



Santa Clara Valley Water District Board Audit Committee Meeting

Headquarters Building Boardroom
5700 Almaden Expressway

REGULAR MEETING AGENDA

**Wednesday, October 19, 2022
2:00 PM**

District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.

BOARD AUDIT COMMITTEE
Barbara F. Keegan, Chair - District 2
Gary Kremen, Vice Chair - District 7
Richard P. Santos - District 3

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body, will be available to the public through the legislative body agenda web page at the same time that the public records are distributed or made available to the legislative body. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to participate in the legislative body's meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

DARIN TAYLOR
Committee Liaison

MAX OVERLAND
Assistant Deputy Clerk II
Office/Clerk of the Board
(408) 630-2749
moverland@valleywater.org
www.valleywater.org

Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.

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Santa Clara Valley Water District
Board Audit Committee
REGULAR MEETING
AGENDA

Wednesday, October 19, 2022

2:00 PM

Headquarters Building Boardroom
5700 Almaden Expressway
San Jose, California

IMPORTANT NOTICES AND PARTICIPATION INSTRUCTIONS

Santa Clara Valley Water District (Valley Water) Board of Directors/Board Committee meetings are held as a “hybrid” meetings, conducted in-person as well as by telecommunication, and is compliant with the provisions of the Ralph M. Brown Act.

To maximize public safety while still maintaining transparency and public access, members of the public have an option to participate by teleconference/video conference or attend in-person. To observe and participate in the meeting by teleconference/video conference, please see the meeting link located at the top of the agenda. If attending in-person, you are required to comply with Ordinance 22-03 - AN ORDINANCE OF THE SANTA CLARA VALLEY WATER DISTRICT SPECIFYING RULES OF DECORUM FOR PARTICIPATION IN BOARD AND COMMITTEE MEETINGS located at <https://s3.us-west-2.amazonaws.com/valleywater.org.if-us-west-2/f2-live/s3fs-public/Ord.pdf>

In accordance with the requirements of Gov. Code Section 54954.3(a), members of the public wishing to address the Board/Committee at a video conferenced meeting, during public comment or on any item listed on the agenda, should use the “Raise Hand” tool located in the Zoom meeting link listed on the agenda, at the time the item is called. Speakers will be acknowledged by the Board Chair in the order requests are received and granted speaking access to address the Board.

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This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Sections 54950 et. seq. and has not been prepared with a view to informing an investment decision in any of Valley Water’s bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water’s bonds, notes or other

obligations and investors and potential investors should rely only on information filed by Valley Water on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures and Valley Water's Investor Relations website, maintained on the World Wide Web at <https://emma.msrb.org/> and <https://www.valleywater.org/how-we-operate/financebudget/investor-relations>, respectively.

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Join Zoom Meeting:
<https://valleywater.zoom.us/j/91608079873>
Meeting ID: 916 0807 9873
Join by Phone:
1 (669) 900-9128, 91608079873#

1. CALL TO ORDER:

1.1. Roll Call.

2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA.

Notice to the Public: Members of the public who wish to address the Committee on any item not listed on the agenda should access the "Raise Hand" tool located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Committee Chair in order requests are received and granted speaking access to address the Committee. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If Committee action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Committee may take action on any item of business appearing on the posted agenda.

3. APPROVAL OF MINUTES:

3.1. Approval of Minutes.

[22-1192](#)

Recommendation: Approve the minutes.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: 092922 Special BAC Minutes](#)

4. REGULAR AGENDA:

- 4.1. Determine Whether To Recommend To The Board Any Changes In The Risk Management Organizational Alignment; Determine If Any Changes Need To Be Made to the Annual Audit Work Plan; And Authorize Staff to Present Any Recommended Changes to the Full Board. [22-1183](#)
- Recommendation: A. Determine whether to recommend to the Board any changes in the Risk Management Organizational alignment;
 B. Determine if any changes need to be made to the Annual Audit Work Plan; and
 C. Authorize staff to present any recommended changes to the full Board.
- Manager: Carlos Orellana, 408-630-2755
- Attachments: [Attachment 1: District Counsel Audit Final Report](#)
 [Attachment 2: FY18/19 - FY20/21 Annual Audit Work Plan](#)
 [Attachment 3: 2022-2024 Annual Audit Plan](#)
- Est. Staff Time: 30 Minutes
- 4.2. Receive the Fiscal Year 2021-22 Fourth Quarter Financial Status Update. [22-1197](#)
- Recommendation: Receive the Fiscal Year 2021-22 fourth quarter financial status update as of June 30, 2022.
- Manager: Darin Taylor, 408-630-3068
- Attachments: [Attachment 1: PowerPoint](#)
- Est. Staff Time: 10 Minutes
- 4.3. Receive and Discuss the Upper Guadalupe River and Upper Llagas Creek Watershed Projects Subvention Audit Report. [22-1168](#)
- Recommendation: Receive and discuss the Upper Guadalupe River and Upper Llagas Creek watershed projects subvention audit report.
- Manager: Darin Taylor, 408-630-3068
- Attachments: [Attachment 1: SCO Final Subvention Audit Report](#)
- 4.4. Receive an Update on the Status of the Board's On-call Management Services Agreement Requests for Proposals and Authorize Staff to Proceed to Negotiations. [22-1171](#)
- Recommendation: Receive an update on the status of the Board's On-call Management Services Agreement Requests for Proposals and authorize staff to proceed to negotiations.
- Manager: Darin Taylor, 408-630-3068

- 4.5. Discuss the 2022-2024 Annual Audit Work Plan. [22-1172](#)

Recommendation: Discuss the 2022-2024 Annual Audit Work Plan.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: 2022-2024 Annual Audit Work Plan](#)

- 4.6. Review and Discuss the 2022 Board Audit Committee (BAC) Work Plan. [22-1173](#)

Recommendation: Review and Discuss topics of interest raised at prior BAC meetings and make any necessary adjustments to the BAC Work Plan.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: 2022 BAC Work Plan](#)

5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.

This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.

6. ADJOURN:

- 6.1. Adjourn to Regular Meeting at 2:00 p.m., on November 16, 2022.



Santa Clara Valley Water District

File No.: 22-1192

Agenda Date: 10/19/2022

Item No.: 3.1.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

SUBJECT:

Approval of Minutes.

RECOMMENDATION:

Approve the minutes.

SUMMARY:

In accordance with the Ralph M. Brown Act, a summary of Committee discussions, and details of all actions taken by the Board Audit Committee, during all open and public Committee meetings, is transcribed and submitted to the Committee for review and approval.

Upon Committee approval, minutes transcripts are finalized and entered into the Committee's historical records archives and serve as historical records of the Committee's meetings.

ATTACHMENTS:

Attachment 1: 092922 Special BAC Minutes

UNCLASSIFIED MANAGER:

Michele King, 408-630-2711

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BOARD AUDIT COMMITTEE MEETING

MINUTES

**SPECIAL MEETING
THURSDAY, SEPTEMBER 29, 2022
2:00 PM**

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER:

A Special meeting of the Santa Clara Valley Water District (Valley Water) Board Audit Committee (Committee) was called to order in the Valley Water Headquarters Building Boardroom at 5700 Almaden Expressway, San Jose, California, and by Zoom teleconference, at 2:00 p.m.

1.1 Roll Call.

Committee members in attendance were District 3 Director Richard P. Santos, and District 2 Director Barbara Keegan, Chairperson presiding, constituting a quorum of the Committee.

District 7 Director Gary Kremen was excused from attending.

Staff members in attendance were E. Aryee, J. Codianne, M. Cook, C. Hakes, B. Hopper, T. Ndah, D. Rocha, D. Taylor, B. Yerrapotu, and T. Yoke.

Also, in attendance was George Skiles, Sjoberg Evashenk Consulting.

2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA:

Chairperson Keegan declared time open for public comment on any item not on the agenda. There was no one who wished to speak.

3. APPROVAL OF MINUTES:

3.1 Approval of Minutes.

Recommendation: Approve the minutes.

The Committee considered the attached minutes of the August 30, 2022, Special Committee meeting. It was moved by Director Santos, seconded by Chairperson Keegan, and unanimously carried that the minutes be approved.

4. REGULAR AGENDA:

- 4.1 Receive and Discuss a Status Update on Implementation of Recommendations from the Contract Change Order Audit Conducted by TAP International, Inc.

Recommendation: Receive and Discuss a Status Update on Implementation of Recommendations from the Contract Change Order Audit Conducted by TAP International, Inc.

Tony Ndah, Deputy Administrative Officer, reviewed the information on this item, per the Committee Agenda Memo, and per the information contained in Attachment 1.

The Committee discussed the information, took no formal action, and noted the following:

- The Committee Chair asked for the background information regarding Upper Llagas Creek Flood Protection Project Case Study change order issues and how this will be addressed in future projects;
- Staff provided clarity on the \$100M threshold that will automatically trigger the Change Control Board (CCB), but CCB can be established if a project is deemed complex; and
- The Project Steering Committee is formed if there are project requirements that require direct input from the senior management team.

- 4.2 Receive an Overview of the Capital Project Management and Project Controls Program.

Recommendation: Receive an Overview of the Capital Project Management and Project Controls Program.

Jessica Collins, Watersheds Business Plan and Analysis Manager, and Michael Cook, Deputy Operating Officer, reviewed the information on this item, per the attached Committee Agenda Memo, and per the information contained in Attachment 1.

The Committee discussed the information, took no formal action, and noted the following:

- Staff informed the Committee that the Projectmates Construction Program Management Software, which is being used to address a number of audit recommendations from multiple audit reports is a comprehensive tool that enables staff to truly collaborate on their projects. This tool integrates with existing systems to gather all the data for a project when needed;
- Staff informed the Committee that this software is being used, with success, on the Anderson Dam Tunnel Project.

- 4.3 Receive and Discuss a Status Update on Implementation of Recommendations from the Lower Silver Creek Flood Protection Performance Audit.

Recommendation: Receive and Discuss a Status Update on Implementation of Recommendations from the Lower Silver Creek Flood Protection Performance Audit.

Bhavani Yerrapotu, Deputy Operating Officer, and Jessica Collins reviewed the information on this item, per the attached Committee Agenda Memo, and per the information contained in Attachment 1.

The Committee received the information and took no formal action.

4.4 Discuss the 2022-2024 Annual Audit Work Plan.

Recommendation: Discuss the 2022-2024 Annual Audit Work Plan

Darin Taylor reviewed the information on this item, per the attached Committee Agenda Memo, and per the information contained in Attachment 1.

The Committee received the information and took no formal action.

4.5 Review and Discuss the 2022 Board Audit Committee Work Plan.

Recommendation: Review and Discuss topics of interest raised at prior Board Audit Committee (BAC) Meetings and make any necessary adjustments to the BAC Work Plan.

Darin Taylor reviewed the information on this item, per the attached Committee Agenda Memo, and per the information contained in Attachment 1.

The Committee received the information and took no formal action.

5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS:

This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.

Max Overland, Acting Deputy Clerk of the Board, confirmed that there were no new Committee Member Requests.

6. ADJOURN:

6.1 Adjourn to Regular Meeting at 2:00 p.m., on October 19, 2022.

Committee Chairperson Keegan adjourned the meeting at 3:00 p.m., to the 2:00 p.m. Regular Committee meeting on October 19, 2022.

Max Overland
Acting Deputy Clerk of the Board

Date Approved:

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Santa Clara Valley Water District

File No.: 22-1183

Agenda Date: 10/19/2022

Item No.: 4.1.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

SUBJECT:

Determine Whether To Recommend To The Board Any Changes In The Risk Management Organizational Alignment; Determine If Any Changes Need To Be Made to the Annual Audit Work Plan; And Authorize Staff to Present Any Recommended Changes to the Full Board.

RECOMMENDATION:

- A. Determine whether to recommend to the Board any changes in the Risk Management Organizational alignment;
- B. Determine if any changes need to be made to the Annual Audit Work Plan; and
- C. Authorize staff to present any recommended changes to the full Board.

SUMMARY:

The Board Audit Committee (BAC) was established to assist the Board of Directors (Board), consistent with direction from the full Board, to identify potential areas for audit and audit priorities, and to review, update, plan, and coordinate execution of Board audits.

The District Counsel Audit Final Report (Attachment 1) was provided to the BAC for review and discussion at the December 16, 2020, Committee meeting. Recommendation #5 from the District Counsel Audit provides that the Board Audit Committee should ensure that the scope of the audit proposed in the FY18/19 - FY 20/21 Annual Audit Work Plan (Attachment 2) for the risk management function include an evaluation of the advantages and disadvantages of implementing alternative organizational alignments for the Risk Management Unit and the Workers' Compensation programs.

As referenced in Recommendation #5 from the District Counsel Audit, a Risk Management audit was separately identified in the FY 18/19 - FY 20/21 Annual Audit Work Plan (Audit ID 4). The audit objective for the Risk Management audit would have evaluated whether risk management business processes could be implemented more effectively, i.e., contract claims, workers' compensation, small claims.

On January 26th, 2021, the Board received and discussed the recommendations resulting from the District Counsel Audit. The Board decided to delay any implementation of the recommendations until a new District Counsel was appointed, had an opportunity to get acclimated to their new role, become familiar with their organization, and review the report and findings from the audit. A new District Counsel was appointed, effective June 1, 2021.

At this January 26, 2021 Board meeting, the Board of Directors passed a resolution removing Risk Management alignment issues from the audit and directing the CEO to work with the new District Counsel to determine where the Risk Management function should reside.

At the October 20th, 2021 BAC meeting, Committee Chair Keegan noted that a new District Counsel had begun working and recommended that discussion of the alignment of the Risk Management Unit be deferred for several months to allow the District Counsel and the interested Board members to further evaluate the placement of the Risk Management Unit within the District Counsel's authority.

On January 11th, 2022, the Board approved the 2022-2024 Annual Audit Work Plan (Attachment 3) which also includes a Risk Management performance audit (Audit ID 19). The audit objective for the Risk Management audit will evaluate whether there are advantages or disadvantages from realigning business functions, and if risk management business processes would gain any benefit from an update.

At the April 2022 BAC meeting, District Counsel Carlos Orellana expressed his openness to any audit of the Risk Management Organization that the BAC may find beneficial, while noting that confidential information about risk management functions is being provided to the Board. District Counsel Orellana also expressed his perspective that the Risk Management Organization's alignment within the District Counsel's Office is logical and currently functioning well, while acknowledging that the District Counsel's Office is not the only logical placement for the Risk Management Organization.

At that meeting, the BAC requested that staff return in October 2022 to receive further input from the BAC as to the Risk Management Organization. Staff welcomes the BAC's input and any recommendations the BAC may wish to make to the full Board.

ATTACHMENTS:

Attachment 1: District Counsel Audit Final Report
Attachment 2: FY18/19 - FY20/21 Annual Audit Work Plan
Attachment 3: 2022-2024 Annual Audit Plan

UNCLASSIFIED MANAGER:

Carlos Orellana, 408-630-2755



TAPInternational

Final Report

**DISTRICT COUNSEL'S
OFFICE CAN BENEFIT
FROM ENHANCED
STRUCTURE AND
IMPROVED MANAGEMENT
PROCESSES**

December 7, 2020

**Final Report by the Independent
Auditor to the Board Audit Committee**



Date: December 7, 2020

Memorandum For: Board Audit Committee (BAC)

From: Independent Auditor, TAP International, Inc.

Subject: Transmittal of TAP International Performance Audit Report

Attached is our final report, *District Counsel's Office Can Benefit from Enhanced Structure and Improved Management Processes*. The audit objective was to identify potential structural, organizational, and procedural improvements in the District Counsel's Office.

Our audit identified opportunities to improve service delivery and performance through an enhanced operating strategy, implementing structural and process improvement changes. The report contains five recommendations that will enhance the efficiency and effectiveness of legal services provided to Valley Water's operational and administrative units.

A summary of agency responses to the recommendations in this audit report is included in Appendix A and the full response is included in Appendix B.

TAP International, Inc.

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The background of the page is a scenic landscape. The top half shows a bright, hazy sky with a sunburst effect on the right side. Below the sky, there are rolling hills and a layer of white clouds. In the foreground, there is a field of tall, dry grass. A solid yellow rectangular box is positioned in the lower-left to center area of the page, containing the section header text.

Section 1: Audit Highlights

Audit Highlights

Why the Audit Was Conducted

The Office of the District Counsel (District Counsel's Office) provides a myriad of legal services to Valley Water's Board of Directors (Board) and 80 operational and administrative offices, divisions, and units.¹ At the Board's direction, the Independent Auditor (Auditor) conducted a performance audit of the District Counsel's Office to identify potential structural, organizational, and procedural improvements.

How the Audit Was Conducted

The performance audit included a review of the District Counsel's Office organizational structure, operational performance, staff roles and responsibilities, processes, and policies and procedures. The audit work included: (1) interviews with District Counsel's Office attorneys and staff, (2) interviews with the primary customers of the District Counsel, (3) analysis of financial data, contracts, consultant agreements,² and other documentation related to the District Counsel's Office operations, and (4) peer agency research on structure and practices. This performance audit used qualitative evidence, documentary evidence, and other performance information to assess overall agency effectiveness. The Auditor took additional steps to corroborate and substantiate qualitative information described in the report per generally accepted government auditing standards.

What the Audit Found

Valley Water operations and administrative units generally agreed that the District Counsel's Office provides quality legal services, providing legal review, advice, and representation, but many of them raised concern about the frequency of communication and timeliness of services. This audit determined attorneys have managed and prioritized their projects and workflows without centralized processes or tools. Each attorney has been encouraged to be independent and operate their own legal service center. While this management approach provides high autonomy to attorneys and increases morale, it also creates non-uniformity in service delivery among Valley Water operational and administrative units and customer satisfaction concerns.

While there is not an established operating standard for public sector legal offices, best practices suggest that operating models are evolving from board-centric roles and as-needed support

¹ Valley Water has 13 attorneys, risk and workers compensation managers and administrative support personnel supporting seven Directors serving on the Board and over 800 regular employees. The District Counsel's Office also outsources legal services.

² Also referred to as professional services agreements within Valley Water.

services on a task-by-task basis to enterprise-wide models that uniformly support organizations. This audit reports various strategies to update the District Counsel's Office current operating model consistent with best management practices as well as practices identified in other public sector legal offices, such as added policy and procedural development, use of added document templates, effective workflow management, use of master services agreements, service level agreements (SLAs), performance management systems, and implementation of multi-source feedback assessments (e.g. upward, downward, and lateral input on service delivery satisfaction to and from the department, customers, and other stakeholders). Implementation of these strategies would likely increase customer satisfaction.

Recommendations (in priority order)

1. The District Counsel's Office should develop and implement a written strategy for approval by the Board that provides an updated operating model for efficient service delivery. In the development of the strategy, the District Counsel can consider, for example, enhanced policy and procedure development³ and new/enhanced tools described throughout this report. These tools, for example, can include workflow management, SLAs, added performance measurement, use of multi-source feedback assessments, and risk-based criteria assessments.

Estimated In-House Labor

- Strategy Development: 24 to 36 hours to discuss and agree upon potential enhancements.
 - Strategy Implementation: Costs are dependent upon the scope of the strategy developed.
2. The District Counsel and the Information Technology & Administrative Services Chief Operating Officer should update Valley Water Administrative Policies that (1) identify areas that require the development of new contractual and agreement templates, and (2) identify the responsible party for updating existing contract, agreement, and amendment templates as well as non-disclosure agreements (NDAs). These updates should also include the responsible party for NDA monitoring.

³ -Development of risk-based criteria for reviewing consultant agreements, purchase acquisitions, and/or other types of contracts.

-Development of criteria for prioritization and assignment of Board and Valley Water requests for services.

-Preparation (sources of information to be used) and maintenance of the Quarterly Report provided to the Board and the Litigation Matrix used to document current litigation status, which is part of the Quarterly Report.

-Clarification of EL 7.5 regarding the handling of Board member requests for the drafting of resolutions.

-Maintenance of the Legal Advice Matrix used to document the communication of advice provided to Valley Water management and staff.

-Personnel training requirements, including cross-training and succession planning.

-E-discovery procedures (currently in development).

-Criteria for risk management decision-making applicable to insurance.

Estimated In-House Labor

- Up to 36 hours to meet, confer, review, and approve updates to the administrative policies.

3. The District Counsel should convene a workgroup on planning activities or projects involving contracting opportunities with key stakeholders (E.g., Chief Executive Officer (CEO) and Chief Operating Officers (COOs)) to develop a decision-making guide for early engagement with the District Counsel Office and Risk Management.

Estimated In-House Labor

- Up to 24 hours to prepare for, facilitate, and document the working group meeting results.

4. The District Counsel should discuss with the Board the use of a master services agreement to add another procurement mechanism for legal services.

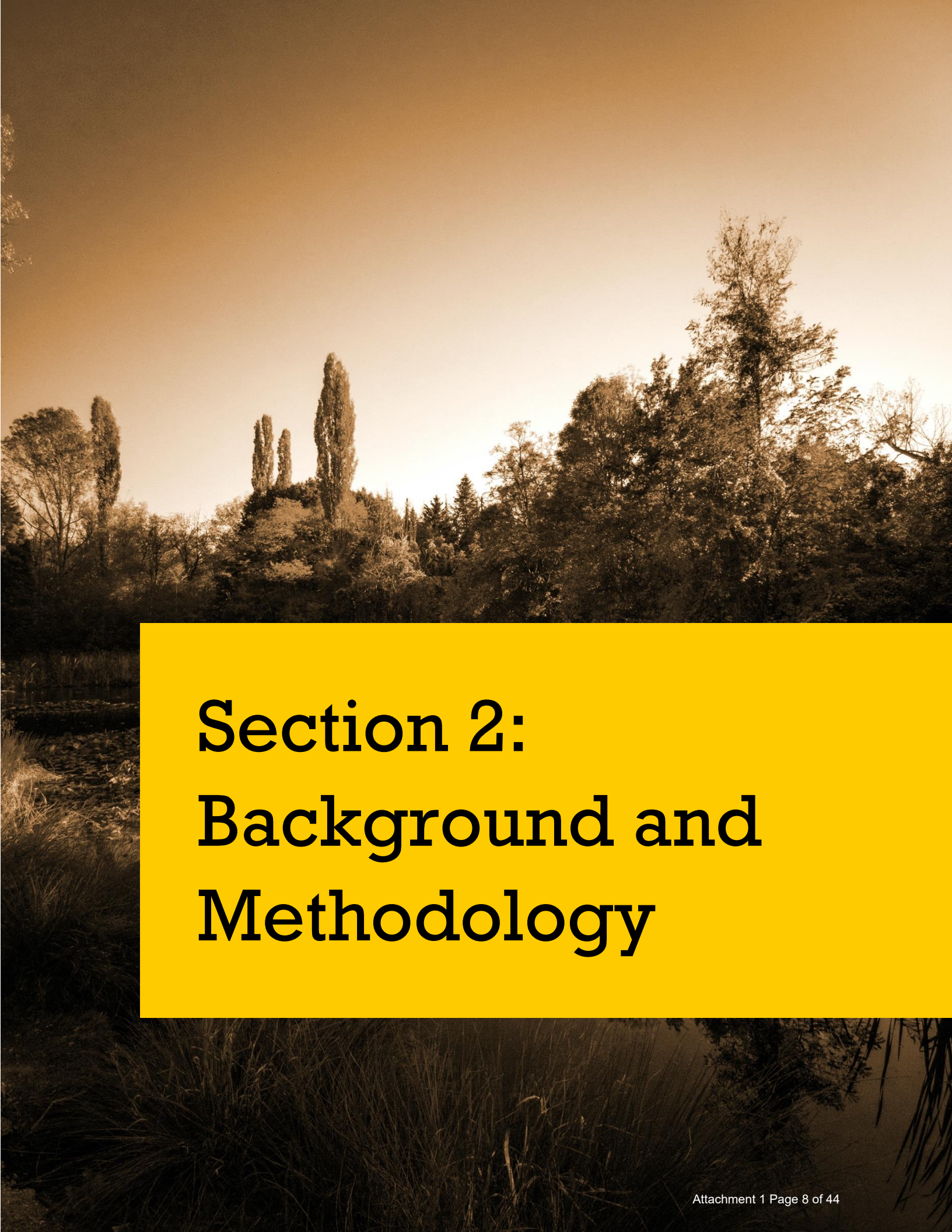
Estimated In-House Labor

- Up to five hours for preparation of memo and Board discussion.

