



Audit of the Anacostia River Clean Up and Protection Fund

October 30, 2014

Audit Team:

Julie Lebowitz, Audit Supervisor
Ingrid Drake, Auditor-in-Charge
Sophie Kamal, Auditor

A Report by the Office of the District of Columbia Auditor
Lawrence Perry, Acting District of Columbia Auditor



October 30, 2014

Included herein is the Office of the District of Columbia Auditor's report entitled "Audit of the Anacostia River Clean Up and Protection Fund." The objective of this audit was to determine whether the District Department of the Environment (DDOE) had the necessary revenue and expenditure internal controls in place to ensure program effectiveness and compliance with the Anacostia River Clean Up and Protection Act of 2009.

We would like to thank DDOE's staff for their assistance and cooperation during this audit. We also would like to thank representatives from the Office of Tax and Revenue and the Department of Motor Vehicles that participated in our audit. All of their valuable time and efforts spent on providing us information was greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lawrence D. Perry'. The signature is written in a cursive, flowing style.

Lawrence Perry
Acting District of Columbia Auditor



October 30, 2014

Audit of the Anacostia River Clean Up and Protection Fund

Why ODCA Did This Audit

The objective of this audit was to determine whether the District Department of the Environment (DDOE) had the necessary revenue and expenditure internal controls in place to ensure program effectiveness and compliance with the Anacostia River Clean Up and Protection Act of 2009.

What ODCA Recommends

1. DDOE should strengthen its system to monitor and document that the Fund's expenditures are meeting the Anacostia River Act's priorities in order, on an annual basis.
2. DDOE should establish written Standard Operating Procedures for the Program's revenue and expenditure processes, and grant management processes.
3. DDOE should establish complete MOUs or signed agreements with its partner agencies.
4. The DMV should immediately comply with legal requirements to transfer Anacostia River license plate renewal fees into the Fund and clarify the requirement to ensure consistent, timely transfers.
5. DDOE should strengthen its strategic planning process to detail the Program's interagency collaborations, goals and objectives, strategies and resources, and program evaluation.

For more information regarding this report, please contact Anovia Daniels, Communications Analyst/ANC Outreach, at Anovia.Daniels@dc.gov or 202-727-3600.

What ODCA Found

The District Department of the Environment (DDOE) is charged with implementing the Anacostia River Clean Up and Protection Act of 2009 (Act). The Act establishes the Anacostia River Clean Up and Protection Fund (Fund) to spend on 14 river cleaning priorities, in order of priority.

Overall, we determined that the Anacostia River Clean Up and Protection program (Program) lacked some key internal controls and compliance with the Act was not fully achieved regarding revenue and expenditure processes. Specifically, DDOE did not establish a sufficient system to monitor compliance with meeting the Fund's priorities in order. DDOE also lacked Standard Operating Procedures (SOPs) for some revenue and expenditure processes. Additionally, DDOE did not have a Memorandum of Understanding (MOU) or signed agreement with the Department of Motor Vehicles (DMV) and at the time of our audit, the DMV was not transferring Anacostia River license plate renewal fees into the Fund. We also found that DDOE's MOU with the Office of Tax and Revenue (OTR) did not have a key oversight component. Lastly, DDOE did not establish a strategic plan for the Program from which to measure performance.

While we identified ways in which DDOE's implementation of the Act could be strengthened, we also identified areas where implementation was strong, notably its enforcement actions. We further found that DDOE's grant bidding process was timely, independent and competitive.

Although we determined that DDOE implemented components of the Act and established some key internal controls, we believe the following five recommendations, if implemented, will enable the Program to be even more effective.

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Background

Since urbanization of the Washington metropolitan region, the Anacostia River has become out of compliance with federal clean water standards. For example, fish from the river are unsafe for human consumption. The federal Environmental Protection Agency explains the problems contributing to the poor health of the Anacostia River:

[T]he slow pace of the [Anacostia] River and shallow depth contribute to its problems in that pollutants are not readily flushed from the system and settle and concentrate in the lower reaches. The water quality reflects years of damage caused by urban pollution and habitat destruction. Poor water quality and impaired aquatic habitats make the river unhealthy.

