



Transmitted via e-mail

June 14, 2016

Mr. Mark Cowin
California Department of Water Resources
P.O. Box 942836, Room 1115-1
Sacramento, CA 94236-0001

Dear Mr. Cowin:

Final Report—Reclamation District 38 Staten Island, Proposition 1E Work Agreement Audits

The Department of Finance, Office of State Audits and Evaluations, has completed its audits of the Reclamation District 38 Staten Island's (District) work agreements 4600010165, 4600010761, 4600010960, and the fiscal year 2014-15 RD 38 Staten Island work agreement, issued by the California Department of Water Resources.

The enclosed report is for your information and use. The District's response to the report finding and our evaluation of the response are incorporated into this final report. This report will be placed on our website.

We appreciate the assistance and cooperation of the District. If you have any questions regarding this report, please contact Susan Botkin, Manager, or Sherry Ma, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

Cheryl L. McCormick, CPA
Assistant Chief, Office of State Audits and Evaluations

Enclosure

cc: Mr. Carl Torgersen, Chief Deputy Director, California Department of Water Resources
Ms. Katherine Kishaba, Deputy Director of Business Operations, California Department of Water Resources
Ms. Gail Chong, Deputy Assistant DWR Executive, Bond Accountability, California Department of Water Resources
Mr. Patrick Kemp, Assistant Secretary for Administration and Finance, California Natural Resources Agency
Mr. Jeff Ingles, Chief Auditor, California Department of Water Resources
Ms. Julie Alvis, Deputy Assistant Secretary, California Natural Resources Agency
Mr. Bryan Cash, Deputy Assistant Secretary, California Natural Resources Agency
Mr. Dawit Zeleke, President, Reclamation District 38 Staten Island
Mr. Ankith Patel, Financial Representative, Reclamation District 38 Staten Island

Reclamation District 38
Proposition 1E Bond Program
Work Agreements 4600010165, 4600010761,
4600010960, and FY14-15 RD 38 Staten Island



Staten Island Delta Levee

Prepared By:
Office of State Audits and Evaluations
Department of Finance

MEMBERS OF THE TEAM

Susan Botkin, CGFM
Manager

Sherry Ma, CRP
Supervisor

Staff
Ava Bradford

Final reports are available on our website at <http://www.dof.ca.gov>

You can contact our office at:

Department of Finance
Office of State Audits and Evaluations
915 L Street, 6th Floor
Sacramento, CA 95814
(916) 322-2985

BACKGROUND, SCOPE, METHODOLOGY AND RESULTS

BACKGROUND

California voters approved the Disaster Preparedness and Flood Protection Bond Act of 2006 (Proposition 1E). The \$4.09 billion in bond proceeds finance a variety of natural resource programs.

The California Department of Water Resources (DWR) is responsible for administering over \$3.8 billion of those funds to rebuild and repair California's most vulnerable flood control structures to protect homes and prevent loss of life from flood-related disasters, including levee failures, flash flood, and mudslides; and to protect California's drinking water supply system by rebuilding delta levees that are vulnerable to earthquakes and storms.¹

Within the California State Water Code Section 5096.821's state plan of flood control programs, the Delta Levees Subventions Program was established and administered by DWR for the Central Valley Flood Protection Board, formerly the Reclamation Board, which is a local assistance program that appropriates funding to local reclamation districts in the Sacramento-San Joaquin Delta to maintain and improve levees.

The Reclamation District 38 Staten Island (District) is a legal subdivision within California's Central Valley that manages and maintains levees and other flood protection structures. The District has a three member governing Board of Trustees. The District receives annual funds from DWR through the Delta Levees Subventions Program.

SCOPE

In accordance with the Department of Finance's bond oversight responsibilities, we audited the following agreements:

<u>Work Agreement</u> ²	<u>Audit Period</u> ³
4600010164	July 1, 2011 through June 30, 2012
4600010761	July 1, 2012 through June 30, 2013
4600010960	July 1, 2013 through June 30, 2014
FY 14-15 RD 38 Staten Island	July 1, 2014 through June 30, 2015

¹ California Natural Resources Agency's Proposition 1E Overview on bond accountability website, www.bondaccountability.ca.gov

² DWR does not generate an identifier until the reimbursement claim has been processed for payment. As of March 2016, the fiscal year 14-15 claim was still under DWR review.

