days and the mileage for the third vehicle appears questionable.
5	9/3/2014	9/5/2014	3	2	\$ 100	\$ 600.00	\$ 200.00	
13	n/a	n/a	152	n/a	\$1.89	\$ 287.28	\$ 287.28	Work was performed on one well; therefore, the per diem for the third man for seven days and the mileage for the third vehicle appears questionable.
13	n/a	n/a	3	7	\$ 100	\$2,100.00	\$ 700.00	
21	8/4/2015	8/6/2015	5	3	\$ 125	\$1,875.00	\$ 375.00	Work was performed on two wells; therefore, the per diem for the fifth man for three days appears questionable.
26	8/11/2015	8/15/2015	3	1	\$ 125	\$ 375.00	\$ 125.00	Work was performed on two wells; therefore, the per diem for the third man for one day appears questionable.
						\$5,758.92	\$ 2,208.92	

Questionable Mileage

Two issues of questionable mileage were noted. The first issue was on Invoice 7 for \$522 of mileage on September 22, 2014, from Gretna to Laurel related to sampling done in Laurel on that date. The contractor did not charge for the sample collected on September 22, 2014, stating “No charge for this water sampling event due to error on our part or the labs part.” However, if this September 22, 2014, trip was due to error, then the State should not pay for the \$522 of mileage either.

The second issue was related to mileage billed with no explanation for the start or stop location, as it was neither the contractor’s home base of Gretna nor the location of the well project. This was noted on several invoices, as illustrated in the table below.

Invoice No.	Invoice Date	Entity	Description	Date	Qty	Rate	Amount
8	1/29/2015	Cedar Bluffs	Mileage from Mead to Cedar Bluffs and back to Mead	n/a	24	\$1.89	\$ 45.36
8	1/29/2015	Cedar Bluffs	Mileage from Mead to Cedar Bluffs and back to Mead	n/a	24	\$1.89	\$ 45.36
31	1/14/2016	Wauneta	Mileage from Imperial to Wauneta	8/25/2015	19	\$1.95	\$ 37.05
31	1/14/2016	Wauneta	Mileage from Wauneta to Imperial	8/25/2015	19	\$1.95	\$ 37.05
45	7/15/2016	Wauneta	Mileage from Salina, KS, to Wauneta for two vehicles	6/23/2016	580	\$1.89	\$1,096.20
46	8/2/2016	Aurora	Mileage from Salina, KS, to Aurora	7/11/2016	166	\$1.95	\$ 323.70
48	8/2/2016	Mead	Mileage from Salina, KS, to Mead	7/12/2016	226	\$1.95	\$ 440.70
							\$2,025.42

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WELL DRILLERS FUND

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

Other Questionable Payments

The APA tested a number of other payments to companies other than Clean Well, which appeared to be related to work performed as part of the Annular Seal Research Task Force project. Those payments were for such items as well repair parts, of which \$10,452 was considered questionable, as well as a failure to pursue \$29,000 in pledged funding from other sources.

Details of this \$39,452 in other questionable payments are shown below.

Well Repair Parts

Two payments tested for various well repair parts contained no documentation, such as a signed invoice, to support that the items were actually received, nor was there any notation to indicate why the parts were ordered. Due to high staff turnover in the DHHS Well Drillers area, no one was available to provide any additional information to the APA as to why the parts were needed. Other than work related to the Annular Seal Research Task Force project, field staff would be performing inspections, not physically repairing wells.

Invoice Date	Vendor	Description	Amount	Notes
7/12/2016	Titan Industries	Well Parts	\$ 9,178	According to the invoice, the parts were shipped to the Titan office in Paxton, NE.
9/30/2016	Winpump (Nebraska Pump Company)	Parts and Well Casings	\$ 1,274	Per the Clean Well contract, DHHS was to provide clear casings used for each rehabilitated well; however, these parts were shipped on 9/30/2016, which was after the Clean Well contract work had ended.
			\$ 10,452	

Pledged Funding

DHHS failed to pursue \$29,000 in funding pledged by several Natural Resources Districts (NRDs) to be used for the Annular Seal Research Task Force project. Six letters from NRDs were attached to the DHHS application for grant funds submitted to the Nebraska Environmental Trust (NET). The letters indicated that the NRDs were to provide support for groundwater sampling, monitoring wells, and landowner commitments with a financial or in-kind service. The letter from the Little Blue NRD noted specifically that it would provide up to \$4,000 cash in addition to in-kind services; meanwhile, the other five NRDs stated they would provide in-kind services and/or financial support of \$5,000 each. None of this pledged funding was ever received.

Furthermore, according to internal DHHS correspondence, there appeared to be an understanding that the NRDs would pay for water sampling; however, the APA was not provided any documentation verifying that the NRD's were required to pay for the sampling. According to DHHS Internal Audit calculations, \$41,476 of water sampling costs were paid by the Fund. Of that, the APA noted \$10,893 could have been reimbursed by the NET grant, as the sampling was related to well sites covered by the grant. Had DHHS charged that portion to the grant and requested the \$29,000 from the NRDs, the Fund could have paid only \$1,583 instead of the full \$41,476.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WELL DRILLERS FUND

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

Incorrect Coding

Four of the 38 payments to Clean Well were not properly coded to the correct funding source. As previously noted, DHHS received a \$715,000 grant to be used on certain well sites, while others were to be paid from the Fund. According to the Board minutes, well sites in Chester, Aurora, Ashland, and Mead were the ones to be funded by the grant, and well sites in Cedar Bluffs, Edgar, Laurel, and Wauneta were to be funded by the Fund. Therefore, the payments related to these well sites should be coded to the corresponding funding source in the accounting system, but four were not.

Invoice No.	Invoice Date	Entity	Description	Amount	Notes
42	6/21/2016	Mead	Well Site Assessment	\$ 15,678	These three payments were coded and paid from the DHHS Well Drillers Fund but should have been coded and paid from the NET grant funds.
35	2/7/2016	Aurora	Well Monitoring Samples	\$ 1,210	
34	2/7/2016	Mead	Well Monitoring Samples	\$ 1,051	
41	6/21/2016	Wauneta	Well Monitoring Sample	\$ 1,090	This payment was coded and paid from the NET grant funds but should have been coded and paid from the Fund.
			Total	\$ 19,029	

In addition, one other payment made to the State Lab for processing water samples was not coded to the correct funding source. The payment included \$588 in samples from Ashland and \$1,828 in samples from Mead, yet it was paid by the Fund. Instead, this \$2,416 should have been paid from the NET grant.

Finally, it should be noted that DHHS is currently involved in a legal dispute with Clean Well. On January 10, 2018, Clean Well filed a complaint (Case No. CI 18-87) against DHHS, among other defendants, in the District Court of Lancaster County, seeking \$2,865,000 in damages for various alleged wrongs, including breach of contract. Since that initial filing, there have been numerous procedural motions. The outcome of the case is pending.

A good internal control plan would include procedures to ensure the above noted concerns were prevented, or detected and corrected. However, given the numerous concerns outlined, it is apparent that DHHS does not have adequate control procedures in place. Without such procedures, there is an increased risk for fraud, waste, and abuse of State funds.

We recommend DHHS implement the following control procedures:

- Staff and Board review all contractual entities/individuals to consider the impact of potential conflicts of interest and determine whether the contract should proceed and, if so, the proper disclosure needed.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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COMMENTS AND RECOMMENDATIONS

(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Continued)

- Staff provide increased monitoring and more frequent updates to both the Board and upper management of actual project spending compared to authorized amounts, particularly for projects based on a per-unit priced contract with no set maximum.
- Staff implement more thorough invoice review procedures to include the following:
 - An examination of potentially duplicated services;
 - Consideration of compliance with contract terms, such as whether a per diem is appropriate or allowed, whether the proper contract rates are used based on service dates and renewal periods, and whether minimums billed are allowable;
 - A more thorough analysis of higher risk billable items, such as per diems and mileage for reasonableness and necessity;
 - Assessment of the reasonableness of payments made to other vendors for projects that are ongoing or nearing completion; and
 - Careful review of coding for funding source to check accuracy.
- Board members periodically review a sample of invoices, particularly for higher-dollar items, to ensure amounts billed and paid appear reasonable.