The Anacostia River Clean Up and Protection Act of 2009 seeks to advance the goal for a swimmable and fishable river by 2032

The District of Columbia (D.C.) government has a goal to make the Anacostia River swimmable and fishable by 2032. If achieved, this goal would benefit economic development in the District.

As one way to advance the goal, the District enacted the Anacostia River Clean Up and Protection Act of 2009 (Act) and tasked the District Department of the Environment (DDOE) with implementing the Act. DDOE's mission is to improve the quality of life for the residents and natural inhabitants of the nation's capital by protecting and restoring the environment, conserving natural resources, mitigating pollution, and educating the public on ways to secure a sustainable future. Through the rest of this report, we will refer to DDOE's efforts to implement the Act as "the Program."

The Program is funded through revenue from bag fees, DDOE penalties, voluntary tax contributions, and fees from the issuance of commemorative Anacostia River license plates. These revenue sources, along with the Act's priorities and program expenditures, are described in more detail below.

Effective January 1, 2010, businesses that sell food or alcohol in the District (retailers) are required to charge customers \$.05 for each disposable paper or plastic bag provided to a customer with any purchase, with certain exceptions. The Act also requires that all bags, distributed by retailers, be recyclable, made of certain types of paper or plastics and labeled "Please Recycle This Bag." The retailer, through filing of their sales tax return, is responsible for remitting to the Office of the Chief Financial Officer, Office of Tax and Revenue (OTR) \$.04 for each bag distributed and retaining \$.01. If the

In 2010, the Act enacted a \$.05 fee for most disposable bags distributed in the District, and placed requirements on labeling and materials for bags

retailer offers its customers a carryout bag credit program, they are required to remit \$.03 per bag while retaining \$.02. OTR is responsible for the monthly transfer of remitted bag fees into the Anacostia River Clean Up and Protection Fund (Fund).

Penalties

Per the Act, retailers who fail to charge customers the fee for bags, submit the full fees collected to OTR, or comply with labeling and component requirements for distributed bags are subject to penalties. While DDOE does not have the legal authority to enforce penalties against a retailer that has collected but not remitted fees to OTR, DDOE does have the authority to issue penalties to retailers that fail to charge customers the bag fee and/or comply with labeling and component requirements. DDOE will first issue a retailer a Notice of Violation (NOV), which carries no penalty. If there is subsequent evidence that the retailer does not comply with the Act, DDOE will issue a Notice of Infraction (NOI), which carries a penalty. The penalty is \$100 for the first violation, \$200 for the second, \$400 for the third, and \$800 for the fourth and each subsequent violation. The penalty doubles if penalties are not paid, denied or objected to in writing within 15 days. A retailer can also request a hearing through the Office of Administrative Hearings to contest an NOI. Revenues collected through penalties are to be used exclusively to cover enforcement costs, including the costs of hiring inspectors and other staff. DDOE's Office of Enforcement and Environmental Justice (OEEJ) collects the penalties, retains 50 percent of the penalty to cover its costs and deposits the remaining 50 percent into the Fund.

Voluntary Tax Contributions and Anacostia River License Plates

Voluntary contributions from District income tax filers who donate part of their tax returns to the Fund and proceeds from the sale of Anacostia River commemorative license plates also provide money for the Fund. OTR collects the voluntary contributions and transfers the contributions quarterly into the Fund. The Department of Motor Vehicles (DMV) began issuing the Anacostia River license plate in 2010. To obtain the license plate, an owner's vehicle must be registered in the District, which for most passenger vehicles is \$72 a year, plus the payment of a one-time \$25 fee, as well as a biennial (every 2 years) \$20 renewal fee. Figure 1 shows a sample of an Anacostia River license plate.

