

Missouri Department of Natural Resources

Final Audit Finding Resolutions Region T-Solid Waste Management District July 1, 2005 – June 30, 2007

1. Sunshine Law Compliance

Auditor Recommendation:

We recommend that the District be required to immediately adopt all required forms of documentation as stipulated by the Missouri Sunshine Law.

District Response:

The District stated, “None of the minutes for the last year of the audit (FY07) had any problems noted. All alleged problems were in the previous year.”

SWMP Response:

We concur with the auditor’s recommendation. The SWMP has received numerous calls from the general public and legislators concerning the District’s failure to comply with the Missouri Sunshine Law. The majority, if not all, of the board members of Region T are elected county officials or city government employees, and should be aware of the Missouri Sunshine Law (Chapter 610, Governmental Bodies and Records) and its requirements for open records.

Actions taken by the District to date have not corrected the areas of noncompliance. The auditor identified the following from the last year of the audit (FY07):

- Notice of meeting did not indicate whether the meeting was open or closed to the public (3 occurrences). These meetings were held on 2/15/07, 4/12/07, and 7/26/07.
- The time of the meeting was not included in the minutes. One meeting was held on 2/15/07.
- Place of the meeting was not indicated in the minutes. These meetings were held on 9/15/07 and 7/26/07.
- Votes cast as to yes or nay were not listed by member. These meetings were held on 2/15/07, 4/12/07, and 7/26/07.

It is in the best interest of Region T to be in compliance with the requirements of Chapter 610 and to timely respond to requests for public information. Failure to comply with the Sunshine Law may result in penalties. If the court finds, by a preponderance of evidence, that the public body or a member of the public body has knowingly violated the Sunshine Law, the court:

- Shall subject the member or body to a civil fine of up to \$1,000; and

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- May order the member or body to pay all costs and reasonable attorney fees to any party successfully establishing a violation.

If the court finds, by a preponderance of evidence, that the public body or member has purposely violated the Sunshine Law, the court shall:

- Subject the member or body to a civil fine of up to \$5,000; and
- Order the member or body to pay all court costs and reasonable attorney fees.

SWMP Recommendations:

While the District has indicated the recommendation has been implemented and the issues have been addressed, the auditor reported continued areas of noncompliance. Please document the following actions by the District to resolve Finding #1:

- a. The Executive Board should review and make amendments to the District's written policies and related procedures to ensure all Executive Board meeting minutes include the following:
 - i. notice of meeting given within required timeframe;
 - ii. notice of meeting includes whether the meeting is open or closed to the public;
 - iii. the time of the meeting is included in the minutes;
 - iv. the place the meeting was held is included in the minutes;
 - v. members absent from the meeting is included in the minutes;
 - vi. votes cast as to yes or nay listed by member; and
 - vii. as a good business practice, ensure the minutes are reviewed and approved by the Executive Board and appropriately signed and dated by a member of the Executive Board, upon approval;
- b. Any modifications made to the District's policies and procedures should be in writing and approved by the board and documented within the District's signed meeting minutes. Copies of the policies and procedures as well as the signed meeting minutes documenting Executive Board approval should be submitted to the SWMP; and
- c. Beginning July 1, 2008 and continuing through June 30, 2009, signed and approved copies of the Region T's board meeting minutes must be submitted along with the District's quarterly status reports to verify compliance with the Sunshine Law requirements.

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2. Frequency of Meetings

Auditor Recommendation:

We recommend that the Council and Executive Board be required to hold meetings as stipulated by state statute and District by-laws.

District Response:

The District stated, “Meetings were not held as frequently in 2006 because the District’s activities in monetary disbursements were frozen while relatively minor findings in a State Auditor’s report were resolved to the satisfaction of the Department of Natural Resources.”

SWMP Response:

We concur with the auditor’s recommendation related to the need to hold meetings as stipulated by state statute and the District’s by-laws. The District’s Council and specifically, the Executive Board is responsible for ensuring compliance with the Solid Waste Management Law, implementing regulations found at 10 CSR 80-9.050, Solid Waste Management Fund – District Grants.

The Executive Board is responsible for compliance with the department’s reporting requirements, pursuant to 10 CSR80-9.050 and maintaining an accounting system according to generally accepted accounting principles that accurately reflects all fiscal transactions, incorporates appropriate controls and safeguards, and provides clear references to the project as agreed to in the Financial Assistance Agreement. The District’s accounting records are required to be supported by source documentation such as cancelled checks, paid bills, payrolls, time and attendance records, contracts, and agreement award documents. Further, the Executive Board is responsible for ensuring 15% of funds from the grant award is retained until the Executive Board gives approval to the grantee’s final report and the final accounting of project expenditures.

