REGIONAL COALITION OF LANL COMMUNITIES INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES FOR THE YEAR ENDED JUNE 30, 2017

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REGIONAL COALITION OF LANL COMMUNITIES OFFICIAL ROSTER JUNE 30, 2017

Board of Directors

Javier Gonzales - Chair

Barney Trujillo - Vice Chair

Christine Chandler – Secretary

Henry Roybal – Treasurer

Alice Lucero – Member

Darien Fernandez – Member

Mark Gallegos – Member

Ward Yeppa – Member

Ron Lovato - Member

Principal Employee (On Contract)

Andrea Romero – Executive Director



Independent Accountants' Report on Applying Agreed-Upon Procedures

To the Board of: Regional Coalition of LANL Communities and Honorable Brian S. Colón, Esq. New Mexico State Auditor

We have performed the procedures enumerated below, which were agreed to by the Regional Coalition of LANL Communities (RCLC), and the New Mexico State Auditor's Office, solely to assist in determining if RCLC is in compliance with New Mexico State Audit Rule, Tier 4, for the period July 1, 2016 through June 30, 2017. The RCLC is the responsible party and the subject matter is the responsibility of the RCLC. 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 we performed, and the associated findings are included beginning on the following page.

This engagement to apply agreed-upon procedures 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 review, the objective of which would be the expression of an opinion or conclusion, respectively, on the financial statements of the RCLC as of June 30, 2017. 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 management and others within the RCLC, the State Auditor, the Department of Finance and Administration – Local Government Division, and the New Mexico State Legislature and is not intended to be and should not be used by anyone other than these specified parties.

Kubiak Melton & Associates, LLC

Kubiak Melton & Associates, LLC Auditors – Business Consultants - CPAs

Albuquerque, New Mexico August 16, 2019

6747 ACADEMY ROAD NE, STE. A Albuquerque, NM 87109 P: 505.822.5100 | F: 505.822.5106 Kubiakcpa.com

PROCEDURES PERFORMED AND RELATED RESULTS

1. Tier Status

This engagement is to be performed pursuant to the AICPA Statements on Standards for Attestation Engagements (Clarified), AT-C Section 215 for agreed-upon procedures engagements.

Procedures:

Verify the Regional Coalition of LANL Communities' revenue calculation and tier determination documented on the "Tier System Reporting Main Page".

Results:

Because the RCLC had revenues of less than \$250,000 for the year, after applying the State Auditor's calculation which requires federal grants to be excluded, they are classified as Tier 4 for the year ended June 30, 2017. Upon further review, as documented in procedure 7, DFA-LGD determined the RCLC is not a local public body.

<u>2. Cash</u>

Procedures:

a) Determine whether bank reconciliations are being performed in a timely manner and whether all bank and investment statements for the fiscal year are complete and on-hand.

b) Test at least 30% of bank reconciliations for accuracy. Also, trace ending balances to the general ledger, supporting documentation and the financial reports submitted to DFA-Local Government Division (DFA-LGD).

c) Determine whether the local public body's financial institutions have provided it with 50% of pledged collateral on all uninsured deposits as required by Section 6-10-17 NMSA 1978, NM Public Money Act, if applicable.

Results:

a) In a letter from Los Alamos County, dated July 2, 2019, the procedures for the bank reconciliations were specified. RCLC does not have an accounting system of their own. RCLC is accounted for as an agency fund in the accounting system of Los Alamos County (County), their fiscal agent. Although the fund is accounted for discretely, the bank account is processed out of the County's general checking pooled cash account. Based on procedures performed, the bank reconciliations are being performed for all periods and timely.

PROCEDURES PERFORMED AND RELATED RESULTS

Results (Continued):

Furthermore, through discussions with the County CFO in tandem with a review of the last five audits for the County, our conclusion is that their current process is meeting the objective and operating effectively.

b) See a. Our conclusion is that the bank reconciliations are accurate and are reflected correctly in the general ledger. Per determination letter from DFA (see Section 7 – Budget), RCLC is not considered a public body and is not required to submit financial reports to the Local Government Division.

c) Our analysis of pledged collateral shows over 50% of pledged collateral on all uninsured deposits as required by Section 6-10-17 NMSA 1978, NM Public Money Act.

3. Capital Assets

Procedures:

Verify that the local public body is performing a yearly inventory as required by Section 12-6-10 NMSA 1978.