Figure 1

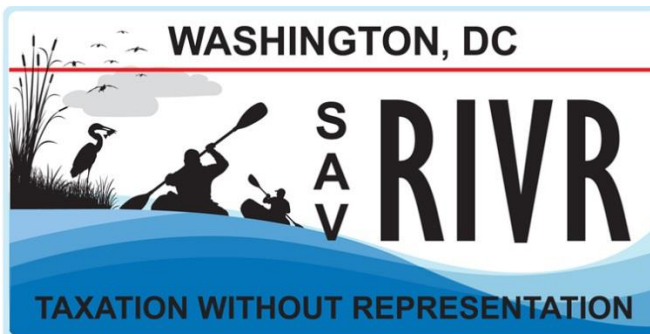


Figure 2 presents the total amount of revenue transferred into the Fund from bag fees, penalties, voluntary tax contributions, and Anacostia license plate proceeds for fiscal years 2010 through 2013.

Figure 2

Total Amount of Revenue Transferred into the Fund for FYs 2010-2013

Fiscal Year (FY)	Bag Fees	Penalties	Voluntary Tax Contributions	Anacostia License Plate Proceeds	Total
2010	\$1,510,088	\$0	\$18,107	\$0	\$1,528,195
2011	\$1,845,413	\$650	\$69,849	\$6,493	\$1,922,405
2012	\$1,993,183	\$1,409	\$64,117	\$10,670	\$2,069,379
2013	\$2,001,575	\$2,602	\$58,120	\$10,753	\$2,073,050
Total	\$7,350,260	\$4,661	\$210,194	\$27,917	\$7,593,032

Source: DDOE

Fund Priorities and Expenditures

The Act established 14 priorities for how money from the Fund should be used and stated that the priorities should be met in order. For example, the first priority is for a campaign to educate the public about the impact of trash on the District’s environmental health. The third priority is for the purchase and installation of equipment designed to minimize trash pollution in the waterways. Figure 3 presents a summary of the Act’s priorities. For the full text of Fund priorities see Appendix A. There were approximately \$4 million in expenditures from the Fund during the audit scope. These expenditures are described in more detail in the Audit Results section of this report.

The Anacostia River Clean Up and Protection Fund has 14 river cleaning and protection priorities

Figure 3

The Anacostia River Act's Priorities, as abbreviated by the Auditor

(1) A public education campaign to educate residents, businesses, and tourists about the impact of trash on the District's environmental health.
(2) Providing reusable carryout bags to District residents, with priority distribution to seniors and low-income residents.
(3) Purchasing and installing equipment, such as storm drain screens and trash traps, designed to minimize trash pollution that enters waterways.
(4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools.
(5) Monitoring and recording pollution indices.
(6) Preserving or enhancing water quality and fishery or wildlife habitat.
(7) Promoting conservation programs, including programs for wildlife and endangered species.
(8) Purchasing and installing signs and equipment designed to minimize trash pollution.
(9) Restoring and enhancing wetlands and green infrastructure.
(10) Funding community clean-up events and other activities that reduce trash.
(11) Funding a circuit rider program with neighboring jurisdictions to focus river and tributary clean-up efforts upstream.
(12) Supporting vocational and job training experiences in environmental and sustainable professions.
(13) Maintaining a public website that educates District residents on the progress of clean-up efforts.
(14) Paying for the administration of this program.

Objectives, Scope and Methodology

Objectives

The audit objective was to determine whether the District Department of the Environment (DDOE) has the necessary revenue and expenditure internal controls in place to ensure Program effectiveness and compliance with the Anacostia River Clean Up and Protection Act of 2009 (Act).

Scope

The audit period covered the launch of the Anacostia River Act on January, 1, 2010 through the end of fiscal year (FY) 2013.

Methodology

To determine if DDOE had the necessary internal controls in place to ensure program effectiveness and compliance with the Act, we:

- Reviewed applicable laws, regulations and policies and procedures;
- Reviewed the Fund activity, including sampling Fund revenue and expenses;
- Analyzed the Program's internal controls and processes used to determine compliance with the Act;
- Identified the cost of producing license plates;
- Spoke with stakeholders, such as nonprofit organizations focused on the Anacostia River; and
- Interviewed relevant DDOE, the Office of Tax and Revenue (OTR) and the Department of Motor Vehicles (DMV) staff and reviewed the job descriptions of all staff whose salaries were billed to the Fund.