³ An interim audit was conducted on FY 14-15 RD 38 Staten Island. As of March 2016, the final payment was still under DWR review.

The audit objectives were to determine whether the District's expenditures claimed were in compliance with applicable laws, regulations, and work agreement requirements; and to determine whether the deliverables were completed as required. We did not assess the efficiency or effectiveness of program operations.

The District's management is responsible for ensuring accurate financial reporting and compliance with applicable laws, regulations, and work agreement requirements. DWR and the California Natural Resources Agency are responsible for the state-level administration of the bond program.

METHODOLOGY

To determine whether expenditures were in compliance with applicable laws, regulations, and the work agreement requirements; and if the work agreement deliverables were completed as required, we performed the following procedures:

- Examined the work agreement files, the work agreements, and applicable policies and procedures.
- Reviewed the District's accounting records, consultant contract, vendor invoices, and cancelled checks.
- Selected a sample of claimed expenditures and determined whether they were allowable, work agreement-related, incurred within the work agreement period, supported by accounting records, and properly recorded.
- Evaluated whether other revenue sources were used to reimburse expenditures claimed for reimbursement under the work agreement.
- Evaluated whether a sample of work agreement deliverables were met by reviewing inspection reports and conducting site visits to verify existence of work performed.

In conducting our audits, we obtained an understanding of the District's internal controls, including any information systems controls that we considered significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal control that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Except as noted below, the expenditures claimed complied with the work agreements' requirements. Additionally, the work agreement deliverables were completed as specified in the work agreements. The Schedules of Claimed and Questioned Amounts are presented below.

Schedules of Claimed and Questioned Amounts

Work Agreement 4600010165		
Task	Claimed¹	Questioned
Repair and Shape Patrol or Access Roads and Weight/Speed Controls	\$ 4,965	\$ 0
Repair Minor Slipouts, Erosion, or Subsidence of Levee Section	96,309	0
Control Seepage and Boils/Placement of Cores in Levee Section	196,504	0
Cleaning Drains and Toe Ditches Intercepting Land Side Levee Toe	7,576	0
Vegetation Control	396	0
Subsidence Detection	39,257	915
Other Levee/Underwater Surveys	13,172	7,264
Engineering Services and Associated Administration	36,039	5,425
Fish and Wildlife Habitat Protective Measures	1,484	
Total Project Expenditures	\$ 395,702	\$ 13,604

Work Agreement 4600010761		
Task	Claimed²	Questioned
Repairing and Restoring Rock Protection	\$ 226,473	\$ 0
Engineering Services and Associated Administration	71,719	8,901
Bulletin 192-82 Expenditures	93,630	0
Total Project Expenditures	\$ 391,822	\$ 8,901

Work Agreement 4600010960		
Task	Claimed³	Questioned
Repairing and Restoring Rock Protection	\$ 67,982	\$ 0
Engineering Services and Associated Administration	70,965	0
Bulletin 192-82 Expenditures	936,148	0
Total Project Expenditures	\$ 1,075,095	\$ 0

¹ Department of Water Resources, (DWR), awarded \$767,550; however, the Reclamation District 38 Staten Island (District) claimed \$395,702 and was reimbursed \$275,417.

² DWR awarded \$874,050; however, the District claimed \$391,822 and was reimbursed \$275,322.

³ DWR awarded \$904,050; however, the District claimed \$1,075,095 and was reimbursed \$784,923.

Work Agreement FY 14-15 RD 38 Staten Island		
Task	Claimed⁴	Questioned
Repairing and Restoring Rock Protection	\$ 354,463	\$ 0
Engineering Services and Associated Administration	42,536	0
Bulletin 192-82 Expenditures	126,841	0
Total Project Expenditures	\$ 523,840	\$ 0

Finding 1: Ineligible Expenditures Claimed for Reimbursement

The District claimed \$22,505 (\$13,604+\$8,901) of ineligible consulting services costs. The claimed subcontractor’s consulting services costs were incurred prior to the work agreements’ start dates. For agreement 46000010165, costs were incurred in June 2011. For agreement 46000010761, costs were incurred in May and June 2012.

Section 1 of the work agreements state that maintenance and improvement work performed by the District between July 1, 2011 and June 30, 2012 for agreement 46000010165 and between July 1, 2012 and June 30, 2013 for agreement 46000010761 is eligible for reimbursement.