The SWMP disagrees with the District that the State Auditor’s report findings were relatively minor as indicated in the above District Response. The use of public funds necessitates that accounting and internal controls are adequate to safeguard those assets entrusted to the SWMP and allocated to the Districts.

The State Auditor’s report noted the following areas requiring District action:

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- District T, has funds encumbered for grants awarded as far back as 1996. This District has also approved new grants for educational and dump clean-up programs, while grant monies awarded in previous years for the same purposes have not yet been spent. Regulation 10 CSR 80-9.050(5) indicates that any District grant funds not spent within 24 months of the grant award date may be reallocated by the DNR.
- Regulation 10 CSR 80-9.050(4)(C) states, "The Executive Board shall retain fifteen percent (15 percent) of the funds from the recipient until the board gives approval to the recipient's final report and the final accounting of project expenditures." Three of the four Districts reviewed did not always comply with this regulation. Of the grants reviewed in 2 of 5 or 40 percent for District T did not comply.
- In District T, grant reimbursements were made for expenses that were not related to the purpose of grants. The District awarded \$18,000 each year for the three years ended June 30, 2005, for the purpose of locating and cleaning up illegal dumping sites. Over these three years, only \$4,641 was spent of the \$54,000 made available, and this entire amount of \$4,641 was paid to a District board member for mileage reimbursement and wages. The board member's time and mileage records indicate that only \$626 was paid to him for the purpose of illegal dump clean-up, and the remaining \$4,015 was paid to him for administrative activities, including time and mileage to drive to the District office and sign District checks. Program Special Terms and Conditions, Attachment 2, Section 10, states, "Any funds awarded to a District which are not expended (or encumbered) for the purpose for which the funds were awarded, will be repaid by the District to the Missouri Department of Natural Resources, Solid Waste Management Program for deposit into the Solid Waste Management Fund."
- Three of the four Districts we reviewed reimbursed subgrantees for grant expenses even though quarterly reports were not filed on a timely basis. Of the grants reviewed, 4 of 5 (80 percent) for District T included payments to subgrantees prior to or without receiving quarterly reports. The Program Guidance Document and Regulation 10 CSR 80-9.050(5)(B), requires the submission of quarterly reports within 30 days of the end of the quarter before additional funds can be distributed to subgrantees.
- Of the four Districts reviewed, Districts F and T did not maintain listings of capital assets purchased with grant monies. DNR's General Terms and Conditions Section J, applicable to solid waste District grants, states, "Property records must be maintained that include a description of the equipment, a serial number or other identification number, the sources of the property, percentage of federal participation in the cost of the property, the location, use and condition of the property." Capital asset listings are needed to ensure assets purchased with District grant monies are being used and maintained according to grant agreements.

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- Physical inventories of capital assets were not performed by three of the four Districts reviewed, Districts F, M, and T. DNR General Terms and Conditions, Section J (2) states, "A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property." Physical inventories are necessary to ensure all capital assets are properly accounted for and to ensure the asset listings are accurate and complete.

The SWMP anticipated the Executive Board of Region T would have been meeting in compliance with statute and their by-laws, if not more frequently, to timely address those areas of noncompliance and internal control weakness identified in the State Auditor's Report 2006-10 that resulted in funds being withheld until action was taken by the District.

SWMP Recommendations:

The SWMP recommends the District take the following actions to resolve Finding #2:

- a. The Executive Board should review and make amendments, if needed, to the District's by-laws and written policies and related procedures to ensure Council and Executive Board meetings occur in compliance with state statute and the District's by-laws;
- b. Any modifications made to the District's by-laws, policies and procedures should be in writing and approved by the Council or Executive Board and documented within the District's signed meeting minutes. Copies of the by-laws, policies and procedures as well as the signed meeting minutes documenting Council or Executive Board approval should be submitted to the SWMP; and
- c. As Council and Executive Board meetings are scheduled during the period July 1, 2008 and continuing through June 30, 2009, please provide a copy of the meeting notices to the SWMP.

3. Bank Reconciliations – Repeat Finding

Auditor Recommendation:

We recommend that the District implement procedures to ensure that bank statements and the related reconciliations to accounting records receive an independent review.

District Response:

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The District stated, “The independent review of bank statements was instituted before the audit team arrived or prepared this report.”

SWMP Response:

We concur with the auditor’s recommendation.

