



MACIAS, GUTIERREZ & CO., P.C.  
CERTIFIED PUBLIC ACCOUNTANTS  
TIERRA AMARILLA, NEW MEXICO

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# **STATE OF NEW MEXICO**

## **ACEQUIA DEL ANCON DE SARACINO**

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

Year Ended December 31, 2013

**STATE OF NEW MEXICO**

**ACEQUIA DEL ANCON DE SARACINO**

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

**Year Ended December 31, 2013**

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**STATE OF NEW MEXICO  
ACEQUIA DEL ANCON DE SARACINO**

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December 31, 2013**

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**STATE OF NEW MEXICO  
ACEQUIA DEL ANCON DE SARACINO**

**Official Roster  
at December 31, 2013**

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<u>Name</u>		<u>Title</u>
	<b><u>Commissioners</u></b>	
Michael A. Kauffman		Chairman
Evaristo Padilla		Secretary
Harry Anderson		Treasurer
	<b><u>Staff</u></b>	
Armand Saiia		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: Michael A. Kauffman, Chairman  
Acequia del Ancon de Saracino #13225  
and  
Brian S. Colón, Esq.  
New Mexico State Auditor

We have performed the procedures enumerated below, which were agreed to by the Acequia del Ancon de Saracino (ADADS) 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, **2013**, included in the accompanying information provided to us by management of the Acequia del Ancon de Saracino. The Acequia del Ancon de Saracino 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, **2013** included in the accompanying information provided to us by the management of the ADADS. 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 agreed-upon procedures (AUPs) and associated findings (Results of Procedures Performed) are as follows:

The Independent Public Accountant 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 del Ancon de Saracino's revenue calculation and tier determination. The Acequia del Ancon de Saracino'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 Independent Public Accountant 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.

- 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) Except as noted below, for the year ended December 31, 2013, 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 projects. For Project 10-1129, there were eight payments made, totaling \$1,568.60, that were not associated with a request for reimbursement. Those eight payments are included in this report as allowable expenses as determined by the Office of the State Engineer/Interstate Stream Commission (OSE/ISC). In addition, there were four payments made during FY 2011 and FY2012, totaling \$7,100.00, that were not associated with a request for reimbursement nor reported in prior AUP reports. Those four payments are included in this report as allowable expenses as determined by the Office of the State Engineer/Interstate Stream Commission (OSE/ISC). For Project 10-1132, we examined four disbursements totaling \$11,301.19.
- b) We determined that the disbursement was 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, 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. The Commissioners submitted a series of photographs matching the description of the invoices submitted for reimbursement or allowed by the OSE/ISC for the two projects improvements continuing from the year ended December 31, 2011 as a substitute for direct observation of the capital asset.
- 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 Independent Public Accountant 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 projects. The projects were not intended to be funded in advance but on a reimbursement basis.

**4. Procedures**

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

## **Results of Procedures Performed**

As of December 31, 2013, Project 10-1132 is complete and there is no unexpended balance in agreement with the grantor. As of December 31, 2013, Project 10-1129 was not complete since expenditures were allowed through June 30, 2014, but a review of documents and bank statements through June 30, 2014, shows no further project expenditures and there is an unexpended/unreturned balance of \$2,331.70 that should have already been but has not been returned to the grantor. See Finding 2013-002 (noncompliance) on page 5.

### **5. Procedures**

The Independent Public Accountant 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 Independent Public Accountant shall determine whether reimbursement requests were properly supported by costs incurred by the recipient. The Independent Public Accountant 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 ADADS incurred costs prior to the submission of requests for funding from the New Mexico Interstate Stream Commission Acequia Program. There were two projects. For Project 10-1129, there were no reimbursement requests submitted. For Project 10-1132, we examined two reimbursement requests totaling \$11,301.19.

### **7. Other Procedures**

If information comes to the Independent Public Accountant'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 (I) (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, or internal control deficiencies. However, see two noncompliance findings for Late Report submission and Form 1099-MISC not issued for payments of \$600 or more to an individual for services rendered as Findings 2013-001 on page 4 and 2013-003 on page 6, respectively.

\* \* \* \* \*

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 del Ancon de Saracino for the year ended December 31, **2013**, included in the accompanying information provided to us by management of the Acequia del Ancon de Saracino. 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 del Ancon de Saracino, 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.  
Tierra Amarilla, New Mexico 87575  
January 31, 2020



STATE OF NEW MEXICO  
 ACEQUIA DEL ANCON DE SARACINO  
 Agreed-Upon Procedures (Tier 3)  
 For the Year Ended December 31, 2013

