



OFFICE OF THE STATE AUDITOR
Hector H. Balderas

West Pecos Acequia

Independent Accountant's Report on Applying Agreed-Upon Procedures

Fiscal Year Ended December 31, 2011

West Pecos Acequia

Table of Contents

Fiscal Year Ended December 31, 2011

	<u>Page</u>
Table of Contents	1
Official Roster	2
Independent Accountant's Report	3
Schedule of Capital Outlay Awards to Acequia	6
Schedule of Findings and Responses	7-9
Exit Conference	10

West Pecos Acequia

Official Roster

Fiscal Year Ending December 31, 2011

Board of Commissioners

Herman Gallegos, President

Brian Valencia, Secretary

Jerry Varela, Treasurer

Mayordomos

Jasper Roybal

Administrative Staff

None



State of New Mexico
OFFICE OF THE STATE AUDITOR

Hector H. Balderas
State Auditor

Carla C. Martinez
Deputy State Auditor

Independent Accountant's Report on Applying Agreed-Upon Procedures

Herman Gallegos, President
and Members of the Board of Commissioners
West Pecos Acequia
19 Solano Drive
Pecos, New Mexico 87552

We have performed the procedures enumerated below for the West Pecos Acequia (Acequia) for the year ended December 31, 2011, solely to assist in determining compliance with the provisions of the Audit Act for a Tier 3 entity per Section 12-6-3 B (3) NMSA 1978 and Section 2.2.2.16 NMAC. The procedures were agreed to by the Acequia through the New Mexico Office of the State Auditor. The Acequia's management is responsible for its accounting records and the subject matter. This agreed upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. Our procedures and findings are as follows:

1. Test all state-funded capital outlay expenditures.

- a. Determine that the amount recorded as disbursed agrees to adequate supporting documentation. Verify that amount, payee, date and description agree to the purchase order, contract, vendor's invoice and canceled check, as appropriate.

All of the cash disbursements for the capital award projects were tested. The amounts disbursed agreed with the supporting documentation. The amount, payee, date and description of the purchase agreed with the vendor's invoice, contract and canceled check.

- b. Determine that cash disbursements were properly authorized and approved in accordance with the budget, legal requirements and established policies and procedures.

The Acequia is not required to submit a budget to the Department of Finance and Administration – Local Government Division. However, a project budget is required to be submitted by the terms of the agreements with the Office of the State Engineer Interstate Stream Commission (OSE/ISC) to the OSE/ISC. The cash disbursements tested were properly authorized and approved in accordance with the project budget, legal requirements and the Acequia's procurement policies and procedures, with the exception of noncompliance described in Finding 2010-02.

- c. Determine that the bid process (or request for proposal process if applicable), purchase orders, contracts and agreements were processed in accordance with the New Mexico Procurement Code and State Purchasing Regulations (Section 13-1-28 through 13-1-199

NMSA 1978 and 1.4.1 NMAC).

For the work done on the ditch repair projects, the Acequia advertised, obtained bids and quotes where necessary, and entered into contracts and purchase agreements in accordance with its procurement policies and applicable state laws and regulations.

- d. Determine the physical existence (by observation) of the capital asset based on expenditures to date.

The repair work was physically observed during a tour of the West Pecos Acequia on October 23, 2013.

- e. Verify that status reports were submitted to the state agency per terms of agreement and amounts in the status report agree with the general ledger and other supporting documentation.

The amounts on the reimbursement forms agree with the general ledger and other supporting documentation. Status reports were not required by the terms of the agreements with the OSE/ISC. The Acequia submitted the required budgets and reimbursement forms for the projects to the OSE/ISC with the exception of the instances of noncompliance described in Finding 2010-02. Supporting documentation showed the Acequia should have reverted \$2,018.02 as described in Finding 2011-01.

2. If the project was funded in advance, determine if the award balance (and cash balance) appropriately reflects the percentage of completion based on the project schedule and expenditures to date.

The projects were not funded in advance. The Acequia was required to submit reimbursement forms to the OSE/ISC upon completion of work on the project. The Acequia paid for its project expenditures after the Acequia received checks from the OSE/ISC, with the exception of noncompliance noted in Finding 2011-01.

3. If the project is complete, determine if there is an unexpended balance and whether it was reverted per statute and agreement with the grantor.

As shown in Exhibit 1 on page 6, the Acequia received a total of \$31,231.89 and expended a total of \$29,213.87 leaving a balance of \$2,018.02 in the fiscal year ended December 31, 2011, and expended \$30,457.37 in the previous year. For each appropriation, the cash amounts received equaled the amount of expenditures with the exception of the instance of noncompliance described in Finding 2011-01.

4. Determine whether cash received for the award was accounted for in a separate fund or separate bank account that is non-interest bearing if so required by the capital outlay award agreement.