Results:

Through review of records and conversations with management we are satisfied that the RCLC has no capital assets and therefore, would not require an annual inventory.

4. Revenue

Procedures:

Identify the nature and amount of revenue from sources by reviewing the budget, agreements, rate schedules, and underlying documentation.

a) Perform an analytical review; test actual revenue compared to budgeted revenue for the year for each type of revenue.

Select a sample of revenue equal to at least 30% of the total dollar amount and test the following attributes:

b) Amount recorded in the general ledger agrees to the supporting documentation and the bank statement.

PROCEDURES PERFORMED AND RELATED RESULTS

Procedures (Continued):

c) Proper recording of classification, amount, and period per review of supporting documentation and the general ledger. Perform this revenue work on the same accounting basis that the local public body keeps its accounting records on, cash basis, modified accrual basis, or accrual basis.

Results:

For FY 2017, two (2) revenue transactions, representing 31% of the dollars in the population, was selected for testwork.

- a) A budget of \$212,000 was approved by the RCLC Board for the year ended June 30, 2017.
- b) For the items tested, the amount recorded in the general ledger agreed to the supporting documentation and the bank statement.
- c) For the items tested, the transaction was properly recorded in terms of classification, amount and transaction date.

5. Expenditures

Procedures:

Select a sample of cash disbursements, equal to at least 30% of the total dollar amount, and test the following attributes (the sample must be representative of the population):

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 checks, 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).

PROCEDURES PERFORMED AND RELATED RESULTS

Results:

A representative sample of nine (9) expenditure transactions covering 30% of total expenditures for the year ended June 30, 2017 were selected for testwork:

- a) In all cases, the amounts recorded as disbursed agreed to the supporting documentation. In all cases the amounts, payees, dates and descriptions agreed to the supporting documentation. No exceptions noted.
- b) Our testwork revealed these instances of noncompliance:

1.) The nine (9) transactions selected were for Andrea Romero Consulting, LLC (ARC). The total of the transactions was \$56,937. Of this total, 89% represented the agreedupon monthly fee of \$12,636 and 11% were "reimbursable expenses". The contract between RCLC and ARC addresses reimbursements as follows:

"...travel costs shall be subject to the annual budget as approved by the Board and will be paid in accordance with the Regional Coalition's travel policy."

The vague language in the contract, addressing reimbursements allows for these possible effects:

- The fact that there is no detailed budget associated with reimbursable expenses as required by the Contract with ARC makes it possible for RCLC to incur larger expenditures than intended when the contract was drafted.
- The fact that the contract does not clearly delineate what costs are reimbursable and which costs are not, coupled with the fact that there is no detailed budget that is monitored leaves open the likelihood that unallowed or otherwise, excessive costs are being paid for by RCLC.

See finding 2013-001 (Repeated and Modified).

2.) Our review of the receipts associated with these transactions showed meal reimbursements of \$1,479 that were supported by receipts that were not itemized. Without itemized receipts, we were unable to determine if the purchases complied with laws, regulations and/or policies. See finding **2015-002** (Repeated and Modified).

3.) There were other instances of non-compliance. See finding **2018-006**.

PROCEDURES PERFORMED AND RELATED RESULTS

Results (Continued):

c) In all cases, the bid process was followed and was accompanied by sufficient supporting documentation. We are satisfied that the transactions tested complied 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).

6. Journal Entries

Procedures:

If non-routine journal entries, such as adjustments or reclassifications, are posted to the general ledger, test significant items for the following attributes:

- a) Journal entries appear reasonable and have supporting documentation.
- b) The local public body has procedures that require journal entries to be reviewed and there is evidence the reviews are being performed.

Results:

a) & b) There were no non-routine journal entries posted for the fiscal year 2017.

PROCEDURES PERFORMED AND RELATED RESULTS

7. Budget

Procedures:

Obtain the original fiscal year budget and all budget amendments made throughout the fiscal year and perform the following testwork:

a) Verify, through a review of the minutes and correspondence, that the original budget and subsequent budget adjustments were approved by the local public body's governing body and DFA-LGD.

b) Determine if the total actual expenditures exceeded the final budget at the legal level of budgetary control; if so, report a compliance finding.

c) From the original and final approved budgets, and general ledger, prepare a schedule of revenues and expenditures – budget and actual on the budgetary basis used by the local public body, in this case, cash basis, for each individual fund.