Exhibit A

Capital Outlay Project No.	Pay Request	Amount Awarded	Amount Requested/ Received	Actual Amount Expended	Remaining Balance	Actual Legislation	Effective Dates
10-1129 STB		<u>\$ 38,000.00</u>				Laws of 2010, Chapter 105, Section 18A, Paragraph 10M, to plan, design and construct improvements to El Ancon acequia in San Miguel County.	Through 6/30/2014
	1		\$ 38,000.00	\$ 34,100.00	\$ 3,900.00		
			-	1,568.30	2,331.70		
			<u>\$ 38,000.00</u>	<u>\$ 35,668.30</u>	<u>\$ 2,331.70</u>		
10-1132 STB		<u>\$ 35,000.00</u>				Laws of 2010, Chapter 105, Section 18A, Paragraph 10P, to plan, design and construct improvements to El Ancon acequia in San Miguel County.	Through 6/30/2014
	1		\$ 23,698.81	\$ 23,698.81	\$ 11,301.19		
	2		9,820.05	9,820.05	1,481.14		
	3		1,481.14	1,481.14	-		
			<u>\$ 35,000.00</u>	<u>\$ 35,000.00</u>	<u>\$ -</u>		

STATE OF NEW MEXICO  
 ACEQUIA DEL ANCON DE SARACINO  
 Agreed-Upon Procedures (Tier 3)  
 For the Year Ended December 31, 2013

Exhibit B

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
10-1129 STB			<u>\$ 38,000.00</u>							
	1	5/24/2011		<u>\$ 38,000.00</u>	6/9/2011	\$ 27,000.00	1001	6/9/2011	\$ 27,000.00	TFC Construction
						6,500.00	1002	6/9/2011	6,500.00	William Miller Engineers
						-	1003	11/17/2011	250.00	Armand Saiia
						-	1004	11/19/2011	260.00	David Tafoya
						-	1005	2/2/2012	90.00	Cleofas Baca
			<u>FY 2011/12</u>			<u>33,500.00</u>			<u>34,100.00</u>	
						74.72	1008	4/24/2013	74.72	Main S Station
						50.00	1009	4/25/2013	50.00	Armand Saiia
						735.00	1010	5/23/2013	730.00	Armand Saiia
						96.00	1011	5/23/2013	96.00	Jeremiah Gibbs
						20.00	1012	5/23/2013	20.00	Miguel Romero
						60.00	1013	5/23/2013	60.00	Evaristo Padilla
						135.08	1014	5/30/2013	135.08	Joe Salazar
						402.80	1015	6/18/2013	402.80	Joe Salazar
			<u>FY 2013</u>			<u>1,573.60</u>			<u>1,568.60</u>	
			<u>Totals</u>			<u>\$ 35,073.60</u>			<u>\$ 35,668.60</u>	
10-1132 STB			<u>\$ 35,000.00</u>							
	1	5/24/2011	<u>FY 2011</u>	<u>\$ 23,698.81</u>	6/9/2011	<u>\$ 23,698.81</u>	1001	6/9/2011	<u>\$ 23,698.81</u>	TFC Construction
	2	5/7/2013		9,820.05	5/28/2013	644.05	1006	2/13/2013	644.05	Contech
						2,500.00	1007	3/6/2013	2,500.00	Joe Salazar
						6,676.00	1014	5/30/2013	6,676.00	Joe Salazar
						<u>9,820.05</u>			<u>9,820.05</u>	
	3	5/14/2013		1,481.14	6/11/2013	1,481.14	1015	6/18/2013	1,481.14	Joe Salazar
			<u>FY 2013</u>	<u>11,301.19</u>		<u>11,301.19</u>			<u>11,301.19</u>	
			<u>Totals</u>	<u>\$ 35,000.00</u>		<u>\$ 35,000.00</u>			<u>\$ 35,000.00</u>	

**STATE OF NEW MEXICO  
 ACEQUIA DEL ANCON DE SARACINO**

**Schedule of Findings and Responses  
 Year Ended December 31, 2013**

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	<u>Type of Finding *</u>	<u>Year Finding Number</u>	<u>Year Finding Number</u>
<b>Current Year Findings:</b>			
Late Report	D	N/A	2013-001
Unexpended/Unreturned Project Balance	D	N/A	2013-002
Form 1099-MISC not issued for payments made of \$600 or more to individuals for services rendered	D	N/A	2013-003
<b>Follow-up on Prior Year Findings:</b>			
N/A	N/A	N/A	N/A

An agreed-upon procedures report was not issued for the year ended  
 December 31, 2012

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

**STATE OF NEW MEXICO  
ACEQUIA DEL ANCON DE SARACINO**

**Schedule of Findings and Responses  
Year Ended December 31, 2013**

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**2013-001**

**Late Report (Noncompliance)**

**Criteria**

Office of the State Auditor, Rule 2013, Section 2.2.2.16.H, requires 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 the fiscal year end.

**Condition**

The Acequia del Ancon de Saracino agreed-upon procedures report for the year ended December 31, 2013 was submitted more than five months after the fiscal year end.

**Cause**

The Acequia del Ancon de Saracino was not aware of the AUP requirements and also did not have adequate funds to pay for an AUP for the year ended December 31, 2013. Therefore, they did not submit the recommendation or contract form to the State Auditor until after they were awarded funding through the Office of the State Auditor.

**Effect**

The Acequia del Ancon de Saracino has not complied with Office of the State Auditor, Rule 2013, Section 2.2.2.16.H.