For the revenue processes, we reviewed a sample of OTR bag fee reconciliation reports; all DMV's Anacostia River license plate revenue transfers into the Fund; and a sample of penalty payments. We also sought to reconcile DMV's Anacostia River license plate revenue data with the transfer totals to the Fund. Lastly, we compared the cost of producing the Anacostia River license plate to the costs of issuing a standard license plate.

Regarding the grant expenditure processes, we reviewed a sample of grants that were funded 100 percent from the Fund. This included reviewing a sample of grant agreements, grantee invoices and expenditures.

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

Audit Results

Overall, we determined that the Anacostia River Clean Up and Protection program (Program) lacked some key internal controls and compliance with the Anacostia River Clean Up and Protection Act of 2009 (Act) was not fully achieved regarding revenue and expenditure processes. Specifically, the District Department of the Environment (DDOE) did not establish a sufficient system to monitor compliance with meeting the Fund's priorities in order. DDOE also lacked Standard Operating Procedures (SOPs) for some revenue and expenditure processes. Additionally, DDOE did not have a Memorandum of Understanding (MOU) or signed agreement with the Department of Motor Vehicles (DMV). Furthermore, at the time of our audit, the DMV was not transferring Anacostia River license plate renewal fees to the Fund. We also found that DDOE's MOU with the Office of Tax and Revenue (OTR) did not have a key oversight component. Lastly, DDOE did not establish a strategic plan for the Program from which to measure performance.

While we identified ways in which DDOE's implementation of the Act could be strengthened, we also identified areas where implementation was strong. DDOE had the following internal controls in place for its enforcement actions:

- Established a tip-line/web-link for the public to report retailers that are not charging for bags;
- Randomly selected retailers where DDOE's inspector acts as a secret shopper to determine if the bag fee is being charged, and if the bags and receipts comply with labeling and material requirements;
- Tracked the number of Anacostia River Act inspections in its annual performance plans;
- Assigned a different staff member to receive penalty payments than the staff member responsible for issuing Notices of Infraction; and
- Executed SOPs for the processes outlined above.

We further found that DDOE's grant bidding process was timely, independent and competitive. Appendix B provides a list of the 20 grants awarded during the audit scope. Appendix C provides a list of the four capital projects awarded during the audit scope. Each appendix includes the purpose, amount and identification of which Fund priorities each meet. Based on our review of the grants' stated

purposes, each grant was related to the Act’s required priorities. For example, money in the Fund was used to install several trash traps—devices designed to prevent trash from entering bodies of water—and monitor the types and amounts of trash collected, which falls under priority 8. Figure 4 shows a trash trap after a normal rainfall.

Figure 4

Trash Trap after a Normal Rainfall



Source: Anacostia Watershed Society, “Demonstration of Trash Reduction Technologies in the Anacostia Watershed” Final Technical Report

Although we determined that DDOE implemented components of the Act and established some key internal controls, we believe the following five recommendations, if implemented, will enable the Program to be even more effective.

1. DDOE should strengthen its system to monitor and document that the Fund's expenditures are meeting the Anacostia River Act's priorities in order, on an annual basis.

The Act established 14 Fund priorities and stated that funds must be used for projects in order of priority. The 14th priority is to pay for administration of the program. DDOE did not have a system to document that priorities were being met and in the order stipulated by the Act. For example, during our field work, we found no evidence that DDOE was aligning personnel costs with specific priorities, yet personnel was the highest percentage of Fund spending, at 31.8 percent (see the Area of Concern section on page 17 about how personnel costs were charged to the Program). DDOE believed that all of its Fund expenditures were related to the Act's priorities and that there is considerable overlap between priorities, and did not deem it practical to track all expenditures by specific priority.

DDOE did not have a system to document that priorities were met and in the order stipulated by the Act

We do not interpret the Act to mean that DDOE spend the highest percentage of expenditures for the first priority and the lowest expenditures for the 14th priority; and understand there are cost differences in meeting each priority. For example, we recognize that trash traps and stream restoration are more expensive than distributing reusable bags. However, by not tracking expenditures by priority, DDOE did not have key information for monitoring and documenting that the priorities were being met in order.