The checks received from the OSE/ISC were deposited in the Acequia's checking account at Southwest Bank. The capital outlay award agreement did not require a separate fund or separate non-interest bearing bank account to deposit the amounts received.

5. Determine whether reimbursement requests were properly supported by costs incurred by the recipient. Determine whether the costs were paid by the local public body prior to the request for reimbursement.

The Acequia filed Request for Reimbursement Forms with the OSE/ISC based on unpaid invoices submitted to the Acequia by vendors who had performed work on Acequia projects. The costs were not paid by the Acequia prior to the request for reimbursement because the Acequia did not have the necessary funds. The Acequia paid for its project expenditures after the Acequia received the OSE/ISC checks. There was one instance in which the reimbursement request was not supported by Acequia costs. See Finding 2011-01.

6. If information comes to the IPA's attention (regardless of materiality) indicating any fraud, illegal acts, noncompliance, or any internal control deficiencies, such instances must be disclosed in the report as required by Section 12-6-6 NMSA 1978. The findings must include the required content per Section 2.2.2.10 (I)(3)(C) NMAC.

See Findings 2010-01, 2010-02 and 2011-01.

7. The report shall include the capital outlay amount awarded, amount received, amount expended, the remaining balance, and the actual legislation and effective dates for each capital outlay appropriation that meets the Tier 3 criteria.

See Exhibit 1 — Schedule of Capital Outlay Awards to Acequia on p. 6 of this report.

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on the Tier 3 agreed upon procedures. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of management of the Acequia, the New Mexico State Auditor, the NM Office of the State Engineer, the NM Department of Finance and Administration — Local Government Division, and the NM State Legislature and is not intended to be and should not be used by anyone other than these specified parties.

Office of the State Auditor

Office of the State Auditor

October 23, 2013

West Pecos Acequia
Exhibit 1 – Schedule of Capital Outlay Awards to Acequia
December 31, 2011

	Note 1	Note 2	Note 3	Total
Amount Awarded for Project	\$40,000.00	\$20,000.00	\$30,000.00	\$90,000.00
Amount Received by Acequia	37,508.92	19,754.16	4,426.18	61,689.26
Amount Expended in Prior Years	(27,508.92)	(457.37)	(2,491.08)	(30,457.37)
Amount Expended by Acequia	<u>(10,000.00)</u>	<u>(17,278.77)</u>	<u>(1,935.10)</u>	<u>(29,213.87)</u>
Remaining Balance	<u>\$ -0-</u>	<u>\$ 2,018.02</u>	<u>\$ -0-</u>	<u>\$ 2,018.02</u>

Agreement Provisions

Note 1: Acequia Capital Appropriation Project Agreement between the NM Interstate Stream Commission (NMISC) and the West Pecos Acequia

Legislative Authority: NM Laws of 2007, Chapter 42, Section 67, Item 54 (GF)

Date of Agreement with NMISC: March 26, 2008

Project Description: To plan, design, and construct, including demolition of an existing structure, a permanent inlet structure for the West Pecos Acequia Association in Pecos in San Miguel County.

Estimated Project Cost: \$40,000

Agreement termination/reversion date: July 30, 2011

Note 2: Acequia Capital Appropriation Project Agreement between the NM Interstate Stream Commission (NMISC) and the West Pecos Acequia

Legislative Authority: NM Laws of 2009, Chapter 128, Section 419 (Reauthorized from Subsection 48 of Section 67 of Chapter 42 of Laws of 2007)

Date of Agreement with NMISC: September 18, 2009

Project Description: To demolish, plan, design and construct and repair improvements.

Estimated Project Cost: \$20,000

Agreement termination/reversion date: July 1, 2011

Note 3: Acequia Capital Appropriation Project Agreement between the NM Interstate Stream Commission (NMISC) and the West Pecos Acequia

Legislative Authority: NM Laws of 2008, Chapter 92, Section 57 Item 31

Date of Agreement with NMISC: January 27, 2009

Project Description: To plan, design, and construct and repair and demolish Acequia structures for the West Pecos Association located in San Miguel County.

Estimated Project Cost: \$30,000

Agreement termination/reversion date: July 1, 2012

**West Pecos Acequia
Schedule of Findings and Responses
Fiscal Year Ending-December 31, 2011**

Status of Prior Year Findings

Finding 2010-01, Late Agreed-upon Procedures Report – Repeated

Finding 2010-02, The Acequia did not submit a Project budget to ISC – Repeated

Current Year Findings

2010-01 Late Agreed-upon Procedures Report

Condition:

This agreed-upon procedures report for FY 2011 was not submitted to the NM Office of the State Auditor (OSA) by the due date of May 31, 2012.

Criteria:

Per Section 2.2.2.16(H) NMAC, “Local public bodies with a fiscal year-end other than June 30 must submit the agreed-upon procedures report no later than 5 months after the fiscal year-end.”