DHHS Response: Under the DHHS Work Place Policies, employees are “prohibited from using or attempting to [their] official position to secure unwarranted privileges or exemptions for [themselves].” Further, employees “shall not give the impression that any person can improperly influence [them] in the performance of [their] official duties, or that [they] are improperly affected by the kinship, rank, position or influence of any party or person.” One of the two owners of Clean Well Technologies, Bill Christopherson, is the brother of the well driller program manager, Tom Christopherson. It was therefore inappropriate for Tom Christopherson to act as Project Lead, initiate payments to Clean Well Technologies, or to supervise and monitor its performance under the contract. As noted in the report, Clean Well Technologies failed to disclose Bill Christopherson’s relationship to Tom Christopherson in its response to the Request for Proposals and specifically certified that there was no relationship between Clean Well Technologies or any person with was or gave the appearance of a conflict of interest related to the well drilling project. On September 21, 2016, Mary Sue Semerena, DHHS Environmental Health Administrator, informed DHHS Legal Services that Tom Christopherson had been removed as DHHS Project Lead. Further, the contract with Clean Well Technologies was not renewed.

DHHS has current procedures for invoice and contract review to prevent payment for questioned or costs found to be unreasonable. Additionally, current procedures should prevent coding errors similar to those in this finding.

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COMMENTS AND RECOMMENDATIONS
(Continued)

2. Clean Well Technologies, Inc. (Clean Well) Projects (Concluded)

The Board is not statutorily responsible for these items, however the Department will take the recommendation under advisement. See state statutes.

46-1224. Board; set fees; Water Well Standards and Contractors' Licensing Fund; created; use; investment.

46-1225. License renewal; continuing competency required.

46-1227. Department; well and equipment standards; adopt rules and regulations.

APA Response: As stated in Neb. Rev. Stat. § 46-1224, the Board is responsible for setting reasonable fees to recover costs. We recommend the Board review invoices as expenditures would have a significant impact on the determination of fees. Furthermore, the activity of the Fund is discussed at the Board meetings and the Board should have knowledge that the expenditures of the Fund are reasonable and correct.

3. Lack of Procedures Over Revenues

The Nebraska Department of Health and Human Services (DHHS) did not have any procedures to ensure that all money due to the Well Drillers Fund (Fund) was received and deposited, or that all money received was correctly coded to the Fund. The results of such lack of procedures caused adjustments to the financial schedule for all revenue lines, with all lines being adjusted more than once.

The following are examples of missing procedures:

- No procedures exist to ensure receipt of the correct amount of well registration fees from the Nebraska Department of Natural Resources (DNR), which is evident by DHHS not discovering that DNR deposited the incorrect amount of fees into the Fund for 18 months. DNR eventually discovered the error and made a \$98,802 entry to deposit additional revenue into the Fund. Registration fees for the period July 1, 2015, through December 31, 2017, totaled \$347,271; therefore, the Fund was missing nearly 30% of its receipts before the error was caught.
- No procedures exist to ensure all the money charged for exams and license renewals was received and recorded correctly. Exam and license fees for the period July 1, 2015, through December 31, 2017, totaled \$140,846. The renewal fees are received by the DHHS Licensure Division instead of by the Fund's staff, which increases the risk that the receipts may not be deposited properly.
- No procedures exist to ensure that all money deposited to a liability or receivable account for well registrations by other agencies is moved to the appropriate revenue account. We noted the balance in the liability account was \$34,891, dating back to March 2010, and the balance in the receivable account was \$4,830, dating back to October 2009. These balances were due in part to the timing of the monthly journal entry for December 2017, as well as not ensuring the monthly journal entry included the correct amount.

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COMMENTS AND RECOMMENDATIONS
(Continued)

3. Lack of Procedures Over Revenues (Continued)

- No review of the general ledger is performed to ensure that all money receipted was coded to the Fund.
- No procedures exist to ensure that checks received are endorsed immediately, or money on hand is secured throughout the day. For example, money received in the Licensure Unit is not secured during the day; rather, it is placed in staff mailboxes or on their desks behind the unit's locked doors. However, per DHHS, there were 141 Licensure staff who had access to the locked doors.
- No procedures exist to ensure revenues were coded correctly, which was evident by all four Nebraska Environmental Trust grant receipts, totaling \$227,786, being coded to the incorrect accounts.

Title 178 NAC 11-003.01(2) states, in part, the following:

A fee for each water well required to be registered by the Department of Natural Resources. The fee for water wells designed and constructed to pump 50 gallons per minute or less and each monitoring and observation well is \$30. The fee for a water well designed and constructed to pump more than 50 gallons per minute is \$70.

Neb. Rev. Stat. § 46-1224 (Cum. Supp. 2016) provides, in relevant part, the following:

(1) Except as otherwise provided in subsections (2) through (4) of this section, the board shall set reasonable fees in an amount calculated to recover the costs incurred by the department and the board in administering and carrying out the purposes of the Water Well Standards and Contractors' Practice Act. . . .

* * * *

(3) The board shall set a fee of not less than twenty-five dollars and not more than forty dollars for each water well which is required to be registered and which is designed and constructed to pump fifty gallons per minute or less and each monitoring and observation well and a fee of not less than forty dollars and not more than eighty dollars for each water well which is required to be registered and which is designed and constructed to pump more than fifty gallons per minute. . . .

A good internal control plan and sound business practice require procedures to ensure receipts are adequate, including endorsing checks, securing money, reviewing reports, and ensuring all revenue due to an agency is received and deposited. Those procedures should also ensure receipts are recorded accurately.

Without such procedures, there is an increased risk not only of the financial schedule being incorrect but also for a loss of State funds.

We recommend DHHS establish procedures to ensure adequate control over receipts, including endorsing checks, securing money, and reviewing the general ledger and other information to ensure all money due is received, deposited, and recorded correctly. We also recommend DHHS work with other agencies to ensure revenue is coded to the appropriate revenue account.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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COMMENTS AND RECOMMENDATIONS

(Continued)

3. Lack of Procedures Over Revenues (Concluded)

DHHS Response: DHHS is working to ensure adherence to money handling practices that minimize the risk of lost revenue. Additionally, the Department is working with inter-agency partners to acquire sufficient documentation to ensure accurate deposits of revenues collected by the Nebraska Department of Natural Resources to DHHS.

Nebraska Interactive made some program changes resulting in an error in posting well registration fees. These errors have since been corrected. The Department of Natural Resources will include DHHS on email correspondence to Nebraska Interactive regarding number of wells registered and amount of money received during the month. This additional information should allow DHHS to verify that money due is received, deposited and recorded correctly.

DHHS is working to develop a process to improve coordination between internal units to ensure that receipts are properly deposited into the Fund.

4. Lack of Procedures Over Licenses

Well Drillers are required to obtain a license that expires at the end of every even numbered year. During testing of the Well Driller licenses, we noted the Nebraska Department of Health and Human Services (DHHS) lacked procedures for properly administering the licensing process.

Source Documentation and Online Renewals

We noted several instances in which DHHS failed either to obtain or to maintain required information related to the process for credentialing a Well Driller licensee.

- DHHS did not keep source documentation showing the exam scores of applicants. DHHS enters the exam scores into the License System; however, the source of those scores is not maintained, and there is no verification that the scores were entered correctly.

According to the DHHS Records Retention policy, this source documentation must be maintained for the duration of the licensee's active period. Specifically, the Nebraska Department of Health and Human Services – Division of Public Health – Environmental Health Unit's Records Retention Policy 150-2-5-3-66, Well Drillers, Pump Installers and Water Well Monitoring Supervisors, requires files, including "applications, exam scores, proof of insurance (for license holders), continuing education proofs, etc.," to be retained until the file is closed.

