



Audit of the Public Works Agency's Collection of Flood Acreage Fees

Report Date: December 29, 2022

Office of the Auditor-Controller
County of Ventura, California
Jeffery S. Burgh, Auditor-Controller

County of Ventura
AUDITOR-CONTROLLER
MEMORANDUM

To: Jeff Pratt, Director, Public Works Agency

Date: December 29, 2022

From: Jeffery S. Burgh

Subject: AUDIT OF THE PUBLIC WORKS AGENCY'S COLLECTION OF FLOOD ACREAGE FEES

We have completed our audit of the Public Works Agency's (PWA) collection of flood acreage fees. Our overall objective was to determine whether the Watershed Protection District's (District) oversight of the collection of flood acreage fees was sufficient to ensure maximum applicable funding for watershed protection activities for the period of July 1, 2019, through March 31, 2022. Our audit focused on Cities contracted to collect the fee on behalf of the County for development within incorporated areas of the County.

Executive Summary

Overall, we found that the District's oversight practices needed improvement to maximize applicable funding and ensure satisfactory collection of flood acreage fees owed to the County by the Cities. While the PWA Land Development Services division established and consistently applied procedures for the calculation and determination of exemptions for flood acreage fees, we found that:

- The decades-old contracts between the County and Cities for the collection of flood acreage fees did not include terms for County recourse in the event of City noncompliance.
- The District did not monitor the Cities' adherence with contract terms, which contributed to pervasive City noncompliance and loss of revenue for the District.
- The District is owed at least \$415,900 in fees that were collected by one City but not yet remitted.
- The acreage fee rate has not been adjusted for changes in the Construction Cost Index since 2001.
- Efficiencies could be gained by using the Citizen Access portal of the County's land use database system to quote and collect fees electronically.

PWA management initiated corrective action to address our findings. Corrective action is planned to be completed by December 31, 2023.

We appreciate the cooperation and assistance extended by you and your staff during this audit.

Jeff Pratt, Director, Public Works Agency

December 29, 2022

Page 2

cc: Honorable Matt LaVere, Chair, Board of Supervisors
Honorable Kelly Long, Vice Chair, Board of Supervisors
Honorable Linda Parks, Board of Supervisors
Honorable Robert O. Huber, Board of Supervisors
Honorable Vianey Lopez, Board of Supervisors
Sevet Johnson, Psy.D., County Executive Officer

Audit Report Contents

Background	1
Scope	1
Findings.....	2
1. Ineffective Contracts with the Cities.....	3
2. Contract Compliance Monitoring Practices.....	3
3. Outdated Flood Acreage Fee Program Attributes.....	5
3.01 Acreage Fee Rate	5
3.02 Receipt Forms	5
4. Lack of District Management Oversight.....	6
5. Unreliable Program Records	7
5.01 Land Use Database Records.....	7
5.02 Revenue Allocation in Financial Records	7
Auditor’s Evaluation of Management Action	8

Background

The Ventura County (County) Watershed Protection District (District) is a flood control district administered by the County's Public Works Agency (PWA) and governed by the County's Board of Supervisors (BOS). The District was created as a result of the Ventura County Watershed Protection Act (Act). The District's mission is to "protect life, property, watercourses, watersheds, and public infrastructure from the dangers and damages associated with flood and stormwaters." The District provides watershed protection activities for all territory within the County's borders, including areas within incorporated city limits. The territory is divided into four zones based on watershed boundaries, with revenues and costs for the District assigned by zone.

To assist in funding District operations, the Act provides for the assessment of flood acreage fees (fee or fees) as a condition of new land development projects. In 1988, the BOS adopted a resolution that defined the calculation of fees as based on the acreage fee rate (rate) and allowed for certain exemptions. The resolution also outlined the reason for the fees, which are to be collected to offset the cost of increased flood prevention activities that are a result of new development. The resolution states:

"The development of land from vacant earth with vegetation to areas occupied by buildings, parking lots, streets, and other impervious surfaces causes an increase in the amount of storm water runoff. This increase creates the necessity for the acquisition, engineering, design, construction, reconstruction, maintenance, and operation of flood control facilities."

In the 1990s, the District entered into contracts with certain cities to collect fees on behalf of the County to simplify the building permit process for new development within city limits. During the time of our audit, the District contracted with seven cities: Camarillo; Fillmore; Oxnard; Port Hueneme; Santa Paula; Simi Valley; and Thousand Oaks (City or Cities). Individuals pursuing new development within the city limits of Ventura, Ojai, and Moorpark, or within the unincorporated areas of the County, must obtain fee quotes from and pay fees directly to the County. For the 33-month period of July 1, 2019, through March 31, 2022, the District collected \$1.36 million in revenue from fees.