5. The Board Audit Committee should ensure that the scope of the audit currently proposed in the annual audit work plan for the risk management function, include an evaluation of the advantages and disadvantages of implementing alternative organizational alignments for the Risk Management Unit and the Workers' Compensation programs.

Estimated In-House Labor

- No labor cost for the District Counsel's Office.

A sepia-toned photograph of a landscape. In the background, a hill is covered with dense foliage, including several tall, slender, conical trees that stand out against the sky. The foreground features a body of water, possibly a pond or a slow-moving stream, with tall, dark reeds or grasses growing along the left bank. The overall tone is warm and historical, with a soft, golden light suggesting a late afternoon or early morning setting.

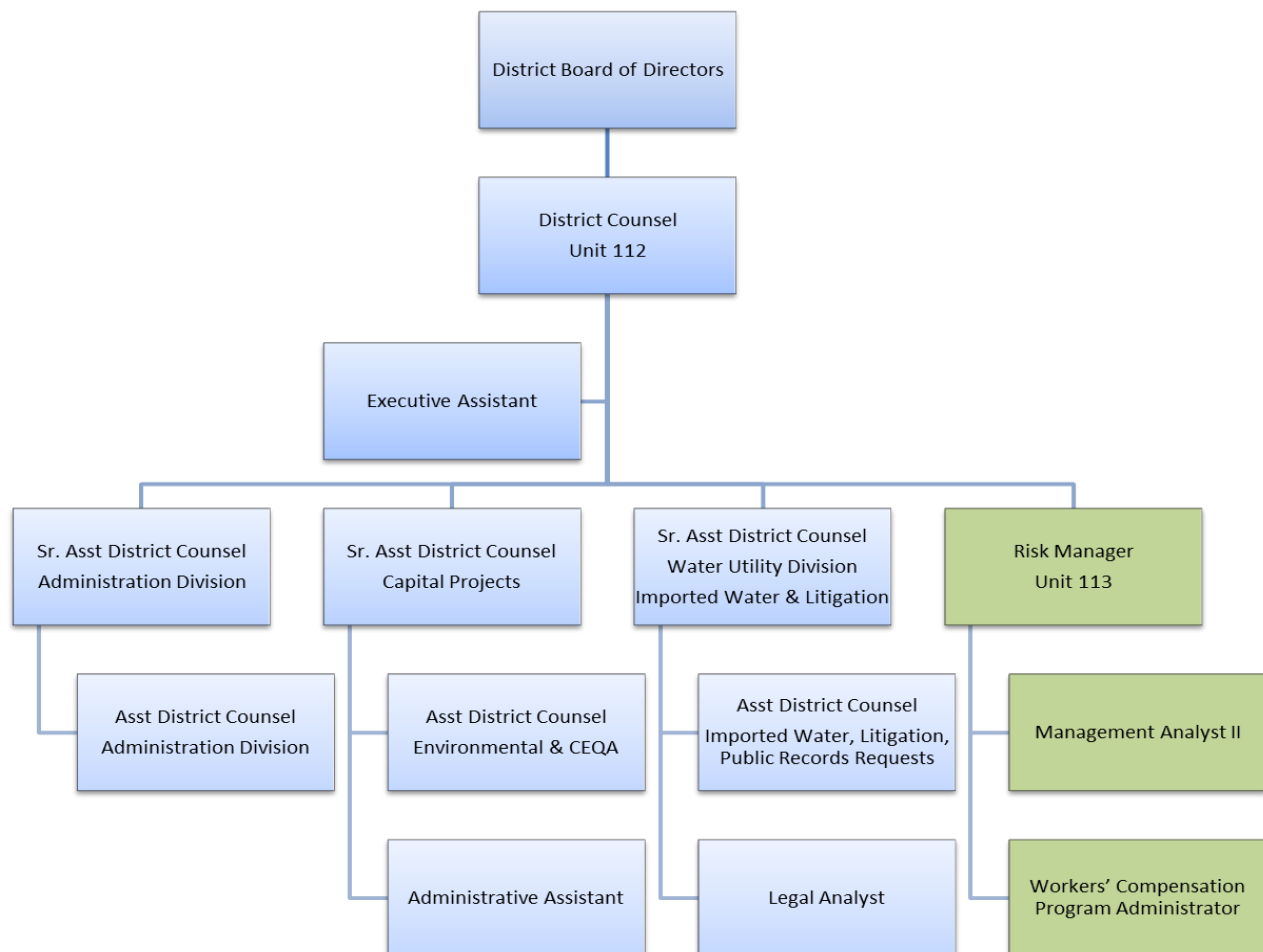
Section 2: Background and Methodology

Background

To Whom Does the District Counsel's Office Report?

The Valley Water Board directly appoints the District Counsel, who serves at the discretion of and reports directly to the Board, as shown in Figure 1 below. In addition to the District Counsel, Valley Water has two other Board Appointed Officers (BAOs) who serve as part of Valley Water's executive leadership team: The CEO and the Clerk of the Board. The District Counsel, as a BAO, is expected to "provide high quality, trustworthy and responsive legal counsel to Valley Water in a manner that creatively helps accomplish Valley Water's mission." The current District Counsel was appointed in February 2010.

Figure 1. Organizational Chart of the District Counsel's Office



How Should a Public Legal Counsel's Office Operate?

While multiple state and local laws guide District Counsel decisions, there is not an established standard for public legal offices that guide leaders on how day-to-day management should be performed. Public legal offices consistently report to an elected governing body with day-to-day strategies varying from limited organizational maturity to robust maturity that include use of formal SLAs, integration of legal support in enterprise-wide communication strategies, formal delineation of roles and responsibility, and embedding attorneys in specific departments. The size and complexity of the public agencies drive the maturity of the operating model.

Best practices for in-house legal service delivery recommend an exact operating model communicated within the legal office and with the rest of the agency. The strategy is based on the needs of the requestors of legal services (customers), defines the roles and responsibilities of all the parties, and the processes to support consistent service delivery.⁴

What Services are Provided by the District Counsel's Office?

Nine staff members assist the District Counsel in providing legal services to Valley Water. Three additional staff support the Risk Management and Workers' Compensation programs. Key services, among others, provided by the Office address:

- Water rights,
- Construction contract and amendment review,
- Consultant agreement and amendment review,
- Procurement agreement review,
- Contract drafting and negotiation,
- Public procurement compliance,
- Employee labor agreements and human resource issues,
- Construction law,
- Real estate law,
- Environmental law,
- Litigation,
- Grant compliance,
- Finance law,
- Statutory interpretation,
- Open government and ethics issues,
- General legal advice,
- Workers' compensation, and

⁴ Deloitte Legal, "In-house Legal Service Delivery – Transform Your Legal Operating Model," 2020.

- Risk management and claims.

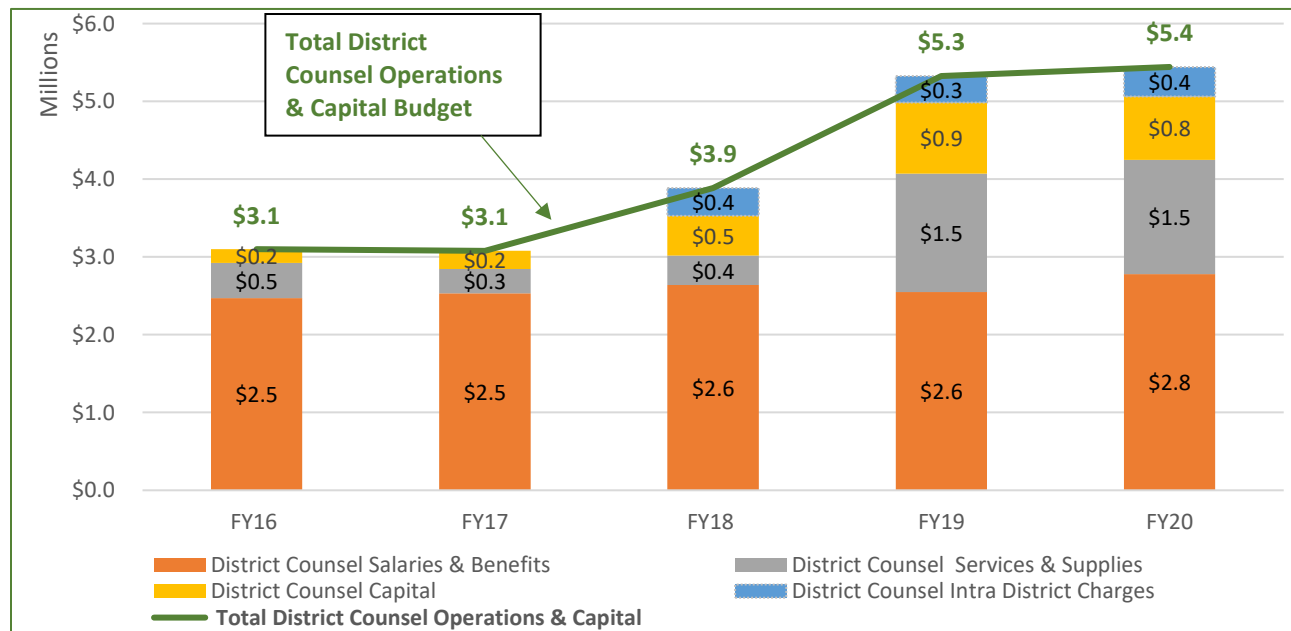
Valley Water does not maintain or track data that would show the volume or proportion of work performed by staff members among these types of services.

How Much Does the District Counsel's Office Spend?

In fiscal year (FY) 2019, the budget to operate the District Counsel's Office was \$5.4 million, a growth of 76 percent since FY 2016, due to the expansion of Valley Water projects and operations.⁵ As shown in Figure 2, (shaded in grey) services and supplies contributed to the increase. A detailed analysis of the budget showed an increase in outsourced legal services.

The District Counsel functions are budgeted through the general fund, which primarily receives funding through intra-district overhead charges to Watershed and Water Utility enterprise operations and capital programs. Valley Water's financial management officials said that the District Counsel's Office does not generally seek or receive separate reimbursement for services from other revenue sources.

Figure 2. District Counsel's Office Budget, FY 2016 to 2020



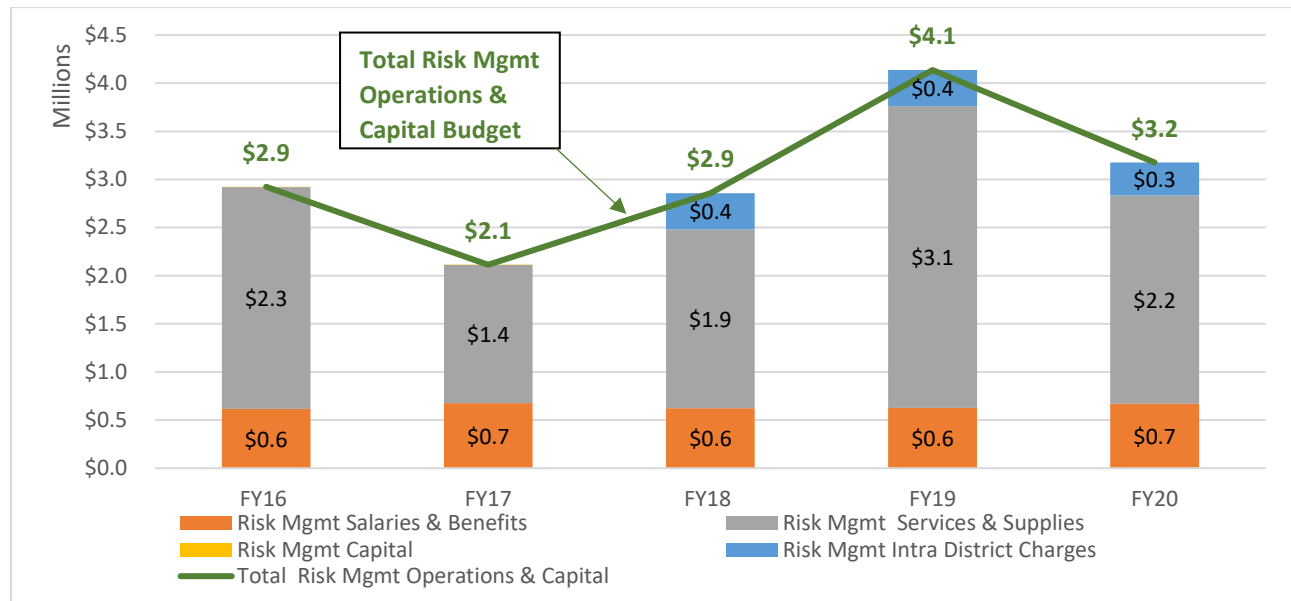
Source: Valley Water Budget Documents, <http://www.aqua.gov/archived-budget-documents-prior-years>

For the Risk Management Unit within the District Counsel's Office, the operating budget increased modestly by nine percent between FYs 2016 and 2020, as shown in Figure 3.

⁵ Valley Water's total FY 2019 budget is \$529 million, and the Five-Year Capital Improvement Program includes 67 projects totaling \$6.5 billion.

The budgets for salaries & benefits for both the District Counsel's Office and the Risk Management Unit remained steady since FY 2016.

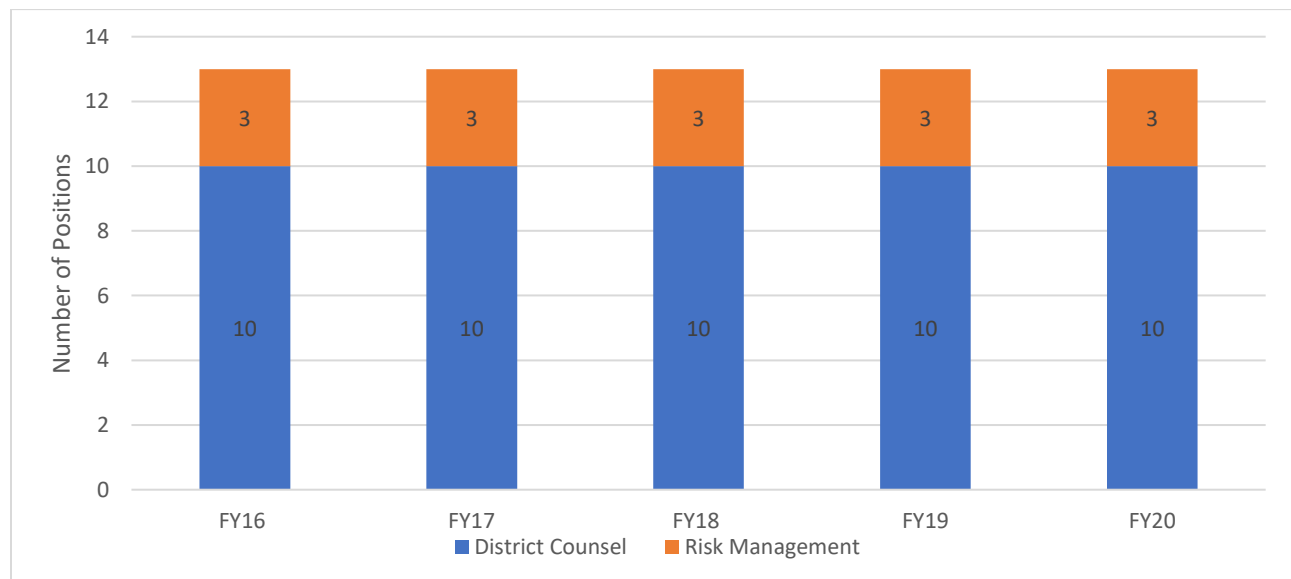
Figure 3. Risk Management Unit Budget, FY 2016 to 2020



Source: Valley Water Budget Documents, <http://www.aqua.gov/archived-budget-documents-prior-years>

Specifically, the number of budgeted positions in the District Counsel's Office and the Risk Management Unit did not change throughout the period, as shown in Figure 4.

Figure 4. District Counsel's Office and Risk Management Unit Budgeted Positions, FY 2016 to 2020



Source: Valley Water Budget Documents, <http://www.aqua.gov/archived-budget-documents-prior-years>

Methodology

How was the Performance Audit Conducted?

This performance audit assessed potential opportunities for structural, organizational, and procedural improvements in the District Counsel's Office. The audit examined the functions, structure, roles and responsibilities, and customer satisfaction of the District Counsel's Office's legal services to the Board and Valley Water management and staff in the operational and administrative units.

Audit Objective

In 2018, Valley Water's Auditor conducted an enterprise-wide audit risk assessment and identified the District Counsel's Office as an area that could benefit from further review. Our specific audit objective was to determine and identify potential structural, organizational, and procedural improvements.

Scope of Work

This specific audit examined the following areas:

- Roles and responsibilities of the District Counsel's Office.
- Valley Water Administrative Policies and other policies related to services provided by the District Counsel's Office.
- District Counsel's Office management structure and staff assignments.
- Customer service satisfaction and feedback.
- District Counsel's Office work processes, including:
 - Performance metrics and service levels
 - Time tracking and reporting
 - Succession planning
 - Contracting and use of outside legal firms (subject matter experts)
 - Use and maintenance of contract and agreement templates
 - Legal review of documents (contracts, agreements, amendments, etc.)
 - Use of NDAs
 - Use of District software systems
 - Information sharing and communications

The scope of the work did not assess whether legal documents and communications to the Board were properly classified because the District Counsel did not release these documents due to their privileged and/or confidential nature. This assessment is included on the annual audit work plan of the Auditor.

The scope of work also did not examine the efficiency of claims administration and management by the Risk Management Unit, which is also included on the annual audit work plan of the Auditor.

Finally, this audit did not include an assessment of any individual employee performance or a comparison of timeliness metrics with other peer agencies due to the absence of available data.

Project Approach

To address the audit objective, the Auditor performed the following activities:

- Analyzed the District Counsel's Office Manual for areas of enhancement, such as the use of risk-based criteria, communication protocols, training, and e-discovery procedures.
- Evaluated the Valley Water organizational charts and budget documents.
- Assessed available contract and agreement templates to determine the different types available and their last revision dates.
- Analyzed 23 recent selected records from the Consultant Agreement System (CAS)⁶ to determine the work performed by District Counsel attorneys for the review and approval of consulting agreements, and the types of edits made by attorneys.
- Computed turnaround times for the length of the review process for 23 consultant agreements.
- Reviewed the District Counsel's Office folder log-in sheets to evaluate the approval process.
- Interviewed all District Counsel staff to:
 - Discuss job functions and primary service areas.
 - Assess workflow processes between the District Counsel's Office and internal customers.
 - Identify performance metrics for the Office.
 - Identify areas of possible improvement.
- Interviewed each member of the Board to assess:
 - Satisfaction with District Counsel's Office services and timeliness.
 - Processes for information sharing and transparency.
 - Use of outside attorneys and subject matter experts.
 - Succession planning and staff assignments.
- Interviewed 17 District management and staff in the following 12 Valley Water operational and administrative offices, divisions, and units.
 - Clerk of the Board
 - Office of Talent and Inclusion
 - Dam Safety and Capital Delivery
 - Watersheds Design and Construction

⁶ CAS is Valley Water's in-house system for processing consulting agreements.

- Watersheds Stewardship and Planning
- Water Utility Capital
- Raw Water
- Water Supply
- Treated Water
- Information Technology and Administrative Services
- General Services
- Purchasing and Consultant Contracts Services

The purpose of the interviews was to:

- Determine the level of satisfaction with the District Counsel's Office services.
 - Assess workflow processes with the District Counsel's Office.
 - Evaluate communication protocols.
 - Identify areas of concern and possible improvement.
- Conducted a peer review of public legal offices to identify and compare structure and management practices. Five agencies were contacted – City of San Jose, Santa Clara Valley Transportation Authority (VTA), Metropolitan Water District of Southern California (MWD), San Diego County Water Agency, and East Bay Municipal Utility District (EBMUD). Two of these agencies agreed to provide additional information beyond what was contained on their website. Other information was obtained through the publicly available budget and financial documents. Other agencies were researched to respond to audit committee requests for information.

Assessment of the Reliability of Data

Section 9.2 of generally accepted government auditing standards require auditors to describe limitations or uncertainties with the reliability or validity of evidence if: (1) the evidence is significant to the findings and conclusions within the context of the audit objectives; and (2) such disclosure is necessary to avoid misleading the report users about the findings and conclusions.

The District Counsel's Office does not routinely capture operating and workload data. In the absence of data related to consultant agreements, the Auditor collected and performed its analysis of CAS data and found it minimally adequate for the audit wherein a judgmental selection of recent consultant agreements from CAS was reviewed for comments, edits, and timeliness. As CAS only records the processing and review of consultant agreements and not construction contracts, procurement purchases,⁷ or other documentation reviews, the results of our analysis cannot be projected to the entirety of the District Counsel's work.

Assessment of Internal Controls

Section 9.20 of generally accepted government auditing standards require auditors to assess the adequacy of internal controls if they are significant to the audit's objectives. The objectives of

⁷ Supplies, equipment, software, etc.

this performance audit did not require an internal control assessment, but policies and procedures and other controls were reviewed to identify potential improvements.

Audit Statement

This audit is known as a performance audit. A performance audit evaluates the economy, efficiency, and effectiveness of programs, services, and operations. The Auditor conducted this performance audit per generally accepted government auditing standards. Those standards require that the audit be planned and performed to obtain sufficient evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. The Auditor believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives. A preliminary technical draft for review of its technical accuracy and a formal draft report for a response to formal recommendations were provided to the District Counsel's Office. Comments were incorporated as applicable throughout the report. [See Appendix A for the summary of agency comments to the recommendations included in this report and Appendix B for the full agency response.]



Section 3: Key Findings

Finding 1: Customer Satisfaction is Mixed

Customers report high satisfaction with the quality of services

One standard performance measure to gauge operational performance is customer satisfaction. Nearly all the Board's Directors (six of seven) and most of the managers (10 of 14) across 12 operational and administrative units we interviewed, highly rated the quality of services provided by the District Counsel's Office. Staff from Human Resources, and those working on California Environmental Quality Act (CEQA), Fish and Aquatic Habitat Collaboration Effort (FAHCE), and water rights generally reported the highest satisfaction levels with the quality of service while Administrative Services reported being the least satisfied.

Valley Water managers want better communication on the status of services requested

Eleven of 12 operational and administrative offices, divisions, and units were not as satisfied with communication activities by the District Counsel's Office. Our review found that the District Counsel's Office does not routinely provide regular status updates to Valley Water managers and staff about work requests. Communication strategies varied through ad-hoc (sometimes prompted, other times unprompted) verbal or email updates. Valley Water managers said the frequency and the quality of District Counsel Office communication is highly dependent upon individual attorneys; some were particularly good at updating them on the status of the work, while others said that communication seldom occurs unless there was direct outreach. District Counsel staff reported varying level of awareness about these communication concerns with some reporting being unaware that Valley Water operational and administrative units had communication concerns.⁸

Valley Water managers want faster service

Eleven of the 12 operational and administrative offices, divisions, and units were also not as satisfied with timeliness by the District Counsel's Office. Valley Water managers and staff described multiple examples of service delivery with capital projects, real estate acquisitions, and other types of services that were delayed due to legal attorney review that took longer than expected to complete. While there is not an agreed-upon standard for timeliness, the turnaround times for legal review of 23 recent

⁸ The District Counsel submits a quarterly report to the Board of Directors, which serves as the only formal mechanism for status reporting, but the District Counsel said that this report does not include the status of individual work requests by Valley Water units.

professional service agreements ranged from 1 to 49 calendar days, averaging 17 calendar days.⁹ Consulting agreements outside of our sample of 23 agreements took between four months to over a year for final review and approvals. District Counsel attorneys said they were unaware of management's concerns regarding timeliness. Other attorneys said they were aware of these concerns and described their proactive communication efforts.