Results:

a) A determination was made prior to our starting the fieldwork that addressed whether RCLC is, in fact, a Local Public Body as defined by Local Government Finance Act, Section 6-6-1. In an email dated June 17, 2019, the DFA Budget & Finance Bureau concluded that "it does not appear that this agency [RCLC] meets the 'criteria' as a Local Public Body...Because the RCLC was formed under the Joint Powers Act, it is not under the regulatory authority of LGD [Local Government Division] except as the issues relate to LGD's regulatory authority over its constituent local government members. Therefore, the RCLC would not be required to submit their annual budget to LGD."

Although RCLC was not required to submit their annual budget to DFA Local Government Division, it was determined that the Board did approve a budget of \$212,000 in revenues and expenditures.

b) See a.

c) See Schedule of Revenues and Expenditures – Budget to Actual.

PROCEDURES PERFORMED AND RELATED RESULTS

8. Other

If information comes to the IPA'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:

The Tier 4 Agreed Upon Procedures report for RCLC for the year ended June 30, 2017, was due to be submitted to the Office of the State Auditor by December 15, 2017. This did not occur. See finding **2013-003** (Repeated).

All noncompliance identified is disclosed in the Schedule of Findings and Responses.

STATE OF NEW MEXICO REGIONAL COALITION OF LANL COMMUNITIES SCHEDULE OF REVENUES AND EXPENDITURES – BUDGET TO ACTUAL FOR THE YEAR ENDED JUNE 30, 2017

	Original Budget	Approved Revised Budget	Actual	Variance Favorable (Unfavorable)
Revenues and Other Financing Sources Member Contributions Federal	\$ 112,000 100,000	\$ 112,000 100,000	\$ 121,500 100,000	\$ 9,500
Total Revenues and Other Financing Sources	212,000	212,000	221,500	9,500
Expenditures and Other Financing Uses Contractual Services - Executive Director	212,000	212,000	177,071	34,929
Total Budgeted Expenditures and Other Financing Uses	212,000	212,000	177,071	34,929
Excess (deficiency) of Revenues over (under) Expenditures and Other Financing Sources and Uses	<u>\$</u>	<u>\$ </u>	\$ 44,429	

TIER 4 FINDINGS

<u>2013-001 – Contractual Agreements Between RCLC and contract Executive Director does</u> <u>not adequately define allowable reimbursements in the contract (Repeated and Modified)</u>

Condition: During this year RCLC had a contractual agreement with Andrea Romero Consulting, LLC (ARC) for professional services, specific for her to be executive director of RCLC.

There were two monthly checks issued to ARC. One was the fixed contract payment of \$12,636 and the other was to reimburse various expenses incurred in the performance of her duties. Of the sample tested, 89% of the dollars disbursed were for the fixed payment and 11% were for reimbursable expenses. RCLC reimbursement payments to ARC were for items such as travel, mileage, meals and lodging.

The fact that there is no limit associated with reimbursable expenses allows RCLC liability to incur larger expenditures involving reimbursements than intended when the contract was drafted.

Of the nine (9) transactions tested (\$56,937), five (5) transactions totaling \$6,394 were relevant to this issue. These were the reimbursement checks. Reimbursements comprised 11% of the total amount paid to this person as tested in our procedures.

Management Progress: The condition existed since fiscal year 2013.

Criteria: Reimbursement eligibility and specific criteria of allowed and unallowed costs should be detailed on any contractual agreements with a "reimbursable expenses" clause. Specifics and limits should be established for allowable reimbursable expenses based on the approved budget. The approved budget should be closely monitored against actual reimbursements made.

Cause: The clause in the contract is open ended and could allow for abuse especially without an internal control such as a Board review of reimbursement limits.

Effect: Reimbursements are routinely approved by the Board, seemingly with no dollar limit.

KMA's Recommendation: We recommend that all professional services contracts entered into by RCLC contain a clause that specifically addresses what costs are allowed and not allowed to be reimbursed and that requests above a certain dollar limit be considered by the Board in full session. Furthermore, we recommend that there are limits associated with all allowed amounts and they are tracked for variances regularly.

Management's Response: The RCLC concurs with the recommendation and has changed its policies and procedures regarding allowable reimbursements to include a review by the treasurer, an independent contracted accountant, and the board of all requests, and changed all contractual services to not permit reimbursements, as well as setting and tracking budgeted limits.