Operationally, the PWA Land Development Services (LDS) division calculates, quotes, and collects fees on behalf of the District. LDS utilizes a land use database (database) to log quoted fees and any identified exemptions.

Scope

Our overall objective was to determine whether the District's oversight of the collection of flood acreage fees was sufficient to ensure maximum applicable funding for watershed protection activities for the period of July 1, 2019, through March 31, 2022. Specifically, we:

- evaluated whether financial and operational records were accurate and reliable;
- determined whether Cities were in compliance with the terms of the contracts; and
- evaluated the sufficiency of management oversight for the administration of the flood acreage fee program.

Our audit focused on fees collected by the contracted Cities for development within incorporated areas of the County. We determined that transactions handled by the Cities posed a higher risk to the County as the Cities are in sole control of the fee collection process. The County has limited insight into the Cities' collection processes outside of when the Cities request a quote or remit fees, which increases the risk of the County not receiving all revenue due.

To determine applicable regulations and guidance for the calculation and collection of fees, we reviewed the following documents:

- Ventura County Watershed Protection Act
- Resolution Establishing Land Development Fees for Flood Control and Drainage Facilities in Zones 1, 2, 3, and 4 adopted by the BOS on May 24, 1988 (1988 Resolution or Resolution)
- Contracts in place with the Cities during the audit period

Since the Cities must collect fees or receive an exemption before issuing building permits, we obtained and reviewed City building permit records for applicable land development projects. We then compared selected City building permit records to LDS collection records to determine City compliance. We also reviewed the District and LDS operational and financial records for accuracy and reliability related to City collection of fees.

The audit was performed in conformance with the *International Standards for the Professional Practice of Internal Auditing* promulgated by The Institute of Internal Auditors.

Findings

Overall, we found that the District's oversight practices needed improvement to ensure maximum applicable funding and satisfactory collection of flood acreage fees owed to the County from the Cities. While LDS effectively utilized the database to log quoted fees and established sufficient written procedures for fee determination and calculation, our audit identified several areas where action was needed to improve overall program effectiveness.

Most significantly, the District lost realizable revenue to fund operations due to insufficient procedures for monitoring the Cities' compliance with contract terms. Some Cities appeared to be unaware of the responsibilities outlined in the contracts and had not contacted the County for some or all development projects during the audited period. Since the District did not have procedures for monitoring contract compliance, this issue had not been detected or corrected, leading to years of lost revenue.

Additionally, we noted that, although the 1988 Resolution included an annual adjustment to the rate, the Resolution also set a maximum rate which was reached in 2001. However, the District has not amended the maximum rate since adoption, meaning the rate has not changed in 21 years. The District may be losing out on potential revenue that would come from updating the maximum rate and allowing for continued annual rate adjustments.

Following are details of the areas where improvements were needed. District management initiated corrective action in response to the audit as noted.

1. Ineffective Contracts with the Cities

The contracts between the County and Cities are currently ineffective in deriving the full benefits to the flood acreage fee program as was originally intended. During our audit, we found no evidence that District management had reviewed the contracts with the Cities since the 1990s when the current contracts were signed. In our review of the contracts, we noted that the terms do not include sufficient specifics for carrying out the contracts. For example:

- The contracts do not identify whether the County or the City is responsible for determining whether an exemption applies. Without a specific provision in the contract requiring that the County determine all applicable exemptions, the risk exists that Cities are determining exemptions and not collecting fees when fees should apply.
- The contracts do not include recourse for cases of City noncompliance, such as penalties and interest. As a result, we found multiple instances of noncompliance by the Cities as noted in Finding 2 below without a clear path for resolution.

Recommendation. PWA management should reexamine the contracts, and the collection arrangement as a whole, to evaluate whether the program is benefiting from the fee as intended. At a minimum, the contracts should be amended to address exemptions and recourse for noncompliance discussed above. Rescinding the agreements may be the best course of action for District management to ensure maximum funding is received by having fees paid directly to the County. If the contracts will continue, PWA management should establish a timeline for periodic review of the contracts.

Management Action. PWA management stated: “Concur. The District (PWA-WP) is acting upon the recommended action and plans to implement contract changes. PWA-WP will partner with one or two of the more compliant cities and examine a process that could have the fees paid directly to the County. If a new procedure is viable, PWA-WP will develop a restructured policy agreement for the Board of Supervisors to consider along with the cities, and the existing contracts with the cities would end. If approved, corresponding new procedure management internal controls will be implanted. PWA-WP anticipates this effort to be completed by December 31, 2023.”

2. Contract Compliance Monitoring Practices

The District had not established oversight practices to ensure contract compliance, which contributed to pervasive noncompliance by Cities, loss of revenue to the County, and delayed receipt of payments. The contracts stipulate the following terms:

- flood acreage fees are a condition of building permit issuance;
- County personnel will calculate the fees upon request by a City; and
- Cities will remit fees to the County monthly on or before the end of each month following the month in which the fees were collected.