- Additionally, for two of four receipts tested, DHHS did not keep proof of the required public liability and property damage insurance for nine well and/or pump installation contractors. DHHS enters the expiration date of the insurance policy into the License System; however, the field does not indicate the range the insurance was effective for to ensure it was effective for the time of the application or renewal. Additionally, per DHHS, the License System does not retain a history for the insurance field and, when the updated date is entered, it overwrites the previous date. Such information is imperative to ensure compliance with both the above Records Retention Policy and applicable DHHS Regulations.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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COMMENTS AND RECOMMENDATIONS

(Continued)

4. Lack of Procedures Over Licenses (Continued)

Title 178 NAC 10-004.01(5) states the following:

For water well and/or pump installation contractors, furnish proof to the Department that there is in force a policy of public liability and property damage insurance issued to the applicant in at least the sum of \$100,000.00.

Title 178 NAC 10-008.02(3) states, “For licensed contractors, proof of public liability and property damage insurance in the amount of at least \$100,000.00.”

- DHHS was to notify the applicant of the deficiency in his or her application, if he or she had not passed the test and, therefore, was not licensed and due a refund. However, per DHHS, this notification was not maintained in accordance with the DHHS “Internal Policy on Professions and Occupations/Initial License Policy and Procedures,” which states, “Procedure 1. Notify the applicant (by regular mail or e-mail) of all deficiencies required to complete the application. 2. Keep a copy of the notification electronically or in paper format.”
- Finally, we noted during testing that if an applicant renewed online there was not a procedure for him or her to attest to being of good character, as required. Title 178 NAC 10-008.02(1)(d)(1) directs each applicant to indicate that, among other things, he or she is “of good character.”

A good internal control plan requires procedures to ensure well driller licensees’ files have all the required documentation maintained, the renewal process for well driller licensees contains all required information, and internal policies are followed.

Without such procedures, there is an increased risk of not only noncompliance with the records retention policy, rules and regulations, and internal policies but also individuals being licensed incorrectly.

We recommend DHHS ensure that all documentation is maintained to support credentialing of individuals in accordance with record retention policies, rules and regulations, and internal policies.

DHHS Response: Moving forward, the program will keep source documentation of exam scores in applicant’s file. This source documentation will be retained in the applicant’s file until the file is closed.

Currently, DHHS staff run a monthly report from the License Information System (LIS) to identify licensees whose proof of liability insurance policy will expire in the upcoming calendar month. Letters are sent to licensees requesting updated proof of liability insurance. DHHS staff receive insurance liability information for licensees directly from the insurance carrier and enter the updated information into LIS under the individual licensee. DHHS staff will maintain the physical paper proof of liability insurance in the physical application file for each applicant.

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COMMENTS AND RECOMMENDATIONS

(Continued)

4. Lack of Procedures Over Licenses (Continued)

Current policy is to review an application for initial licensure and then e-mail/mail applicants with notification of any deficiencies found in the application for initial licensure. DHHS will ensure that physical copies of correspondence are included in the physical application files.

DHHS will update online renewal pages and paper renewal forms to include an attestation that the licensee is “of good character” to be compliant with statutes and regulations.

Licensee Refunds

Applicants who apply for a well driller license may receive a refund if they do not pass the exam within 12 months of their application submission. We noted numerous issues related to the issuance of these refunds.

- DHHS did not have any procedures to review applicants who needed a refund or to ensure applicants who were due a refund actually received one. DHHS was to review a pending application file periodically; however, there were no procedures to ensure this review was actually completed on a regular basis. Therefore, pending applications were not closed or refunded timely. The APA obtained a listing of all applicants in pending status on May 16, 2018, and noted there were 18 individuals with a pending status over 365 days.
- During review of the License Database reports, we noted an additional 11 refunds that should have been paid out but had not been, totaling \$1,375. The applicants were not included on the pending application file, as they had already been identified as closed and needing a refund. The application dates ranged from December 3, 2014, to July 3, 2015.
- During testing of refunds paid, it was noted that two for \$125 each were not issued timely due to not passing the exam within the required 12 months.

Applicant	Application Received	Refund Due	Refund Issued	Months Late
#1	February 2016	February 2017	August 2017	6 months
#2	November 2016	November 2017	May 2018	6 months

Neb. Rev. Stat. § 46-1223(2) (Reissue 2010) states, in relevant part, the following:

An examinee who fails to pass the initial examination may retake such examination without charge at any regularly scheduled examination held within twelve months after failing to pass the initial examination . . .

A good internal control plan and sound business practice require procedures to ensure that all pending applications are reviewed periodically, and refunds are issued to applicants timely.

Without such procedures, there is an increased risk of individuals either not receiving money due to them timely or receiving money not due to them, resulting in a loss of State funds.

We recommend DHHS establish procedures to ensure all pending applications and refunds are reviewed and issued timely.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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COMMENTS AND RECOMMENDATIONS
(Continued)

4. Lack of Procedures Over Licenses (Continued)

DHHS Response: DHHS has implemented a monthly report of pending applications to facilitate timely refunds.

Records Retention Policies

The records retention policies regarding pending applications were inconsistent. During testing, we noted that an application and check for \$150 was received in November 2016. The application was not on file because, per DHHS, the application can be destroyed within 60 days according to Records Retention Policy 150-006-028 for Professions and Occupations – Incomplete/Withdrawn Applications, which states:

Incomplete and withdrawn applications for credentials filed by people, facilities, or services, and applications for individuals who failed an examination and did not retake it” shall be retained for 60 days after non-activity by applicant.

However, Neb. Rev. Stat. § 46-1223(2) (Reissue 2010) states, in relevant part, the following:

An examinee who fails to pass the initial examination may retake such examination without charge at any regularly scheduled examination held within twelve months after failing to pass the initial examination . . .

It makes no sense to destroy the pending application within 60 days when the applicant has 12 months to pass the test.

Additionally, a separate and more specific records retention policy states that pending applications can be disposed of two years after last activity. Records Retention Policy 150-2-5-3-66 for Well Drillers, Pump Installers and Water Well Monitoring Supervisors states, “Files include applications, exam scores, proof of insurance (for license holders), continuing education proofs, etc.” shall be retained for two years after last activity for pending applications.

A good internal control plan also includes ensuring records retention policies are consistent. Without this, there is a risk of non-compliance.

We recommend DHHS ensure record retention policies are consistent.

DHHS Response: Because the Licensure Unit is responsible for the issuance of well driller credentials, the Unit believed that the Licensure Unit records retention schedule applied to the licensure records. DHHS will review the Records Retention Schedules for both the Licensure Unit and the Environmental Health Unit to address variations in application retention and avoid conflict.

Inconsistent Rules and Regulations

DHHS’s rules & regulations regarding continuing competency requirements for reinstatements are inconsistent. Reinstatement is for individuals previously credentialed in Nebraska who seek the authority to return to practice in this State with a valid Nebraska credential.

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4. Lack of Procedures Over Licenses (Continued)

Title 178 NAC 10-005.06 provides, in part, the following:

Examination is required for licensure under the Act for:

* * * *

2. All applicants for reinstatement of licenses

* * * *

b. Who have not met the requirements for continuing competency each renewal period . . .

A renewal period is two years ending on December 31 of the even numbered year. However, due to conflicting regulatory language, licensees are actually allowed to reinstate their license at any time without taking the exam again. Their license can expire at the end of the renewal period, and they can renew at any time once they have met all the continuing competency requirements.

The contradictory language is found in the reinstatement rules and regulations. Specifically, Title 178 NAC 10-011.01(1)(e)(2) requires the applicant to indicate that he or she has “met the continuing competency requirements specified in 178 NAC 10-006 within the 24 months immediately preceding submission of the application.”

However, Title 178 NAC 10-006 states, in part, the following:

Each person holding an active credential under the Act must on or before the date of expiration of the credential, complete at least 12 hours of continuing education related to the discipline for which his/her license was issued unless the continuing education requirements are waived in accordance with 178 NAC 10-008.03 or 10-008.04.

