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# LOWER RIO GRANDE

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## Public Water Works Authority

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## New Mexico Finance Authority Oversight Committee July 18, 2014

- 9:00 a.m. (8) **Engineering the Fees; Understanding the Memoranda**
- Martin Lopez, LRGPWWA General Manager
  - Karen Nichols, LRGPWWA Projects Manager

### NMFA/NMED Memorandum – From the Community/Funding Recipient Perspective

#### ❖ **Communities are sometimes caught in the middle between NMED (the review & oversight agency) and NMFA (the funding agency):**

- The MOU has not been continuously in effect resulting in Catch-22 situations requiring documents to be re-done and resubmitted because they could not be reviewed in the first place.
- Engineering reviews are not consistent, although standardized guidelines are available.
- Engineering review is sometimes taken as the final word by NMFA staff without consideration of other critical factors
- Engineering reviews can sometimes overshadow the intended scope of the project
- All of these issues cause delays and result in increased project costs

#### ❖ **Specific examples:**

- **Water Treatment Facility Project – Water Trust Board funds \$750,000:** Delays caused by expiration of MOU
- **Radio-Read Meter Replacement Project – Drinking Water State Revolving Loan Funds \$600,950:** Delayed because NMED reviewer did not understand NMED Water Operator Certification Program and failed to contact them.
- **Preliminary Engineering Report for Water System Improvements – NMFA Planning Grant and CDBG Planning Grant funds with local match totaling \$100,000:** Re-reviews and delays caused by NMED failure to follow standard PER review guidelines regardless of which funding agency is involved.
- **Berino/Mesquite-Del Cerro Water System Improvements Project – NMFA Planning Grant, Water Trust Board funds, USDA-RD funds plus USDA-RD funds remaining from another water project,**

**Governor's Colonias Initiative funds, four NM Legislative Capital Outlay Appropriations, and LRGPWWA General Funds totaling \$10,387,400.86:** Lengthy and costly delays due to NMED reviewer's interpretation of the Procurement Code requirements and insistence on re-bid and re-reviews of previously approved plans. Here is the statute citation: *NMSA 1978 13-1-105.*

*Competitive sealed bids; receipt and acceptance of bids.*

*B. If the lowest responsible bid has otherwise qualified, and if there is no change in the original terms and conditions, the lowest bidder may negotiate with the purchaser for a lower total bid in order to avoid rejection of all bids for the reason that the lowest bid was up to ten percent higher than budgeted project funds. Such negotiation shall not be allowed if the lowest bid was more than ten percent over budgeted project funds.*

We did not seek to negotiate a lower total bid, only to remove some of the project components by change-order in order to bring the project within budget.

- **Water System Purchase Project Evaluation & Appraisal – NMFA Planning Grant plus local match totaling \$50,000:** Communication and cooperation between NMFA, NMED and LRGPWWA staff and consultants reduced delays by coming up with an alternate approach to the planning document.

## ❖ Possible Solutions:

- Review & oversight are necessary and important in public funded projects, and need to be consistent, follow established standardized guidelines, and complete in order to reduce re-review and re-submittals.
- Review needs to be consistently in place. We understand that the Environment Department is fully funded as a state agency, and engineering review and project oversight is part of their mission, but don't understand why reviews are inconsistent and sometimes absent.
- The engineering aspect is not the only critical component of a project. NMFA needs to have the flexibility to consider input from the awardee's consultants and others when issues arise.
- If and when conflicts arise between NMED staff and awardees or their consultants that are preventing a project from moving forward, the awardee should be able to make a request to NMFA that a different NMED reviewer be assigned to the project.