Responsible Party: RCLC Board and Management.

2013-003 – Late submission of report (Repeated)

Condition: The Tier 4 Agreed Upon Procedures report for the year ended June 30, 2017, was not submitted by the due date of December 15, 2017.

Management Progress: The conditions are the same as in the previous year. FY2013-FY2018 Tier 4 Agreed Upon Procedures were engaged in FY2019 and will be finalized and submitted to the State Auditor's Office in early FY2020.

Criteria: Tier 4 reports are required to be submitted to the Office of the State Auditor by December 15th subsequent to year-end per State Audit Rule 2.2.2.9 NMAC.

Cause: The Board did not contract with an IPA to conduct the Agreed Upon Procedures for 2017 until 2019.

Effect: The Agreed Upon Procedures report for the year ended June 30, 2017 is late and therefore, is in violation of the State Auditor Rule.

KMA's Recommendation: The Board should contract with an IPA on a yearly basis to ensure that the required annual report is submitted timely to the Office of the State Auditor.

Management's Response: The RCLC concurs with the recommendation and has implemented policies to become current on all previously required reports and to remain current by contracting with an IPA for appropriate Agreed Upon Procedures (AUP) services on a yearly basis. *Responsible Party:* RCLC Board and Management.

<u>2015-002 – Reimbursements made for restaurant bills without itemized receipts (Repeated and Modified)</u>

Condition: Out of sixteen (16) individual receipts in the reimbursement requests tested, we noted twelve (12) instances in which a restaurant bill was charged through contract reimbursement involving receipts that were not itemized. This amounted to \$1,479. There could have potentially been items reimbursed strictly prohibited by RCLC's Travel Policy that the Accountants could not determine.

Management's Progress: The conditions are the same as in the previous year.

Criteria: Requested reimbursements for meals are required to be itemized as per RCLC's *Travel Policy*.

Cause: Lack of Board oversight and confirmation of adherence to policies prior to reimbursement.

Effect: A restaurant bill was reimbursed by the Board without confirming adherence to policies. Without an itemized receipt, it is possible that the *Travel Policy's* "Specifically Prohibited Expenses" were circumvented.

KMA's Recommendation: We recommend that the Board and/or Board Member responsible for approving reimbursements be thoroughly knowledgeable in allowable and unallowable expenses as permitted by law and policies prior to approving reimbursements.

Management's Response: The RCLC concurs with the recommendation and has adopted a policy eliminating reimbursements to contractors and board members. Also, the RCLC, in collaboration with the independent accountant, willdevelop and adopt training for all board officers and contracted staff to educate them on all allowable and unallowable expenses pursuant to the requirements of NMAC 2.42.2.

Responsible Party: RCLC Board and Management.

2018-006 The RCLC Governing Board not exercising control over finances in accordance with the Joint Powers Agreement Act, § 11-1-5(D), NMSA 1978 (Repeated and Modified)

Condition: The RCLC Board approved reimbursement request for travel and per diem expenditures that did not appear to be adequately reviewed against the RCLC's Travel Policy, the Per Diem and Mileage Act, and NMAC 2.42.2.1. Of the total of nine (9) transactions tested (\$56,937), five (5) transactions totaling \$6,394 were relevant to this issue. Within these transactions, invoices totaling \$1,479 were found to be evidence of a lack of review and approval by the Board.

Management's Progress: The conditions are the same as in the previous year.

Criteria: The RCLC Board's responsibility for control over their finances is set forth in the Joint Powers Agreement Act § 11-1-4(D) and Section 9 of the Joint Powers Agreement which formed the RCLC. Both the statute and the Agreement provide that the RCLC Board is "strictly accountable" for all receipts and disbursements of the entity.

Cause: The RCLC failed to follow the requirements of the Joint Powers Agreement.

Effect: The RCLC improperly expended public funds in violation of state law.

KMA's Recommendation: In order to ensure that each party is fulfilling its statutory duties and fiduciary responsibilities to the RCLC, the contract Executive Director and RCLC's Board should implement and formalize policies and procedures for the processing of transactions. Additionally, the RCLC Board should provide training to all members and contractors. Only payments reviewed in accordance with the policies and procedures and related laws and regulations should be approved by the Board prior to processing by the fiscal agent.