Therefore, two regulations state that the continuing education must be completed by the end of the renewal period, but the reinstatement regulation says that the continuing education requirement may have been met within the 24 months before the application.

For example, if a licensee who is licensed during calendar year 2014 renews and is licensed during calendar years 2015 and 2016 but does not take 12 hours of continuing education by December 31, 2016, he or she should have to retake the test per Title 178 NAC 10-005 and 10-006. However, per Title 178 NAC 10-011, that licensee is allowed to take the continuing education hours in February 2017 and still renew with the renewal fee and a \$35 reinstatement fee, without retaking the examination.

A good internal control plan requires procedures to ensure that agency rules and regulations are not contradictory.

Without such procedures, there is an increased risk for regulatory noncompliance.

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4. Lack of Procedures Over Licenses (Concluded)

We recommend DHHS ensure that the rules and regulations regarding continuing education are consistent throughout Title 178.

DHHS Response: 178 NAC 10 should be revised to ensure clarification of reinstatement requirements in regards to Continuing Education credits and examination-related obligations. This could be accomplished in conjunction with and in compliance with EO 17-04 report with the review/revision/promulgation of regulations.

5. Uncollected Fines and Penalties

Per review of the Water Well Standards and Contractors' Licensing Board minutes for the period of July 1, 2015, through December 31, 2017, it was noted that four individuals were assessed at least \$25,000 in fines or penalties. However, none of those fines or penalties have been received, and there has been no follow up by the Department of Health and Human Services (DHHS) to collect this money.

Neb. Rev. Stat. § 46-1239 (Reissue 2010) states, in part, the following:

Any person who fails to employ or use at least one individual appropriately licensed and available or any person who engages, without a license for such activities, in the construction of water wells, the installation of pumps and pumping equipment, or the decommissioning of water wells is guilty of a Class II misdemeanor or subject to a civil penalty of not more than one thousand dollars for each day the violation occurs.

Neb. Rev. Stat. § 46-1240 (Reissue 2010) provides, in part, as follows:

Any person who engages in or any person who employs or uses a person who engages in the construction of water wells, the installation of pumps and pumping equipment, the decommissioning of water wells, or the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices or who fails to decommission or decommissions an illegal water well without complying with the standards adopted and promulgated pursuant to the Water Well Standards and Contractors' Practice Act shall be guilty of a Class III misdemeanor or subject to a civil penalty of not more than five hundred dollars for each day an intentional violation occurs and may be enjoined from continuing such activity, including a mandatory injunction.

Penalties are allowed to be assessed through various sections of Title 178 NAC.

A good internal control plan requires procedures to ensure that fines and penalties assessed for violations of statute are collected.

Without such procedures, there is an increased risk for the loss of State funds.

We recommend DHHS implement procedures to ensure fines or penalties assessed for violations of statute are collected.

DHHS Response: The DHHS did not assess fines or penalties to four individuals therefore no fines or penalties can be received.

APA Response: As stated in the comment above, per the Board minutes, fines were assessed and we again recommend DHHS ensure fines are collected when assessed.

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6. Declaratory Orders

The Water Well Standards and Contractors' Practice Act (Act), which is set out at Neb. Rev. Stat. §§ 46-1201 to 46-1241 (Reissue 2010, Cum. Supp. 2016), contains provisions for the issuance of declaratory rulings and variances. Specifically, § 46-1224(4) says the following:

The board [Water Well Standards and Contractors' Licensing Board] shall set an application fee for a declaratory ruling or variance of not less than fifty dollars and not more than one hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

Section 46-1227 authorizes the Water Well Standards and Contractors' Licensing Board (Board) to promulgate administrative rules and regulations to carry out the provisions of the Act, as follows:

The department [Department of Health and Human Services], with the approval of the board, shall adopt and promulgate uniform rules and regulations, in accordance with the rules and regulations adopted and promulgated pursuant to sections 46-602 and 81-1505, for the establishment of standards for the (1) construction of water wells, (2) installation of pumps and pumping equipment, and (3) decommissioning water wells.

Per that authority, the Nebraska Department of Health and Human Services (DHHS) has set out rules and regulations in the Nebraska Administrative Code (NAC) for declaratory rulings and variances. Among those is 178 NAC 11-003.01 ("Schedule of Fees"), which establishes a "fee of \$100 for application for a declaratory order."

Additionally, the various subsections found under 178 NAC 12-013 ("Declaratory Order About Substantially Equivalent Procedure or Material") provide the details regarding the issuance of declaratory orders. In particular, 178 NAC 12-013.01 states the following:

Any water well contractor, pump installation contractor or any other individual carrying out activities subject to 178 NAC 12 who desires to carry out such work by a procedure inconsistent herewith or using materials other than herein prescribed but which the contractor or other individual believes to be substantially equivalent to the standards prescribed in 178 NAC 12 may request a declaratory order by the Department on whether the proposed procedure or material is substantially equivalent to the prescribed standards and may be used to comply with 178 NAC 12.

While examining the Board's receipts, we noted that the \$100 fee required under 178 NAC 11-003.01 appeared not to have been collected for every declaratory order issued. During the period tested, 71 declaratory orders seemed to have been issued without the \$100 fee being collected, resulting in a total of \$7,100 in apparently uncollected fees.

When presented with this concern, the Administrative Assistant for the Drinking Water Division explained that some of the presumed declaratory orders tested were actually pre-notifications for which no fee was charged. The following is an excerpt from the detailed explanation provided:

A DO may be applied for if the contractor utilizes a procedure or material not outlined by the standard. There is a \$100.00 fee associated with each DO and a unique number is assigned. The contractor must make the case that the procedure or material is substantially equivalent to the standards. DOs can be site specific

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6. Declaratory Orders (Continued)

(based on site specific details such as geology) or statewide (used on any well with similar construction). An example would be DO 55/15A. The contractor feels that using non-slurry bentonite for decommissioning monitoring and recovery wells is superior to the pressure grout methods outlined in the standards. The contractor presents reference material to make his point and asks that if a DO is granted, that these procedures could be used on all monitoring and recovery wells. The DO is drafted as such but also adds that the contractor must give pre-notification for every well they intend to decommission under this DO.

As made clear in the explanation, multiple pre-notifications could be issued, at no additional fee, for each declaratory order obtained for a cost of \$100. The purpose of this is to avoid charging the same individual or entity multiple fees for what is essentially the repeated performance of an identical process.

Despite the ostensible reasonableness of this system, the APA has been unable to find any description of – much less express authorization for – it in either State statute or the administrative rule and regulations. In fact, pre-notifications are mentioned nowhere in Chapter 46 of the Nebraska Revised Statutes, which is where the Act and other water well statutes are found. Likewise, in the applicable rules and regulations, the only reference to pre-notifications is found in 178 NAC 12-007.08 (“Temporary Well Installation”), which says, in relevant part, the following:

A pre-notification document must be submitted to the Department 30 days before constructing a temporary well to be in use longer than 10 days (does not apply to temporary dewatering wells). The notification must indicate what type of surface seal will be provided.

Regarding the authority of an administrative agency of the State to perform its functions, the Nebraska Supreme Court has stated the following:

It is fundamental that in the legislative grant of power to an administrative agency, such power must be limited to the expressed legislative purpose and administered in accordance with standards described in the legislative act. The limitations of the power granted and the standards by which the granted powers are to be administered must be clearly and definitely stated. They may not rest on indefinite, obscure, or vague generalities or upon extrinsic evidence not readily available.

University Police Officers Union, etc. v. University of Nebraska, 203 Neb. 4, 13, 277 N.W.2d 529, 535 (1979). Furthermore, the Court has emphasized, “That authority which is necessary to accomplish the purposes of an act must be narrowly construed.” Id.

Similarly, the Court has made the following observation regarding a State agency’s authority to promulgate administrative rules and regulations:

It is well established that the Legislature has power to authorize an administrative or executive department to make rules and regulations to carry out an expressed legislative purpose, or for the complete operation and enforcement of a law within designated limitations. Agency regulations properly adopted and filed with the Secretary of State of Nebraska have the effect of statutory law. However, an administrative agency cannot use its rulemaking power to modify, alter, or enlarge provisions of a statute which it is charged with administering.