Substantial noncompliance related to each contract term outlined above was identified during the period under audit. We reviewed City-issued building permit records and selected a sample of issued permits for which fees should have been quoted and collected, or an exemption recorded in County records. The results of our testing identified significant and widespread noncompliance that has resulted in unrecoverable, lost revenue to the County and delays in access to funding for operations. For example:

- Lack of contact with two Cities: For two of the seven Cities tested, no quotes, exemptions, or remittances were found in LDS or Ventura County Financial Management System (VCFMS) records for the entire period under review. However, both Cities issued permits that would have been subject to a fee. Through separate audit inquiry, we noted that one of the two Cities had collected fees totaling \$415,900 over several years but had not remitted these fees to the County.
- Lack of fee quote: Of the 92 permits tested across all seven contract Cities, 42 (46%) were issued without the County calculating the fee and providing the City with the quote. Thirty-one (31) of the 92 permits selected for testing were for the construction of Accessory Dwelling Units (ADU) [i.e., an attached or detached residential dwelling unit with complete living facilities (bedroom, kitchen, bathroom, etc.)]. Testing disclosed that 26 (84%) of the 31 ADU permits were issued without the County first calculating and providing the City with a quote or exemption.
- Lack of fee remittance: Of the 92 permits tested, 51 (55%) were issued without remitting any payment to the County, regardless of whether the related City had contacted the County for a fee quote or exemption. Only 4 (8%) of the 51 projects were identified as exempt in County records. If a City issues a building permit without collecting a fee, the County has no recourse to recover that revenue from the developer.
- Lack of follow-up on quoted fees: Of the 50 permits issued for which the County provided the Cities with a quote, we found 5 instances where the Cities had not remitted fees totaling \$22,800. Whether the Cities actually collected the fees to remit to the County is unknown. However, the District's lack of follow-up on quoted but unpaid fees has potentially resulted in years of undetected noncompliance and uncollected revenue.
- Lack of timely remittance: Of the 41 permits issued with related fees remitted to the County, only 17 (41%) were remitted timely. While the County may not know when the Cities collect fees until the County receives the City-prepared receipts, the County did not appear to address late remittances once the payment was received. The Cities are holding onto fees longer than appropriate, resulting in the County not having access to the funds for District operations.

Establishing monitoring practices that include periodic communication of contract requirements will help the District reduce instances of Cities' noncompliance and ensure the District is recovering all applicable revenue. Regardless of whether a collection arrangement continues, the County must establish monitoring procedures to ensure Cities do not issue building permits without requiring a fee to be paid or waived.

Recommendation. PWA management should develop proactive monitoring and communication procedures to ensure the Cities are aware of, and comply with, all contract requirements.

Management Action. PWA management stated: “Concur. PWA-WP has engaged the City Manager to collect on the \$415,900 owed to the PWA-WP (Noted amount is based on data pulled for this Audit in April 2022. Actual collected amount will be higher due to ongoing City collection since April 2022). Additionally, in October 2022, PWA initiated a process improvement team project for the Flood Acreage Fee program. The team is studying the current program (including these Audit findings) and will provide recommendations to PWA management by February 2023. As this team got underway, goals were established to: recommend methods to verify eligible parcels and fee collection with the cities, recommend methods to centralize and eliminate/reduce duplicate or missing entries and forms, eliminate excessive handoffs, improve customer processing methods, and provide recommendation/methods for PWA-WP to reconcile accounts. PWA-WP will then implement recommendations and update procedures with the cities.”

3. Outdated Flood Acreage Fee Program Attributes

Certain critical program attributes were in need of update, which contributed to the potential for lost revenue. Specifically, we noted that the acreage fee rate has not been adjusted in decades. We also found that the receipt form process was outdated and provided incomplete information to the Cities.

3.01 Acreage Fee Rate

District management has not reviewed the acreage fee rate in over 20 years to determine whether the rate is appropriate relative to current costs. The rate was initially established in the 1988 Resolution and was to be automatically adjusted annually based on the Construction Cost Index (CCI) but was not to exceed a specified amount. The rate met the specified maximum threshold in 2001 and has not been adjusted since. As the costs of District operations fluctuate over time with average construction costs, using the CCI as a basis for the fee adjustment appears reasonable. Had the rate been allowed to continue increasing in relation to the CCI, the acreage fee rate would be nearly double the current rate. The outdated rate may no longer be reflective of current costs and may have contributed to inadequate funding for District operations.

Recommendation. PWA management should review the acreage fee rate and evaluate whether the amount should be adjusted to reflect current costs.

Management Action. PWA management stated: “Concur. PWA-WP will evaluate flood acreage fee currency and update/adjust as necessary.”

