



OFFICE OF THE STATE AUDITOR
Hector H. Balderas

Acequia de los Ranchos

Independent Accountant's Report on Applying Agreed-Upon Procedures

Fiscal Year Ended December 31, 2010

Acequia de los Ranchos

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Fiscal Year Ended December 31, 2010

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Acequia de los Ranchos

Official Roster

Fiscal Year Ending December 31, 2010

Board of Commissioners

Erasmio Martinez, President

Beraldo Montoya, Secretary

Charles Ortiz, Treasurer

Mayordomo

Jose "Bobby" Martinez

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

Erasmus Martinez, President
and Members of the Board of Commissioners
Acequia de los Ranchos
P.O. Box 511
Chimayo, New Mexico 87522

We have performed the procedures enumerated below for the Acequia de los Ranchos (Acequia) for the year ended December 31, 2010, 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 cash disbursements were properly authorized and approved in accordance with the project budget, legal requirements and the Acequia's 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 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. However, the Acequia did not document why a construction contract was not awarded to the lowest bidder. See Finding 2010-02 on page 8 of this report.

- 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 site where water was diverted from the Rio Quemado and the Acequia de los Ranchos on September 16, 2014.

- 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.

The Acequia expended a total of \$27,543 for the repair of ditch breaches under Capital Appropriation Agreement with the New Mexico Interstate Stream Commission (NMISC). The cash amounts 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 checking account at Community 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 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 2010-01 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 Office of the 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
September 16, 2014

Acequia de los Ranchos
Exhibit 1 – Schedule of Capital Outlay Awards to Acequia
December 31, 2010

Note 1

Amount Awarded for Project	\$30,000
Amount Received by Acequia	27,543
Amount Expended in Prior-Years	-0-
Amount Expended Current Year	<u>(27,543)</u>
Remaining Balance	<u>\$ -0-</u>

Agreement Provisions

Note 1: Capital Project Agreement between the New Mexico Office of the State Engineer (OSE), the Interstate Stream Commission (ISC), and Acequia de los Ranchos

Legislative Authority: NM Laws of 2006, Chapter 111, Section 43, Item 48 (GF).

Date of Agreement with NMISC: August 8, 2008

Project Description: To plan, design and construct improvements, including grading, lining and culverts for Acequia de Los Ranchos in Santa Fe and Rio Arriba Counties, New Mexico.

Estimated Project Cost: \$27,543

Agreement termination/reversion date: June 30, 2010

**Acequia de los Ranchos
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2010**

Status of Prior Year Findings

Not applicable.

Current Year Findings

Finding 2010-01 Failure to File Agreed Upon Procedures Report by the Required Due Date

Condition:

This agreed-upon procedures report for FY 2010 was not submitted to the NM Office of the State Auditor (OSA) by the due date of May 31, 2011.

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 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 commissioners 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 2.2.2.16(B)(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 they should 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 Acequia de los Ranchos agree with the above recommendation and the agreed-upon procedures report will be submitted in a timely matter. The commissioners of the Acequia are aware of the audit requirements and will keep all required documentation and provide said documents in a timely manner by April of the following year of capital outlay expenditure in order to complete the audit by May 31st of that year.

**Acequia de los Ranchos
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2010**

Finding 2010-02 Lack of Documentation over Procurement

Condition:

The Acequia could not provide documentation supporting the decision not to award the contract to the lowest bidder. In addition, the Acequia provided conflicting documentation signed by the commission stating the award went to the lowest bidder.

Criteria:

Capital Project Agreement pursuant to 2007 NM Laws, Chapter 42, Section 67, Item 70 (GF) states the Acequia will comply with the State Procurement Code and State Purchasing Regulations (Section 13-1-28 through 13-1-199 NMSA 1978 and 1.4.1 NMAC) and will keep files of all related procurement documents, including but not limited to, bids, advertisements, minutes of pertinent meetings, selection and award criteria, as well as contracts, subcontracts, and agreements.

Effect:

This resulted in a violation of the State Procurement Code and State Purchasing Regulations (Section 13-1-28 through 13-1-199 NMSA 1978 and 1.4.1 NMAC).

Cause:

The Acequia failed to document why the commission did not award a construction contract to the lowest bidder.

Recommendation:

The Acequia should implement policies and procedures pertaining to the application of the New Mexico Procurement Code and Purchasing Regulations and retention of all supporting documents for Capital Outlay Appropriations. In addition, if the commission decides to award a professional service contract using criteria other than price, then the commission should document the decision in writing and retain the document with the procurement file.

Management's Response:

The Acequia de los Ranchos was unaware of the required documentation records retention. The Acequia decided not to award a contract to the lowest bidder since the lowest bidder did not have any construction experience. The commissioners of the Acequia agree with the above recommendation. We will document the decision to award a professional service contract using criteria other than price and retain the documentation.

**Acequia de los Ranchos
Exit Conference
Fiscal Year Ended December 31, 2010**

On September 16, 2014, 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 los Ranchos

Charles Ortiz, Treasurer

Office of the State Auditor

U. Chan Kim, CPA, Audit Manager