Valley Water and District Counsel's Office share responsibility for timeliness issues

Valley Water departments, divisions, and units and the District Counsel's Office described different circumstances for longer than expected turnaround times. Nine of 12 Valley Water operational and administrative offices, divisions, and units attributed the delays to two key areas. First, Valley Water managers reported that the reviewing attorney would require the use of a different contract template, although the managers believed they were using the correct template for their needs; some of them unknowingly used an outdated template because the District Counsel attorneys did not place the updated template on the Valley Water intranet. As shown in Figure 5 below, 32 percent of 190 legal review comments requested clarification or definition and another 12 percent commented on the use of non-standard contract language or incorrect templates among the consultant agreements. Second, Valley Water managers reported that delays occur when District Counsel attorneys request changes to the scopes of work, question costs and business-related decisions, as well as editing and format changes, including to documents that have been previously edited, rather than only focusing on legal or regulatory concerns. Figure 5 shows that 19 percent of legal comments addressed formatting suggestions or line edits, equating to about one in five comments. For example, the District Counsel's Office attorneys corrected and commented on "typos" or noted that Valley Water units used an incorrect format to describe a list of tasks in the scope of work. District Counsel attorneys explained that many of their editing comments are necessary to help avoid future litigation. Contracts and Procurement staff explained that final review and verification of requested changes impact original processing schedules, creating bottlenecks, especially when multiple reviews occur.

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Figure 5. Types of District Counsel's Office Comments on Professional Services Agreements (Sample of 23)

Type of Comment by the District Counsel Reviewer	Percent of Total
Needs clarification or definition	32%
Use of non-standard contract language, incorrect template/version	12%
Formatting suggestion or line edit	19%
Missing or incomplete element	13%
Extraneous or redundant materials; should be deleted or removed	9%

⁹ The results of the professional services agreements reviewed cannot be projected to the full population of documents reviewed by the District Counsel's Office. CAS only contains consultant agreements and no other types of documents reviewed by the District Counsel's Office.

Flawed logical or inconsistent requirements	7%
Incorrect information	6%
Other	2%
Grand Total (190 First Review Comments)	100%

Source of data: Auditor Analysis

District Counsel staff attributed timeliness concerns to multiple issues, such as project managers submitting documentation that was not properly prepared, contracts that were improperly modified, or use of incorrect templates. The District Counsel attributes timeliness issues to insufficient staffing levels.

The Auditor verified that some timeliness concerns are due to the quality of documents submitted to the District Counsel's Office for review that could have benefitted from line editing. Other timeliness concerns stem from applying the same level of attorney review for each professional services agreement regardless of the nature of or complexity of the proposed work. In other public agencies legal offices, application of risk-based management principals guide the level of review based on the evaluation of risk exposure. District Counsel attorneys verified that the same level of review was performed even when some agreements may have low risk of future litigation. A District Counsel attorney explained that each attorney has their own philosophy in reviewing contracts, and the philosophy of the Office is to protect Valley Water from potential litigation.

Contracting delays have a financial impact. Actual costs could not be determined because of the unavailability of data to perform a cost analysis.¹⁰ Valley Water managers prepared a memo about five years ago, requesting authority to outsource legal services when needed to help prevent project delays. Under Valley Water Board Governance Policy EL-5, District Counsel has the authority to procure outside legal services when internal resources cannot efficiently meet organizational needs, provided the District Counsel informs the Board immediately of the procurement.^{11 12} While the Auditor did not have available information to assess District Counsel procurement decisions, the District Counsel explained that outsourcing decisions are based on his discretion.¹³ The Auditor noted that the District Counsel does not have formal written decision-making criteria for these procurement decisions.

¹⁰ A cost analysis would consider the amount of time spent reviewing contracts integrated with other data on project schedule delays due to contracting delays.

¹¹ Valley Water's Purchasing and Consultant Contracts Services Unit is not involved in these procurements or with ensuring compliance with procurement requirements.

¹² In FY 2018 the District Counsel's Office budgeted \$1.1 million for outside legal services and by FY 2020, budgeted \$2.5 million.

¹³ The District Counsel explained that he considers the availability of attorneys and the specialized expertise available.

Finding 2: Updating the District Counsel's Office's Operating Model Can Enhance Customer Satisfaction

The District Counsel's Office can benefit from an enhanced operating model consistent with best practices to address service delivery issues such as timeliness, communication, and non-uniform approaches to providing services. The District's Chief Counsel explained that the Office's operating model is individual-centric in that each attorney determines how best to provide services. While this type of individual-centric operating model is not uncommon among public sector legal departments, others have more mature operating models to help sustain a consistent level of services. We describe potential strategies below that are designed to enhance service delivery.

Added policy and procedure development

Policies and procedures serve as one key element of effective governance by forming the basis for an organization's internal control system. In other

words, policies and procedures help promote operational efficiency and effectiveness. The District Counsel's Office manual covers general areas of operations such as:

- Mission statement,
- Roles and responsibilities,
- Administrative policies,
- Office procedures, and
- Board communications.

Added procedural development could facilitate uniformity and transparency in decision-making and service delivery. Areas that need to be addressed in policies and procedures include:

- Development of risk-based criteria for reviewing consultant agreements, purchase acquisitions, and/or other types of contracts.
- Development of criteria for prioritization and assignment of Board and Valley Water requests for services.
- Preparation (sources of information to be used) and maintenance of the Quarterly Report provided to the Board¹⁴ and the Litigation Matrix used to document current litigation status, which is part of the Quarterly Report.
- Clarification of EL 7.5 regarding the handling of Board member requests for the drafting of resolutions.

¹⁴ Governance Policy EL 7.11 provides direction on the information the District Counsel will communicate to the Board but does not constitute an office policy and procedure which would guide the development, format, timing, and review of the Board's quarterly report.

- Maintenance of the Legal Advice Matrix used to document the communication of advice provided to Valley Water management and staff.
- Personnel training requirements, including cross-training and succession planning.¹⁵
- E-discovery procedures (currently in development).
- Criteria for risk management decision-making applicable to insurance requirements.¹⁶

Early District Counsel participation in planning activities

There is not a policy or criteria that requires District Counsel or other support unit involvement for projects that are new to Valley Water, complex in design, or will likely have significant costs (E.g., over \$100 million). The District Counsel's Office is not involved in the review process during the development of requests for proposal or bids (which typically includes sample contract language) unless specifically requested by project management. The Auditor's review of 23 consultant agreements showed that 32 percent of comments involved requests for clarifications and definition, as shown in Table 5. These legal comments might have been prevented had the District Counsel's Office been involved earlier in the planning process. District Counsel attorneys reported that the first time they might see a request for proposal or contract is in the Legistar system when it needs to be reviewed just before Board review and/or approval. District Counsel attorneys said that they have previously advocated for early involvement in the planning process without success. However, another attorney said that it should be the project manager's and COO's decision to determine the need for early legal counsel involvement. Valley Water management has recently taken proactive steps on the Anderson Dam retrofit project to include District Counsel's Office participation in project planning meetings. Attorneys involved in these early planning meetings reported benefits from early risk assessment and proactive legal research.

Risk Management can also become involved earlier in the project planning process to help identify project risks and contractor insurance requirements, rather than consult at the project manager's discretion later in the project or during the contract negotiation phase. Efficient and effective project planning requires all stakeholders' participation and involvement so that any project issues can be identified and addressed as early in the process as possible

Added document template development

A standard practice in government purchasing is the development and maintenance of template documents that can be used for different procurements. The templates contain standard language for terms and conditions and formatting designed to address different contracting needs. If used effectively, the templates can minimize the time required to review contracts. While the Valley Water District Counsel's Office attorneys reported

¹⁵ Training on succession planning would convey the importance of the three designated staff that could potentially assume the leadership position to receive requisite knowledge transfer.

¹⁶ Presently, decisions can vary. Risk management staff acknowledged that some vendors had raised questions about the level of insurance required of them for activities that do not have a material risk to the agency.

having developed a standard set of templates, they also stated that Valley Water units often do not use the correct templates, resulting in extra legal review work of contracts and agreements, as previously described in Figure 5. Valley Water operational and administrative unit management stated that even though standard templates or templates from previously approved contracts or agreements are used, the District Counsel attorneys will edit the document language depending on the type of procurement or use the review and approval process to update the standard language.

Additional contract template development is needed to address all the types of services outsourced by Valley Water, such as for accounting/audit, staff support, marketing, other professional services, or different types of construction-related contracts. Valley Water management reported if a current template does not meet their needs, they will copy and paste language from other available contracts. With additional standard templates, Valley Water divisions and units could potentially minimize delays and frustration with the agreement and contract review process.

District Counsel and Valley Water management disagree over ownership for updating and maintaining the templates for contracts, amendments, and agreements. Most of the templates for standard consulting agreements available on Valley Water's intranet had not been revised since the calendar years 2016 and 2017. The last known agreement to be updated was the Capital Consultant Contracts Standard Consultant Agreement in 2018. District Counsel attorneys explained they are responsible for the review and approval of legal agreements; Government Relations is responsible for identifying necessary updates resulting from changes in California and federal legislation, and General Services is responsible for making the required legal changes to the documents. The General Services Purchasing Unit management, on the other hand, said it is not their responsibility because they do not have the legal expertise to make those types of changes.

Valley Water's Administrative Policy AD-6.3, "Approval Authority for Consultant Services Contracts," assigns responsibility to District Counsel to "develop, review and/or approve all standardized and customized contracts." The District Counsel explained this excludes the updates due to changes in laws.¹⁷ The absence of formally defining the responsible party has led to inefficiencies in the contracting process. For example, a 2019 change in California law regarding small business enterprise preference in public construction contracts should have prompted a revision to Valley Water's templates. At the time of our review, the template had not been updated, even though District Counsel noted the need for a change in January 2020. In this instance, the general services unit had to repeat the request for proposal preparation process.

¹⁷ Implementation of AD 6.3 language is not included in the job description for the District Counsel likely contributing to the ambiguity of ownership. The District Counsel job description does state, however, that the District Counsel "monitors legal developments, including proposed legislation and court decisions related to water agency law and activities; evaluates their impact on District operations and recommends appropriate action." The job description language would reasonably include legislative and regulatory changes that affect contracting language in contract and agreement templates.

The District Counsel explained that the Office does not have the resources or time to monitor and identify the legal changes. Greater clarity about the responsible party to update contract templates could prevent the risk of undermining the integrity of the procurement process.

Workflow management processes and software

High performing organizations use software applications to receive, track, and monitor services requests. The District Counsel's Office uses three Valley Water electronic systems to help track workflow for some of its activities. The CAS and Legistar¹⁸ software applications alert the District Counsel's Office when documents require review; limitations in these systems do not allow the District Counsel's Office to examine the overall number of assignments, staff assigned to them, and the status of the review. Historically, the District Counsel's Office did have a work request system, but its use was discontinued years ago, according to the District Counsel, because it could no longer be supported technically. The third system – the Risk Management Information System (RMIS) – is used by the Risk Management Unit to manage claims. At the time of our review, Risk Management staff had a backlog of claims to enter, preventing real-time analysis of all current claims.

In the absence of robust workflow management software applications, the Auditor examined how workflow is currently managed. First, in the area of assigning work requests, the District Counsel's Office utilizes general guidelines. For example, one attorney is generally responsible for imported water and litigation, while another is responsible for environmental law. Generally, one attorney is assigned to one or more key areas with another attorney serving as a backup. The key issue with these guidelines is that any attorney could be assigned to work on requests by the Board, which are given top priority thereby delaying the completion of work requested by operational and administrative units. Valley Water staff explained they may or may not be informed of deliverable delays, resulting in dissatisfaction with the timeliness of legal services and creating uncertainty on overall project timelines.¹⁹ One option that other public agencies have used is to have one or two specific attorneys dedicated to servicing Board requests and attending standing committee meetings while other attorneys would be dedicated to servicing specific divisions and units.

Second, in the area of managing work requests, the District Counsel's Office primarily relies on several manual processes to collect, manage, and track all other work requests. For instance, to track hardcopy documents requiring signatures, the District Counsel uses a manual paper log to record dates the documents are received, assigned, and completed. The workflow of other documents, such as construction contracts being prepared before bid or submittal through Legistar, are reviewed by District Counsel attorneys outside of either of these electronic workflow systems. A comprehensive electronic workflow application would better manage work requests by recording submittal and completion dates for all types of documents allowing the monitoring

¹⁸ Legistar is Valley Water's electronic system for processing documents being submitted to the Board of Directors.

¹⁹ Due to the lack of quantifiable information collected on workflow and turnaround times, the exact impact of delays due to the re-prioritization of work due to Board requests is not known.

of the status of work requests by external customers. Having this information could also aid District Counsel management in continuous process improvements.

Use of service level agreements

Best practices in service delivery between public agency departments encourage the use of SLAs.²⁰ SLAs define the services to be delivered by one department to another and helps reduce ambiguity in inter departmental service support levels. For example, an SLA for contract reviews between the District Counsel's Office and an operational unit would address:

- Agreed-upon completion dates for service
- Expectations for document quality prior to submission for legal review
- Scope of services to be provided (e.g. line editing and or legal risk)
- Communication protocols (e.g. frequency and content)

Expectation setting afforded by SLAs could improve timeliness. The absence of defined work performance expectations is a contributing factor for lower levels of customer satisfaction. District Counsel staff explained that the preparation of SLAs might be too time-consuming.²¹

Better timekeeping system

Effective time tracking is a fundamental activity of all public agencies to ensure proper accountability and use of public funds. Timekeeping software applications are used in legal offices in both the public and private sectors, which allow a standard way to assess operating efficiency. The Office of the District Counsel has a time tracking application, but it is not configured to capture the type of data needed to perform staffing and financial analysis.²² The District Counsel and attorneys provided various reasons for why they should not change how they track their time, such as:

- Staff maintain informal records for personal reference.
- The District Counsel's Office is a support service and should not be asked to track their time differently than other support departments.
- Providing privileged and confidential information about how their time is spent on activities to their customers could be problematic. In the private sector, time activity reports are classified as "privileged and confidential" to prevent the sharing of information to unintended parties.
- The Office's budget is not determined by time input.
- The Board has not asked the Office to formally track their hours.

²⁰ Other examples of agencies include Los Angeles County, Sacramento County, City of San Diego, Sacramento City Unified School District, California Department of Justice, and the University of California Merced.

²¹ The District Counsel's Office would need to consider if SLAs should be used for long term and/or short-term assignments.

²² District Counsel staff currently record regular earning hours and leave time only.

The District Counsel added that time tracking would not likely result in increased funding to the Office, but staff has reported providing time records at the request of operations for invoicing purposes. The last verified instance of the reimbursement of attorney time was in February 2017. Comprehensive time tracking by the District Counsel's Office could potentially identify other reimbursement opportunities as well as provide the ability to effectively assign attorney workloads and right-size staffing levels.²³

Management of non-disclosure agreements

NDA's are an important legal structure used to protect information from being made available by the recipient of that information and are considered a legal contract. A party in breach of an NDA may be subject to legal action commensurate with the value of information. Like other public agencies, Valley Water sends and receives NDAs.

Standard management practices would, at a minimum, establish a standardized policy on the management and administration of NDAs, including defining roles and responsibilities for their compliance. A process to support the management of NDAs includes centralized maintenance, document tracking, compliance monitoring, and reporting. At the time of our review, Valley Water did not have a process for managing NDAs. Without a process, Valley Water does not know how many NDAs are in place, their nature, the signatory responsible for their compliance, or whether the District Counsel's Office has reviewed all of them. The District Counsel's Office said they are in the process of developing a formal policy for NDA management and administration. A target date has not been established for its completion.

Use of master services agreements

Many public agencies use master services agreements²⁴ to implement public outreach that procures legal services for a wide range of subject matter and demonstrates conformance to public procurement requirements, including allowing for consistent and timely acquisition of services when needs arise. A master services agreement would involve developing a list of pre-vetted firms through a request for qualifications process to develop a master services agreement for all eligible firms. School districts, cities, counties, transit districts, water agencies, and retirement systems across California have issued bids to hire multiple legal firms to provide services.²⁵ The District Counsel explained that all the legal needs cannot be anticipated, defined, and incorporated into a master services agreement and that some type of "carve-out" will be

²³ In our peer review of agencies, the MWD tracks legal time for multiple reasons – regular and reimbursable time – and the City of San Jose track attorney time for budgetary, litigation and program tracking . Examples of other agencies that track legal time include the Colusa County Counsel and the City of Sacramento.

²⁴ Competitive bid contract that establishes a list of pre-qualified and approved firms for a selected set of services.

²⁵ In our peer review of agencies, the MWD uses a master services agreement for specialized legal services. The San Jose City Attorney's Office is required to adhere to the same general purchasing requirements as other departments or offices. Other examples of agencies outside of our peer review that have bids soliciting multiple firms to contract legal services include the Los Angeles County Employee Retirement Association, Sonoma County, Paramount School District, Los Angeles Metropolitan Transportation Authority, the County of Ventura, the Los Angeles Unified School District, Azusa Unified School District, South Orange County Community College District, and the California State Treasurer's Office.

needed for emergency procurements. The District Counsel added that Valley Water is unlikely to realize cost savings because the pool of available firms with water rights experience is very small and too specialized to have standard rates. Finally, the District Counsel also expressed concern about the limitations in the firms that can be retained due to possible conflicts of interest and their providing representation for an opposing legal party. A master services agreement is designed to have a broad reach, to provide a range of hourly costs, and to identify all eligible local, regional, and national firms that can avoid having these types of conflict of interest issues.

Use of added performance measures

Widely used in the public sector, regardless of the department's mission, performance measurement is the process of collecting, evaluating, and reporting information that can provide management with a quantifiable operational assessment of efficiency and effectiveness. The District Counsel's Office uses one formal performance measurement – the submission of Quarterly Reports as the sole performance metric for operational performance.²⁶

Other performance measures can be developed, such as turnaround times and volumes of documents, projects, or cases reviewed, which help Valley Water identify and correct possible process bottlenecks. District Counsel staff raised concern, however, that tracking performance measures could adversely influence attorneys' decision-making so that organizational performance could look more favorable. An effective set of performance measures would address this concern by including qualitative and quantitative metrics to assess tangible and intangible benefits from service delivery.

Use of a multi-source assessments

The District Counsel also raised concern that Valley Water's Board Appointed Officer (BAO) Performance Evaluation Procedure, Document Number Q622D02²⁷, already establishes the agreed upon evaluation criteria for assessing the District Counsel's performance. The Auditor identified that the purpose of the document is to guide the Board in assessing BAO employee performance, which is different from implementing performance management principles to guide day-to-day managerial decision-making based on routine operational performance measurement.

A best practice in assessing operational effectiveness is to collect and evaluate feedback from stakeholders that provide or receive services from an office or unit. Implementation of a multi-

²⁶ These quarterly reports are prepared manually by the District Counsel's Office because the Office does not have available off-the-shelf software applications that could generate these reports electronically. The labor costs involved in manual preparation is unknown because of the absence of utilizing time tracking systems. Organizational performance measurement/management software is widely available or simple database development of key performance measures could be developed in house based on any number of performance measurement frameworks, such as the Balanced Score Card approach or a Results Based Management Framework.

²⁷ The criteria is limited to the Board's annual evaluation of individual BAO performance related to Leadership, Strategic Planning, Customer/Partner Focus Monitoring Organizational Performance, Workforce Focus, Financial, Communication and Support to the Board, and Business Results.

source assessment is an effective and anonymous tool that supports a culture of continuous process improvement.

Receiving and providing feedback (on an annual basis) between the District Counsel's Office and its customers could allow the Office to be aware of the services and areas that need improvement, as evidenced by some attorneys reporting that they were unaware of the communication issues between the District Counsel's Office and the Valley Water divisions and units.

The District Counsel said that a multi-source assessment might pose potential legal conflicts with the Board Governance Policy II. Section 3.2 of the Board BAO Linkage asserts that "The Board, as a whole, will not evaluate, either formally or informally, any employee other than the BAOs". Section 5.5 of the policy further states,

"Monitoring of each BAO's job performance will be against the expected BAO job output: accomplishment of the duties for which he/she is accountable to the Board, and performance within the applicable limitations established by the Board. The monitoring shall occur through a review of the reports submitted by the BAO in accordance with the Board Appointed Officer Performance Evaluation procedure."

The District Counsel explained that the policy and the District Counsel's employment agreement would require an amendment to include implementation of a multi-source assessment and could be done provided these amendments occur in the future. The Auditor's analysis determined that the Board policy and employment agreement were designed for individual employee performance evaluation and did not prohibit the District Counsel's Office from implementing best management practices that monitor operational performance.

Other Issues: Realigning the Risk Management Unit Needs Further Study

A clearly defined organizational structure, including well developed roles and responsibilities influence accountability, transparency, fairness, and responsibility. The results of our peer agency review showed that the risk management function was placed under administrative departments - variously reporting to the Deputy General Manager, the Directors of Finance, Human Resources, or Administrative Services, but ultimately reporting to the organization's CEO.²⁸

In contrast, Valley Water's Risk Management Unit is placed under the Office of the District Counsel, reporting directly to the District Counsel who reports to the Board as previously discussed in this report. Valley Water's Risk Management Unit includes the Workers' Compensation program and risk retention (self-insurance), and risk transfer (insurance)

²⁸ City of San Jose, VTA, MWD, San Diego County Water Agency, EBMUD.

program.²⁹ The Auditor's analysis showed that the activities of the Workers' Compensation program, such as claims processing administration and reporting, could organizationally move to the Environmental, Health, and Safety Unit. Combining these two units would integrate and centralize business processes for the prevention of accidents and management of claims should accidents occur.³⁰ The analysis also showed that the CEO does not have a formal role in establishing the Risk Management Unit's goals and objectives or in the monitoring of its performance.

The Valley Water Risk Manager explained that the risk management function is structured under the District Counsel's Office to better review claims and contracts, provide easier access for legal coordination, and that the Workers' Compensation program should remain under his unit because of shared expertise among staff. In contrast, the Procurement and Contracts Manager reported that better efficiencies could be accomplished through consolidation with their office because separating the insurance coverage function has led to confusion and frustration among vendors. Further study would be needed on organizational restructuring given that standard business practices show that executive management, such as the CEO, should be responsible and held accountable for risk management and control processes.

²⁹ The mission of the Risk Management Program Unit is to protect assets by identifying and evaluating loss exposures and applying effective risk management techniques to reduce or eliminate risk. Specifically, the unit is tasked with the management of Valley Water's Workers' Compensation program and risk retention (self-insurance) and risk transfer (insurance) programs to cost-effectively maximize coverage and to comply with the Board Governance policies. The Risk Management Unit, currently staffed by a Risk Manager and Management Analyst II, and a Program Administrator of the Workers' Compensation program, was transitioned to the District Counsel's Office in 2007 from the Chief Administrative Office (now the Information Technology & Administrative Services Office). Between July 2017 and March 2020, Risk Management processed approximately 208 settlements totaling approximately \$828K.

³⁰ The program is housed under the Risk Management Unit as a separate function staffed by one Program Administrator.



Section 4: Acknowledgments

ACKNOWLEDGMENTS

TAP International wishes to thank the staff who participated in this audit from the following divisions and units:

- Office of the District Counsel and Risk Management
- Clerk of the Board
- Office of Talent and Inclusion
- Dam Safety and Capital Delivery
- Watersheds Design and Construction
- Watersheds Stewardship and Planning
- Water Utility Capital
- Raw Water
- Water Supply
- Treated Water
- Information Technology and Administrative Services
- General Services
- The Board of Directors



Section 5: Appendices

APPENDIX A – Summary of Agency Responses

RECOMMENDATION #1 - The District Counsel's Office should develop and implement a written strategy for approval by the Board that provides an updated operating model for efficient service delivery. In the development of the strategy, the District Counsel can consider, for example, enhanced policy and procedure development and new/enhanced tools described throughout this report. These tools, for example, can include workflow management, SLAs, added performance measurement, use of multi-source feedback assessments, and risk-based criteria assessments.

SUMMARY OF MANAGEMENT RESPONSE:

Management agrees with the recommendation.

The District Counsel agrees to develop and implement a written strategy with an updated operating model for efficient service delivery for approval by the Board.

The District Counsel further commented on the many suggested solutions included in the audit report, describing the varied potential benefits or concerns.

Target Implementation: The District Counsel recommends that implementation should await appointment of a successor District Counsel so that he or she can have critical input on the ultimate strategy proposed for the office. With respect to implementation of a future written strategy, it is suggested that the Board consider this as a goal for the successor District Counsel. Direction is requested from the Board of Directors if it would like the strategy to be developed prior to the appointment of a successor District Counsel.

INDEPENDENT AUDITOR RESPONSE

TAP International agrees that the development and implementation of the updated operating strategy should await appointment of a successor District Counsel because of the need for organizational and operational changes to address the issues described in the audit report.