Recommendations:

The District should:

- A. Remit \$22,505 to DWR.
- B. Follow the terms and conditions of the work agreement and if necessary, work with DWR to amend work agreements to reflect any changes in the scope or performance period.

⁴ DWR awarded \$686,550; however, the District claimed \$523,840. DWR was in the process of reviewing the claim as of March 2016.

RD 38 Response to the Draft State DOF Report

Grant vs. Cost-Share Program

RD 38 respectfully requests that the Department of Finance provide the authority under which it has determined that the subventions program is a "grant" program rather than a cost-share program.

The Delta Levees Maintenance Subventions Program Guidelines: Procedures and Criteria, Draft March 30, 2016 and the 2011 Guidelines refer to the program as a cost-share program. The Guidelines define the program as follows:

*"The Subventions Program is a **cost-share program** that provides technical and financial assistance to local agencies in the Delta for the maintenance and rehabilitation of nonproject and eligible project levees. The Subventions Program is authorized by CA Water Code § 12980 et seq., and is managed by DWR for the Central Valley Flood Protection Board (CVFPB). CVFPB reviews, approves the DWR recommendation, and enters into agreements with local agencies to reimburse eligible costs of levee maintenance and rehabilitation. Under CA Water Code § 12987(d), the Subventions Program ensures that expenditures are consistent with a net long-term habitat improvement program and has a net benefit for aquatic species in the Delta."*

Neither the authorizing legislation nor the Program Guidelines refer to or define the subventions program as a "grant" program.

Each year, RD 38 prepares and submits a work plan and funding application, if applicable, to the Central Valley Flood Protection Board (CVFPB). The Department of Water Resources (DWR) reviews the work plan and funding application, makes recommendations and requests that CVFPB approve the Subventions Program Funding Plan and the RD's maximum possible reimbursement. CVFPB and the RD enter into an agreement *for the reimbursement of the eligible incurred costs*.

The Work Agreement is viewed only as a projection of a program expenditure level and is not an item specific contract tied to a grant, with advance funding, or a full funding guarantee.

Original signed by:

Linda Saylor
Senior Attorney, RD 38
414-281-0495
lsaylor@tnc.org

Ineligible Expenses

The characterization of the subventions program as a grant program may have contributed to the request by Finance to reimburse certain eligible Subventions program expenses.

The Levee Subventions Program has always been handled from a cash accounting basis. Eligible costs have to be incurred during the fiscal year for work "associated" with the fiscal year. An invoice does not become a cost until paid. Also, the consulting work paid for and claimed in FY 11-12 and 12-13 was associated with work in 11-12 and 12-13, respectively. The costs were determined to be eligible by DWR. Since they were paid by RD 38 in the fiscal years covered by the claims there should be no issue here. In reviewing Title 23, I do not think there is any legitimate case for Finance to demand repayment of the reimbursements for eligible Subventions program expenses.

Original signed by:

Gil Labrie
District Engineer
916-776-9122
glabrie@dccengineering.net

EVALUATION OF RESPONSE

Reclamation District 38 Staten Island's (Staten Island) response to the draft audit report has been reviewed and incorporated into the final report. In evaluating Staten Island's response, we provide the following comments:

We agree the monies Staten Island received from the California Department of Water Resources (DWR) were from a cost-share program, which is subject to DWR's September 2011 Delta Levees Maintenance Subventions Program Guidelines (Guidelines). Article 3, section 3.5 states "the local agency will enter into an agreement for the reimbursement of the costs of work to be performed in accordance with the application..." This agreement is the signed and executed document entitled "Work Agreement Fiscal Year 2011-12" and "Work Agreement Fiscal Year 2012-13". We revised references from "grant agreement" to "work agreement" throughout this report.

Finding 1: Ineligible Expenditures Claimed for Reimbursement

Staten Island contends that due to the entity's cash basis of accounting, as evidenced in their independent auditor's report conducted by Croce & Company as of August 19, 2013, the questioned costs are valid because they report expenses when paid. Although Staten Island is on a cash accounting basis, the work agreements state "this agreement covers the performance, inspection, reimbursement, and cost sharing of maintenance and improvement work performed on non-project and eligible project levees by the Local Agency from July 1, 2011 to June 30, 2012" and "...July 1, 2012 to June 30, 2013", respectively. Therefore, the finding and recommendations will remain unchanged.