Management's Response: The RCLC concurs with the recommendation and will be normalizing and implementing appropriate policies and procedures for the processing of transactions so that only appropriate transactions are approved by the RCLC Treasurer prior to payment processing by the fiscal agent.

The RCLC Board will also provide training to all members and contractors. These updated policies and procedures will also be reflected in a future version of the RCLC enabling Joint Powers Agreement and a future fiscal agent agreement.

Responsible Party: RCLC Board and Management.

REGIONAL COALITION OF LANL COMMUNITIES STATUS OF PRIOR YEAR FINDINGS JUNE 30, 2017

*Prior Year Audit Findings:

2018-001 - The RCLC Board approved reimbursements to Andrea Romero Consulting, LLC or JLH Media, Inc. for meals, alcoholic beverages or entertainment expenses for Board members who would not have been entitled to receive per diem and mileage themselves, in violation of the Per Diem and Mileage Act and NMAC 2.42.2.1 (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

2018-002 - The RCLC Board approved reimbursements to Andrea Romero Consulting, LLC or JLH Media, Inc., which included expenses for other guests, which is prohibited by both the Travel Policy Section VIII and the Per Diem and Mileage Act (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

2018-003 - The RCLC Board approved reimbursements to JLH Media, Inc. or Andrea Romero Consulting, LLC for expenditures for alcoholic beverages, personal expenses and entertainment and recreation expenses, in violation of the Travel Policy and state law. (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

2018-004 - JLH Media, Inc. charged NM gross receipts tax on mileage and travel and per diem expenditures resulting in double taxation to the RCLC. (Significant deficiency) *Not identified from sample of items tested as existing in FY2017.*

2018-005 - Duplicate billing of mileage by Contractor (Significant deficiency) *Not identified from sample of items tested as existing in FY2017.*

2018-006 - The RCLC Governing Board not exercising control over finances in accordance with the Joint Powers Agreement Act, § 11-1-5(D), NMSA 1978 (Material Weakness) *Repeated and Modified*

2018-007 - Travel expenditures in excess of board approved budget (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

2018-008 - Potential non-compliance with the Department of Energy Grant Award with regard to explicitly prohibited lobbying (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

2018-009 - Potential violations of (Executive Order 12674) Fourteen Principals of ethical Conduct for Federal employees' item 4 related to the solicitation or acceptance of gifts. (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

2018-010 - Breach of Fiduciary Duty by the Fiscal Agent – Los Alamos County (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

2018-011 - Failure to comply with State Audit Act (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

REGIONAL COALITION OF LANL COMMUNITIES STATUS OF PRIOR YEAR FINDINGS JUNE 30, 2017

*Prior Year Audit Findings (continued):

2018-012 - Fiscal Agent combined RCLC monies with Los Alamos County's pooled cash account resulting in a lack of transparency (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

2018-013 - miscoding of expenditures and using a pooled cash account, resulted in the RCLC paying for expenditures of Los Alamos County (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

2018-014 - Improper reporting of contract labor (Material Weakness) **Not identified from sample** *of items tested as existing in FY2017.*

2018-015 - Improper accounting for reimbursements, including the netting of reimbursements with expenditures. (Significant deficiency) *Not identified from sample of items tested as existing in FY2017.*

2018-016 - Management Could Not Provide All Requested Information (Material Weakness) **Not** *identified from sample of items tested as existing in FY2017.*

2018-017 - Budget irregularities (Significant deficiency) *Not identified from sample of items tested as existing in FY2017.*

2018-018 - Failure to comply with the State Constitutions Anti-Donation of Public Monies Act Article IX (Material Weakness) *Not identified from sample of items tested as existing in FY2017.*

*All findings for 2018 are a result of a Special Audit performed by the New Mexico State Auditor's Office and reported on August 7, 2018, prior to this engagement. Therefore, all findings were considered during our engagement.

REGIONAL COALITION OF LANL COMMUNITIES EXIT CONFERENCE JUNE 30, 2017

An exit conference was held on August 16, 2019 to discuss the agreed upon procedures.

Attending were the following:

Attending were the following: Harry Burgess, Los Alamos County Manager Henry Roybal, Chair, RCLC Darien Fernandez, Vice Chair, RCLC Sara Scott, Alternate, RCLC Peter Ives, RCLC Daniel O. Trujillo, CPA, CFE, CGFM, CGMA, Audit Partner, Kubiak Melton & Associates, LLC