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6. Declaratory Orders (Concluded)

Swift and Co. v. Nebraska Dept. of Revenue, 278 Neb. 763, 767, 773 N.W.2d 381, 385 (2009). In light of the above, it is important that the current method of issuing declaratory orders and pre-notifications be supported by express statutory authorization and/or the provisions of pertinent rules and regulations promulgated pursuant thereto.

A lack of such statutory or regulatory support risks giving rise to not only possible concerns regarding the underlying authority to implement the current system of issuing declaratory orders and pre-notifications but also no small amount of confusion regarding how that system is supposed to operate.

We recommend consideration be given to updating the relevant statutes and/or administrative rules and regulations to provide support for, as well as to reflect more accurately, the current system of issuing declaratory orders and pre-notifications.

DHHS Response: The Water Well Standards and Contractors' program discontinued the use of a "pre-notification" process for declaratory orders in May, 2018. In order to request a declaratory order, water well contractors and individuals are now required to submit a Petition for Declaratory Order in accordance with 184 NAC 2 ("Rules of Practice and Procedure of the Department of Health for Declaratory Orders") and with 178 NAC 12-013 ("Declaratory Order About Substantially Equivalent Procedure or Material"). Each Petition for Declaratory Order must include the \$100.00 fee.

7. Online Well Registration Subscriptions

Per its duties under the Water Well Standards and Contractors' Practice Act, the Nebraska Department of Health and Human Services (DHHS) pays for "Subscription Services Agreements" with Nebraska Interactive. The purpose of those agreements is to provide online registration services for water well contractors.

The Auditor of Public Accounts (APA) found the documentation provided by Nebraska Interactive regarding the number of active water well contractor subscribers was so inadequate that DHHS may have been overbilled by approximately \$9,500 during the attest period.

Neb. Rev. Stat. § 46-1224(1) (Cum. Supp. 2016), under which the Water Well Standards and Contractors' Licensing Fund (Fund) was created, states that "such fund shall be used to pay any required fee to a contractor which provides the online services for registration of water wells." Similarly, Neb. Rev. Stat. § 46-602(1) (Reissue 2010) provides that the water well registration fees required to be deposited to the Fund "shall be the source of funds for any required fee to a contractor which provides the online services for such registration."

The "Subscription Services Agreement" with Nebraska Interactive (See **Attachment A**) for each water well contractor contains the following:

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7. Online Well Registration Subscriptions (Concluded)

The initial subscription fee of \$50.00 allows access for up to 10 users to all Nebraska.gov services and products for one year. Thereafter, an annual subscription fee of \$50.00 will be billed to your account on its anniversary. Renewal is automatic unless Nebraska.gov is notified in writing prior to the subscription renewal period.

(Emphasis added.) A supplementary “Water Well Service Agreement” was also signed. That document says, “Your well registration fees cover the cost of access to the Water Well Registration Service.” Additionally, a “Username Assignments” section is included on the agreement form, providing 10 spaces for the names of the authorized users. The accompanying directions say simply, “Users within your organization are allowed to use the Organization’s Account.”

The above agreements direct Nebraska Interactive to charge DHHS \$50 for each water well contractor who registers to access the online well registration service. DHHS pays this fee, along with the annual subscription renewal fee of \$50 per water well contractor, from the Fund. Such payments are based upon very limited information provided on the Nebraska Interactive invoice, which reflects only the number of subscription renewals that have come due for the billing month. The specific contractors being automatically renewed are not identified. As a result, there is a significant risk that water well contractors who subscribed for the online registration service several years ago have continued to be renewed each year despite no longer using it.

According to a report provided by the Nebraska Department of Natural Resources, 140 water well contractors utilized the online registration system between July 1, 2015, and December 31, 2017. That number differs rather dramatically from Nebraska Interactive’s claim of 216 active subscribers as of January 2018. Such a discrepancy indicates that DHHS may be unnecessarily paying for approximately 76 subscription renewals each year, which amounts to \$9,500 in potential overpayments for the 30-month attest period.

We recommend DHHS obtain more detailed subscription renewal information from Nebraska Interactive and implement procedures for tracking more accurately whether those subscribers are truly active and requiring renewal.

DHHS Response: DHHS has implemented a monthly review of subscription charges, cross-referencing billed subscriptions with active credentials to ensure it does not pay for subscriptions for inactive licenses.

8. Asset Tracking Issues

Several issues were noted related to the maintenance of the Well Drillers Fund’s (Fund) assets. First, of the 13 assets included on the asset listing as of December 31, 2017, two were not found to be in the physical custody of the Nebraska Department of Health and Human Services (DHHS). One of these assets was missing, and one was in the custody of a former subcontractor and had yet to be collected by DHHS despite the contract having ended nearly a year ago.

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8. Asset Tracking Issues (Continued)

- A Well Packer, with a cost of \$7,389, was said to be in the custody of the owner of Clean Well Technologies, Inc. (Clean Well) in Gretna, NE, although an image verifying the physical location of the item could not be obtained. The owner of Clean Well had allegedly told DHHS staff that the item was no longer in his custody, so it appears the asset may be missing entirely. The contract with Clean Well ended on July 20, 2017, and the APA attempted to verify the item's location in July 2018.
- A High Capacity Test Pump System, with a cost of \$27,708, was found to be in the custody of AWS Well Company in Mead, NE. AWS is a subcontractor of Clean Well per the contract, which ended on July 20, 2017, and the APA obtained the following images of its location in June 2018.



Concerns were also noted for two other assets described below.

- The Explorer Portable Well System, with a cost of \$16,700, was purchased in November 2017, but was added to the asset listing with a February 26, 2018, acquisition date. As a result of the incorrect acquisition date, the asset was not included on the asset listing as of December 31, 2017, and the related depreciation expense was not calculated correctly.
- The Enclosed Cargo Trailer, with a cost of \$2,775, was not tagged with a "Property of State of Nebraska" barcode tag to allow for the asset to be properly inventoried.

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8. Asset Tracking Issues (Concluded)

Neb. Rev. Stat. § 81-1118.02 (Reissue 2014) states the following:

(1) Each executive, department, commission, or other state agency, including the Supreme Court, the Board of Regents of the University of Nebraska, and the Board of Trustees of the Nebraska State Colleges, shall annually make or cause to be made an inventory of all property, including furniture and equipment, belonging to the State of Nebraska and in the possession, custody, or control of any executive, department, commission, or other state agency. The inventory shall include property in the possession, custody, or control of each executive, department, commission, or other state agency as of June 30 and shall be completed and filed with the materiel administrator by August 31 of each year.

(2) If any of the property of the state, referred to in subsection (1) of this section, is lost, destroyed, or unaccounted for by the negligence or carelessness of the executive, department, commission, or other state agency, the administrator shall, with the advice of the Attorney General, take the proper steps to recover such state property or the reasonable value thereof from the executive, department, commission, or other state agency charged with the same and from the person bonding such executive, department, commission, or other state agency, if any.

(3) Each such executive, department, commission, or other state agency shall indelibly tag, mark, or stamp all such property belonging to the State of Nebraska, with the following: Property of the State of Nebraska. In the inventory required by subsection (1) of this section, each such executive, department, commission, or other state agency shall state positively that each item of such property has been so tagged, marked, or stamped.

Additionally, a good internal control plan requires procedures to ensure assets are properly tagged, added to the asset listing with correct acquisition dates, and physically maintained in the State's custody upon completion of work performed by contractors.

Without such procedures, there is an increased risk for the loss or misuse of State property.

We recommend DHHS implement procedures to ensure compliance with State statute by verifying that assets are properly tagged, added to the asset listing with correct acquisition dates, and physically maintained in the State's custody upon completion of work performed by contractors. We also recommend DHHS seek to retrieve the two assets noted above, consulting with the Attorney General's office regarding subsequent action if such retrieval is either unsuccessful or not feasible.

