



MACIAS, GUTIERREZ & CO., P.C.  
CERTIFIED PUBLIC ACCOUNTANTS  
ESPANOLA, NEW MEXICO  
[www.mgandc.com](http://www.mgandc.com)

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# **STATE OF NEW MEXICO**

## **ACEQUIA DE LA OTRA BANDA**

Independent Accountants' Report on Applying  
Agreed-Upon Procedures (Tier 3)

Year Ended December 31, 2016

**STATE OF NEW MEXICO**

**ACEQUIA DE LA OTRA BANDA**

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**Year Ended December 31, 2016**

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**STATE OF NEW MEXICO  
ACEQUIA DE LA OTRA BANDA**

**Table of Contents  
December 31, 2016**

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		<b><u>Page</u></b>
Title Page		i
Table of Contents		ii
Official Roster		iii
Independent Accountants' Report on Applying Agreed-Upon Procedures (Tier 3)		iv-vi
	<b><u>Exhibit</u></b>	
Project Schedule - Summary	A	1
Project Schedule - Detail	B	2
Schedule of Findings and Responses		3-4
Exit Conference		5

**STATE OF NEW MEXICO  
ACEQUIA DE LA OTRA BANDA**

**Official Roster  
at December 31, 2016**

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<u>Name</u>		<u>Title</u>
<b><u>Board of Directors</u></b>		
Elaine Best		President
David Susczynsky		Secretary
Steven Yanicek		Treasurer
<b><u>Staff</u></b>		
Danny Roybal		Mayordomo



Macias, Gutierrez  
& Co., P.C.

*Certified Public Accountants  
Member AICPA, NMSCPA*

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## **INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES (TIER 3)**

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To: Vicente Roybal, President  
Acequia de la Otra Banda #13008  
and  
Honorable Timothy M. Keller  
New Mexico State Auditor

We have performed the procedures enumerated below, which were agreed to by the Acequia de la Otra Banda (ADLOB) and the Office of the State Auditor on the Tier Verification, the State-Funded Capital Outlay Expenditures and Reimbursements and Other (Items 1-7) for the year ended December 31, 2016, included in the accompanying information provided to us by management of the Acequia de la Otra Banda. The Acequia de la Otra Banda is responsible for the Tier Verification, the State Funded Capital Outlay Expenditures and Reimbursements and Other (Items 1-7) for the year ended December 31, 2016 included in the accompanying information provided to us by the management of the ADLOB. 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. The procedures and associated findings (Results of Procedures Performed) are as follows:

The Contractor shall request and review all state-funded capital outlay awards, joint powers agreements, correspondence and other relevant documentation for the capital outlay award funds expended by the recipient that meet Tier 3 criteria.

1. Before beginning the procedures below, the IPA must verify the local public body's revenue calculation and tier determination using the form provided at [www.osanm.org](http://www.osanm.org) under "Tiered System Reporting Main Page."

We verified the Acequia de la Otra Banda's revenue calculation and tier determination. The Acequia de la Otra Banda's cash basis revenue was less than \$50,000 and expended at least 50% of, or the remainder of a capital outlay award which meets the criteria for **Tier 3 determination**.

2. **The Contractor shall test all state-funded capital outlay expenditures to:**

### **Procedures**

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

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• e-mail: [jimmymac20@juno.com](mailto:jimmymac20@juno.com)

- b) Determine that disbursements were properly authorized and approved in compliance with the budget, legal requirements and established policies and procedures.
- 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 (Section 13-1-28 through 13-1-99 NMSA 1978) and State Purchasing Regulations (1.4.1 NMAC) and Regulations Governing the Per Diem and Mileage Act (2.42.2 NMAC).
- d) Determine the physical existence (by observation) of the capital asset based on expenditures to date.
- 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.

**Results of Procedures Performed**

- a) We determined that amounts recorded as disbursed agreed to adequate supporting documentation and we verified that amounts, payees, dates and descriptions agreed to the vendor's invoices, purchase orders, contracts and cancelled check copies, as appropriate. There were two active projects. For Project 13-1602, we examined two disbursements totaling \$2,589.55. For Project 14-2156-06, which included a \$7,000 loan, we examined eight disbursements totaling \$81,003.15.
- b) We determined that disbursements were properly authorized and approved in compliance with the budget, legal requirements and established policies and procedures.
- c) We determined 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 (Section 13-1-28 through 13-1-99 NMSA 1978) and State Purchasing Regulations (1.4.1 NMAC).
- d) We determined the physical existence by photographs of the capital asset based on expenditures to date.
- e) We verified that status reports were submitted to the state agency per terms of agreement and amounts in the status report agree with accounting records and other supporting documentation.

**3. Procedures**

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

**Results of Procedures Performed**

There were two active projects. The projects were not intended to be funded in advance but on a reimbursement basis.

**4. Procedures**

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

**Results of Procedures Performed**

Project 13-1602 is complete and there is no unexpended balance in agreement with the grantor. Project 14-2156-06 is complete and there is an unexpended balance of \$16,252.85 that was reverted in agreement with the loan/grantor.

## 5. Procedures

The Contractor shall 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 agreement.