Although TAP International did not formally recommend implementation of the multiple potential solutions described in the audit report, the solutions suggested are standard management practices to address the District Counsel's Office's service delivery issues that were identified by the audit (such as timeliness, communication, and non-uniform approaches to providing services). TAP International opted against prescribing the use of these tools to provide management flexibility to tailor or adopt alternative solutions as part of an updated operating model. The current District Counsel in describing concerns with a suggested solution contained in the audit report, such as the development of criteria for risk management unit decision-making, dedicating staff to serve the Board only, and tracking attorney time, has the flexibility to implement other alternative strategies that could enhance Office performance and accountability.

RECOMMENDATION #2 - The District Counsel and the Information Technology & Administrative Services Chief Operating Officer should update Valley Water Administrative Policies that (1) identify areas that require the development of new contractual and agreement templates, and (2) identify the responsible party for updating existing contract, agreement, and amendment templates as well as non-disclosure agreements (NDAs). These updates should also include the responsible party for NDA monitoring.	
SUMMARY OF MANAGEMENT RESPONSE: Management agrees with the recommendation. The District Counsel reported that efforts to develop an administrative policy to address non-disclosure agreement are underway with an expected completion date of April 2021 or earlier. Target Implementation: July 1, 2021.	INDEPENDENT AUDITOR RESPONSE: TAP International commends District Counsel initiation of activities to address this recommendation.
RECOMMENDATION #3 - The District Counsel should convene a workgroup on planning activities or projects involving contracting opportunities with key stakeholders (E.g., Chief Executive Officer (CEO) and Chief Operating Officers (COOs)) to develop a decision-making guide for early engagement with the District Counsel Office and Risk Management.	
SUMMARY OF MANAGEMENT RESPONSE: Management agrees with the recommendation. District Counsel agrees that early involvement by the District Counsel's Office and Risk Management on complex, high-value, or large-scale Valley Water projects that will involve contracts would generally be beneficial. While there have been recent efforts to include the District Counsel's Office in the early planning processes for some projects (e.g., the Anderson Dam Retrofit Project), more consistency would be beneficial. This consistency can be increased through the development of the recommended decision-making guide and its use by the CEO and Chief Operating Officers since they are the ones who will be aware of future projects and project needs. The District Counsel is happy to attempt to convene the recommended workgroup and hopes the other BAOs and Valley Water's Chief Operating Officers and Chief Financial Officer will support and participate in the workgroup. Target Implementation: May 1, 2021. Unless different direction is received from the Board of Directors, the District Counsel does not believe that implementation of this recommendation needs to wait upon the appointment of a successor District Counsel.	INDEPENDENT AUDITOR RESPONSE: TAP International commends District Counsel initiation of activities to address this recommendation.

RECOMMENDATION #4 - The District Counsel should discuss with the Board the use of a master services agreement to add another procurement mechanism for legal services.	
<p>SUMMARY OF MANAGEMENT RESPONSE: Management agrees with the recommendation</p> <p>The District Counsel requested that in the event the Board determines that a master services agreement should be used to procure legal services in the future, it should continue to be allowed to retain legal services separately from master services agreements in cases where there is a need for legal services that cannot be fulfilled, or cannot be best fulfilled, by firms on the list of pre-vetted firms, or there is insufficient time to use a competitive process to secure a new firm.</p> <p>Target Implementation: To be determined.</p>	<p>INDEPENDENT AUDITOR RESPONSE:</p> <p>TAP International commends the District Counsel for initiating discussions with the Board about the use of alternative contracting mechanisms. The District Counsel noted concerns about retaining its authority to sole source legal services, but the purpose of the recommendation is to add to the procurement strategies versus eliminating them.</p>
RECOMMENDATION #5 - The Board Audit Committee should ensure that the scope of the audit currently proposed in the annual audit work plan for the risk management function, include an evaluation of the advantages and disadvantages of implementing alternative organizational alignments for the Risk Management Unit and the Workers' Compensation programs.	
<p>SUMMARY OF MANAGEMENT RESPONSE:</p> <p>Not applicable for a management response.</p> <p>The District Counsel commented on this recommendation and argued against organizational changes describing that Workers' Compensation activities should not be consolidated under Environmental, Health and Safety because claims administration of the Workers' Compensation program is more closely aligned with Risk Management.</p>	<p>INDEPENDENT AUDITOR RESPONSE:</p> <p>This recommendation was made to the Board Audit Committee. The audit report describes the issues that were raised that support further study of a potential organizational change. Should the Audit Committee wish to expand the scope of the current risk management audit listed on the annual work, the arguments presented by the District Counsel will be considered.</p>

APPENDIX B – Full Agency Response to Recommendations

TO: Tap International, Inc.

FROM: Stanly Yamamoto

SUBJECT: District Counsel Audit Response

District Counsel Audit Response

The following represents the District Counsel's response to the five recommendations in the TAP International (TAP) draft audit report: District Counsel's Office Can Benefit From Enhanced Structure And Improved Management Processes. A justification is presented with any response where the District Counsel is not in agreement. Because the current District Counsel, Stanly Yamamoto, has announced his retirement effective May 3, 2021, no targeted implementation date is included for some of the recommendations. Direction is needed from Valley Water's Board of Directors regarding whether implementation should be targeted prior to May 2021 or whether it should await appointment of a successor District Counsel. Where that direction is needed, the targeted implementation dates below have been designated as "To be determined." The Board may also consider utilizing the audit as a tool for evaluating candidates and subsequently collaborating with the successor District Counsel in any implementation program.

Finally, it should be noted that where implementation of a recommendation will involve creation or modification of Board Governance Policies, Administrative Policies, or Work Instructions, final approval of the same does not rest with the District Counsel.

Recommendations

1. The District Counsel should develop and implement a written strategy for approval by the Board that provides an updated operating model for efficient service delivery. In the development of the strategy, the District Counsel can consider, for example, enhanced policy and procedure development¹ and new/enhanced tools described throughout this report. These tools, for example, can include workflow management, SLAs, added performance measurement, use of 360-degree type of reviews, and risk-based criteria assessments.

District Counsel Response: The District Counsel agrees with the overall recommendation to develop and implement a written strategy with an updated operating model for efficient service delivery for approval by the Board but disagrees (in whole or in part) with some of the identified elements suggested for inclusion in such a strategy where noted below.

¹ -Development of risk-based criteria for reviewing consultant agreements, purchase acquisitions, and/or other types of contracts.

-Development of criteria for prioritization and assignment of Board and Valley Water requests for services.

-Preparation (sources of information to be used) and maintenance of the Quarterly Report provided to the Board and the Litigation Matrix used to document current litigation status, which is part of the Quarterly Report.

-Clarification of EL 7.5 regarding the handling of Board member requests for the drafting of resolutions.

-Maintenance of the Legal Advice Matrix used to document the communication of advice provided to Valley Water management and staff.

-Personnel training requirements, including cross-training and succession planning

-E-discovery procedures (currently in development).

-Criteria for risk management decision-making applicable to insurance.

First, with respect to the targeted implementation date, the District Counsel recommends that this should await appointment of a successor District Counsel so that he or she can have critical input on the ultimate strategy proposed for the office. With respect to implementation of a future written strategy, it is suggested that the Board consider this as a goal for the successor District Counsel. Direction is requested from the Board of Directors if it would like the strategy to be developed prior to the appointment of a successor District Counsel.

a. Enhanced Policy and Procedure Development

- i. Development of risk-based criteria for reviewing consultant agreements, purchase acquisitions, and/or other types of contracts

While Risk Management agrees that some form of documentation would be helpful to create transparency as to the rationale behind the assignment of insurance requirements, that documentation must be based solely on risk factors, such as liability to Valley Water, and whether the contractor will have access to the Water's computer infrastructure.

The point of the risk management process is to assess the risk and assign insurance requirements appropriate to the risk, not based on arbitrary factors such as the size of the contract or other non-risk related factors. Size of contract and risk are not necessarily related. For example, an architect may redesign a home including placing a huge 18-foot-long I-bar between the first and second floors to ensure the second floor was supported. The cost of the architect's services is approximately \$10,000. Using the size of the contract as a determining factor, the amount of insurance required from the architect would be minimal. However, using a risk-based approach would dictate higher limits. In this case, if her design was wrong and if the I-bar had collapsed the damages could be catastrophic.

Other factors, such as whether the contract is essential, available alternatives, etc. are more business decision factors, and should be considered if the contractor takes exception to the insurance or other standard requirements. These factors can be used to evaluate whether a contractor can be relieved of the established requirements if requested.

- ii. *Development of Criteria for Prioritization and assignment of Board and Valley Water requests for service*

The District Counsel agrees that the development of such formal written criteria would be useful. Input regarding what criteria should be used can also be solicited from the successor District Counsel and from the Board at a future workshop.

- iii. *Clarification of EL 7.5 regarding the handling of Board member requests for the drafting of resolutions*

Direction will be needed from the Board regarding what, if any changes, are needed to the Governance Policies. EL-7.5 requires Board Appointed Officers (BAOs) to deal with the Board as a whole except when (a) fulfilling informal or oral individual requests for information or (b) responding to officers or committees duly charged by the Board. Drafting a resolution would not be a mere request for information. If the resolution was not requested by "officers or committees duly charged by the Board," it would fall outside of the authority of the existing EL-7.5. Further, Board Linkage 2.2 provides that "[a]ny Board member requests that require substantive work should come to the Board for direction."

To the extent that the requested resolution required substantive work by District Counsel staff, to do this work would require approval of the whole Board under the current policy. Input on

how these policies should be changed can be obtained from the entire Board at a future Board meeting or Board workshop. The Board can give direction on whether this should precede appointment of a successor District Counsel or if it should wait until after the appointment of the same. It is recommended, however, that this wait until after the appointment of a successor District Counsel so that he or she can provide input on the potential policy changes to the Board.

- iv. *Maintenance of the Legal Advice Matrix used to document the communication of advice provided to Valley Water management and staff.*

District Counsel agrees that a formal policy regarding maintenance of the Legal Advice Matrix can be developed. It is recommended that this await appointment of a successor District Counsel. The Board should also consider using this recommendation as a tool for evaluating candidates for the District Counsel position (e.g., as the foundation for an interview question).

- v. *Personnel training requirements, including cross-training and succession planning.*

District Counsel agrees that a formal policy regarding personnel training requirements can be developed, however it should be noted that staff work plans often include cross-training requirements such as the Administrative Assistant with the Executive Assistant and those efforts are consistently ongoing. It is recommended that the formal policy await appointment of a successor District Counsel. The Board should also consider using this recommendation as a tool for evaluating candidates for the District Counsel position (e.g., as the foundation for an interview question).

- vi. *E-discovery procedures.*

As noted in the audit report, these procedures are currently in development.

- vii. *Criteria for risk management decision-making applicable to insurance.*

Please see the response to section (i.) above.

b. Effective Workflow Management

District Counsel agrees that the use of a comprehensive electronic workflow application could be beneficial with respect to improving efficiency, and the future strategy to be presented to the Board may include this as a component. It is recommended that the final selection of such a program await appointment of the new District Counsel. However, earlier inquiries can be made regarding the types of programs on the market, their features, and their compatibility with Valley Water's current systems. Gathering this preliminary information may help facilitate development of the future strategy. The Board should also consider using this recommendation as a tool for evaluating candidates for the District Counsel position (e.g., as the foundation for an interview question).

Within the discussion on workflow management, the auditor sets forth an organizational option where one or two specific attorneys would be dedicated to servicing Board requests and attending standing committee meetings while other attorneys would be dedicated to servicing specific divisions and units. District Counsel does not recommend such an option for inclusion in the future strategy given the sheer number of committee meetings at Valley Water and, more importantly, the working knowledge of the underlying projects needed to be able to respond to many inquiries, often in real time. Often the attorneys working with staff on projects are in the best position to be able to answer detailed questions from the Board members. If the responsibility for Board inquiries was delegated to a single attorney, in order to answer many questions, he or she would likely need to make inquiries of the attorneys working with staff in any event, which would delay the response time and would still leave the responding attorney with less information than the appropriate responding attorney.

Dedicating one or two attorneys to servicing Board requests and attending committee meetings would also result in fewer attorneys being primarily responsible for the day-to-day work with staff. This may also result in the most experienced attorney in a subject area being unable to handle an assignment due to his or her dedication to Board requests and Committee meetings. Given the current size of the District Counsel's Office, this approach could prove to be problematic.

c. Service Level Agreements

District Counsel agrees that Service Level Agreements (SLAs) can be developed for use with some units and projects *where appropriate*. The development of the SLA program would be in conjunction with development of the overall strategy for efficient service delivery to be submitted for Board approval. This strategy would include under what circumstances SLAs should be utilized, the process under which they are entered into, and what their standard terms should include. Rather than a formal contract to be signed by two parties, the SLAs would be set out as documents setting forth formal expectations and assurances in order to increase common understanding by District Counsel staff and their respective clients. The Board may also wish to use this recommendation as a tool for evaluating candidates for the District Counsel position (e.g., as the foundation for an interview question).

In the audit report's description of a potential SLA for contract reviews, it is noted that the SLA would address agreed-upon completion dates. District Counsel notes that any meaningful estimate for the time to complete a legal review assignment would not be feasible without a review and thorough understanding of the assignment and all of its inherent elements. Accordingly, rather than arbitrarily identifying a specific timeline for completion of legal review assignments, most SLAs would likely need to allow some flexibility and perhaps include a process by which the assigned attorney would review and understand the assignment and issues presented before providing an estimated completion date for an assignment. This is the type of process that would be further defined in the future strategy for efficient service delivery to be developed and submitted for Board approval.

Finally, since the SLAs would be a component of the strategy for efficient service delivery, District Counsel recommends that targeted implementation follow appointment of a successor District Counsel. Prior to that time, District Counsel can implement standard communication protocols to be used by legal counsel to keep clients apprised of the status of outstanding legal assignments.

Note: Board Audit Committee members requested that TAP provide information as which public entities have currently implemented and are administering SLAs.

d. Better Timekeeping System

District Counsel acknowledges that where there is an opportunity for Valley Water to recover funds for the time legal counsel works on matters, their time should be accurately tracked and recorded.

For matters *not* involving a potential recovery of costs/fees, District Counsel is open to evaluating the potential use of timekeeping in the context of a future electronic workflow application. The actual features and functions of any electronic workflow application ultimately selected will determine what types of activities can be tracked and how efficiently they can be tracked. Defining these factors will allow the successor District Counsel to make a fully informed recommendation regarding what, if any, attorney activities should be regularly tracked by time, how such time tracking should be documented, and how the results should be utilized. The Board may also wish to use this recommendation as a tool for evaluating candidates for the District Counsel position (e.g., as the foundation for an interview question).

Any inclusion of timekeeping in the future strategy would need to be tailored to serve an objective purpose and need (for example, an identified need to capture time spent on specific projects or types

of assignments). In addition, whether or how to use such timekeeping would consider the time needed to capture such records weighed against the perceived benefit of obtaining the time records. For example, if attorneys (such as those in private practice) had to track time for *each and every* task performed over the course of a day (answering phone calls, reading emails, writing emails, answering short questions, attending meetings, etc.), even with the use of software an undue amount of time would be consumed in this exercise every week (easily more than one hour each work day), which would have the cumulative impact of leaving significantly less time to perform actual legal work each week. While the intended outcome of the audit is to increase efficiency, tracking time for *all* daily activities would have the opposite effect of creating inefficiency given the reduced amount of time available to perform legal work.

In addition, depending upon their required level of detail, the timekeeping records could be strictly confidential attorney-client communications and available for review by the District Counsel alone. A modified version might be made available for external revenue-generating purposes.

The audit report suggests that the use of comprehensive time tracking could potentially identify other reimbursement opportunities as well as provide the ability to effectively assign attorney workloads and right-size staffing levels. While it is true that where there is an actual opportunity for reimbursement, the time records must have been captured in order to submit the reimbursement request or motion for fees, the reality is that these reimbursement opportunities are extremely rare in practice. For purposes of reimbursement, the more efficient practice would be to identify those reimbursement opportunities at the outset and perform more robust timekeeping in only those cases. The future strategy for enhanced service delivery will need to determine what, if any, time records would be useful to evaluate attorney workloads and staffing levels. That defined need should determine the scope of any timekeeping.

NOTE: The Board Audit Committee members requested information from TAP as to which public agencies are currently using timekeeping systems. District Counsel requests that TAP's response clarify the purposes for such timekeeping by those agencies. For example, is it only done for revenue-generating or recovery purposes?

e. Use of Added Performance Measures

District Counsel is not opposed to identifying and utilizing additional performance measures in conjunction with an electronic workflow application. The features and functions of that workflow software may determine what additional performance measures make sense for inclusion in a future strategy for enhanced service delivery. However, it is recommended that the development and use of new performance measures await appointment of the successor District Counsel.

f. Use of a 360-Degree Type of Review

District Counsel is not opposed to the use of regular (annual) feedback from clients as a tool to better monitor operational performance of the office as a whole and to identify any problems or concerns facing the office. This feedback would not be utilized for individual personnel evaluations but would instead be used as a tool by the District Counsel to assess overall office performance. The future strategy for enhanced service delivery would need to define the scope and features of this program. It is recommended that the development and use of this review await appointment of a successor District Counsel.

NOTE: The Board Audit Committee members requested that TAP provide additional information defining this terminology (360-degree review) as it is a term of art and advise as to which other public agency in-house legal offices are using such reviews.

Targeted Implementation of Recommendation 1: To be determined.

2. The District Counsel and the Information Technology & Administrative Services Chief Operating Officer should update Valley Water Administrative Policies that (1) identify areas that require the development of new contractual and agreement templates, and (2) identify the responsible party for updating existing contract, agreement, and amendment templates as well as non-disclosure agreements (NDAs). These updates should also include the responsible party for NDA monitoring.

District Counsel Response: The District Counsel agrees with this recommendation.

The recommendation is to work with the Information Technology & Administrative Services Chief Operating Officer to update Valley Water *administrative policies* relating to contract templates and responsible parties in the contracting process. These would be the administrative policies for which this Chief or her reports are the designated 'owners.'

As to the first part of the recommendation (updating an administrative policy that identifies *areas* that require the development of new contractual and agreement templates), the District Counsel presumes that the intent is for the development of an administrative policy which lays out a clear *process* for regularly identifying any needed contract templates or template updates.

As to the development of an administrative policy regarding NDAs, the District Counsel notes that this effort has already commenced and should be completed by April 2021 or earlier. The Board Audit Committee has requested an opportunity to review the proposed administrative policy and provide any feedback. A proposed policy will be scheduled for a future Board Audit Committee agenda, and any input from the Committee will be considered before the policy is formally adopted.

Targeted Implementation of Recommendation 2: July 1, 2021.

3. The District Counsel should convene a workgroup on planning activities or projects involving contracting opportunities with key stakeholders (E.g., Chief Executive Officer (CEO) and Chief Operating Officers (COOs)) to develop a decision-making guide for early engagement with the District Counsel Office and Risk Management.

District Counsel Response: The District Counsel agrees with this recommendation.

District Counsel agrees that early involvement by the District Counsel's Office and Risk Management on complex, high-value, or large-scale Valley Water projects that will involve contracts would generally be beneficial. While there have been recent efforts to include the District Counsel's Office in the early planning processes for some projects (e.g., the Anderson Dam Retrofit Project), more consistency would be beneficial. This consistency can be increased through the development of the recommended decision-making guide and its use by the CEO and Chief Operating Officers since they are the ones who will be aware of future projects and project needs. The District Counsel is happy to attempt to convene the recommended workgroup and hopes the other BAOs and Valley Water's Chief Operating Officers and Chief Financial Officer will support and participate in the workgroup.

Unless different direction is received from the Board of Directors, the District Counsel does not believe that implementation of this recommendation needs to wait upon the appointment of a successor District Counsel.

Targeted Implementation for Recommendation 3: May 1, 2021.

4. The District Counsel should discuss with the Board the use of a master services agreement to add another procurement mechanism for legal services.

District Counsel Response: The District Counsel has no objection to this recommendation.

The recommendation is for the District Counsel to *discuss* with the Board the use of a master services agreement to add another procurement mechanism for legal services. District Counsel has no objection to obtaining the Board's views on this issue through such a discussion. The Board may also consider using this recommendation as a tool for evaluating candidates for the District Counsel position (e.g., as an interview question).

Currently, the District Counsel's Office does not typically use a competitive procurement process to retain outside legal counsel, and such counsel are selected based upon a number of considerations including experience and expertise. A competitive process has been used to select counsel in the past for certain projects or ongoing programs. For example, the District Counsel used a competitive process to select law firms to provide legal services for workers' compensation litigation and for recycled water infrastructure procurement (i.e., design-build and P3).

The Board's own Governance Policy (EL-5.3.9) exempts payments for legal services from the competitive procurement process. In order to ensure flexibility and the ability to timely retain the best counsel for any given need, District Counsel recommends that the Board maintain the current Governance Policy provision to be utilized with formal written standards for the selection of outside counsel to be developed by the District Counsel and maintained with the office's formal policies.

In the event that the Board determines that a master services agreement should be used to procure legal services in the future, District Counsel recommends that it be allowed to retain legal services separately from master services agreements in cases where there is a need for legal services that cannot be fulfilled, or cannot be best fulfilled, by firms on the list of pre-vetted firms, or there is insufficient time to use a competitive process to secure a new firm.

The need for some types of legal services and expertise is foreseeable and can be incorporated in a request for qualifications. However, it is impossible to anticipate all such future needs and some needs will only be occasional and periodic, such as unique investigations requiring specific expertise. For example, there may be a need for legal counsel with a particular expertise in an esoteric area of law or hired for a particular strategic reason due to a pending, unanticipated political matter. Further, it is possible that pre-vetted firms may no longer be suitable for a particular assignment due to lack of availability, recent public controversy, retirement or loss of attorneys in the desired practice areas, etc. Where this occurs, there may be a need to fill a legal need on short notice. Having to go through a formal procurement process may prevent the District Counsel's office from retaining new counsel in time to address a given need. Consequently, any such program (and modification of the related Governance Policies) should retain an exception as described above.

Note: The Board Audit Committee members requested TAP provide information as to how other local agencies are currently procuring outside counsel services; if Master Service Agreements have been implemented; and for what types of services.

Targeted Implementation for Recommendation 4: To be determined.

5. The Board Audit Committee should ensure that the scope of the audit currently proposed in the annual audit work plan for the risk management function, include an evaluation of the advantages and disadvantages of implementing alternative organizational alignments for the Risk Management Unit and the Workers' Compensation programs.

District Counsel Response: The District Counsel disagrees with this recommendation.

When determining the scope of the future audit for the risk management function, Management requests that the Board Audit Committee consider the following:

Risk Management takes exception to the recommendation that Workers Compensation ("WC") should be moved from Risk Management to the Environmental Health and Safety Unit ("EHS"). This recommendation appears to be based on a fundamental misconception as to the primary function of the Workers' Compensation unit. The report states that moving Workers' Compensation to EHS will "place the Workers' Compensation program in a unit most closely aligned with their function and allow for a more streamlined reporting and performance feedback structure, rather than reporting to a business unit that reports directly to the Board," yet the function of WC is never discussed.

The essential function of the WC unit is claims administration. The WC unit intakes employee claims of injury, reports them to the third-party administrator, assists the injured worker throughout the lifetime of the claim, and generally manages the workers' claim from beginning to end. The Workers Compensation Administrator is responsible for interacting with, and managing, the Third-Party Claims administrator, again, a claims function, as well as dealing with state claim agencies, etc. Investigation into the cause of the accident is not an essential function of the unit. The investigation into the cause of the injury is necessarily handled by the EHS unit. While the Workers Compensation Administrator assists in the investigation and uses the information for the claims, this investigation is a separate function from WC.

The essential function of the WC unit is closely aligned with that of the Risk Management Unit. One of the essential functions of the Risk Management Unit is also claims. In this particular organization, the Risk Manager has more than 20 years' experience overseeing WC claims. EHS does not handle claims.

The District Counsel reserves the right to make further comments on this issue if and when it is included in a future audit of the risk management function.

Targeted Implementation for Recommendation 5: N/A.

/s/ Electronically Approved
Stanly Yamamoto
District Counsel

cc: Darin Taylor

Santa Clara Valley Water District Annual Audit Work Plan, FY 18/19 to FY 20/21.