DHHS Response: DHHS will implement procedures already in place at the NDEQ to track assets. The location of the Well Packer (\$7,389) is still being investigated. The majority of the High Capacity Test Pump System (\$27,708) has been moved to State of Nebraska property. There are a few locations the pumping system may be utilized, so the drop pipe portion of the system (10-20 feet sections of 8-inch flanged pipe) is still in the contractors' yard. Once the project is finished, the pipe will be delivered to State of Nebraska property.

DHHS will issue a replacement barcode tag for enclosed cargo trailer.

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(Continued)

9. Expenditures Issues

Four areas of concern were noted related to expenditures tested. The inaccuracy of the Nebraska Department of Health and Human Services' (DHHS) well inspections database appeared to be an underlying issue with three of the concerns. Essentially, this database appeared to be missing a significant number of inspections – as few, if any, of the well inspectors' travel expense reimbursements or TSB vehicles' usage could be supported by the database. Similarly, none of the time for temporary employees, who were hired to inspect wells, was supported by the database.

Travel Expense Reimbursements

Several issues related to the reasonableness, appropriateness, and availability of adequate supporting documentation were noted during the APA's testing of 11 employee and Water Well Standards and Contractors' Licensing Board (Board) members' expense reimbursements. Details on each of those issues are outlined below.

- The travel was not a reasonable and proper expenditure of the Well Drillers Fund (Fund) for one employee's expense reimbursement tested. The employee, a DHHS Public Health Risk Assessor, traveled to Philadelphia, PA, to attend the Lead in Urban Soils Workshop in September 2015. DHHS was not able to explain why the \$787 reimbursed in travel expenses was paid entirely from the Fund, given that the training obtained was related to other DHHS programs, which could have paid for some or all of the travel instead.
- The purpose of the trip was not adequately supported for two employees' expense reimbursements tested. The expense reimbursement indicated the purpose of travel was for inspections; however, no written inspection reports were completed, and the inspections were not recorded in the DHHS well inspections database.
 - The first instance was a mileage reimbursement for \$200 for five days of travel for inspections, but no support exists that those inspections were actually completed.
 - The second instance was a \$10 meal reimbursement while traveling for inspections and training with no inspection reports available.
- The mileage reimbursements were not reasonable based on the most direct route of travel for one of eight mileage reimbursements tested. One employee claimed \$50 in reimbursement for commuting 92 miles. The employee traveled from his personal residence in Yutan, Nebraska, going past his regular place of employment in Lincoln, Nebraska, to a work site in Wauneta, Nebraska. Per MapQuest, it is 46 miles from Yutan to Lincoln. This mileage would be considered commuting mileage and should not be reimbursed according to the DAS Accounting Manual and IRS Regulations.

The Department of Administrative Services (DAS) Accounting Manual, AM-005, "Travel Expense Policies," Section 2, states the following:

Commuting expenses are defined by the Internal Revenue Service as those expenses incurred in traveling from one's regular place of employment to one's residence, no matter how often this occurs during a day. These are considered personal expenses and are, therefore, unallowable expenses when using a non-state vehicle.

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(Continued)

9. Expenditures Issues (Continued)

The DAS Accounting Manual, AM-005, "Travel Expense Policies," Section 7, states the following:

An employee will be reimbursed for use of a personal vehicle while on State business (this does not include commuting miles) at the prevailing standard rate as established by the Internal Revenue Service through its Revenue Procedures.

- An itemized receipt was not on file or the meal reimbursement was not proper for three of four employee meal expense reimbursements tested. One of those three employee reimbursements included four separate instances of unsupported or improper meals. The table below illustrates each instance.

Employee	Date	Restaurant	Description	Amount
Employee 1	9/1/2016	Wauneta Crossroads	Copenhagen Mint Long Cut Chewing tobacco is not an allowable reimbursable meal expense	\$ 4
Employee 2	9/14/2015	Sweet as Fudge Candy Store	No itemized receipt, credit card slip only	\$ 9
Employee 2	9/15/2015	Urban Soils Workshop	No support for payment of sack lunch	\$ 14
Employee 2	9/16/2015	Unknown	No itemized receipt, credit card slip only	\$ 8
Employee 2	9/16/2015	Lolita	Tax incorrectly calculated and reimbursed	\$ 1
Employee 3	9/5/2017	Red Fox Steakhouse	No itemized receipt, credit card slip only	\$ 16
			Total	\$ 52

The DAS Accounting Manual, AM-005, "Travel Expense Policies," Section 6, states the following:

Agencies are responsible to see that all submitted claims for food/meals are adequately substantiated. Unsubstantiated food/meals should not be reimbursed. Receipts are required unless the cost of the food/meal is under \$5.00.

- Lodging costs amounting to \$90 were not reasonable for one of three lodging reimbursements tested. The employee attended the 2016 Nebraska Water Industries Trade Show in Kearney, Nebraska, from February 9, 2016, through February 11, 2016. The conference ended at 5:00 pm; however, the employee stayed in Kearney on February 11, 2016, and did not return to Norfolk until the next day, resulting in an additional \$90 hotel stay that was unnecessary. A \$5 meal was also reimbursed on the additional night. There was no documentation to support why the employee needed to stay an additional night, and no inspections were noted for the employee per the DHHS well inspection database.

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(Continued)

9. Expenditures Issues (Continued)

- Other related travel expenses were not appropriate for 2 of 10 employee expense reimbursements tested.
 - A hotel bill appears to have been overpaid by \$20. One employee stayed at a hotel for four nights at \$70 per night, but the hotel had provided DHHS with a quote of \$65 per night. Additionally, a second DHHS employee stayed at the same hotel on the same dates and received the \$65 per night rate.
 - One employee received a \$13 reimbursement for room service without providing an itemized receipt.

Sound business practices and a good internal control plan require procedures to ensure adequate documentation is on file to support travel expenditures, and such expenditures are reasonable and appropriate.

Without such procedures, there is an increased risk for the loss or misuse of State funds.

We recommend DHHS implement more thorough review procedures to ensure that employee expense reimbursement are reasonable, appropriate, and adequately supported.

TSB Vehicles

The Fund had three permanently assigned vehicles from the Transportation Services Bureau (TSB) during the audit period. One vehicle was assigned to each of the three field area offices in Norfolk, Grand Island, and North Platte. The APA reviewed the vehicle logs for one month, August 2016, and two trips for each of the three vehicles and noted several concerns, including excessive mileage, unsupported travel, incomplete vehicle mileage logs, and a missing approval.

Excessive Mileage

During the vehicle review, we noted the mileage claimed appeared to be excessive for two of the three vehicles. Specifically, three of the four trips reviewed for these two vehicles claimed 262 miles in excess of the distance per MapQuest. Below is a summary of the three trips that appear to have been excessive:

Vehicle	Date	Mileage Claimed	Mileage per MapQuest	Variance
Vehicle 1	7/28/2016	281	247	34
Vehicle 1	8/22/2016	265	196	69
Vehicle 2	8/4/2016	261	102	159
Totals		807	545	262

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9. Expenditures Issues (Continued)

A DHHS Administrative Assistant signed and recalculated the total mileage on each log; however, the staff member did not recalculate mileage based on the destinations listed. The DHHS Water Well Specialists often conduct inspections at various locations, but they do not include all the locations on the log. The mileage log should include all points of travel and contain sufficient detail for a reviewer to ensure the mileage is necessary and reasonable.

Incomplete Vehicle Logs

For four of six trips tested, the TSB travel log was not properly completed. Three of these trips were for well inspections in a specific county. Each trip recorded on the log noted only the starting location and the ending destination with no indication of the location of each well being inspected. For the fourth trip, it appears mileage recorded was for a trip from the office in Norfolk to Aurora and back to the office; however, the log did not include the return trip.

Neb. Rev. Stat. § 81-1025(1) (Reissue 2014) states the following:

Each operator of a bureau fleet vehicle shall report the points between which the bureau fleet vehicle traveled each time used, the odometer readings at such points, the time of arrival and departure, the necessity and purpose for such travel, the license number of such vehicle, and the department to which such vehicle is assigned.