### Results of Procedures Performed

Since the projects were approved on a reimbursement basis, no separate fund or bank accounts were required.

## 6. Procedures

The Contractor shall determine whether reimbursement requests were properly supported by costs incurred by the recipient. The Contractor shall determine whether the costs were paid by the local public body prior to the request for reimbursement.

### Results of Procedures Performed

We determined that reimbursement requests were properly supported and the Acequia incurred costs prior to the submission of requests for funding from the New Mexico Interstate Stream Commission. There were two active projects. For Project 13-1602, we examined two reimbursement requests totaling \$2,589.55. For Project 14-2156-06, we examined six reimbursement requests totaling \$81,003.15.

## 7. Other Procedures

If information comes to the Contractor's attention (regardless of materiality) indicating any fraud, illegal acts, noncompliance, or any internal control deficiencies, disclose 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 (l) (3) (C) NMAC.

### Results of Procedures Performed

No exceptions were found as a result of applying the procedures described above (regardless of materiality) indicating any fraud or illegal acts. However, see the Schedule of Findings and Responses for a noncompliance issue related to Late Report (See Finding 2016-001, p. 4).

\* \* \* \* \*

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an examination or a review, the objective of which would be the expression of an opinion or conclusion, respectively, on the Tier Verification, State-Funded Capital Outlay Expenditures and Reimbursements or Other for the Acequia de la Otra Banda for the year ended December 31, 2016, included in the accompanying information provided to us by management of the Acequia de la Otra Banda. Accordingly, we do not express such an opinion or conclusion. 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 the Acequia de la Otra Banda, the New Mexico State Auditor's Office, the Department of Finance and Administration, Local Government Division and the New Mexico Legislature and is not intended to be and should not be used by anyone other than the specified parties.

*Macias, Gutierrez & Co., CPAs, P. C.*

Macias, Gutierrez & Co., CPAs, P. C.  
Española, New Mexico 87532  
November 27, 2017

STATE OF NEW MEXICO  
 ACEQUIA DE LA OTRA BANDA  
 Agreed-Upon Procedures (Tier 3)  
 For the Year Ended December 31, 2016

Exhibit A

Capital Outlay Project No.	Pay Request	Amount Awarded	Amount Requested/ Received	Actual Amount Expended	Remaining Balance	Actual Legislation	Effective Dates
13-1602 STB		<u>\$ 34,000.00</u>					
	1		\$ 711.63	\$ 711.63	\$ 33,288.37	Laws of 2013, Chapter 226,	
	2		2,502.69	2,502.69	30,785.68	Section 29, Paragraph 35,	
	3		2,264.97	2,264.97	28,520.71	to plan, design and construct	
	4		7,197.19	7,197.19	21,323.52	riverbank improvements for the	
	5		2,792.97	2,792.97	18,530.55	acequia de la Otra Banda on	
	6		7,127.63	7,127.63	11,402.92	Pueblo of Pojoaque land in Jacona	Through
	7		813.37	813.37	10,589.55	in Santa Fe County.	6/30/2017
	8		8,000.00	8,000.00	2,589.55		
	9		2,288.98	2,288.98	300.57		
	10		300.57	300.57	0.00		
			<u>\$ 34,000.00</u>	<u>\$ 34,000.00</u>	<u>\$ -</u>		
14-2156-06		<u>\$ 97,246.00</u>					
\$ 90,246.00	Grant						
\$ 7,000.00	Loan		\$ 7,000.00	\$ 7,000.00	\$ 90,246.00	Laws of 2014, Chapter 66,	
	1		13,449.90	13,449.90	76,796.10	Section 37, Paragraph 2,	
	2		2,343.24	2,343.24	74,452.86	to plan, design, renovate, construct	
	2		53,633.69	53,633.69	20,819.17	and equip improvements to	Through
	3		1,304.66	1,304.66	19,514.51	acequias statewide	6/30/2018
	4		132.50	132.50	19,382.01		
	5		1,712.00	1,712.00	17,670.01		
	6		1,427.16	1,427.16	16,242.85		
			<u>\$ 81,003.15</u>	<u>\$ 81,003.15</u>	<u>\$ 16,242.85</u>		



**STATE OF NEW MEXICO  
 ACEQUIA DE LA OTRA BANDA  
 Agreed-Upon Procedures (Tier 3)  
 For the Year Ended December 31, 2016**