DRAFT AUDIT WORK PLAN – MAY 5, 2021

SANTA CLARA VALLEY WATER DISTRICT BOARD OF DIRECTORS DRAFT
ANNUAL WORK PLAN, FY 18/19 TO FY 20/21

OVERVIEW

The selection of audits is an important responsibility of the Audit Committee. The formulation of this audit work began in 2018 when the Valley Water's Board of Director provided input and approved the enterprise risk assessment that was administered across agency operations. The audit work plan is a culmination of a comprehensive effort to consider input on auditable areas from Valley Water employees, mid-level management, executive management, and Board Directors.

The proposed audit work plan considers factors that, if addressed, will provide opportunities to mitigate those risks and improve operations. These factors include:

- **Operational** – Are Valley Water programs/activities performed and services delivered in the most efficient, effective, and economical manner possible, and do they represent sound business decisions, including appropriate responses to changes in the business environment?
- **Financial** – Is there an opportunity to improve how Valley Water manages, invests, spends, and accounts for its financial resources?
- **Regulatory** – Do Valley Water programs and activities comply with applicable laws and regulations?
- **Health and Safety** – Are Valley Water services delivered in a manner that protects our residents and employees from unnecessary exposure to environmental factors?
- **Information Security** – Are Valley Water's information systems and networks protected against unauthorized access, use, disclosure, disruption, modification, inspection, recording, or destruction?

In addition, the proposed audit work plan considers several other factors in the selection of audits.

- **Relevance** – Does the audit have the potential to affect Board decision-making or impact Valley Water customers and residents?
- **Best Practices** – Does the audit provide the opportunity to compare current performance to best practices?
- **Return on Investment** – Does the audit have the potential for cost savings, cost avoidance, or revenue generation?
- **Improvement** – Does the audit have the potential to result in meaningful improvement in how Valley Water does its business?
- **Risk** - The audit work plan also considers risks related to major functions, as identified through a 2017 enterprise risk assessment conducted by TAP International.
- **Audit Frequency** – Individual Divisions at Valley Water should not be subject to more than two audits per year.

AUDIT WORK PLAN, FY 18/19 TO FY 20/21

This proposed audit work plan is divided into section. Section A describes ongoing non-audit (e.g. advisory) responsibilities of the Independent auditor and well as other quality assurance activities planned by executive management. Section B describes the audits planned for implementation by the Independent Auditor and other audits planned by Valley Water's executive management.

SECTION A

NON-AUDIT SERVICES AND SPECIAL PROJECTS

The following table lists non-audit services and special projects for the FY 2019-20 audit work plan:

Project	Scope	Planned Hours
Board of Director/Audit Committee Requests for Information	Ongoing. Should the Board of Directors request information on activities implemented by other public agencies or on other matters of interests applicable to enhancing the efficiency and effectiveness of operations, the independent auditor will collect and summarize information.	80
Audit Training	Annual. The Board Audit Committee Charter describes a requirement to provide audit training to BAC committee members at least annually.	2
Support services	Ongoing. Provide support services to Board Directors and Valley Water staff applicable to specific initiatives or planning projects to prevent potential service delivery risks, such as the planning of a new ERP system.	40
QEMS – Independent Auditor	Ongoing. Provide services to ensure proper oversight and accountability.	As needed
Management reviews	Ongoing. Valley Water 's CEO as needed will initiate internal quality assurance reviews of business practices and operations. These reviews are to be shared with the audit committee.	As needed

SECTION B: AUDIT SERVICES**AUDIT WORK PLAN – INDEPENDENT AUDITOR****FY 2018-19**

The following audits have been approved in FY 2018-19 by the Board of Directors and will continue into the FY 2019-20 audit work plan.

ID	Audit	Audit Objectives	Planned Hours
1	District Counsel Office Review	Are there structural, organizational, and process improvement opportunities for the District Counsel's Office?	664
5	Contract Change Order Processing	What types of business process improvements are necessary for contract change order processing?	429
6	Real Estate Review	How can the Real Estate improve its financial and service delivery performance?	574
Total	3 audits		1,667

FY 2019-20

The following audits have been selected for approval for the FY 2019-20 audit work plan.

ID	Audit Name	Audit Objectives	Planned Hours	Factors Considered
	Ad-hoc Board Audits	TBD	500-800	Relevance
	Audit Follow up	Review and monitor the status of audit recommendations	120	Relevance
	Sub Total		620-800	
13	Construction project management	What areas of Valley Water's capital project budgeting practices can benefit from adopting best practices?	314-371	Financial Improvement Risk Best practices
2	SCADA audit*	Does Valley Water's Supervisory Control and Data Acquisition (SCADA) systems meet established SCADA security frameworks?	714-857	Information Security Relevance Improvement Risk
7	Permitting best practices	How does Valley Water's permitting process compare with other agencies? Can alternative permit processing activities benefit Valley Water?	171-229	Operational Best practices Improvement

4	Risk Management	Can risk management business processes be implemented more effectively? (i.e. contract claims, workers compensation, small claims).	143-260	Relevance Financial Operational Best practices
3	Billing and Collections audit	Are there opportunities to enhance Valley Water's billing and collection processes?	343-429	Relevance Financial Regulatory Improvement Risk Return on Investment
11	Accountability audit	Are there opportunities to enhance safe clean water audits?	115-171	Health and Safety Relevance Improvement
Sub Total	5		1,800-2,317	

*The SCADA audit (ID 2) will be deferred and reconsidered during the next Risk Assessment given the master planning efforts underway for Valley Water's SCADA systems.

FY 2020-21

The following audits have been selected for approval for the FY 2020-21 audit work plan.

ID	Audit Name	Audit Objectives	Planned Hours	Factors Considered
	Ad-hoc Board Audits**	TBD	500-800	Relevance
	Audit Follow up	Review and monitor the status of audit recommendations	120	Relevance
	Subtotal		620-800	
	<u>Grants Management</u>	<u>Performance audit of the efficiency and effectiveness of grant management and administration</u>	<u>Outsourced-TBD</u>	<u>Financial improvement</u> <u>Operational Best practices</u>
Ad Hoc Board Audit	Pacheco Reservoir Expansion (Lessons Learned)	(1) Develop a timeline of project costs (including contract change orders and professional services agreement amendments) and identify the types of expenses incurred.	220-270	Financial, Operational, and best practices improvements

		(2) Identify key drivers for project cost increases that were within and outside of VW's control. (3) Identify lessons learned in the planning, design and construction phases of the project.		
21	Community engagement	Can Valley Water benefit from updating its purchasing practices for multi-media, advertising, and other community engagement vendor related activities? What are the best practices in planning and facilitating community engagement?	417-543	Financial Improvement Operational Best practices
	Property Management	<u>Is Valley Water implementing its encroachment licensing program consistent with the Board's guiding principles?</u>	400	Operational
20	Homelessness analysis	How can the Valley Water enhance its homelessness encampment clean-up activities that <u>protect health and safety</u> ?	290-371	Health and Safety Relevance Financial Operational
8	Classified information***	To what extent does the Valley Water's Counsel's office appropriately classify confidential information?	143-200	Relevance Operational
26	Local workforce hiring	What are the financial and service delivery disadvantages and advantages of RFPs that require preferences for local workforce hiring?	200-229	Operational
27	Equipment maintenance	Is Valley Water adequately meeting the needs of equipment maintenance?	143-229	Health and safety Operational Financial
33	Water Fix	What potential financial risks could occur on the California Water Fix project?	160-286	Financial Relevance
Sub Total	9		1,973-2,528	

**Ad-Hoc Audits to be added to the Board performance plan upon identification and approval of reviews.

***This issue was included in the project plan for the performance audit of the District Counsel's office.

AUDIT WORK PLAN – VALLEY WATER RESPONSIBILITY**FY 18/19 THRU FY 19-20****QEMS**

QUALITY ENVIRONMENTAL MANGEMENT SYSTEM INTERNAL AUDITS	
AUDIT DESCRIPTION AND UNIT #	
Treated Water O&M DOO: TW Survey (customer service w/ WS DOO)	#515
Laboratory Services Unit	#535
North Water Treatment Operations Unit	#565
South Water Treatment Operations Unit	#566
Treatment Plant Maintenance Unit (North & South WTP)	#555
Water Quality Unit	#525
Water Utility Capital Division	
Capital Program Planning and Analysis Unit	#335
Construction Services Unit	#351
Pipelines Project Delivery Unit	#385
East Side Project Delivery Unit	#375
West Side Project Delivery Unit	#376
Dam Safety & Capital Delivery Division	
CADD Services Unit	#366
Dam Safety Program & Project Delivery Unit	#595
Design and Construction Unit #3	#333
Pacheco Project Delivery Unit	#377
Water Supply Division DOO: TW Survey (customer service w/ TW O&M DOO)	#415
Wells & Water Measurement Unit	#475
Watersheds Design and Construction Division	
Design and Construction Unit #1	#331
Design and Construction Unit #2	#332
Design and Construction Unit #4	#334
Design and Construction Unit #5	#336
Land Surveying and Mapping Unit	#367
Real Estate Services Unit	#369
Associated Business Support Areas	
Facilities Management Unit	#887
Infrastructure Services Unit/IT	#735
Equipment Management Unit	#885
Business Support & Warehouse Unit	#775
Purchasing & Consultant Contracts Services Unit	#820

Emergency Services & Security	#219
Environmental, Health & Safety Unit	#916
Workforce Development (Training)	#915
Core ISO Procedures: Continual Improvement Unit	#116
Office of Communications (Customer Service)	#172
Office of the Clerk of the Board (Customer Service)	#604

COMPLIANCE AND FINANCIAL AUDITS

FINANCIAL AUDITS
Financial Audits
Treasurer's Report
Appropriation's Limit
Compensation and Benefit Compliance (odd years)
Travel Expenses Reimbursement (even years)
Single Audit (if applicable)
WUE Fund Audit



TAPInternational

FY 2022-2024 Annual Audit Work Plan

November 10, 2021

Final

ANNUAL AUDIT WORK PLAN

The Audit Work Plan serves as a tool for communicating audit priorities as determined by the Santa Clara Valley Water District's Board Audit Committee (BAC) and Board of Directors. The selection of audits for formal review and approval by the Board of Directors is an important responsibility of the Audit Committee.

Audits are an important oversight tool because they provide independent and fact-based information to management and elected officials. Those charged with governance and oversight can use the information to improve program performance and operations, reduce costs, facilitate decision making.

Audits can:

- Verify that programs, services, and operations are working based on your understanding.
- Assess efficiency and effectiveness.
- Identify the root cause or problems.
- Assess the progress of prior audit recommendations.
- Identify the impact of changes
- Identify leading practices.
- Assess regulatory compliance.
- Develop policy options.
- Assess the accuracy of financial information reported.

The types of audits that can be conducted include:

- Internal audits: Internal audits review the environment, information, and activities that are designed to provide proper accountability over District operations.
- Compliance audits: Compliance audits review adherence to policies and procedures, state regulatory requirements, and/or federal regulatory requirements.
- Performance audits (impact or prospective audits): Performance audits review the economy, efficiency, and effectiveness of Valley Water programs, services, and operations.
- Desk reviews: Small and quick audits.
- Follow up audits: Follow up audits assess the implementation status of recommendations included in prior audit reports.
- Best practices reviews: Compares current operations to best practices.

This proposed audit work plan is divided into sections. Section A describes anticipated ongoing support services to be provided by the independent auditor as well as other quality assurance activities planned by Valley Water's executive management. Section B describes the audits planned for implementation by the Independent Auditor.

SECTION A

ONGOING SUPPORT SERVICES AND SPECIAL PROJECTS

The following table lists non-audit services and special projects for the FY 2022 to 2024 audit work plan:

Project/Responsible Party	Scope	FY 2022 Planned Hours	FY 2023 Planned Hours	FY 2024 Planned Hours
Board of Director & Board Audit Committee Requests for Information/ Independent Auditor	Ongoing. Should the Board of Directors request information on activities implemented by other public agencies or on other matters of interests applicable to enhancing the efficiency and effectiveness of operations, the independent auditor will collect and summarize information.	80	80	80
Audit Training/ Independent Auditor	Annual. The Board Audit Committee Charter describes a requirement to provide audit training to Board Audit Committee members at least annually.	2	2	2
Support Services/ Independent Auditor	Ongoing. Provide support services to Board Directors and Valley Water staff applicable to specific initiatives or planning projects to prevent potential service delivery risks.	40	40	40
QEMS/Valley Water Continual Quality Improvement Unit	Ongoing. Provide services to ensure proper oversight and accountability.	As needed	As needed	As needed

Management Reviews/Valley Water Management	Ongoing. Valley Water's Chief Executive Officer ,as needed, will initiate internal quality assurance reviews of business practices and operations. These reviews are to be shared with the audit committee.	As needed	As needed	As needed
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SECTION B

AUDIT SERVICES – INDEPENDENT AND ON-CALL AUDITORS

Labor Summary

Project/Responsible Party	Scope	FY 2022 Planned Hours	FY 2023 Planned Hours	FY 2024 Planned Hours
Independent and On-Call Auditors	Audits and Follow-up Audits Based on the Audit Work Plan	TBD	TBD	TBD

Recommended Audits

The Board Audit Committee will select and recommend audits described below for approval by the Board of Directors.

ID	Risk Area(s)	Risk Factor	Audit Topic	Type of Audit	Suggested Audit Objectives
1	CIP Planning Process Financial Management	<input checked="" type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	CIP Planning Process	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. Are there opportunities to improve the capital improvement project planning process (project initiation to CIP plan approval)? 2. To what extent can early participation of Valley Water support units (environmental planning, permitting, purchasing, warehousing) on large capital projects prevent project delays and reduce cost overruns? 3. Can the Capital Improvement Plan be better right sized that considers the Agency's funding and staffing levels?
2	Inventory Control	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Inventory Management	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. Does Valley Water effectively manage, account for and record inventory across the agency? 2. What resources (e.g., staffing, systems, facilities) and business processes (communication and coordination) are necessary to meet current and future needs including centralizing inventory management?
3	Emergency Response Emergency Detection Emergency Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Program Monitoring	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. To what extent do the emergency management plans variously established by Valley Water contain gaps and activities to ensure proper prevention, detection, response, and recovery activities? 2. Do gaps exist in surveillance and detection of potential problems across Valley Water's infrastructure?

					<ol style="list-style-type: none"> 3. To what extent is the virtual Emergency Operations Center aligned with FEMA best practices? 4. Are there lessons learned from past emergencies to prevent disruptions to regular operations while providing additional manpower and resources to respond to emergencies?
4	Emergency Cost Recovery Data Management & Accuracy	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Financial Management	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. To what extent has Valley Water been able to claim the full reimbursement of costs for eligible expenses from FEMA? 2. Are business practices aligned with federal and state aid requirements for emergency cost reimbursement? To what extent are information systems and other business processes configured to capture information needed for cost reporting and recovery?
5	Financial Oversight Purchasing and Contracting Processes	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Financial Management	Performance Audit	<ol style="list-style-type: none"> 1. To what extent do Valley Water procurement programs for low dollar purchases (i.e., P-Cards, & Standing Orders) comply with established policies and procurement limits? 2. Are added policies and procedures needed to control spending and prevent work arounds to formal competitive bids?
6	Data Management Date Integrity Data Accuracy	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Business Process	Cross Functional Performance Audit	<ol style="list-style-type: none"> 1. To what extent does Valley Water use multiple data stores for the same information?
7	Plan Implementation Plan Monitoring	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Organizational Culture	Culture Audit	<ol style="list-style-type: none"> 1. How has Valley Water's organizational culture impacted implementation of plan established across the agency? 2. To what extent does Valley Water demonstrate and practice common cultural characteristics including:

					<ul style="list-style-type: none"> a) Defining organization's values and proactively emphasize and model those values. b) Ensuring strategies are consistent with the values and holding management accountable. c) Executing their duties within the organization's risk appetite. d) Management reinforces the values and culture through clear communication of expectations across the organization. e) Management actively gathers and listens to feedback. f) All levels are open to constructive criticism and problem solving through methods including information obtained from second- and third-line functions via inputs such as well-received and acknowledged employee suggestion/question program, ethics hotlines, open door policies, employees' events, and meetings, and more. g) All employees (to the extent possible) are engaged in objective setting and strategy discussions.
8	Grant Management Financial Management Coord. & Comm. Financial Oversight Data Accuracy	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Grant Reimbursement	Performance Audit	1. Can Valley Water's process for tracking labor and expense activities on state grants awarded to Valley Water benefit from updating? 2. How timely are claims for reimbursement submitted to awarding state agencies? 3. What circumstances have contributed to lost opportunities

					for reimbursement by awarding state agencies?
9	Plan Monitoring	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Human Resources Management	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. What progress has been made in implementing existing workforce development and succession planning plans? 2. What evidenced-based factors have been significant in facilitating the hiring of technical and operational staff? 3. To what extent have position descriptions and classification evolved to ensure that Valley Water has the technical capability to meet future demands to solve complex problems in an agile and creative manner?
10	Aging Infrastructure Detection Aging Infrastructure Monitoring	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Asset Management	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. To what extent do Valley Water divisions and units ensure compliance to specification standards to prevent substandard replacements of parts, equipment, and capital assets? 2. Is Valley Water adequately meeting the needs of equipment maintenance?
11	Data Accuracy	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Unmetered Groundwater Measurement	Desk Review	<ol style="list-style-type: none"> 1. Is the methodology supporting unmetered groundwater usage measurement valid and include all applicable methodological assumptions?
12	CIP Planning Process Financial Management	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Capital Project Budgeting	Performance Audit	<ol style="list-style-type: none"> 1. Are there areas of Valley Water's capital project budgeting practices that can benefit from adopting best practices?
13	IT Security Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	SCADA	Performance Audit	<ol style="list-style-type: none"> 1. What is the status of implementation of prior audit recommendations? 2. Will the recommendations as implemented by Valley Water accomplish intended goals and objectives?

					3. Are changes needed in the frequency of communications to the Board on the progress and status of cybersecurity and other IT needs?
14	Plan Monitoring Management Plan Implementation	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Strategy Development and Implementation	Cross-Functional Performance Audit	1. To what extent are management plans underway or completed across Valley Water? 2. To what extent do the plans need a completion date or require updating? 3. Are strategy and management plans developed across the Agency right sized to the divisions and/or units' staffing levels and workloads? 4. What progress has Valley Water made in implementing management plans to manage risks?
15	Program Monitoring Governance Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Homelessness Programs	Performance Audit	1. To what extent has Valley Water implemented its homelessness plan? 2. Can other cost-effective strategies implemented in other jurisdictions to prevent the creation and establishment of homeless encampments on Valley Water property? 3. How can Valley Water enhance its homelessness encampment clean-up activities to ensure the protection of health and safety of employees?
16	Grant Management	<input checked="" type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Financial Management	Follow-Up Audit	1. Have improvements occurred in the timeliness of grant reimbursements? 2. To what extent has the grant management and administration implemented prior audit recommendations? 3. What improvements in program outcomes have occurred in the timeliness of grant application review, reimbursement, and accomplishment of deliverables?

17	Program Monitoring Management	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Encroachment Program	Performance Audit	1. Is Valley Water implementing its encroachment licensing program consistent with the Board's guiding principles?
18	Data Management Data Accuracy	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Business Process	Cross Functional Performance Audit	1. To what extent have Valley Water units established business processes to ensure accurate data collection and input? 2. What gaps remain in automating data collection and input?
19	Operations	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Risk Management	Performance Audit	1. What are the advantages and disadvantages of realigning business functions (i.e., all risk management activities, workers compensation administration, and claim administration)? 2. Can risk management business processes benefit from updating? (i.e., overall operations, data management, contract claims, workers compensation, small claims, claims administration and management, workers compensation administration, and all risk management activities, including insurance & self-insurance.
20	Emergency Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Peer Review	Best Practices Review	1. Can regulatory permitting practices administered by other utilities districts help reduce barriers and other challenges experienced by Valley Water?
21	IT Project Management & Communication Data Accuracy	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	System Implementation	Post IT Implementation Audit	1. Has the current large ERP project implementation produced the desired functionality? 2. To what extent have all contract deliverables been met? 3. To what extent have data quality issues surfaced post-implementation? 4. What lessons learned can apply to future information system implementations?

22	Emergency Response Emergency Management	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Procurement	Performance Audit	<ol style="list-style-type: none"> 1. Have Valley Water's procurement policies been flexible and agile to effectively and timely respond to and recover from past emergencies? 2. Are other procurement and operational activities needed to ensure prompt and reliable emergency services?
23	Environmental Sustainability Framework Development Program Monitoring Governance	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Program Measurement & Evaluation	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. What level of success has Valley Water's environmental stewardship activities had on preventing environmental damage and promoting environmental sustainability? 2. To what extent has Valley Water adopted sustainability indicators on specific projects to measure progress? 3. To what extent has Valley Water adopted sustainability indicators in its decision-making?
24	Program Monitoring Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Program Outcomes Business Process	Performance Audit	<ol style="list-style-type: none"> 1. To what extent has Valley Water mitigated the environmental hazards caused by non-use of the percolator ponds? 2. In a non-drought year, are barriers present that prevent Valley Water from filling percolator ponds? 3. What processes need development to prevent expiration of groundwater charge permits?
25	Financial Management Coord. & Comm. Financial Oversight	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Capital projects	Desk Review	<ol style="list-style-type: none"> 1. What potential financial risks could occur on the California WaterFix project?
26	CIP Monitoring	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Capital Project Evaluation and Monitoring	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. Have completed capital projects met their intended goals? 2. To what extent does Valley Water include performance measures to measure success and monitor financial management?

					Are there lessons learned that can be adopted in future capital project plans to ensure goal accomplishments as well as implementation of alternative strategies to facilitate early communication to the Board of Directors of potential and actual problems, and to predict success such as performing cost vs. benefit analysis?
27	IT Security Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	IT Risk Management	Desk review	1. To what extent is IT risk management activities aligned with best practices, such as National Institute of Standards and Technology (NIST) guidance, including whether acceptable risk appetites and risk tolerances have been formally documented and approved by the Board of Directors?
28	Purchasing and Contracting Processes	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Financial Oversight	Desk Review	1. Can Valley Water benefit from updating its qualifications and experience criteria to include in future competitive bids for external financial audit services?
29	IT Strategic Planning Emergency Management	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Disaster Planning	Performance Audit	1. Does Valley Water's prioritization for systems and data recovery meet the agency's needs for sustained business continuity? 2. To what extent does Valley Water's process for determining the prioritization of systems and data recovery adhere to best practices (ex. NIST)?
30	Plan Development Plan Implementation Plan Monitoring	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Decision-Making	Cross-Functional Performance Audit	1. What lessons has Valley Water learned from its ad hoc cross-functional efforts to proactively address current or emerging risks?
31	Financial Oversight	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Outsourcing of Legal Services	Desk Review	1. How have changes occurred in District Counsel Office spending

for contracting external legal services?

2. To what extent are the nature of services provided by contracted legal firms presently outside of the District Counsel Office's expertise?
 3. Can expanding outsourced legal services prevent project delivery delays?
-

SECTION C

AUDIT SERVICES – VALLEY WATER RESPONSIBILITY

QEMS ACTIVITIES

Under development

COMPLIANCE AND FINANCIAL AUDITS

FINANCIAL AUDITS
Financial Audits
Treasurer's Report
Appropriation's Limit
Compensation and Benefit Compliance (odd years)
Travel Expenses Reimbursement (even years)
Single Audit (if applicable)
WUE Fund Audit



Santa Clara Valley Water District

File No.: 22-1197

Agenda Date: 10/19/2022

Item No.: 4.2.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

SUBJECT:

Receive the Fiscal Year 2021-22 Fourth Quarter Financial Status Update.

RECOMMENDATION:

Receive the Fiscal Year 2021-22 fourth quarter financial status update as of June 30, 2022.

SUMMARY:

Valley Water's Fiscal Year 2021-22 Fourth Quarter closed on June 30, 2022. The fourth quarter financial status update presentation (Attachment 1) summarizes cash and investment balances, the debt portfolio and includes a detailed comparison, and analysis, of the budget to actual status of revenues and expenditures for all funds as of June 30, 2022.

These financial statements have been prepared by Valley Water for informational purposes only and have not been audited by the external auditor. No party is authorized to disseminate these unaudited financial statements to the State Comptroller or any nationally recognized rating agency, nor are they authorized to post these financial statements on EMMA or any similar financial reporting outlets or redistribute the information without the express written authorization of the Chief Financial Officer of Valley Water. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water bonds, notes or other obligations and investors and potential investors should rely only on information filed by Valley Water on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures, maintained on the World Wide Web at <<https://emma.msrb.org/>>.