SWMP Recommendations:

The District has indicated the recommendation has been implemented and the issues have been addressed. Please document the following actions to resolve Finding #3:

- a. The Executive Board has reviewed and made amendments to the District’s policy and related procedure to ensure bank statements and the related reconciliations to accounting records receive an independent review;
- b. Provide copies of bank reconciliations for the period July 1, 2007 through May 1, 2008 to the SWMP as confirmation that the procedure has been implemented and is signed and dated by the reviewer; and
- c. Modifications made to the District’s policies and procedures should be in writing and approved by the Executive Board and documented within the District’s signed meeting minutes. Copies of the policies and procedures as well as the signed meeting minutes and the title and name of the independent reviewer should be provided to the SWMP.

Additionally, the SWMP recommends the following to fully resolve Finding #3:

- a. The Executive Board should periodically monitor the monthly bank reconciliation process. The Executive Board should give particular attention to a process for authorizing and approving any adjustments required to reconcile the District’s bank statements to the general ledger. The process should ensure reasons for such adjustments are adequately documented in the accounting records and are approved and included in the District’s meeting minutes, as applicable; and
- b. Modifications or the additions to the District’s policies to implement this procedure should be in writing and approved by the Executive Board and documented within the District’s signed meeting minutes with a copy provided to the SWMP.

4. District Financial Audit Not Completed

Auditor Recommendation:

We recommend that the District arrange for audits as required by state statutes and grant requirements.

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District Response:

The District stated, “Proposals were solicited from an auditing firm with no result. The District is in the process of arranging for an audit with another firm.”

SWMP Response:

We concur with the auditor’s recommendation. Solid waste management Districts are required to meet the audit requirement at 260.325, RSMo, and the Special Terms and Conditions which require an annual financial statement audit of Districts receiving \$200,000 or over per year and a biennial audit of Districts receiving less than \$200,000 per year.

SWMP Recommendations:

We understand District staff has already taken action to ensure future compliance with this requirement. Please provide documentation of the actions taken to resolve Finding #4:

- a. The Executive Board should take this opportunity to review and amend the current written policy and related procedures for timely completion and filing of the annual financial statement audit report with the SWMP or ensure that a request for a waiver is submitted in sufficient time to allow the SWMP to respond prior to the District being out of compliance;
- b. Modifications to any District policies should be in writing and approved by the Executive Board and documented within the District’s signed meeting minutes with copies provided to the SWMP; and
- c. The District has stated steps have been taken to procure an auditor to complete the District’s financial statement audit. Upon receipt and approval by the Executive Board, the District should submit the financial statement audit to the SWMP in order to come into compliance with the audit requirement.

5. Incomplete Documentation of Grant Evaluation Process

Auditor Recommendation:

We recommend the District establish written procedures for the review, ranking, and approval of proposals. At a minimum, such procedures should require evaluators to sign and date their evaluations and that the basis for a determination that a proposal is ineligible and/or incomplete be documented. Procedures should also describe the process for applicant notification when a proposal is determined to be ineligible or incomplete.

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District Response:

The District stated, “Although evaluation sheets were completed by each Executive Board member present at the Evaluation Board meeting, they were not signed or dated. All future evaluation sheets will be signed and dated.”

SWMP Response:

We concur with the auditor’s recommendation. Failure of the District to adequately document their grant evaluation practice leaves the Executive Board and District vulnerable to criticism from external reviewers, such as auditors and the public, and accusations from applicants who did not receive an award.

Maintaining adequate documentation, including signed and approved Executive Board meeting minutes, will allow the District to respond to issues or concerns raised in a timely and consistent manner. The SWMP encourages Region T to develop and implement a document retention policy to protect the District’s records of its governance and administration, as well as business records that are required to demonstrate legal compliance and to protect against allegations of wrongdoing by the organization or its directors and managers. A document retention policy should be developed to address the length of time specific types of documents must be retained, as well as when it is permissible or required to destroy specific types of documents. Examples of information that should be retained includes: date applications are received; total number of grant applications received for the grant cycle; those entities/individuals requesting and receiving packets; evaluation criteria used for award as established in the regulations and criteria that are District specific; the board members conducting the evaluation, ranking and approval process; an evaluation statement briefly explaining why the successful applicants were selected; why any applications deemed incomplete/ineligible were categorized, as such; and these documents should be signed by each individual evaluator/ranker/approver; and signed and dated copies of letters notifying unsuccessful applicants of reasons for the determination that their application was incomplete/ineligible.