Grant No.	Pay Request	Invoice/ Request Date	Amount Awarded	Amount Requested/ Received	Date Received	Invoice Amount	Check Number	Check Date	Actual Amount Expended	Vendor Paid
13-1602			<u>\$ 34,000.00</u>							
	STB									
	1	10/14/2014		\$ 711.63	11/14/2014	\$ 711.63	2097	11/14/2014	\$ 711.63	Portage, Inc.
	2	11/20/2014		2,502.69		2,502.69				
	3	12/12/2014		2,264.97	1/21/2015	2,264.97	2101	1/21/2015	4,767.66	Portage, Inc.
	4	1/27/2015		7,197.19	3/6/2015	7,197.19	2103	3/7/2015	7,197.19	Portage, Inc.
	5	2/18/2015		2,792.97	3/26/2015	2,792.97	2106	3/27/2015	2,792.97	Portage, Inc.
	6	3/23/2015		7,127.63	4/29/2015	7,127.63	2111	4/29/2015	7,127.63	Portage, Inc.
	7	4/23/2015		813.37	7/21/2015	813.37	2115	7/21/2015	813.37	Portage, Inc.
	8	9/3/2015		8,000.00	11/5/2015	8,000.00	2121	11/5/2015	8,000.00	Roybal Enterprises General Contractors
	9	12/23/2015		2,288.98	2/10/2016	2,288.98	2125	2/11/2016	2,288.98	Portage, Inc.
	10	8/23/2016		300.57	9/9/2016	300.57	2143	9/9/2016	300.57	Portage, Inc.
				<u>\$ 34,000.00</u>		<u>\$ 34,000.00</u>			<u>\$ 34,000.00</u>	
14-2156-06			<u>\$ 97,246.00</u>							
\$90,246.00	Grant									
\$ 7,000.00	Loan	2/2/2016		\$ 7,000.00	2/10/2016	-	2126	2/11/2016	\$ 7,000.00	Roybal Enterprises General Contractors
	1	2/2/2016		13,449.90	3/2/2016	13,449.90	2129	3/2/2016	6,449.90	Roybal Enterprises General Contractors
	2	3/21/2016		2,343.24	4/14/2016	2,343.24	2132	4/16/2016	2,343.24	Portage, Inc.
	2	3/21/2016		53,633.69	4/14/2016	60,633.69	2133	4/16/2016	60,633.69	Roybal Enterprises General Contractors
	3	4/21/2016		1,304.66	5/20/2016	1,304.66	2137	5/20/2016	1,304.66	Portage, Inc.
	4	5/25/2016		132.50	6/29/2016	132.50	2139	6/30/2016	132.50	Portage, Inc.
	5	6/30/2016		1,712.00	7/13/2016	1,712.00	2141	7/14/2016	1,712.00	Roybal Enterprises General Contractors
	6	8/23/2016		1,427.16	9/9/2016	1,427.16	2143	9/9/2016	1,427.16	Portage, Inc.
				<u>\$ 81,003.15</u>		<u>\$ 81,003.15</u>			<u>\$ 81,003.15</u>	

**STATE OF NEW MEXICO  
ACEQUIA DE LA OTRA BANDA**

**Schedule of Findings and Responses  
Year Ended December 31, 2016**

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	<u>Type of Finding *</u>	<u>Prior Year Finding Number</u>	<u>Current Year Finding Number</u>
<b>Current Year Findings:</b>			
Late Report	D	N/A	2016-001
<b>Follow-up on Prior Year Findings:</b>			
None	N/A	N/A	N/A

- \* Legend for Findings:**
- A. Fraud
  - B. Illegal Act(s)
  - C. Internal Control Deficiency(ies)
  - D. Noncompliance

**STATE OF NEW MEXICO  
ACEQUIA DE LA OTRA BANDA**

**Schedule of Findings and Responses  
Year Ended December 31, 2016**

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**2016-001**

**Late Report (Noncompliance)**

**Criteria**

Office of the State Auditor, Rule 2016, Section 2.2.2.16.G, states that local public bodies with other than a June 30 fiscal year-end must submit the agreed-upon procedures (AUP) report no later than five months after fiscal-year end.

**Condition**

The Acequia de la Otra Banda (ADLOB) has a December 31 year end but the agreed-upon procedures report for the year ended December 31, 2016 was submitted more than five months after fiscal-year end.

**Cause**

The ADLOB did not have funds to pay for the cost of an agreed-upon procedures engagement. In 2016, the ADLOB applied to the Office of the State Auditor but did not receive a grant during that award cycle and, therefore, did not submit an IPA recommendation or Tier 3 AUP contract to the State Auditor by the required deadline. However, upon receipt of State Auditor funding in 2017, the ADLOB immediately submitted the IPA recommendation and contract form and upon OSA approval of the IPA contract, the ADLOB supplied the IPA with all the appropriate documents to perform the AUP engagement.

**Effect**

The Acequia de la Otra Banda has not complied with Office of the State Auditor, Rule 2016, Section 2.2.2.16.G.

**Recommendation**

We recommend that, in the future, the Acequia de la Otra Banda complete the recommendation and contract forms and submit all agreed-upon procedures reports by the required deadlines.

**Entity Response**

“For all future agreed-upon procedures engagements, the Acequia de la Otra Banda will make every effort to secure funding so that the IPA recommendation, contract form and required report will be submitted by the appropriate deadlines.”

**STATE OF NEW MEXICO  
ACEQUIA DE LA OTRA BANDA**

**Exit Conference  
Year Ended December 31, 2016**

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**EXIT CONFERENCE**

The report contents were discussed at a telephonic exit conference held on November 30, 2017 with the following:

Acequia de la Otra Banda

By telephone:

Vicente Roybal, Current President  
Elaine Best, Former President through 12/31/16

Accounting Firm

James R. (Jim) Macias, CPA