TSB Policies and Procedures, Section 7, Official Travel Log, states the following:

State Statutes mandate all travel in state-owned vehicles to be recorded and reported in detail (§81-1025). An entry is defined as a record of the following information required each time the vehicle is stopped and started: date, beginning and ending mileage, number of miles traveled, start time, finish time, from and to destinations, purpose of the trip, and the driver's signature.

Unsupported Trips

In order to determine if the mileage was necessary and reasonable, given the lack of information on the log, the APA reviewed the inspection database for the dates of the trips and by the staff member who completed the inspection. Based on the inspection database, the number of well inspections completed on these trips ranged from seven to nine inspections, but the locations of these inspections were not included on the TSB travel log.

Additionally, during review of the inspection database, it was noted that no times were listed for when each inspection occurred; therefore, the APA was unable to determine if it was reasonable for nine inspections to be performed in one day and what order the inspections were completed.

Additionally, DHHS staff do not complete any written inspection reports to document the results of each inspection completed. As such, the database is the only available support for inspections, making its inaccuracy even more significant.

Missing Approval

It was also noted that two employees assigned a vehicle took the vehicle to their residence. DHHS was unable to provide a written request to DAS for the vehicles to be assigned on a 24-hour basis.

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(Continued)

9. Expenditures Issues (Continued)

Neb. Rev. Stat. § 81-1020 (Reissue 2014) states, in part, the following:

Any agency which has a permanently assigned bureau fleet vehicle shall, prior to assigning such vehicle to an employee on a twenty-four hour basis, obtain written approval from the chief of the transportation services bureau.

TSB Policies and Procedures, Section 2, states, in relevant part, the following:

After receiving the required approvals (noted below) agency directors may, when it is in the state's best interest, authorize certain employees to retain possession of state-owned vehicles during nonworking hours and weekends The TSB Administrator's prior written approval is required for all circumstances detailed in §81-1020 and Executive Order 99-01, Item #3, Sub-items A through E The agency shall submit a list of all employees assigned TSB fleet vehicles that fit these requirements and turn it in as requested by TSB.

When TSB logs are not completed properly and mileage is not reasonable, there is an increased risk of misuse of State equipment and loss of funds. When proper approval is not obtained for vehicles to be assigned on a 24-hour basis, DHHS is noncompliant with State statute.

We recommend DHHS obtain the required approvals prior to authorizing any employees to retain possession of State-owned vehicles during nonworking hours and weekends. We also recommend DHHS implement procedures requiring staff to record each specific destination to support the mileage claimed for the vehicle. Lastly, we recommend DHHS maintain adequate documentation to support the reasonableness of mileage claimed.

Temporary Employees

The APA reviewed one biweekly pay period for a single temporary employee. The employee was a Water Supply Specialist responsible for well inspections, investigating compliance complaints, conducting site surveys of proposed public water supply well sites, and overseeing portions of the construction process of public water supply wells and storage facilities. Per the DHHS Administrative Assistant, field staff inspect newly registered wells for compliance and conduct inspections based on complaints. The staff utilize a database to schedule inspections and record comments. There is no other tool to track their inspections, and the only other way they track time is to track time on vehicle logs.

The APA was unable to find any inspections completed by the temporary employee in the database for the pay period tested. Additionally, the APA reviewed vehicle logs for the same time period and noted there was no travel by this employee. Lastly, the APA reviewed employee expense reimbursements for this time period and found one mileage reimbursement. The mileage log noted travel on August 24, 2016, while doing inspections for 8.75 hours. This contradicts the employee's time record, which noted eight hours worked and paid on that date.

A good internal control plan requires procedures to ensure expenditures are reasonable and necessary for the agency's function.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WELL DRILLERS FUND

COMMENTS AND RECOMMENDATIONS

(Continued)

9. Expenditures Issues (Concluded)

Without such procedures, there is an increased risk for the loss or misuse of State funds

We recommend DHHS implement procedures to ensure expenditures are reasonable and necessary for the agency's function.

Indirect Cost Rate Entries

During review of expenditure journal entries, the APA noted that the indirect cost entry for December 2016 was entered twice. This means the Fund was charged twice for the indirect costs of various DHHS Cash Funds, resulting in \$10,247 more in expenditures. An adjustment was made to the financial schedule. Additionally, the APA noted that DHHS did not have support for how the indirect cost rates used in the calculations from July 2016 through October 2017 were determined. The rates used were 27.4% for 1 month, 39.9% for 14 months, and 45.7% for 1 month. Per DHHS, its practice is to use the Federal Indirect Cost Rate; however, the Federal Indirect Cost Rate at the time was 33.2% from May 2016 to April 2017 and 32.6% from April 2017 to October 2017.

A good internal control plan requires procedures to ensure expenditure journal entries are not duplicated and are adequately supported.

Without such procedures, there is an increased risk for not only the loss or misuse of State funds but also financial schedule inaccuracies.

We recommend DHHS implement procedures to ensure expenditure journal entries are adequately supported and not duplicated.

DHHS Response: DHHS will ensure procedures are adequate to ensure expenditures are reasonable and necessary, including support and approvals for employee travel and state vehicle use. DHHS has already implemented changes to ensure proper supporting documentation of its indirect cost rate assessment journal entries.

10. Missing Payroll Documentation

During testing of all eight employees with time coded to the Well Drillers Fund (Fund) during the period July 1, 2015, through December 31, 2017, we noted the following items:

- Six employees did not have documentation on file, such as a Personnel Action Form, to support where their payroll was to be recorded.
- Two employees did not have a W-4 form on file to ensure withholdings were correct. One of these employees also did not have an I-9 on file.
- One employee's withholdings did not agree to the W-4 on file.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WELL DRILLERS FUND

COMMENTS AND RECOMMENDATIONS

(Concluded)

10. Missing Payroll Documentation (Concluded)

- Two employees did not have documentation on file to support three different payroll deductions.

The Instructions for Form I-9 state the following:

Employers must complete Form I-9 to document verification of the identity and employment authorization of each new employee (both citizen and noncitizen) hired after November 6, 1986, to work in the United States.

A good internal control plan and sound business practice require procedures to ensure not only that supporting documentation is maintained for all payroll deductions, hours paid, and coding of hours but also that required forms are retained.

Without such procedures, there is an increased risk of improper payments to employees, incorrect financial schedules, and the loss of State funds.

We recommend DHHS implement procedures to ensure supporting documentation is maintained for all payroll deductions, hours paid, and coding of hours. Such procedures should also ensure all required forms are retained.

DHHS Response: DHHS HR has policies in place that at the time of hire all payroll withholding forms are collected and forwarded to DAS Shared Services Payroll. DAS Payroll contacts new employees if they identify inaccuracies. After hire, an employee wishing to make changes to withholding delegations works directly with DAS Payroll or requests DHHS HR to forward new delegation forms to DAS Payroll on their behalf.



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NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES WELL DRILLERS FUND

INDEPENDENT ACCOUNTANT'S REPORT

Nebraska Department of Health and Human Services
Lincoln, Nebraska

We have examined the accompanying Schedule of Revenues, Expenditures, and Changes in Fund Balance of the Nebraska Department of Health and Human Services (DHHS) – Well Drillers Fund for the period July 1, 2015, through December 31, 2017. DHHS's management is responsible for the Schedule of Revenues, Expenditures, and Changes in Fund Balance based on the accounting system and procedures set forth in Note 1. Our responsibility is to express an opinion on the Schedule of Revenues, Expenditures, and Changes in Fund Balance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Schedule of Revenues, Expenditures, and Changes in Fund Balance is based on the accounting system and procedures set forth in Note 1, in all material respects. An examination involves performing procedures to obtain evidence about the Schedule of Revenues, Expenditures, and Changes in Fund Balance. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of the Schedule of Revenues, Expenditures, and Changes in Fund Balance, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

In our opinion, the Schedule of Revenues, Expenditures, and Changes in Fund Balance for the period July 1, 2015, through December 31, 2017, is based on the accounting system and procedures prescribed by the State of Nebraska's Director of Administrative Services, as set forth in Note 1, in all material respects.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Schedule of Revenues, Expenditures, and Changes in Fund Balance; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the subject matter or an assertion about the subject matter of the examination engagement. We are also required to obtain and report the views of management concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Schedule of Revenues, Expenditures, and Changes in Fund Balance is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedule of Revenues, Expenditures, and Changes in Fund Balance or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards*, and those findings, along with the views of management, are described in the Comments and Recommendations Section of the report.