SWMP Recommendations:

The SWMP recommends the District take the following actions to resolve Finding #5:

- a. The Executive Board should review and make modifications to the District’s policies and procedures related to application evaluation, ranking, approval, and notification to applicants to address the need for compliance with regulatory requirements and adequacy of record retention.

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- b. Modifications or additions should be in writing and approved by the Executive Board and documented within the District's signed meeting minutes with a copy provided to the SWMP; and
- c. For the next grant cycle, we request the District submit to SWMP, upon approval and signing by the Executive Board, a copy of the Executive Board meeting minutes for the meetings where grant awards are discussed and made as verification of the District's compliance with the evaluation procedures and copies of documentation showing any Executive Board action taken to deem applications as incomplete or ineligible including copies of letters to unsuccessful applicants. This documentation can be submitted with the next quarterly project status reports.

The amended 10 CSR 80-9.050 requires District's to have a conflict of interest policy in place. The SWMP further recommends the District take the following actions to fully resolve Finding #5:

- a. The Executive Board should review and amend or add a District Policy related to conflicts of interest including a requirement for disclosure statements by Executive Board members and staff. Further, the District's policy should include an annual update to these disclosure statements and review and approval of the statements by the Executive Board;
- b. The District should provide copies of the signed individual disclosure statements of Executive Board members and staff to SWMP by October 30, 2008, as verification of the District's compliance with this requirement; and
- c. Any modifications or the addition of a conflict of interest policy should be in writing and approved by the Executive Board and documented within the District's signed meeting minutes with a copy provided to the SWMP.

6. Quarterly Reports Not Accurate or Complete – Repeat Finding

Auditor Recommendation:

We recommend that the District implement procedures to ensure that quarterly reports include sufficient documentation on project progress and that the thirty day deadline for submitting quarterly and final reports to MDNR is achieved and properly documented.

District Response:

The District stated, "All quarterly reports submitted in 2007 have been timely and have been dated. The reports are currently filed electronically and not signed even though the preparer's name is listed. Greater detail will be added to the progress section."

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SWMP Response:

We concur with the auditor's recommendation.

SWMP Recommendations:

The SWMP recommends the District take the following actions to resolve Finding #6:

- a. The District should review and amend the current written policy and related procedures for subgrantee submission of quarterly progress reports to the District to ensure the District's reports can then be timely prepared and filed;
- b. The District should provide training to District subgrantees related to the appropriate use of grant funds and the budget amendment and reporting requirements;
- c. The District should then review and amend the written policy and related procedures for the District's filing of the quarterly reports with MDNR to ensure timely submission or requesting a waiver in sufficient time to allow the SWMP to respond prior to the District being out of compliance; and
- d. Any modifications made to the District policies should be in writing and approved by the Executive Board and documented within the District's signed meeting minutes with a copy provided to the SWMP.

7. Project Administration – Questioned Costs: \$1,756 – Repeat Finding

Auditor Recommendation:

We recommend that the District establish procedures to ensure that quarterly reports accurately present project periods and are timely submitted. We also recommend the District resolve questioned costs of \$1,756 with MDNR. Additionally, a current financial assistance agreement should be maintained for open grants.

District Response:

The District stated, "All 2007 projects were listed in quarterly reports as one year projects. The \$1,756 disbursed in 2007 was for District projects relating to open dumps and tire collection projects. Those projects were extended in July, 2007, long before the auditors arrived. The District will provide extensions, in the future, in all cases before the end of the project when the project has not been completed but is moving forward."

SWMP Response:

We concur with the auditor's recommendation.

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SWMP Recommendations:

The SWMP recommends the District take the following actions to resolve Finding #7:

- a. The District should review its current written policy and related procedures to ensure timely review and amendment, as appropriate, of Financial Assistance Agreements with subgrantees;
- b. Modifications to the District's policies and procedures should be in writing and approved by the Executive Board and documented within the District's signed meeting minutes with copies provided to the SWMP; and
- c. The District should provide a copy of all reimbursement supporting documentation submitted for grants 2004-185 and 2005-196 to allow for review and further action by SWMP related to the questioned costs.

8. Administrative Cost Allocations – Questioned Costs: \$38,722 – Repeat Finding

Auditor Recommendation:

We recommend the District implement procedures to ensure that administrative expenses claimed are properly supported in accordance with requirements as stated in OMB Circular No. A-87. Such procedures should include a time accounting system to support salaries charged to the grant. We also recommend that the District resolve the questioned cost with the MDNR.