3.02 Receipt Forms

The paper receipt form process currently in place is outdated and inadequate to communicate necessary information related to fee collection and remittance requirements to the Cities. As part of the fee collection process, the County provides the Cities with quadruplicate receipt forms to be completed and included with payments remitted to the County. The bottom of the receipt form indicated the last revision date was November 1990, over 30 years ago. We identified the following shortcomings with the paper receipt form:

- The current form provides limited instructions and incomplete information on the types of projects subject to a fee. For example, ADUs are not mentioned anywhere on the form.
- Our testing identified numerous instances where Cities did not complete the form correctly. Forms completed incorrectly resulted in the County receiving inaccurate and incomplete information.
- The form does not provide specific instructions on the timing of payment remittance as required by the contract.

An outdated or ineffective collection process may lead to the District not receiving all fees owed for applicable projects timely or the necessary information to record payment details accurately. At a minimum, receipt forms need to be updated to reflect current and accurate information. However, moving to an electronic process, such as utilizing the Citizen Access portal of the land use database system, and eliminating the quadruplicate paper receipt forms would help to ensure information is kept current and increase fee collection efficiency.

Recommendation. PWA management should update the paper receipt form and evaluate whether a fully electronic process would lead to more successful fee collection.

Management Action. PWA management stated: “Concur. The previously mentioned PWA process improvement team will report out recommendations and methods specific to this program receipt finding in February 2023. PWA-WP will then implement recommendations and update procedures.”

4. Lack of District Management Oversight

District management lacked oversight procedures to ensure the successful operation and administration of the flood acreage fee program. Based on discussions with LDS and District management, roles and responsibilities for process oversight and improvements appeared to be unclear. While LDS calculated fee quotes and processed remittances, District management did not provide any high-level oversight to ensure these procedures were adequate. The District is the beneficiary of fee revenue and party to the contracts; therefore, the District should ultimately be responsible for the program's effective operation. Establishing oversight procedures that include a clear division of responsibility between LDS and District staff will help keep program attributes relevant, identify and correct inefficiencies, and improve overall collection efforts.

Recommendation. PWA management should define the roles and responsibilities for all aspects of administering the flood acreage fee program and establish oversight procedures to ensure successful operation of the program.

Management Action. PWA management stated: “Concur. The previously mentioned PWA-WP process improvement team will report out recommendations methods to specifically address this management oversight finding in February 2023. PWA-WP will then implement oversight recommendations and update procedures.”

5. Unreliable Program Records

Flood acreage fee operational and financial records were not always accurate or reliable. We identified discrepancies between the County's land use database, VCFMS, and the City receipt records. The operational and financial reporting records need to be reliable for follow-up with Cities and for accurate funding of each zone.

5.01 Land Use Database Records

Land use database records for fees marked as quoted but unpaid were not always accurate. In our testing of database records reported as quoted but unpaid, we found that 1 (5%) of the 20 records tested had already been paid. When we began planning for this audit, we identified significantly more outstanding quotes reported as unpaid that had already been paid. However, during our audit, we noted LDS had made considerable progress in updating the records. Recordkeeping must be accurate to keep the District adequately informed of fees currently categorized as quoted but unpaid. Periodically reconciling unpaid fees in the database to receipt files will help ensure that operational records stay current and accurate.

Recommendation. PWA management should perform a periodic reconciliation of database records to receipt files.

Management Action. PWA management stated: "Concur. The previously mentioned PWA process improvement team will report out recommendations and methods specific to this finding in February 2023. PWA-WP will then implement database/records recommendations."

5.02 Revenue Allocation in Financial Records

Fee revenue was not always posted to the correct watershed zone in VCFMS. The proper zone allocation is determined when the fee is quoted to the Cities and logged into the land use database by LDS. However, PWA's Central Services records fees received from the Cities in VCFMS according to the watershed zone reported on the City-prepared receipt, which may not always be accurate or complete. Of the 72 receipts tested totaling \$331,354, the VCFMS zone revenue allocation did not agree to the zone recorded in the land use database for 7 (10%) receipts totaling \$13,032 (4%). Because the fee can only be used for the specific zone from which the revenue was derived, improper revenue allocations may impair the ability to fund work in the individual zones.

Recommendation. PWA management should establish procedures for PWA Central Services to check with LDS regarding the zone allocations of fee payments received before entering the fees into VCFMS to ensure proper allocation.

Management Action. PWA management stated: "Concur. The previously mentioned PWA process improvement team will report out recommendations and methods specific to this finding in February 2023. PWA-WP will then implement proper financial PWA-WP Zone allocation recommendations."

Auditor's Evaluation of Management Action

We believe that management actions taken or planned were responsive to the audit findings. PWA management planned to complete corrective action by December 31, 2023.