ATTACHMENTS:

Attachment 1: PowerPoint

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068

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Q4 YTD FY2021-22 Financial Status Update

October 2022

Agenda

2

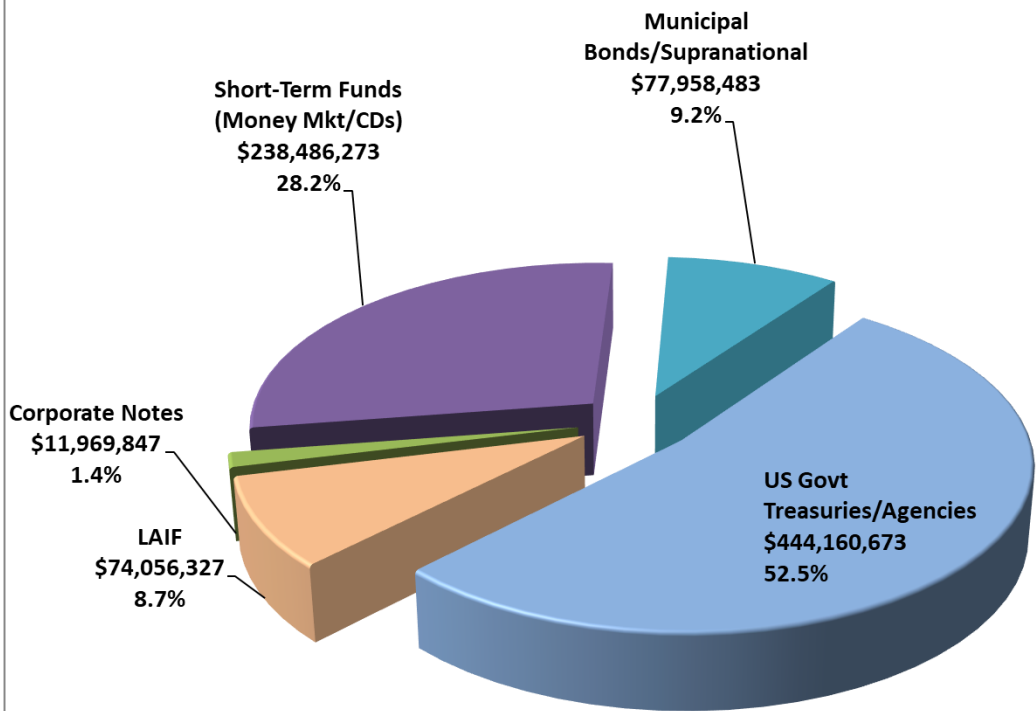
- **Financial Status**
 - **Cash and Investments**
 - **Debt Portfolio**
- **FY22 Unaudited Close Financial Status Update**
 - **Revenue**
 - **Operating and Capital Expenditures**
 - **Reserves**

Financial Status Update – Cash & Investments

\$474M or 56% of portfolio very liquid (<1-year maturity)

3

SCVWD Investment Portfolio Composition



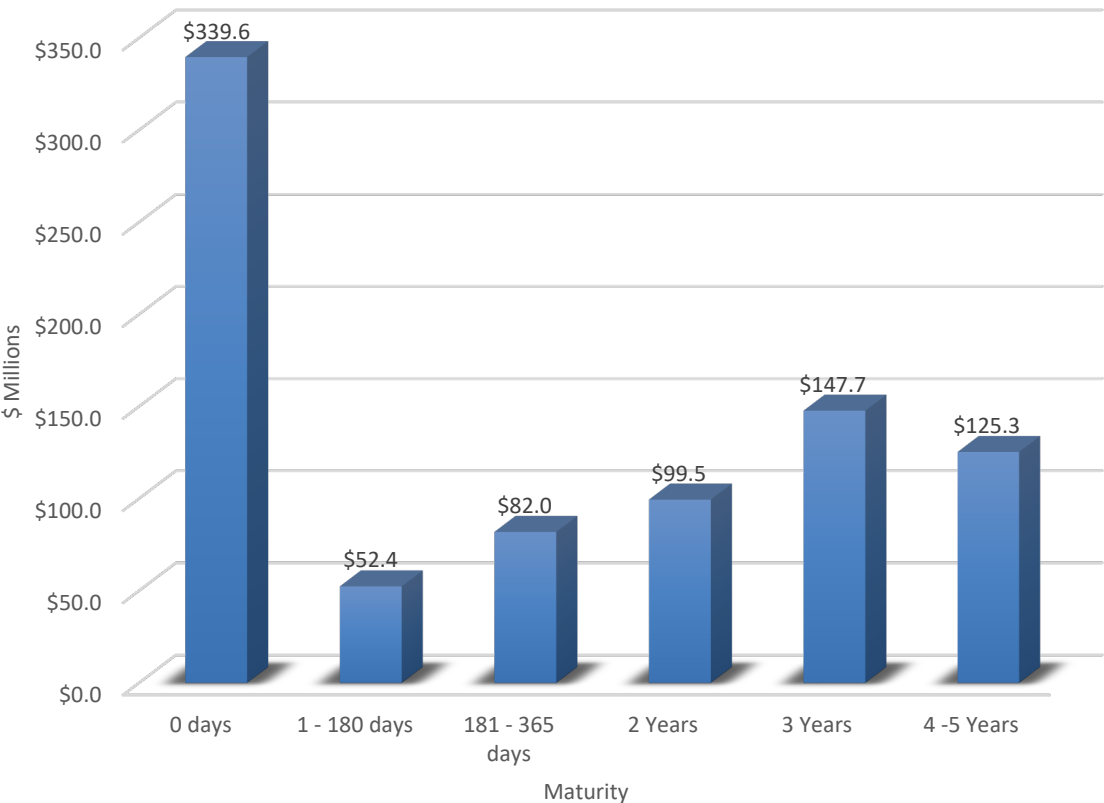
SCVWD Portfolio Book Value as of June 30, 2022: \$846,631,604

Attachment 2

Valley Water Portfolio Aging Report

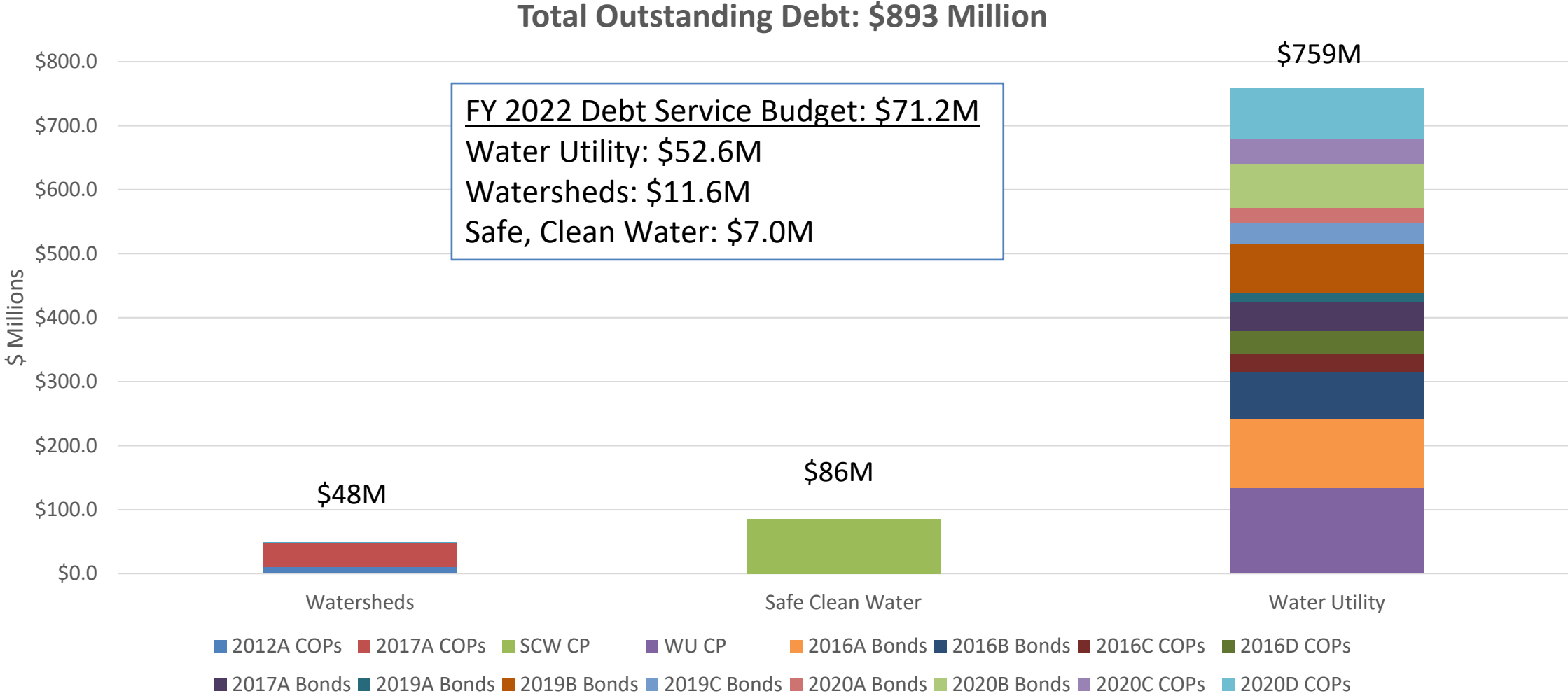
June 30, 2022

Portfolio Book Value: \$ 846.6 Million



valleywater.org

Financial Status Update - Outstanding Debt (6/30/22)



Financial Status Update – Debt Portfolio

Ample access to cash at low interest rates

5

\$320M short-term credit facilities - \$220M outstanding 6/30/22

- \$150M Commercial Paper – ongoing program
- \$170M Bank Line of Credit (\$150M Lead + \$20M Small/Local)
 - US Bank Lead (\$150M), Community Bank of the Bay (\$5M), Bank of SF (\$7M), and First Foundation Bank (8M)

FY 2022 & FY 2023 Financing Plan

- Defease WU 2006B by June (~\$20M) – completed on 6/1/22
- Refund SCW and WU outstanding short-term debt & issue Interim Obligations (11/8 Board Mtg)

**WIFIA Loan Program: \$146M SCW scheduled for 10/25 Board approval;
WU WIFIA Loan pending EPA approval**

FY 22 Unaudited Close- Revenue

Water revenues affected by drought and call for conservation

6

(\$ in millions)	FY22 Adj Budget	FY22 Actuals	Over/(Under) Budget	FY22 % Rec'd	FY21 Actuals	FY21 % Rec'd
Groundwater Production Charges	\$ 135.3	\$ 126.3	\$ (9.0)	93%	\$ 132.1	109%
Treated Water Revenue	150.5	145.4	(5.1)	97%	154.9	113%
Surface/Recycled Water Revenue	2.8	2.7	(0.1)	96%	2.7	104%
1% Ad-valorem Property Tax	118.4	127.3	8.9	108%	117.3	106%
Safe Clean Water Special Parcel Tax	47.1	47.0	(0.1)	100%	46.1	100%
Benefit Assessment	13.5	13.5	-	100%	12.4	100%
State Water Project Tax	26.0	30.0	4.0	115%	21.3	118%
Capital Reimbursements	35.1	22.0	(13.1)	63%	19.9	46%
Interest Income & Other	10.8	20.6	9.8	191%	17.9	117%
Total Revenue	\$ 539.4	\$ 534.8	\$ (4.6)	99%	\$ 524.6	104%

(\$ in millions)	FY22 Adj Budget	FY22 Actuals	Over/(Under) Budget	FY22 % Rec'd	FY21 Actuals	FY21 % Rec'd
General Fund	\$ 10.0	\$ 11.6	\$ 1.6	116%	\$ 10.0	106%
Watershed Stream Stewardship Fund	123.4	122.7	(0.7)	99%	107.7	91%
Safe Clean Water Fund	56.2	54.2	(2.0)	96%	56.9	93%
Water Utility Enterprise Fund	335.9	331.9	(4.0)	99%	337.0	110%
Service Funds	0.4	0.9	0.5	225%	0.6	120%
Benefit Assessment Funds	13.5	13.5	-	99%	12.4	100%
Total Revenue	\$ 539.4	\$ 534.8	\$ (4.6)	99%	\$ 524.6	104%

Observations

- FY22 revenue \$534.8M or 99% of FY22 Budget
- Groundwater production charges \$126.3M or 93% of Budget; Treated water revenue \$145.4M or 97% of Budget
- Capital reimbursements \$22.0M or 63% of the budget, depending on progress of grant-funded projects.
- 1% Ad Valorem Property Tax (\$8.9M) and State Water Project Tax (\$4.0M) higher than budget due to property assessed value in Santa Clara County growing 4.6% versus earlier conservative assumption during the FY22 budget development.
- Interest Income & Other higher than budget, primarily due to City of San Jose Advanced Water Treatment Facility payment (\$4.1M), COVID-19 Cost Recovery payment (1.0M) and higher interest income (\$1.1M)

FY 22 Unaudited Close - Operating and Capital Expenditures

Operating & Capital expenditures end FY within budgeted levels

(\$ in millions)	FY22 Adj Budget	FY22 Actuals	Remaining Budget	FY22 % Spent	FY21 Actuals	FY21 % Spent
General Fund	\$ 76.5	\$ 74.8	\$ 1.8	98%	\$ 68.4	98%
Watershed Stream Stewardship Fund	68.6	62.3	6.3	91%	59.2	95%
Safe Clean Water Fund	30.2	17.2	13.0	57%	15.9	77%
Water Utility Enterprise Fund	299.4	281.0	18.4	94%	236.6	97%
Service Funds	37.9	34.5	3.4	91%	30.6	96%
Benefit Assessment Funds	11.2	11.0	0.2	98%	11.0	99%
Total Operating Expenditures	\$ 523.8	\$ 480.8	\$ 43.0	92%	\$ 421.7	96%

Note 1: Operating Adjusted Budget includes Adopted Budget and current year budget adjustments

Note 2: Budgetary basis Actuals includes actuals and encumbrances as of 6/30/22

(\$ in millions)	FY22 Adj Budget	FY22 Actuals	Remaining Budget	FY22 % Spent	FY21 Actuals	FY21 % Spent
General Fund	\$ 6.1	\$ 3.3	\$ 2.9	53%	\$ 3.3	110%
Watershed Stream Stewardship Fund	87.5	66.3	21.2	76%	63.5	73%
Safe Clean Water Fund	117.8	52.8	65.0	45%	71.7	56%
Water Utility Enterprise Fund	287.2	237.8	49.4	83%	136.0	65%
Service Funds	15.3	12.5	2.8	82%	9.7	52%
Total Capital Expenditures	\$ 513.8	\$ 372.6	\$ 141.2	73%	\$ 284.3	64%

Note 1: Capital Adjusted Budget includes Adopted Budget and prior year capital carryforward

Note 2: Budgetary basis Actuals includes actuals and encumbrances as of 6/30/22

Observations

- FY22 Operating Expenditures \$480.8M or 92% of FY22 Adjusted Budget
- Safe Clean Water Fund expenses lower than budget due to debt service savings (\$6.1M) and F9 Safe Clean Water Grants and Partnerships (\$1.8M)
- Water Utility Enterprise Fund savings primarily due to debt service savings (\$6.8M), GP5 project (\$6.6M) and administrative savings (\$3.3M)

- FY22 Capital Expenditures \$372.6M or 73% of Adjusted Budget
- General Fund savings due to HQ Operations Building project (\$2.0M)
- WSS Fund expenditures lower than budget due to Watersheds Asset Rehabilitation (\$7.1M) and San Francisco Bay Shoreline (\$3.5M)
- SCW Fund lower due to Llagas Creek – Upper Construction (\$27.0M), San Francisquito Early Implementation (\$11.4M), Almaden Lake Improvement (\$8.7M), and Upper Penitencia Creek (\$4.5M)
- WUE Fund lower due to Anderson Seismic (\$17.4M), Small Caps Water Treatment (\$7.2M), and Rinconada Reliability Improvement (\$6.7M)

Reserve Balances

FY 22 year-end reserve balances higher than Projected

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(\$ in millions)	FY22 Adopted Budget	FY22 Projected YE Reserve	FY22 Est. YE Actuals	FY22 Est. Actual vs Projected
Restricted Reserves				
Safe Clean Water Fund	\$ 123.9	\$ 155.6	\$ 173.7	\$ 18.1
Water Utility Enterprise Fund	60.1	92.9	97.7	4.8
Restricted Subtotal	\$ 184.0	\$ 248.5	\$ 271.4	\$ 22.9
Committed Reserves				
General Fund	\$ 6.6	\$ 7.0	\$ 6.2	\$ (0.8)
Watershed & Stream Stewardship Fund	74.3	110.7	122.5	11.8
Water Utility Enterprise Fund	56.7	86.4	127.2	40.8
Service Funds	14.7	18.9	21.3	2.4
Committed Subtotal	152.3	223.0	277.2	54.2
Total Reserves	\$ 336.3	\$ 471.5	\$ 548.6	\$ 77.1

Observations

- FY22 estimated year-end reserve balance of \$548.6M, \$77.1M higher than FY22 Projected Year-end Reserve
- Safe Clean Water Fund reserve \$18.1M higher than projected due to lower capital expenditures.
- Watershed & Stream Stewardship Fund reserve, \$11.8M higher than Projected due to lower capital expenditures.
- Water Utility Enterprise Fund reserve \$45.6M higher than projected primarily due to higher State Water Project Tax reserve (\$4.8M) and lower capital expenditures.

FY22 Financial Update Summary

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- Performance of revenues inline with expectations, reflecting water conservation
- Operating expenditures 92% of budget
- Capital expenditures 73 % of budget, spending rate trending higher than prior years. Capital Project Reserve balances higher than projected
- FY 22 Year-end Budget adjustments will be submitted to the Board during the 11/8 Board meeting

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Santa Clara Valley Water District

File No.: 22-1168

Agenda Date: 10/19/2022

Item No.: 4.3.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

SUBJECT:

Receive and Discuss the Upper Guadalupe River and Upper Llagas Creek Watershed Projects Subvention Audit Report.

RECOMMENDATION:

Receive and discuss the Upper Guadalupe River and Upper Llagas Creek watershed projects subvention audit report.

SUMMARY:

On August 31, 2022, the Board Audit Committee (BAC) was notified, per the BAC Charter, Article VII - Third Party and Management Initiated Audits, Item 3, Notice to Committee of Third-Party Audits, of the State Controller's Office (SCO) audit of the Upper Guadalupe River (UGR) and Upper Llagas Creek Watershed (ULCW) Projects (Flood Control Subvention Program).

The SCO audited UGR Claim Numbers 52 through 55 and ULCW Claim Numbers 164 through 286 submitted during the audit period July 1, 2014, through December 31, 2019.

The audit contained three (3) findings, which resulted in a retention owed to Valley Water being reduced by \$1.93 million from \$3.69 million to \$1.76 million. These findings and the retention reduction were expected, and corrective actions as explained below have been in place for at least 2 years.

The findings were as follows:

1. During its review of the claims, the DWR identified \$3,197,615 as ineligible for reimbursement. Of the \$3,197,615 in ineligible costs identified by the DWR, \$3,181,375 was for negotiated settlements to acquire land, rights-of-way, and easements. The negotiated settlements exceeded the appraised fair market value, and the district did not request the necessary preapproval from the DWR. The district was unaware that the DWR Guidelines required local agencies to obtain advance approval from the DWR for negotiated settlements and stipulated court judgements that exceed the district's high appraised value. The DWR informed the district, via email, of this requirement during its review process, and the district has since implemented a DWR preapproval process. The recommendation was that "the district follow applicable policies and procedures to ensure that all costs claimed for reimbursement are allowable."
2. This finding is essentially a repeat of finding 1, with a recommendation that the DWR reduce the

retention balance for reimbursement due the district by \$935,658.

3. During its review of the district's claims, the DWR identified ineligible overhead costs. After corresponding with the DWR, the district submitted revised claims, removing the ineligible overhead costs from the claims. The DWR however, had already reimbursed the district, based on the initial claim submission, resulting in excess reimbursements of \$718,031, for these claims. The recommendation was that the DWR reduce the reimbursements due the district by \$718,031.

The SCO completed the audit in August of 2022, and the final audit report is provided in Attachment 1.

ATTACHMENTS:

Attachment 1: SCO Final Subvention Audit Report

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068

SANTA CLARA VALLEY WATER DISTRICT

Audit Report

FLOOD CONTROL SUBVENTIONS PROGRAM

Upper Guadalupe River and
Upper Llagas Creek Watershed Projects

July 1, 2014, through December 31, 2019



BETTY T. YEE
California State Controller

August 2022



BETTY T. YEE
California State Controller

August 31, 2022

Eric Nichol, Assistant Division Chief
Division of Flood Management
Department of Water Resources
3310 El Camino Avenue, Suite 120
Sacramento, CA 95821

Dear Mr. Nichol:

The State Controller's Office audited Flood Control Subventions Program claims submitted by the Santa Clara Valley Water District to the Department of Water Resources (DWR). Our audit pertained to DWR Claim Numbers UGR 52 through 55 and ULCW 164 through 286, for the period of July 1, 2014, through December 31, 2019.

The district claimed \$47,335,299 for the Upper Guadalupe River and Upper Llagas Creek Watershed projects during the audit period. Our audit found that \$43,202,026 is allowable and \$4,133,273 is unallowable. The costs are unallowable because the district lacked required DWR preapproval or supporting documentation, or the costs were unrelated to the projects.

The State's share of allowable costs is \$35,062,825. DWR reimbursed the district \$33,296,010 during the audit period; therefore, the district is owed the remaining balance of \$1,766,815.

DWR retained \$3,699,557, which was to be released to the district pending the results of this audit. DWR should reduce the retention balance by \$1,932,742 to \$1,766,815, the amount still owed to the district, based on our audit.

If you have any questions, please contact Efren Loste, Chief, Local Government Audits Bureau, by telephone at (916) 324-7226.

Sincerely,

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

KT/as

cc: Sami Nall, Manager, Flood Control Subventions Program
Department of Water Resources
Rick Callender, Chief Executive Officer
Santa Clara Valley Water District
Darin Taylor, Chief Financial Officer
Santa Clara Valley Water District
John L. Varela, Chair Pro Tem
Santa Clara Valley Water District

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Audit Report

Summary

The State Controller's Office (SCO) audited Flood Control Subventions Program claims submitted by the Santa Clara Valley Water District to the Department of Water Resources (DWR). Our audit pertained to DWR Claim Numbers UGR 52 through 55 and ULCW 164 through 286, for the Upper Guadalupe River and Upper Llagas Creek Watershed projects, for the period of July 1, 2014, through December 31, 2019.

The district claimed \$47,335,299 for the Upper Guadalupe River and Upper Llagas Creek Watershed projects during the audit period. Our audit found that \$43,202,026 is allowable and \$4,133,273 is unallowable. The costs are unallowable because the district lacked required DWR preapproval or supporting documentation, or the costs were unrelated to the projects.

Pursuant to California Water Code section 12832, the DWR reimbursed the district 90% of eligible costs claimed, with the remaining 10% to be released subject to the completion of this audit.¹ Based on our audit, the State's share of allowable project costs is \$35,062,825. DWR reimbursed the district \$33,296,010 during the audit period; therefore, the district is owed the remaining balance of \$1,766,815.

Background

The State of California provides financial assistance to local agencies participating in the construction of federal flood control projects. Under the Flood Control Subventions Program (California Water Code, Division 6, Part 6, Chapters 1 through 4), the DWR pays a portion of the local agency's share of flood control project costs, including the costs of rights of way, relocation, and recreation and fish and wildlife enhancements. The DWR's *Guidelines for Reimbursement on Flood Control Projects (Guidelines)* describe the compliance requirements for local agencies seeking reimbursement for the State's share of federal flood control projects.

Audit Authority

We conducted this performance audit under the general authority of Government Code section 12410 and the specific authority of California Water Code section 12832, which requires the State Controller to perform audits of flood control projects.

Objective, Scope, and Methodology

Our audit objective was to determine whether the costs claimed, as presented in the Schedule were allowable and in compliance with the DWR *Guidelines*, and adequately supported and documented.

Our audit pertained to DWR Claim Numbers UGR 52 through 55 and ULCW 164 through 286 for the Upper Guadalupe River and Upper Llagas Creek Watershed projects, for the period of July 1, 2014, through December 31, 2019.

¹ California Water Code stipulates the percentage of state funding by project cost category.