District Response:

The District stated, "...administrative time allocations were based on estimates on time spent in previous years and staff made sure to meet the allocations each pay period. However, the system was changed beginning July 1, 2007, and invoices are now provided showing the date the work was performed, how many hours were spent doing the work, who performed the work and a description of the work done."

SWMP Response:

We concur with the auditor's recommendation. We understand from the auditor's finding this problem occurred as a result of administrative costs for salaries and related fringe benefits being allocated based on estimates of time spent by staff. The auditor stated "These estimates were not supported by time sheets or other documented analysis of time spent. Salaries and fringe benefits were also used for local match and were likewise based on estimates."

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The District should review and amend their policies and procedures to ensure that where employees work on multiple activities or cost objectives, the distribution of their salaries or wages is supported by personnel activity reports or equivalent documentation. These personnel activity reports or equivalent documentation should meet the following standards: (a) they must reflect an after the fact distribution of the actual activity of each employee, (b) they must account for the total activity for which each employee is compensated, (c) they must be prepared at least monthly and must coincide with one or more pay periods, and (d) they must be signed by the employee. Please note that budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to District grant awards but may be used for interim accounting purposes, provided that: (i) the system for establishing the estimates produces reasonable approximations of the activity actually performed; and (ii) at least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to District grant awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and (iii) the budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

SWMP Recommendations:

The SWMP recommends the District take the following actions to resolve Finding #8:

- a. The District should review its current written policy and procedures related to time reporting and supporting documentation to ensure it is adequate to prevent a recurrence of this finding;
- b. At a minimum, the policy and related procedures should be modified to include the information set forth above related to documentation to support salaries and wages charged to District funds or reported as match;
- c. Modifications to the District's policies and procedures should be in writing and approved by the Executive Board and documented within the District's signed meeting minutes with copies provided to the SWMP; and
- d. District staff will need to schedule a meeting to work with SWMP staff to resolve the questioned costs.

9. Surety Bonding – Repeat Finding

Auditor Recommendation:

We recommend the District obtain surety bond coverage for all employees and Executive Board members involved with the receipt and disbursement of District funds.

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District Response:

The District stated, “The surety bonds are now in place.”

SWMP Response:

We concur with the auditor’s recommendation.

SWMP Recommendations:

The District has indicated this finding has already been addressed. Please document the following actions to resolve Finding #9:

- a. The District has provided a copy of surety bond coverage to SWMP.
- b. The Executive Board has reviewed and amended the District’s policy and related procedure to ensure adequate surety bond coverage is maintained at all times for District staff and Executive Board members, as needed; and
- c. Modifications or the addition of District policies are required to be in writing and approved by the Executive Board and documented within the District’s signed meeting minutes with a copy provided to the SWMP.

10. Fixed Assets Inventory – Repeat Finding

Auditor Recommendation:

We recommend the District maintain property inventory records of all sub-grantee equipment as described in the General Terms and Conditions and that a physical inventory be completed at least once every two years.

District Response:

The District stated, “As stated above, the inventory has been completed and was completed prior to the time the audit team arrived.”

SWMP Response:

We concur with the auditor’s recommendation. All required items must be maintained in the property records and a physical inventory of property must be taken and the results reconciled with the property records at least once every two years in accordance with the general terms and conditions.

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SWMP Recommendations:

The District has indicated this finding has already been addressed. Please document the following actions to resolve Finding #10:

- a. The District should have established a written policy and related procedure to account for and report capital assets including equipment in accordance with the general terms and conditions, I.M.2, Equipment Management.
- b. The District should provide to SWMP a copy of the recently completed physical inventory as verification of the District's compliance with this requirement; and
- c. Modifications or the addition of District policies should be in writing and approved by the Executive Board and documented within the District's signed meeting minutes. A copy of these documents should be provided to the SWMP.

11. District Organization

Auditor Recommendation:

We recommend the District locate or obtain documentation from the MDNR to support the propriety of the District organization.

District Response:

The District stated, "The county resolutions are being placed in the District files where they can be easily located."

SWMP Response:

We concur with the auditor's recommendation. The District requested we review our files to determine if copies were available from SWMP files. We did not locate copies of the official documents creating Region T. The District should take the steps necessary to obtain copies of the resolutions and provide copies to the SWMP.

SWMP Recommendations:

The SWMP recommends the District take the following actions to resolve Finding #11:

- a. The District should take the steps necessary to obtain resolutions from each of the three counties within the District; and
- b. The original resolution documents should be maintained as a permanent record of Region T – Lake of the Ozarks Solid Waste Management District. Copies of the resolution documents should be provided to the SWMP.