The purpose of this report is to express an opinion on the Schedule of Revenues, Expenditures, and Changes in Fund Balance, as described in paragraph one above. Accordingly, this report is not suitable for any other purpose. This report is a matter of public record, and its distribution is not limited.

A handwritten signature in black ink, appearing to read 'C. J. Janssen', with a long horizontal flourish extending to the right.

Charlie Janssen
Auditor of Public Accounts
Lincoln, Nebraska

August 22, 2018

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WELL DRILLERS FUND
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE
July 1, 2015, through December 31, 2017

	Fund 22001 Well Drillers
REVENUES:	
Intergovernmental	\$ 227,786
Sales & Charges	527,825
Miscellaneous	83,423
TOTAL REVENUES	<u>839,034</u>
EXPENDITURES:	
Personal Services	810,950
Operating	1,173,234
Travel	48,360
Capital Outlay	46,337
TOTAL EXPENDITURES	<u>2,078,881</u>
Deficiency of Revenues	
Under Expenditures	<u>(1,239,847)</u>
Net Change in Fund Balance	(1,239,847)
FUND BALANCE, July 1, 2015	<u>1,663,045</u>
FUND BALANCE, December 31, 2017	<u><u>423,198</u></u>
FUND BALANCE CONSIST OF:	
General Cash	423,825
Due to Vendors	(627)
TOTAL FUND BALANCE	<u><u>\$ 423,198</u></u>

The accompanying notes are an integral part of the schedule.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WELL DRILLERS FUND

NOTES TO THE SCHEDULE

For the period July 1, 2015, through December 31, 2017

1. Criteria

The accounting policies of the Nebraska Department of Health and Human Services (DHHS) – Well Drillers Fund are on the basis of accounting, as prescribed by the State of Nebraska Director of Administrative Services (DAS).

Per Neb. Rev. Stat. § 81-1107(2) (Reissue 2014), the duties of the State of Nebraska's Director of DAS include the following:

The keeping of general accounts and the adoption and promulgation of appropriate rules, regulations, and administrative orders designed to assure a uniform and effective system of accounts and accounting, the approval of all vouchers, and the preparation and issuance of warrants for all purposes[.]

In accordance with Neb. Rev. Stat. § 81-1111(1) (Reissue 2014), the State Accounting Administrator has prescribed the system of accounts and accounting to be maintained by the State and its departments and agencies and has developed necessary accounting policies and procedures. The prescribed accounting system currently utilizes EnterpriseOne, an accounting resource software, to maintain the general ledger and all detailed accounting records. Policies and procedures are detailed in the Nebraska State Accounting Manual published by DAS State Accounting Division (State Accounting) and are available to the public.

The financial information used to prepare the Schedule of Revenues, Expenditures, and Changes in Fund Balance was obtained directly from the general ledger and fund balance information maintained on EnterpriseOne. EnterpriseOne is not an accrual accounting system; instead, accounts are maintained on a modified cash basis. As revenue transactions occur, the agencies record the accounts receivable and related revenues in the general ledger. As such, certain revenues are recorded when earned, regardless of the timing of related cash flows. State Accounting does not require DHHS to record all accounts receivable and related revenues in EnterpriseOne; as such, the Well Drillers Fund's schedule does not include all accounts receivable and related revenues. In a like manner, expenditures and related accounts payable are recorded in the general ledger as transactions occur. As such, the schedule includes those expenditures and related accounts payable posted in the general ledger as of December 31, 2017, and not yet paid as of that date. The amount recorded as expenditures on the schedule, as of December 31, 2017, **does not** include amounts for goods and services received before December 31, 2017, which had not been posted to the general ledger as of December 31, 2017.

The Well Drillers Fund had no accounts receivable at December 31, 2017.

Liabilities for accrued payroll and compensated absences are not recorded in the general ledger.

The fund type established by the State that is used by the Well Drillers Fund is:

20000 – Cash Funds – account for revenues generated by specific activities from sources outside of State government and the expenditures directly related to the generation of the revenues. Cash funds are established by State statutes and must be used in accordance with those statutes.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WELL DRILLERS FUND

NOTES TO THE SCHEDULE

(Continued)

1. Criteria (Concluded)

The major revenue account classifications established by State Accounting and used by the Well Drillers Fund are:

Intergovernmental – Revenue from other governments in the form of grants, entitlements, shared revenues, payments in lieu of taxes, or reimbursements.

Sales & Charges – Income derived from sales of merchandise and commodities, compensation for services rendered, and charges for various licenses, permits, and fees.

Miscellaneous – Revenue from sources not covered by other major categories, such as investment income and declaratory orders.

The major expenditure account classifications established by State Accounting and used by the Well Drillers Fund are:

Personal Services – Salaries, wages, and related employee benefits provided for all persons employed by the Well Drillers Fund.

Operating – Expenditures directly related to a program's primary service activities.

Travel – All travel expenses for any State officer, employee, or member of any commission, council, committee, or board of the State.

Capital Outlay – Expenditures that result in the acquisition of or an addition to capital assets. Capital assets are resources of a long-term character, owned or held by the government.

Other significant accounting classifications and procedures established by State Accounting and used by the Well Drillers Fund include:

Assets – Resources owned or held by a government that have monetary value. Assets include cash accounts. Cash accounts are also included in fund balance and are reported as recorded in the general ledger.

Liabilities – Legal obligations arising out of transactions in the past that must be liquidated, renewed, or refunded at some future date. Accounts payable transactions are recorded as expenditures, resulting in a decrease to fund balance.

2. Reporting Entity

The Nebraska Department of Health and Human Services (DHHS) is a State agency established under and governed by the laws of the State of Nebraska. As such, DHHS is exempt from State and Federal income taxes. The schedule includes the only fund of the Well Drillers Fund included in the general ledger.

DHHS is part of the primary government for the State of Nebraska.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WELL DRILLERS FUND

NOTES TO THE SCHEDULE

(Concluded)

3. General Cash

General cash accounts are under the control of the State Treasurer or other administrative bodies, as determined by law. All cash deposited with the State Treasurer is initially maintained in a pooled cash account. On a daily basis, the State Treasurer invests cash not needed for current operations with the State's Investment Council, which maintains an operating investment pool for such investments. Interest earned on those investments is allocated to funds based on their percentage of the investment pool.

4. Capital Assets

Capital assets include land, buildings, equipment, improvements to buildings, construction in progress, and infrastructure assets (e.g., roads, bridges, sidewalks, and similar items). Under State Accounting policies, expenditures for such capital assets are not capitalized as an asset in the funds used to acquire or construct them. Rather, costs of obtaining the capital assets are reflected as expenditures in the general ledger and are reported as such on the Schedule.

However, State Accounting does adjust such expenditures and reports the capital assets as assets for the State of Nebraska in the Comprehensive Annual Financial Report (CAFR). In addition, DHHS takes an annual inventory, recording in the State Accounting System all equipment that has a cost of \$1,500 or more at the date of acquisition, and all computers.

5. Pending Litigation

DHHS is currently involved in a legal dispute with Clean Well. On January 10, 2018, Clean Well filed a complaint (Case No. CI 18-87) against DHHS, among other defendants, in the District Court of Lancaster County, seeking \$2,865,000 in damages for various alleged wrongs, including breach of contract. Since that initial filing, there have been numerous procedural motions. The outcome of the case is pending.



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