Effect:

If the report is late, users of the report are not receiving timely information about the results of the agreed-upon procedures.

Cause:

According to State Audit Rule, Section 2.2.2.16.B NMAC, “Annually, the State Auditor shall provide local public bodies written authorization to proceed with obtaining services to conduct a financial audit or other procedures.” The Acequia was unaware that by accepting and spending capital outlay money the Acequia would be required to have a Tier 3 engagement performed.

Recommendation:

The officers of the Acequia should read Section 2.2.2.16 NMAC of the State Audit Rule to understand the specific requirements and due dates for agreed-upon procedures. For future fiscal years, if the Acequia’s annual revenue is less than \$50,000 and the Acequia expended at least 50% of, or the remainder of, a single capital outlay award, then the Acequia shall procure services of an IPA for the performance of a Tier 3 Agreed Upon Procedures engagement (Section 2.2.2.16B(3) NMAC). If the annual revenues of the Acequia exceed \$50,000, review Section 2.2.2.16 NMAC for the applicable requirements. If agreed-upon procedures are required for future fiscal years, take the necessary steps to ensure that the agreed-upon procedures report is submitted to the OSA by May 31.

Management’s response:

The Commissioners of West Pecos Acequia agree with the above recommendation and the agreed-upon procedures report will be submitted in a timely manner.

**West Pecos Acequia
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2011**

2010-02 The Acequia did not submit a Project Budget to ISC

Condition:

The Acequia did not submit a project budget to the OSE/ISC for the \$20,000 appropriation. The Acequia submitted an engineer's project plan instead.

Criteria:

The Capital Project Agreement pursuant to 2009 NM Laws, Chapter 128, Section 418 (Reauthorize) and 2009 NM Laws, Chapter 128, Section 419 states "The Acequia shall submit to OSE/ISC an executed project budget on a form provided by OSE/ISC, attach hereto and incorporated and made a part of this agreement as Exhibit "A", listing the proposed tasks that the Acequia believes are reasonably necessary to accomplish the project and for which the Acequia will seek reimbursement from the appropriated funds."

Effect:

The Acequia could have overspent its \$20,000 appropriation without a project budget.

Cause:

Unknown

Recommendation:

The Acequia should read each Capital Project Agreement carefully to understand what is required of the Acequia before the money is spent and implement procedures to ensure the requirements are met for each appropriation.

Management's Response:

The West Pecos Acequia was not aware of the requirement to submit a project budget to OSE/ISC. Therefore, the Acequia submitted the engineer's plans for the project instead of the required budget.

**West Pecos Acequia
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2011**

2011-01 Internal Controls Over Disbursements and Reversions

Condition:

During our testwork over expenditures we noted the Acequia was over reimbursed for one invoice in the amount of \$2018.02. The Acequia did not revert the overpayment to the OSE/ISC. It appears as though the Acequia spent a portion of the money received on a subsequent project. The Treasurer of the Acequia claims \$1,642.82 was spent on the subsequent project.

Criteria:

Section 1(A)1 of Chapter 128, Laws of 2009 states that the unexpended balance from the proceeds of severance bonds issued for a project that has been reauthorized in this act shall revert to the severance bonding funds: (a) at the end of expenditure period as set forth in this act. Section 2(A)1 of Chapter 128, Laws of 2009 states that the unexpended balance of appropriation from the general fund or other state fund that has been changed in this act shall revert: (a) at the end of expenditure period as set forth in this act, if the expenditure period is changed in this act.

Effect:

The Acequia was reimbursed for costs that were never paid.

Cause:

A duplicate invoice was sent to the Acequia by the contractor with two different invoice numbers. The OSE/ISC paid the Acequia for the duplicate invoices. However, the Acequia paid the contractor for only one of the duplicate invoice invoices and did not revert the remaining \$2,018.02 to the OSE/ISC.

Recommendation:

The Acequia should immediately revert the \$2,018.02 duplicate payment to the OSE/ISC that was reimbursed to them for costs that were not actually incurred.

Agency Response:

Concerning the 2011-03 Internal Controls Over Distributions and Reversions, the West Pecos Acequia is fully aware of receiving duplicate invoices from the contractor on two different dates. However, the money was spent at a later date to cover expenses for a different invoice that the Acequia paid for because of Capital Outlay Funding terminating. The contractor's invoice was for \$3,715.07. Capital Outlay Funding received was for \$2,072.25, the difference was \$1,642.82. The Acequia paid the difference using monies received from the duplicate invoice. We are willing to make arrangements to reimburse the state the money due for the duplicate invoice.

**West Pecos Acequia
Exit Conference
Fiscal Year Ended December 31, 2011**

On October 23, 2013, an exit conference was held with the following individuals to discuss the results of the agreed upon procedures and the contents of this report:

West Pecos Acequia

Jerry Varela, Treasurer

Office of the State Auditor

U. Chan Kim, CPA, Audit Manager