To achieve our objective, we performed the following procedures:

- We gained an understanding of the district's internal controls that are significant to the audit objective by interviewing key personnel, completing an internal control questionnaire, and reviewing the district's organization chart.
- We evaluated and assessed control activities over the claim preparation process by inspecting documents and records, and by inquiring with key personnel.
- We assessed the reliability of computer-processed data by reviewing existing information about the data and the system that produced it; by interviewing district officials knowledgeable about the data; and by tracing data to source documents, based on auditor judgment and non-statistical sampling. We determined that the data was sufficiently reliable for the purposes of achieving our audit objective.
- We conducted a risk assessment to determine the nature, timing, and extent of substantive testing.
- We reviewed the district's prior SCO and single audits.
- We reviewed the DWR's engineering reports and/or claim evaluations pertaining to the district's claims.
- We determined whether the district received revenues that should have been offset against the flood program expenditures.
- We reviewed the district's claim detail for any condemnation interest, and inquired of the district whether it had received interest on condemnation deposits.
- We determined whether the district received from DWR advances on its flood control project expenditures.
- We verified through sampling that the costs claimed were supported by proper documentation and eligible in accordance with the applicable criteria. Based on our risk assessment, we tested all items that were equal to or greater than the significant item amount (calculated based on materiality threshold). We also tested additional items that were valued less than the individual significant item amount, based on auditor judgment and non-statistical sampling. Based on errors identified in the selected sample, we expanded our testing.

We tested the following expenditures:

- Land – We tested all \$39,390,921 in total land, easement, and right-of-way acquisition costs claimed.
- Relocation – We tested \$242,257 of \$300,257 in total relocation costs claimed.
- Labor – We tested \$67,965 of \$4,519,305 in total labor costs.
- Services and supplies – We tested \$939,046 of \$3,124,816 in total services and supplies costs claimed.

For the selected sample, errors found were not projected to the intended (total) population.

We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed are allowable for reimbursement.

We conducted the 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Conclusion

The district claimed \$47,335,299 in project costs for the period of July 1, 2014, through December 31, 2019.

Our audit found instances of noncompliance with the requirements described in the Objective, Scope, and Methodology section. These instances are quantified in the Schedule and described in the Findings and Recommendations section.

Based on our audit, the State's share of allowable project costs is \$35,062,825. DWR reimbursed the district \$33,296,010 during the audit period; therefore, the district is owed the remaining balance of \$1,766,815.

Follow-up on Prior Audit Findings

The finding noted in our prior audit report, issued on June 29, 2020, has been satisfactorily resolved by the district.

Views of Responsible Officials

We issued a draft audit report on June 24, 2022. The district's representative responded by letter dated July 5, 2022 agreeing with the audit results. This final audit report includes the district's response as an attachment.

Restricted Use

This audit report is solely for the information and use of the Santa Clara Valley Water District, the DWR, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record, and is available on the SCO website at www.sco.ca.gov.

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

August 31, 2022

Schedule— Summary of Project Costs July 1, 2014, through December 31, 2019

Project / Claim #	Costs Claimed	Audit Adjustments to Claimed Costs ¹	Allowable per Audit	State Share of Eligibility Percentage ²	State Share of Claimed Costs	Adjustments to State Share	State Share of Allowable Costs	Reimbursement Received by the District ³	Reimbursement Due to District Pending Audit
Upper Guadalupe River Project									
UGR 2018-01(52)	\$ 20,275,000	\$ -	\$ 20,275,000	70%	\$ 14,192,500	\$ -	\$ 14,192,500	\$ 12,773,250	\$ 1,419,250
UGR 2019-01(53)	283,848	-	283,848	70%	198,694	-	198,694	178,824	19,870
UGR 2019-01(54)	646,822	-	646,822	70%	452,775	-	452,775	407,498	45,277
UGR 2019-02(55)	825,000	-	825,000	70%	577,500	-	577,500	519,750	57,750
	\$ 22,030,670	\$ -	\$ 22,030,670		\$ 15,421,469	\$ -	\$ 15,421,469	\$ 13,879,322	\$ 1,542,147
Upper Llagas Creek Watershed Project									
ULCW 2015-01(164, 165)	\$ 919,750	\$ (44,450)	\$ 875,300	100%	\$ 919,750	\$ (44,450)	\$ 875,300	\$ 827,775	\$ 47,525
ULCW 2015-02(166)	64,600	-	64,600	100%	64,600	-	64,600	58,140	6,460
ULCW 2015-02(167)	408,369	-	408,369	100%	408,369	-	408,369	367,532	40,837
ULCW 2015-03(168)	42,817	(37,500)	5,317	100%	42,817	(37,500)	5,317	38,535	(33,218)
ULCW 2015-03(169)	24,428	-	24,428	100%	24,428	-	24,428	21,985	2,443
ULCW 2015-03(170, 171 Revised)	868,169	-	868,169	100%	868,169	-	868,169	1,178,481	(310,312)
ULCW 2016-01(174, 177 Revised)	925,269	-	925,269	100%	925,269	-	925,269	1,332,988	(407,719)
ULCW 2016-02(172, 175)	982,313	(4,605)	977,708	100%	982,313	(4,605)	977,708	879,937	97,771
ULCW 2016-03(173, 176)	187,093	(2,754)	184,339	100%	187,093	(2,754)	184,339	165,905	18,434
ULCW 2017-01(178-192)	1,653,650	(218,800)	1,434,850	100%	1,653,650	(218,800)	1,434,850	1,488,285	(53,435)
ULCW 2017-02(193-208)	1,452,375	(239,561)	1,212,814	100%	1,452,375	(239,561)	1,212,814	1,302,792	(89,978)
ULCW 2017-03(209-226)	1,794,800	(366,575)	1,428,225	100%	1,794,800	(366,575)	1,428,225	1,615,320	(187,095)
ULCW 2018-01(229, 232, 235 Revised)	1,081,016	-	1,081,016	100%	1,081,016	-	1,081,016	972,914	108,102
ULCW 2018-02(227, 230, 233)	900,282	(36)	900,246	100%	900,282	(36)	900,246	810,222	90,024
ULCW 2018-03(228, 231, 234 Revised)	513,458	-	513,458	100%	513,458	-	513,458	462,112	51,346
ULCW 2018-03(231 Partial)	1,000,000	-	1,000,000	55%	550,000	-	550,000	495,000	55,000
ULCW 2019-01(237, 241, 242, 244)	433,400	-	433,400	100%	433,400	-	433,400	390,060	43,340
ULCW 2019-02(236)	44,000	(16,800)	27,200	100%	44,000	(16,800)	27,200	24,480	2,720
ULCW 2019-03(238)	80,100	(31,200)	48,900	100%	80,100	(31,200)	48,900	44,010	4,890
ULCW 2019-04(239)	116,900	(17,400)	99,500	100%	116,900	(17,400)	99,500	105,210	(5,710)
ULCW 2019-05(240)	169,000	(5,200)	163,800	100%	169,000	(5,200)	163,800	152,100	11,700
ULCW 2019-06(243)	202,800	(51,700)	151,100	100%	202,800	(51,700)	151,100	135,990	15,110
ULCW 2019-07(245)	90,000	(9,326)	80,674	100%	90,000	(9,326)	80,674	72,607	8,067
ULCW 2019-08(246)	83,900	(11,200)	72,700	100%	83,900	(11,200)	72,700	65,430	7,270

Schedule (continued)

Project / Claim #	Costs Claimed	Audit Adjustments to Claimed Costs ¹	Allowable per Audit	State Share of Eligibility Percentage ²	State Share of Claimed Costs	Adjustments to State Share	State Share of Allowable Costs	Reimbursement Received by the District ³	Reimbursement Due to District Pending Audit
Upper Llagas Creek Watershed Project (continued)									
ULCW 2019-09 (247, 248, 250, 253)	596,200	(11,000)	585,200	100%	596,200	(11,000)	585,200	536,580	48,620
ULCW 2019-10 (254, 255, 256, 257)	118,900	-	118,900	100%	118,900	-	118,900	107,010	11,890
ULCW 2019-11 (249)	150,800	(76,438)	74,362	100%	150,800	(76,438)	74,362	66,926	7,436
ULCW 2019-12 (251)	161,800	(54,200)	107,600	100%	161,800	(54,200)	107,600	96,840	10,760
ULCW 2019-13 (252)	60,500	(12,244)	48,256	100%	60,500	(12,244)	48,256	43,431	4,825
ULCW 2020-01 (258-268)	530,575	-	530,575	100%	530,575	-	530,575	477,518	53,057
ULCW 2020-02 (269)	5,313,439	(2,913,439)	2,400,000	55%	2,922,391	(1,602,391)	1,320,000	1,188,000	132,000
ULCW 2020-03 (278, 281, 284)	84,772	(8,845)	75,927	100%	84,772	(8,845)	75,927	68,334	7,593
ULCW 2020-03 (279, 282, 285)	219,245	-	219,245	100%	219,245	-	219,245	197,321	21,924
ULCW 2020-03 (280, 283, 286)	998,029	-	998,029	100%	998,029	-	998,029	898,226	99,803
ULCW 2020-04 (270-272)	1,136,000	-	1,136,000	100%	1,136,000	-	1,136,000	1,022,400	113,600
ULCW 2020-05 (273-277)	1,895,880	-	1,895,880	100%	1,895,880	-	1,895,880	1,706,292	189,588
	\$ 25,304,629	\$ (4,133,273)	\$ 21,171,356		\$ 22,463,581	\$ (2,822,225)	\$ 19,641,356	\$ 19,416,688	\$ 224,668
	\$ 47,335,299	\$ (4,133,273)	\$ 43,202,026		\$ 37,885,050	\$ (2,822,225)	\$ 35,062,825	\$ 33,296,010	\$ 1,766,815

¹ See the Findings and Recommendations section. The audit adjustment of \$4,133,273 is comprised of \$3,197,615 (Finding 1); and \$935,658 (Finding 2).

² The State's share of allowable project costs represents the percentage of state funding, as stipulated in the California Water Code, for each project cost category.

³ See the Findings and Recommendations section. The district submitted revised claims for ULCW Claim Numbers 170, 171, 174, and 177 subsequent to receiving reimbursement from DWR (Finding 3).

Findings and Recommendations

FINDING 1— DWR adjustments

The district claimed \$47,335,299 for costs related to the Upper Guadalupe River Project and Upper Llagas Creek Watershed Project. During its review of the claims, the DWR identified \$3,197,615 as ineligible for reimbursement.

The DWR reimburses the district for 70% of eligible costs for the Upper Guadalupe River Project and 100% of eligible costs for the Upper Llagas Creek Watershed Project, except for the Nature Quality property. For this property acquisition, the DWR and the district mutually agreed on a 55% reimbursement rate for eligible costs.

At the time of DWR review and approval, the State's share of the reimbursable claimed costs was \$36,995,567. The DWR reimbursed the district \$33,296,010 (90% of eligible project costs) and withheld \$3,699,557 (10% of eligible project costs) as a retention balance pending our audit.

After corresponding with the DWR, the district submitted revised claims for ULCW Claim Numbers 170, 171, 174, and 177, reducing claimed costs by \$997,084 to \$47,335,299. The State's share of reimbursable claimed costs thus decreased to \$35,998,483.

Of the \$3,197,615 in ineligible costs identified by the DWR, \$3,181,375 was for negotiated settlements to acquire land, rights-of-way, and easements. The negotiated settlements exceeded the appraised fair market value, and the district did not request the necessary preapproval from the DWR.

The remaining \$16,240 of ineligible costs was for associated land costs (services and supplies). Of this amount, \$13,450 was related to the Nature Quality property, and \$2,790 was for items that lacked supporting documentation.

The following table shows the DWR's adjustment to the district's claimed costs:

DWR Audit Adjustments	Adjustment Amount
Negotiated settlements	\$ (3,181,375)
Nature Quality property	(13,450)
Services and supplies costs	(2,790)
Total DWR adjustments	<u>\$ (3,197,615)</u>

Paragraph 1 of Section IV.D, "Settlements," of the DWR *Guidelines* states:

Negotiated settlements and stipulated judgments may not exceed the local agency's high appraised value unless the advance approval of the Department [of Water Resources] has been obtained. . . .

Section VI.D., “State Review,” (page 39) of the DWR *Guidelines* states,

. . . The Department [of Water Resources] will deduct “without prejudice” any item which cannot be verified. The local agency will have 90 days from the date of notification of the deductions to submit additional supporting information. If such information is not received within 90 days, the Department will presume that the local agency accepted the deduction.

The district was unaware that the DWR *Guidelines* require local agencies to obtain advance approval from the DWR for negotiated settlements and stipulated court judgements that exceed the district’s high appraised value. The DWR informed the district, via email, of this requirement during its review process, and the district has since implemented a DWR preapproval process.

Recommendation

We recommend that the district follow applicable policies and procedures to ensure that all costs claimed for reimbursement are allowable.

FINDING 2— Unallowable land costs

The district claimed \$39,390,921 for land costs related to the Upper Guadalupe River Project and Upper Llagas Creek Watershed Project. We tested \$36,787,894 of these claimed costs, and identified \$683,250 in unallowable costs. We tested the remaining \$2,603,027 in land costs to determine whether additional claimed costs were unallowable. We identified an additional \$252,408 in unallowable costs, for a total of \$935,658 in unallowable land costs.

Of the \$935,658 in unallowable land costs, \$898,158 was for negotiated settlements to acquire land, rights-of-way, and easements; and \$37,500 was for costs that were unrelated to the flood control subvention projects. The \$898,158 was unallowable because the negotiated settlements exceeded the appraised fair market value, and the district did not request the necessary preapproval from the DWR. The \$37,500 was unallowable because the costs were for preventive maintenance work performed on bridges within the flood control project areas; however, the work was not for right-of-way or relocation costs. Therefore, the costs were unrelated to the Flood Control Subventions Program.

As a result, the State’s share of allowable costs should be reduced by \$935,658, as shown in the following table:

SCO Audit Adjustments	Adjustment Amount	State Share	Reduction in Reimbursement Due to District
Negotiated settlements	\$ 898,158	100%	\$ 898,158
Unrelated costs	37,500	100%	37,500
SCO Audit Adjustments	<u>\$ 935,658</u>		<u>\$ 935,658</u>

Paragraph 1 of Section IV.D, “Settlements,” of the DWR *Guidelines* states, in part:

Negotiated settlements and stipulated judgments may not exceed the local agency’s high appraised value unless the advance approval of the Department [of Water Resources] has been obtained. . . .

The Introduction of the DWR *Guidelines* states:

State assistance is limited to reimbursement of all or a portion of the costs of rights-of-way and relocations which are necessary for construction of the flood control features. . . .

The district was unaware that the DWR *Guidelines* require local agencies to obtain advance approval from the DWR for negotiated settlements and stipulated court judgements that exceed the district’s high appraised value. The DWR informed the district, via email, of this requirement during its review process, and the district has since implemented a DWR preapproval process.

Recommendation

We recommend that the DWR reduce the retention balance for reimbursement due the district by \$935,658. We also recommend that the district ensure that all costs claimed for reimbursement are allowable.

FINDING 3— Reimbursement in excess of revised claimed costs

The district claimed a total of \$47,335,299 for costs related to the Upper Guadalupe River Project and Upper Llagas Creek Watershed Project. During its review of the district’s claims, the DWR identified ineligible overhead costs in claims with ULCW Claim Numbers 229, 232, and 235.

After corresponding with the DWR, the district submitted revised claims for ULCW Claim Numbers 229, 232, and 235, removing the ineligible overhead costs from the claims. The district also submitted revised claims to remove \$997,084 in overhead costs for ULCW Claim Numbers 170, 171, 174, and 177. The DWR, however, had already reimbursed the district, based on the initial claim submission, resulting in excess reimbursements of \$718,031, for these claim numbers.

Recommendation

We recommend that the DWR reduce its retention balance for ULCW Claim Numbers 170, 171, 174, and 177 to zero, and reduce the reimbursements due the district by \$718,031.

**Attachment—
Santa Clara Valley Water District's
Response to Draft Audit Report**



Clean Water • Healthy Environment • Flood Protection

July 5, 2022

Ms. Kimberly Tarvin
State Controller's Office
Chief, Division of Audits
901 Corporate Center Drive, Suite 200
Monterey Park, CA 91754

Subject: Upper Guadalupe River and Upper Llagas Creek Subvention Claims Audit

Dear Ms. Tarvin:

The Santa Clara Valley Water District (Valley Water) is responding to the draft report dated June 24, 2022.

Valley Water would like to thank you and the auditor for the thorough and thoughtful work in reviewing the subvention program claims. As discussed at the telephone exit conference on April 28, 2022, Valley Water agrees with the three findings from the Upper Guadalupe River and Upper Llagas Creek Watershed projects from July 1, 2014, through December 31, 2019. We are taking immediate actions to ensure these recommendations are implemented going forward.

We have some observations we would like to share with you, and below are the three findings Valley Water is acknowledging.

Finding 1- DWR identified \$3,197,615 of costs as ineligible for reimbursement.

Finding 2- DWR identified \$935,658 of land costs as unallowable.

Finding 3- After DWR informed Valley Water that overhead costs were unallowable, Valley Water took immediate action to remove the overhead costs and submitted revised claims. However, DWR had already reimbursed the district based on the initial claims which resulted in excess reimbursements of \$718,031 for these claims.

In your letter on page four or page eight of the PDF file, there is one line item on the summary of project costs that needs to be corrected. The audit adjustment of \$37,500.00 of unrelated costs should be applied to Upper Llagas Creek Claim #168 as opposed to claim #167. This was acknowledged by the auditor on the email dated May 2, 2022.

The costs mentioned above are unallowable due to the lack of required DWR preapproval or supporting documentation. Prior to March 2020, Department of Water Resources (DWR) was processing reimbursements without pre-approval which resulted in overpayments.

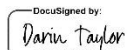
After being informed by DWR via email regarding this requirement, the district has since implemented the DWR preapproval process and will follow applicable policies and procedures to ensure that all future costs claimed for reimbursements are allowable. Valley Water's mutual goal is to prevent findings and we welcome your feedback.



According to the letter, Valley Water is owed the remaining balance of \$1,766,815 in retention.

Please contact Simon Lo, Senior Management Analyst at (408) 857-7036 or Mike Hagerty, Grants Administrator at (408) 599-9523 if you have any questions.

Regards,

DocuSigned by:

9C58A1450C2B407

Darin Taylor
Chief Financial Officer
Office of the Chief Executive Officer

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250**

<http://www.sco.ca.gov>



Santa Clara Valley Water District

File No.: 22-1171

Agenda Date: 10/19/2022

Item No.: 4.4.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

SUBJECT:

Receive an Update on the Status of the Board's On-call Management Services Agreement Requests for Proposals and Authorize Staff to Proceed to Negotiations.

RECOMMENDATION:

Receive an update on the status of the Board's On-call Management Services Agreement Requests for Proposals and authorize staff to proceed to negotiations.

SUMMARY:

At the August 19, 2020, Board Audit Committee (BAC) meeting, the BAC requested that staff develop a plan to bring on additional Board auditors by implementing an On-call Master Services agreement.

At the October 21, 2020, BAC meeting, the BAC requested that staff proceed with an On-call Master Services Agreement Request for Proposal (OMSA RFP) for additional auditors to complement the Chief Audit Executive (CAE), currently held by Sjoberg Evashenk Consulting, Inc.

On January 26, 2021, the Board of Directors (Board) directed staff to initiate a procurement process to enter into an On-call Management Services Agreement. The selected firm(s) would assist the CAE in accomplishing the objectives of the Board's annual audit work plan.

The initial Board's OMSA RFP was published on February 9th, 2021. Proposals were received and interviews were conducted, but the RFP effort was cancelled in December 2021 in order to update evaluation criteria. The revised criteria were incorporated into a new RFP, and a new RFP effort began in March 2022.

The current Board's OMSA RFP was published on June 13, 2022. Two proposals were received on August 2nd, 2022, and after a process of written proposal review and oral interviews, staff has ranked the firms for purposes of moving forward to the negotiation phase.

The firm(s) that were evaluated provided client references that demonstrated the firms experience with governmental/non-profit agencies, as well as experience working with public utilities and/or water agencies of similar size and/or complexity to Valley Water. Both firms have some past experience working with Valley Water, while one of the firms has more California agency experience than the other.

Evaluation of the oral presentations revealed that the firm(s) proposed team(s) had at least 5 years of experience or more in their respective areas of expertise. The senior positions on the team had at least 10 years of experience, but in most cases it was more. The firm(s) also demonstrated their flexibility and willingness to adjust work plans on the fly in order to adapt to any changing needs.

Given the pace at which Board directed audit work is expected to proceed in the near future (2 to 3 audits per year) staff recommends that the BAC add 1 on-call auditor to complement the Chief Audit Executive. If the BAC agrees with this recommendation, staff will negotiate with the top 2 firms in the order of their evaluation ranking to achieve that goal.

ATTACHMENTS:

None

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068



Santa Clara Valley Water District

File No.: 22-1172

Agenda Date: 10/19/2022

Item No.: 4.5.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

SUBJECT:

Discuss the 2022-2024 Annual Audit Work Plan.

RECOMMENDATION:

Discuss the 2022-2024 Annual Audit Work Plan.

SUMMARY:

On January 11, 2022, the proposed 2022-2024 Annual Audit Work Plan (Attachment 1) was approved by the Board. At its January 19th meeting the Board Audit Committee (BAC) identified the top 3 areas of interest to be audited in 2022: 1) ID #1, CIP Process; 2) ID #3, Emergency Response; and 3) ID #6, Data Management.

At its April 20th meeting, the BAC authorized staff to seek approval from the full Board to initiate the CIP Process Audit as the first audit for 2022, and to authorize Sjoberg Evashenk Consulting, Inc. to conduct the audit.

At its May 24th, 2022, meeting, Valley Water's Board of Directors authorized staff to proceed with the CIP Process Audit, and authorized Sjoberg Evashenk Consulting, Inc. to conduct the audit.

For this item, the BAC is requested to identify any potential changes to the Annual Audit Work Plan to recommend to the Board for approval.

ATTACHMENTS:

Attachment 1: 2022-2024 Annual Audit Work Plan

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068

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TAPInternational

FY 2022-2024 Annual Audit Work Plan

November 10, 2021

Final

ANNUAL AUDIT WORK PLAN

The Audit Work Plan serves as a tool for communicating audit priorities as determined by the Santa Clara Valley Water District's Board Audit Committee (BAC) and Board of Directors. The selection of audits for formal review and approval by the Board of Directors is an important responsibility of the Audit Committee.

Audits are an important oversight tool because they provide independent and fact-based information to management and elected officials. Those charged with governance and oversight can use the information to improve program performance and operations, reduce costs, facilitate decision making.

Audits can:

- Verify that programs, services, and operations are working based on your understanding.
- Assess efficiency and effectiveness.
- Identify the root cause or problems.
- Assess the progress of prior audit recommendations.
- Identify the impact of changes
- Identify leading practices.
- Assess regulatory compliance.
- Develop policy options.
- Assess the accuracy of financial information reported.

The types of audits that can be conducted include:

- Internal audits: Internal audits review the environment, information, and activities that are designed to provide proper accountability over District operations.
- Compliance audits: Compliance audits review adherence to policies and procedures, state regulatory requirements, and/or federal regulatory requirements.
- Performance audits (impact or prospective audits): Performance audits review the economy, efficiency, and effectiveness of Valley Water programs, services, and operations.
- Desk reviews: Small and quick audits.
- Follow up audits: Follow up audits assess the implementation status of recommendations included in prior audit reports.
- Best practices reviews: Compares current operations to best practices.

This proposed audit work plan is divided into sections. Section A describes anticipated ongoing support services to be provided by the independent auditor as well as other quality assurance activities planned by Valley Water's executive management. Section B describes the audits planned for implementation by the Independent Auditor.