**Recommendation**

We recommend that the Acequia del Ancon de Saracino submit all future agreed-upon procedures recommendation and contract forms and the AUP reports by the required deadlines.

**Entity Response**

“For future agreed-upon procedures engagements, the Chairman and Treasurer of the Acequia del Ancon de Saracino will immediately develop procedures to complete the recommendation and contract forms and submit agreed-upon procedures reports by the required deadlines.”

**STATE OF NEW MEXICO  
ACEQUIA DEL ANCON DE SARACINO**

**Schedule of Findings and Responses  
Year Ended December 31, 2013**

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**2013-002**

**Unexpended/Unreturned Project Balance (Noncompliance)**

**Criteria**

The Capital Outlay appropriation agreement requires that any unexpended project funds be returned to the Grantor.

**Condition**

During the performance of the December 31, 2013 agreed-upon procedures engagement, we noted that the Capital Outlay appropriation of \$38,000.00 from Project 10-1129 was not fully expended. For Project 10-1129, there were eight payments made, totaling \$1,568.60, that were not associated with a request for reimbursement. Those eight payments are included in this report as allowable expenses as determined by the Office of the State Engineer/Interstate Stream Commission (OSE/ISC). In addition, there were four payments made during FY 2011 and FY2012, totaling \$7,100.00, that were not associated with a request for reimbursement nor reported in prior AUP reports. Those four payments are included in this report as allowable expenses as determined by the Office of the State Engineer/Interstate Stream Commission (OSE/ISC).

As of December 31, 2013, Project 10-1129 was not complete because the allowable expenditure period was through June 30, 2014. A review of documents and bank statements through June 30, 2014, shows no further project expenditures and there was an unexpended balance of \$2,331.70 that has not been but should have been returned to the Grantor.

**Cause**

The Acequia del Ancon de Saracino had obtained funding from the Federal Emergency Management Agency (FEMA) and paid the Contractor the \$11,000.00 from the FEMA funding on May 12, 2011.

**Effect**

The Acequia del Ancon de Saracino owes \$2,331.70 to the State of New Mexico.

**Recommendation**

We recommend that Acequia del Ancon de Saracino return the unexpended project funds to the Grantor.

**Entity Response**

"The Interstate Stream Commission (ISC) provided guidance and oversight on this project. They were aware that we had unexpended funds when the project was completed. ISC informed us that we needed to establish a separate bank account for those funds and use them for capital expenditures in the future; which we did."

**Auditor Response**

We were not provided documentation that allowed the Acequia del Ancon de Saracino to utilize the remaining funds as described in the Entity Response above.

**STATE OF NEW MEXICO  
ACEQUIA DEL ANCON DE SARACINO**

**Schedule of Findings and Responses  
Year Ended December 31, 2013**

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**2013-003**

**Form 1099-MISC not issued for payments made of \$600 or more to individuals for services rendered  
(Noncompliance)**

**Criteria**

Department of the Treasury, Internal Revenue Service (IRS) requires Form 1099-MISC to be issued to individuals, who are not employees, that have been paid \$600 or more during the calendar year for services performed.

**Condition**

During the performance of the agreed-upon procedures, we noted that the Acequia del Ancon de Saracino paid more than \$600 to two individuals but did not issue Form 1099-MISC to either one for calendar year 2013. One individual was paid a total of \$10,657.14 on three checks and the other was paid a total of \$780.00 on two checks.

**Cause**

Acequia del Ancon de Saracino was not aware of the IRS regulation regarding 1099-MISC.

**Effect**

Acequia del Ancon de Saracino has not complied with Department of the Treasury, Internal Revenue Service regulations and might be subject to substantial fines for noncompliance. Such payments to an individual are taxable income and may not have been reported on his federal and state income tax returns.

**Recommendation**

We recommend that Acequia del Ancon de Saracino issue Form 1099-MISC to individuals, who are not employees, that have been paid \$600 or more during the calendar year for which services are performed.

**Entity Response**

"The \$780 payment was to our Mayordomo for work he performed. We were unaware that we needed a 1099 submitted for his work. The other payment was to Joe Salazar, the contractor on the project. He was the contractor for the projects done in 2010 and 2011. No 1099's were required for those. However, the 2010 and 2011 work done by Joe Salazar was done under the contractor, TFC Construction. In 2013, he was acting as an individual. We did make that distinction, so a 1099 was not issued. In the past, all work done for us was by contractors and not individuals. We now realize the distinction and, in the future, the Chairman and the Treasurer will be aware to issue 1099s, as required."

**STATE OF NEW MEXICO  
ACEQUIA DEL ANCON DE SARACINO**

**Exit Conference  
Year Ended December 31, 2013**

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**EXIT CONFERENCE**

The report contents were discussed at a telephonic exit conference held on February 10, 2020 with the following:

Acequia del Ancon de Saracino

Michael A. Kauffman, Chairman

Accounting Firm

James R. (Jim) Macias, CPA