

OFFICE OF THE STATE AUDITOR

Timothy M Keller



Acequia de la Cienega

Independent Accountant's Report on Applying Agreed-Upon Procedures

For the Fiscal Year Ended December 31, 2013

**Acequia de la Cienega
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Fiscal Year Ended December 31, 2013**

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**Acequia de la Cienega
Official Roster
Fiscal Year Ending December 31, 2013**

Board of Commissioners

Brenda Dominguez, Chairperson

Maureen Mestas, Secretary

Richard Romero, Treasurer

Mayordomos

Reynaldo Romero

Administrative Staff

None



Timothy M. Keller
State Auditor

Sanjay Bhakta, CPA, CGFM, CFE
Deputy State Auditor

State of New Mexico
OFFICE OF THE STATE AUDITOR

Independent Accountant's Report on Applying Agreed-Upon Procedures

Brenda Dominguez, Chairperson
and Members of the Board of Commissioners
Acequia de la Cienega
410 Los Pinos Rd.
Santa Fe, New Mexico 87507

We have performed the procedures enumerated below for the Acequia de la Cienega (Acequia) for the year ended December 31, 2013, 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 outlay 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 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 discussed in Finding 2013-001 on page 7.

- 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).

2540 Camino Edward Ortiz, Suite ³A, Santa Fe, New Mexico 87507

Phone (505) 476-3800 * Fax (505) 827-3512

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For the work done on the ditch improvement and 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 Reservoir in La Cienega and the Acequia de la Cienega on April 8, 2015.

- 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.

Status reports were not required by the terms of agreements with the NM Office of the State Engineer/Interstate Stream Commission (OSE/ISC). The Acequia submitted the required budgets and reimbursement forms for the projects to the OSE/ISC.

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.

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 expended a total of \$99,917. For this appropriation, the cash amounts received equaled the amount of expenditures. Therefore, the Acequia had no unexpended cash balance to revert.

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 bank account at Guadalupe Credit Union. 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 checks were received from the OSE/ISC. A finding was not considered necessary since the Acequia complied with the OSE/ISC's reimbursement procedures requirements.

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.

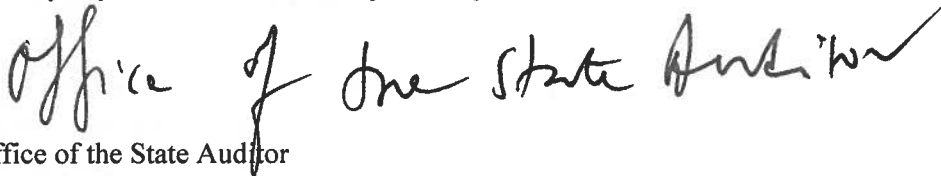
See Finding 2010-001 on page 7 of this report.

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 page 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 NM 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.

A handwritten signature in black ink that reads "Office of the State Auditor". The signature is written in a cursive, flowing style.

Office of the State Auditor
April 20, 2015

Acequia de la Cienega
Exhibit 1 – Schedule of Capital Outlay Awards to Acequia
December 31, 2013

	<u>Total</u>
Amount Awarded for Project	\$100,000
Amount Received by Acequia	99,917
Amount Expended in Current Year	<u>(99,917)</u>
Remaining Balance	<u>\$ -0-</u>

Agreement Provisions

Acequia Capital Appropriation Project Agreement between the New Mexico Interstate Stream Commission (ISC) and Acequia de la Cienega

Legislative Authority: NM Laws of 2012, Chapter 64, Section 15, Paragraph 20

Date of Agreement with NMISC: November 1, 2012

Project Description: To plan, design and construct improvements, including installing piping, to the Acequia de la Cienega community irrigation system acequia in Santa Fe County, New Mexico.

Estimated Project Cost: \$100,000

Agreement termination/reversion date: June 30, 2016

**Acequia de la Cienega
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2013**

Status of Prior Year Findings

Finding 2010-001 (2010-01) Late Agreed-upon Procedures Report – Modified and Repeated
Finding 2010-002 (2010-02) No Records of Financial Transactions – Resolved
Finding 2010-003 (2010-03) Unorganized Records – Resolved

Current Year Findings

2010-001 (2010-01) – Failure to File Agreed Upon Procedures Report by the Required Due Date

Condition:

This agreed-upon procedures report for FY 2013 was not submitted to the NM Office of the State Auditor (OSA) by the due date of June 1, 2014.

Criteria:

Section 2.2.2.16 H NMAC states "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 shall provide 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 obligated 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 you have any questions about the State Audit Rule, call the OSA at (505) 476-3800. 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 due date.

Management's Response:

The officers of the Acequia will read section 2.2.2.16 NMAC of the State Audit Rule to understand the requirements and the agreed upon procedures report will be submitted in a timely manner by due date,.

**Acequia de la Cienega
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2013**

2013-001– Noncompliance with Capital Outlay Agreement

Condition:

The capital outlay agreement stipulated a required termination clause and a non-appropriations clause in contracts funded in whole or part by funds made available under the agreement. The project was funded entirely through funds made available under the capital outlay agreement. The termination clause was not included in either of the two contracts with the Acequia's vendors.

Criteria:

The Capital Outlay Agreement for Fund 12-1405 Acequia Capital Appropriation, Articles XVI & XVII specified the "Grantee [Acequia] acknowledges and agrees that Grantee shall include a termination clause and a "non-appropriations" clause in all contracts that are (i) funded in whole or in part by funds made available under this Agreement and (ii) entered into after the effective date of this agreement."

Effect:

In the event of early termination of the agreement and/or non-appropriation, the Acequia and the State of New Mexico would not be protected from an impairment of contract claims.

Cause:

The Acequia was not aware of the language required by the Capital Outlay Agreement with Office of the State Engineer/Interstate Stream Commission.

Recommendation:

Management should ensure that all contracts funded in whole or in part by funds made available through the capital outlay agreements have the early termination clause and "non-appropriation" clause in accordance with the capital outlay agreement.

Management's Response:

The Acequia de La Cienega Commissioners were not aware of the language required by the Capital Outlay Agreement with Office of the State Engineer/Interstate Stream Commission. Going forward, Commissioners will ensure that all contracts funded in whole or in part by funds made available through the capital outlay agreements have the early termination clause and "non-appropriation" clause in accordance with the capital outlay agreement.

**Acequia de la Cienega
Exit Conference
Fiscal Year Ended December 31, 2013**

On April 20, 2015, an exit conference was held with the following individuals to discuss the results of the agreed upon procedures and the contents of this report.

Acequia de la Cienega

Richard Romero, Treasurer

Reynaldo Romero, Mayordomo

Office of the State Auditor

U. Chan Kim, CPA, Audit Manager