SECTION A

ONGOING SUPPORT SERVICES AND SPECIAL PROJECTS

The following table lists non-audit services and special projects for the FY 2022 to 2024 audit work plan:

Project/Responsible Party	Scope	FY 2022 Planned Hours	FY 2023 Planned Hours	FY 2024 Planned Hours
Board of Director & Board Audit Committee Requests for Information/ Independent Auditor	Ongoing. Should the Board of Directors request information on activities implemented by other public agencies or on other matters of interests applicable to enhancing the efficiency and effectiveness of operations, the independent auditor will collect and summarize information.	80	80	80
Audit Training/ Independent Auditor	Annual. The Board Audit Committee Charter describes a requirement to provide audit training to Board Audit Committee members at least annually.	2	2	2
Support Services/ Independent Auditor	Ongoing. Provide support services to Board Directors and Valley Water staff applicable to specific initiatives or planning projects to prevent potential service delivery risks.	40	40	40
QEMS/Valley Water Continual Quality Improvement Unit	Ongoing. Provide services to ensure proper oversight and accountability.	As needed	As needed	As needed

Management Reviews/Valley Water Management	Ongoing. Valley Water's Chief Executive Officer ,as needed, will initiate internal quality assurance reviews of business practices and operations. These reviews are to be shared with the audit committee.	As needed	As needed	As needed
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SECTION B

AUDIT SERVICES – INDEPENDENT AND ON-CALL AUDITORS

Labor Summary

Project/Responsible Party	Scope	FY 2022 Planned Hours	FY 2023 Planned Hours	FY 2024 Planned Hours
Independent and On-Call Auditors	Audits and Follow-up Audits Based on the Audit Work Plan	TBD	TBD	TBD

Recommended Audits

The Board Audit Committee will select and recommend audits described below for approval by the Board of Directors.

ID	Risk Area(s)	Risk Factor	Audit Topic	Type of Audit	Suggested Audit Objectives
1	CIP Planning Process Financial Management	<input checked="" type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	CIP Planning Process	Cross-Functional Performance Audit	<ol style="list-style-type: none"> Are there opportunities to improve the capital improvement project planning process (project initiation to CIP plan approval)? To what extent can early participation of Valley Water support units (environmental planning, permitting, purchasing, warehousing) on large capital projects prevent project delays and reduce cost overruns? Can the Capital Improvement Plan be better right sized that considers the Agency's funding and staffing levels?
2	Inventory Control	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Inventory Management	Cross-Functional Performance Audit	<ol style="list-style-type: none"> Does Valley Water effectively manage, account for and record inventory across the agency? What resources (e.g., staffing, systems, facilities) and business processes (communication and coordination) are necessary to meet current and future needs including centralizing inventory management?
3	Emergency Response Emergency Detection Emergency Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Program Monitoring	Cross-Functional Performance Audit	<ol style="list-style-type: none"> To what extent do the emergency management plans variously established by Valley Water contain gaps and activities to ensure proper prevention, detection, response, and recovery activities? Do gaps exist in surveillance and detection of potential problems across Valley Water's infrastructure?

					<ol style="list-style-type: none"> 3. To what extent is the virtual Emergency Operations Center aligned with FEMA best practices? 4. Are there lessons learned from past emergencies to prevent disruptions to regular operations while providing additional manpower and resources to respond to emergencies?
4	Emergency Cost Recovery Data Management & Accuracy	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Financial Management	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. To what extent has Valley Water been able to claim the full reimbursement of costs for eligible expenses from FEMA? 2. Are business practices aligned with federal and state aid requirements for emergency cost reimbursement? To what extent are information systems and other business processes configured to capture information needed for cost reporting and recovery?
5	Financial Oversight Purchasing and Contracting Processes	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Financial Management	Performance Audit	<ol style="list-style-type: none"> 1. To what extent do Valley Water procurement programs for low dollar purchases (i.e., P-Cards, & Standing Orders) comply with established policies and procurement limits? 2. Are added policies and procedures needed to control spending and prevent work arounds to formal competitive bids?
6	Data Management Data Integrity Data Accuracy	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Business Process	Cross Functional Performance Audit	<ol style="list-style-type: none"> 1. To what extent does Valley Water use multiple data stores for the same information?
7	Plan Implementation Plan Monitoring	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Organizational Culture	Culture Audit	<ol style="list-style-type: none"> 1. How has Valley Water's organizational culture impacted implementation of plan established across the agency? 2. To what extent does Valley Water demonstrate and practice common cultural characteristics including:

- a) Defining organization's values and proactively emphasize and model those values.
- b) Ensuring strategies are consistent with the values and holding management accountable.
- c) Executing their duties within the organization's risk appetite.
- d) Management reinforces the values and culture through clear communication of expectations across the organization.
- e) Management actively gathers and listens to feedback.
- f) All levels are open to constructive criticism and problem solving through methods including information obtained from second- and third-line functions via inputs such as well-received and acknowledged employee suggestion/question program, ethics hotlines, open door policies, employees' events, and meetings, and more.
- g) All employees (to the extent possible) are engaged in objective setting and strategy discussions.

8	Grant Management Financial Management Coord. & Comm. Financial Oversight <u>Data Accuracy</u>	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Grant Reimbursement	Performance Audit	1. Can Valley Water's process for tracking labor and expense activities on state grants awarded to Valley Water benefit from updating? 2. How timely are claims for reimbursement submitted to awarding state agencies? 3. What circumstances have contributed to lost opportunities
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					for reimbursement by awarding state agencies?
9	Plan Monitoring	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Human Resources Management	Cross-Functional Performance Audit	1. What progress has been made in implementing existing workforce development and succession planning plans? 2. What evidenced-based factors have been significant in facilitating the hiring of technical and operational staff? 3. To what extent have position descriptions and classification evolved to ensure that Valley Water has the technical capability to meet future demands to solve complex problems in an agile and creative manner?
10	Aging Infrastructure Detection Aging Infrastructure Monitoring	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Asset Management	Cross-Functional Performance Audit	1. To what extent do Valley Water divisions and units ensure compliance to specification standards to prevent substandard replacements of parts, equipment, and capital assets? 2. Is Valley Water adequately meeting the needs of equipment maintenance?
11	Data Accuracy	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Unmetered Groundwater Measurement	Desk Review	1. Is the methodology supporting unmetered groundwater usage measurement valid and include all applicable methodological assumptions?
12	CIP Planning Process Financial Management	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Capital Project Budgeting	Performance Audit	1. Are there areas of Valley Water's capital project budgeting practices that can benefit from adopting best practices?
13	IT Security Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	SCADA	Performance Audit	1. What is the status of implementation of prior audit recommendations? 2. Will the recommendations as implemented by Valley Water accomplish intended goals and objectives?

					3. Are changes needed in the frequency of communications to the Board on the progress and status of cybersecurity and other IT needs?
14	Plan Monitoring Management Plan Implementation	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Strategy Development and Implementation	Cross-Functional Performance Audit	1. To what extent are management plans underway or completed across Valley Water? 2. To what extent do the plans need a completion date or require updating? 3. Are strategy and management plans developed across the Agency right sized to the divisions and/or units' staffing levels and workloads? 4. What progress has Valley Water made in implementing management plans to manage risks?
15	Program Monitoring Governance Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Homelessness Programs	Performance Audit	1. To what extent has Valley Water implemented its homelessness plan? 2. Can other cost-effective strategies implemented in other jurisdictions to prevent the creation and establishment of homeless encampments on Valley Water property? 3. How can Valley Water enhance its homelessness encampment clean-up activities to ensure the protection of health and safety of employees?
16	Grant Management	<input checked="" type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Financial Management	Follow-Up Audit	1. Have improvements occurred in the timeliness of grant reimbursements? 2. To what extent has the grant management and administration implemented prior audit recommendations? 3. What improvements in program outcomes have occurred in the timeliness of grant application review, reimbursement, and accomplishment of deliverables?

17	Program Monitoring Management	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Encroachment Program	Performance Audit	1. Is Valley Water implementing its encroachment licensing program consistent with the Board's guiding principles?
18	Data Management Data Accuracy	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Business Process	Cross Functional Performance Audit	1. To what extent have Valley Water units established business processes to ensure accurate data collection and input? 2. What gaps remain in automating data collection and input?
19	Operations	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Risk Management	Performance Audit	1. What are the advantages and disadvantages of realigning business functions (i.e., all risk management activities, workers compensation administration, and claim administration)? 2. Can risk management business processes benefit from updating? (i.e., overall operations, data management, contract claims, workers compensation, small claims, claims administration and management, workers compensation administration, and all risk management activities, including insurance & self-insurance.
20	Emergency Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Peer Review	Best Practices Review	1. Can regulatory permitting practices administered by other utilities districts help reduce barriers and other challenges experienced by Valley Water?
21	IT Project Management & Communication Data Accuracy	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	System Implementation	Post IT Implementation Audit	1. Has the current large ERP project implementation produced the desired functionality? 2. To what extent have all contract deliverables been met? 3. To what extent have data quality issues surfaced post-implementation? 4. What lessons learned can apply to future information system implementations?

22	Emergency Response Emergency Management	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Procurement	Performance Audit	<ol style="list-style-type: none"> 1. Have Valley Water's procurement policies been flexible and agile to effectively and timely respond to and recover from past emergencies? 2. Are other procurement and operational activities needed to ensure prompt and reliable emergency services?
23	Environmental Sustainability Framework Development Program Monitoring Governance	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Program Measurement & Evaluation	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. What level of success has Valley Water's environmental stewardship activities had on preventing environmental damage and promoting environmental sustainability? 2. To what extent has Valley Water adopted sustainability indicators on specific projects to measure progress? 3. To what extent has Valley Water adopted sustainability indicators in its decision-making?
24	Program Monitoring Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Program Outcomes Business Process	Performance Audit	<ol style="list-style-type: none"> 1. To what extent has Valley Water mitigated the environmental hazards caused by non-use of the percolator ponds? 2. In a non-drought year, are barriers present that prevent Valley Water from filling percolator ponds? 3. What processes need development to prevent expiration of groundwater charge permits?
25	Financial Management Coord. & Comm. Financial Oversight	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input type="checkbox"/> Operational	Capital projects	Desk Review	<ol style="list-style-type: none"> 1. What potential financial risks could occur on the California WaterFix project?
26	CIP Monitoring	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Capital Project Evaluation and Monitoring	Cross-Functional Performance Audit	<ol style="list-style-type: none"> 1. Have completed capital projects met their intended goals? 2. To what extent does Valley Water include performance measures to measure success and monitor financial management?

					Are there lessons learned that can be adopted in future capital project plans to ensure goal accomplishments as well as implementation of alternative strategies to facilitate early communication to the Board of Directors of potential and actual problems, and to predict success such as performing cost vs. benefit analysis?
27	IT Security Management	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	IT Risk Management	Desk review	1. To what extent is IT risk management activities aligned with best practices, such as National Institute of Standards and Technology (NIST) guidance, including whether acceptable risk appetites and risk tolerances have been formally documented and approved by the Board of Directors?
28	Purchasing and Contracting Processes	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Financial Oversight	Desk Review	1. Can Valley Water benefit from updating its qualifications and experience criteria to include in future competitive bids for external financial audit services?
29	IT Strategic Planning Emergency Management	<input type="checkbox"/> Financial <input checked="" type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Disaster Planning	Performance Audit	1. Does Valley Water's prioritization for systems and data recovery meet the agency's needs for sustained business continuity? 2. To what extent does Valley Water's process for determining the prioritization of systems and data recovery adhere to best practices (ex. NIST)?
30	Plan Development Plan Implementation Plan Monitoring	<input type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Decision-Making	Cross-Functional Performance Audit	1. What lessons has Valley Water learned from its ad hoc cross-functional efforts to proactively address current or emerging risks?
31	Financial Oversight	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Reputational <input checked="" type="checkbox"/> Operational	Outsourcing of Legal Services	Desk Review	1. How have changes occurred in District Counsel Office spending

for contracting external legal services?

2. To what extent are the nature of services provided by contracted legal firms presently outside of the District Counsel Office's expertise?
 3. Can expanding outsourced legal services prevent project delivery delays?
-

SECTION C

AUDIT SERVICES – VALLEY WATER RESPONSIBILITY

QEMS ACTIVITIES

Under development

COMPLIANCE AND FINANCIAL AUDITS

FINANCIAL AUDITS
Financial Audits
Treasurer's Report
Appropriation's Limit
Compensation and Benefit Compliance (odd years)
Travel Expenses Reimbursement (even years)
Single Audit (if applicable)
WUE Fund Audit



Santa Clara Valley Water District

File No.: 22-1173

Agenda Date: 10/19/2022

Item No.: 4.6.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

SUBJECT:

Review and Discuss the 2022 Board Audit Committee (BAC) Work Plan.

RECOMMENDATION:

Review and Discuss topics of interest raised at prior BAC meetings and make any necessary adjustments to the BAC Work Plan.

SUMMARY:

Per the BAC's Charter, Article III, Paragraph 6.2, The Committee shall, in coordination with Valley Water's Clerk of the Board, develop a proposed Annual Work Plan. Items shall be included in the Annual Work Plan based upon a majority vote of the Committee.

Under direction of the Clerk, Work Plans are used by all Board Committees to increase Committee efficiency, provide increased public notice of intended Committee discussions, and enable improved follow-up by staff. Work Plans are dynamic documents managed by Committee Chairs and are subject to change. Committee Work Plans also serve as Annual Committee Accomplishments Reports.

Looking forward, the topics of discussion identified for the November BAC Meeting can be summarized as follows:

1. 2022 BAC Work Plan
2. 2022-2024 Annual Audit Work Plan
3. Review Draft Audited Financial Statements
4. Receive and Discuss Status Updates on the 2020 Real Estate Audit
5. Receive and Discuss Status Updates on the 2020 SCW Program Grants Management
6. Receive and Discuss Status Updates on the 2014 Transparency Compliance Audit

Attachment 1 is the updated 2022 BAC Work Plan. Upon review, the BAC may make changes to be incorporated into the next revision.

ATTACHMENTS:

Attachment 1: 2022 BAC Work Plan

File No.: 22-1173

Agenda Date: 10/19/2022
Item No.: 4.6.

UNCLASSIFIED MANAGER:
Darin Taylor, 408-630-3068

BOARD AUDIT COMMITTEE 2022 WORKPLAN														
Item #	ACTIVITY/SUBJECT	Q1			Q2			Q3			Q4			NOTES/RECOMMENDATIONS
		19-Jan	16-Feb	16-Mar	20-Apr	23-May	6-Jul	Cancelled	31-Aug	29-Sep	19-Oct	16-Nov	21-Dec	
	Board Audit Committee Meeting Dates													
	Number of Agenda Items per Meeting Date	8	10	4	5	8	3	2	8	5	6	7	3	Note: For informational purposes only. This value excludes Item 12 because that items is prepared by the Committee Clerk, not the CI Team, and is for the Full Board, not just the BAC.
	Meeting Dates	•	•	•	•	•	•	•	•	•	•	•	•	Note: The BAC approved a regular meeting schedule for 2022, to meet monthly, on the third Wednesdays at 2:00 p.m.
	Board Audit Committee Management													
1	Election of 2022 BAC Chair and Vice Chair		•											Recommendation: Nominate and elect the 2022 Board Audit Committee Chair and Vice Chair.
2	Board Audit Committee Audit Charter		•											Recommendation: Propose modifications to the Board Audit Committee Audit Charter to be presented to the full Board.
3	Review and Update 2022 BAC Work Plan	•	•	•	•	•	•	•	•	•	•	•	•	Recommendation: A. Review and Discuss topics of interest raised at prior Board Audit Committee Meetings and make any necessary adjustments to the Board Audit Committee Work Plan; and B. Approve the updated 2022 Board Audit Committee Work Plan.
4	Discuss Scope of Annual Audit Training from Board Independent Auditor					•	•							Recommendation: Discuss scope of Annual Audit Training from Board Independent Auditor.
5	Receive Annual Audit Training from Board Independent Auditor								•					Recommendation: Receive Annual Audit Training from Board Independent Auditor. Notes: Actual Training will be scheduled by Board Scheduler and provided to CI Team (will not be conducted during regular mtg.)
6	Conduct Annual Self-Evaluation	•		•	•									Recommendation: A. Conduct Annual Self-Evaluation; and B. Discuss the Results of the Annual Self-Evaluation; and C. Prepare Formal Report to provide to the full Board. Note: Jan = Discuss the Eval and provide forms; Feb = Discuss the results of the Eval; Mar = Provide a Summary Report of Evals; Apr = Present Eval Results to Full Board (Note that in 2022 efforts for March & April were delayed by a month)
7	Discuss Chief Audit Executive (CAE) Final Contract Close-out Report from TAP International, Inc. (Jan 2022) Receive and Discuss CAE Activity Report to Evaluate Auditor Performance (Starting in Jan 2023)	•												Recommendation for 2022: Receive Final Contract Close-out Report from TAP International, Inc. Recommendation for 2023: Receive and discuss CAE Activity Report from Sjoberg Evashenk to evaluate CAE Performance.

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BOARD AUDIT COMMITTEE 2022 WORKPLAN

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		19-Jan	16-Feb	16-Mar	20-Apr	23-May	6-Jul	Cancelled	31-Aug	29-Sep	19-Oct	16-Nov	21-Dec	
8	Discuss Extension or Termination of Board Chief Audit Executive (CAE) Contract for Board Independent Auditing Services Prior to Expiration of the Agreement around December 2024													<p>Recommendation:</p> <p>A. Discuss option to extend Board Independent Auditor Contract with TAP International, Inc. for Board Independent Auditing Services currently scheduled to expire effective June 30, 2022; and</p> <p>B. Approve recommendation to the full Board to: 1. Allow the expiration of the Board Independent Auditor Contract with TAP International; or 2. Exercise option to extend Board Independent Auditor Contract with TAP International, Inc.</p> <p>Note:</p> <p>Agreement effective date was 12/27/21 or 1/1/22.</p>
9	Chief Audit Executive - Request for Proposal: Review Panel (Apr 2024)													<p>Note:</p> <p>Review Panel for the role of the Chief Board Auditor will be the BAC members</p>
10	Tri-annual Risk Assessment (CY 2024)													<p>Recommendation:</p> <p>Discuss the scope of work for the 2024 Risk Assessment.</p> <p>Note:</p> <p>Initiate discussions in February 2024; Deliverable due by September 2024</p>
Board Audit Committee Special Requests														
11	External Financial Auditor Meeting with Individual Board members													<p>Note: Schedule as needed.</p>
12	Provide BAC Summary Report to full Board	•	•	•	•	•	•	•	•	•	•	•	•	<p>Note: Report to be provided to Board in non-agenda the month after each BAC meeting, or as part of the Board Committee Reports, prepared by Committee Clerk</p>
13	Risk Management Organization				•						•			<p>Note: In October 2021 The BAC suggested pushing discussion on this topic out a few months to allow new District Counsel time to ascertain effectiveness of current organizational structure (assume April 2022).</p> <p>Recommendation:</p> <p>Review and discuss Risk Management Organization.</p>
14	Financial Auditor Selection Parameters	•	•											<p>Recommendation: Discuss prior to the selection of the next financial auditor</p> <p>Note: Next procurement scheduled for January 2022.</p>
Management and Third Party Audits														

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15	Review Draft Audited Financial Statements											•		<u>Recommendation:</u> A. Review draft Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022; and B. Direct staff to have Financial Auditor to contact Board Members and present, if necessary. Note: This is a Nov. agenda item
16	Audit Report of the Water Utility Enterprise Funds for the Fiscal Year								•					<u>Recommendation:</u> Receive and Discuss the Audit Report of the Water Utility Enterprise Funds for the Fiscal Year.
17	Receive QEMS Annual Internal Audit Report								•					<u>Recommendation:</u> Receive information regarding the Quality and Environmental Management System.
18	Audit Recommendations Implementation Status	•				•							•	<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations. <u>Note:</u> This is a December/June item; January 2022 item was delayed from Dec 2021; April May 2022 return to BAC to provide missing updates from Jan. 2022; Return to the BAC every 6 months - Jan. & May 2022 and then Dec. & Jun. thereafter
Board Independent Auditor - Sjoberg Evashenk Items														
19	Review and Update Annual Audit Work Plan	•	•	•	•	•	•	•	•	•	•	•	•	<u>Recommendation:</u> Discuss the Annual Audit Work Plan and update, if necessary.
	Audit - 2019 Contract Change Order Audit													
20	Recommendation Implementation Status (Annual Rpt. in August; Target Completion = TBD)									•				<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations.
	Audit - 2020 District Counsel Audit													
21	Recommendation Implementation Status (Annual Rpt. in January; Target Completion = TBD)		•											<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations. <u>Note:</u> This is a January item; February 2022 item was delayed from January
	Audit - 2020 Real Estate Audit													
22	Recommendation Implementation Status (Annual Rpt. in November; Target Completion = TBD)											•		<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations.
	Audit - 2020 SCW Program Grants Management													

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23	Recommendation Implementation Status (Semi-Annual Rpt. in March and September; Target Completion = June 30,2023)					•						•		<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations. <u>Note:</u> Updates in 2022 slipped by 2 mos.
Audit - 2021 Permitting Best Practices														
24	Recommendation Implementation Status (Annual Rpt. in May; Target Completion = TBD)					•								<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations.
Pacheco Reservoir Expansion Investigation														
25	Review Pacheco Project Investigation Progress Report		•											<u>Recommendation:</u> Receive an update on the status of the on-going investigation. <u>Note:</u> Work with District Counsel on this item
Audit - To Be Determined														
26	Receive notification of initiated Audit													<u>Note:</u> Audit Objectives - What is the objective of this audit?
27	Review Audit Progress Report													<u>Recommendation:</u> Receive an update on the status of the on-going audit.
28	Review Audit Draft Report Presentation													<u>Recommendation:</u> Receive and discuss the Final Draft Audit Report.
29	Review Management's Response to Audit Final Draft Report													<u>Recommendation:</u> A. Receive and discuss the Management Response to the Final Draft Audit Report; and B. Authorize staff work with the CAE to finalize the Audit Report and present it to the Board of Directors.
Management Audits - PMA, MGO, and 3rd Party Items														
Audit - 2014 Transparency Compliance Audit														
30	Recommendation Implementation Status (Annual Rpt. in November; Target Completion = TBD)											•		<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations.
Audit - 2015 Mitigation and Monitoring Compliance Audit														
31	Recommendation Implementation Status (Annual Rpt. in January; Target Completion = TBD)		•											<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations.
Audit - 2015 Consultant Contracts Audit														
32	Status Update on the Implementation of Recommendations from the 2015 Consultant Contracts Management Process Audit Conducted by Navigant Consulting, Inc. and the Consultant Contracts Improvement Process.		•								•			<u>Note:</u> Staff CAS update every 6 months. <u>Recommendation:</u> Receive and discuss a status update on the implementation of the recommendations made by Navigant in the 2015 Consultant Contracts Management Process Audit and on the Consultant Contracts Improvement Process.

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	Audit - 2019 Lower Silver Creek Audit													
33	Recommendation Implementation Status (Semi Annual Rpt. in February; Delayed to September)									•				<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations.
	Audit - 2022 Human Resources Audit													
34	HR Audit Report - Review and Comment regarding Management's Response	•												<u>Recommendation:</u> Receive and discuss a status update on the implementation of audit recommendations.
	2022 QEMS Improvements Implementation													
35	Recommendation Implementation Status (Annual Rpt. in August)								•					<u>Recommendation:</u> Receive and discuss a status update on the opportunities for improvement.
	2022 Upr Guad/Llagas Subvention Audit													
36	Recommendation Implementation Status (Annual Rpt. in August)										•			<u>Recommendation:</u> Receive and discuss a status update on the opportunities for improvement.
Miscellaneous BAC Work Plan Items														
37	Financial Status - Quarterly Update		•			•						•		<u>Note:</u> suggested frequency is as follows: February for mid-year review; May for Q3 review; September for unaudited close (didn't happen in 2022); November for Q1 review
38	Financial Audit - Periodic Update								•					Schedule as needed <u>Recommendation:</u> Discuss the Financial Audit
38	SBCCC Partnership Grant Issue	•		•	•	•								Added per Darin's comments at the 12/15/21 BAC Meeting Recommendation: Receive and Discuss the SBCCC Partnership Grant Issue
39	BAC Audit Recommendation Status Report Format & Content								•					Added per BAC Chair request on 5/23 to return to BAC to discuss how to include content that clarifies the status of the effort and how far we have until completion Recommendation: Discuss the format and content of the status report to make it more meaningful
40	PMIS (Projectmates) - How does this application resolve many of the audit recommendations?									•				Added per BAC Chair request on 5/23 to return to BAC to discuss how the Projectmates application will resolve a lot of the open audit recommendations Recommendation: Receive information about Projectmates

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41	Board's Auditor Pool RFP Status Update										•			Schedule as needed <u>Recommendation:</u> Receive a status update regarding the Request for Proposal (RFP) for Board Auditing Services

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