We analyzed the total Fund expenditures by category and could not determine how personnel costs fit into the 14 Fund priorities because personnel costs were not attributed to specific priorities. This made it difficult to determine which personnel costs were for administering the program, which was the Act's last priority. Figure 5 shows the total expenditures by category and as a percentage of total Fund spending.

Figure 5**Total Expenditures by Category and as a Percentage of Total Fund Spending**

Category	Total Expenditures	Percentage of Total Fund Spending
Personnel	\$1,275,597	31.8 percent
Grants	\$871,687	21.7 percent
Community Relations & Advertising (incl. reusable bag distribution)	\$783,953	19.6 percent
Capital Projects	\$649,199	16.2 percent
Administrative: Legal	\$204,654	10.7 percent
Overhead/Misc.	\$224,110	
Total FY 2010-13	\$4,009,201	100 percent

Source: Auditor analysis of data provided by DDOE

In its planning process, DDOE identified which of the Fund’s priorities were to be met by grants and capital projects. However, DDOE did not conduct an end-of-the-year reconciliation of all actual expenditures—personnel, administrative, grants, community relations, and capital projects—to ensure Fund spending aligned with meeting priorities in order, as required by the Act. Without an effective tracking system in place, DDOE cannot document that it is in compliance with the Act’s priorities.

2. DDOE should establish written Standard Operating Procedures for the Program’s revenue and expenditure processes, and grant management processes.

To implement a program’s internal controls, the Government Accountability Office’s (GAO) *Standards for Internal Control in the Federal Government* state that: “management is responsible for developing the detailed policies, procedures, and practices to fit their agency’s operations and to ensure that they are built into and an integral part of operations.” To ensure that agency operations meet their objectives, GAO further states that management should design a set of internal control activities and record them in detailed SOPs so that staff can implement them. Comprehensive, detailed SOPs should include reconciliation, supervision and documentation procedures.

SOPs help clarify internal controls and improve program operations

DDOE did not have detailed Standard Operating Procedures (SOPs) for the Program’s revenue and expenditure processes. For example, procedures were not in place for the reconciliation of revenue received into the Fund from enforcement actions, penalties, or the issuance of Anacostia River license plates. Further, grant management procedures were not in place to ensure proper supervision and the collection of required documentation.

DDOE management explained that it was sufficient to rely on agency-wide SOPs for the Program and thus it was their opinion that no separate written SOPs were necessary. We believe that DDOE did not recognize the unique risks of the Program’s revenue and expenditure processes. For example, such revenue to the Fund involves multiple sources and inter-agency transfers.

The lack of written SOPs may have contributed to the fact that:

- DDOE did not identify that the DMV had begun collecting renewal fees in FY 2010 but had not transferred any renewal revenue, totaling approximately \$9,100 into the Fund;
- DDOE did not detect six deposit errors related to penalties;
- DDOE paid 17 invoices (totaling \$246,722) to grantees that should not have been paid in full because the invoices did not have complete receipts and timesheets required by the grant agreements; and
- DDOE did not consistently enforce grantees’ compliance with the grant agreements as it related to submission of required documentation, such as monthly progress and financial reports.

3. DDOE should establish complete MOUs or signed agreements with its partner agencies.

Memorandums of Understanding (MOU) are tools used to ensure that each party has clear and sufficient information about each of their responsibilities in carrying out a program goal. D.C. Code requires MOUs between District agencies when there is an exchange of work or services.

Department of Motor Vehicles (DMV)

DDOE did not enter into an MOU or signed agreement with the DMV regarding the transfer of funds from the issuance of the Anacostia River license plate. DDOE management indicated to us that such a signed agreement was not necessary because the Act established the DMV's responsibilities. However, the Act could not predict and identify all weaknesses relating to Anacostia River license plate revenue transfers and information sharing.

The absence of an MOU or signed agreement with the DMV may have contributed to delayed and incomplete Anacostia River license plate revenue transfers into the Fund. The DMV started selling the license plates in FY 2010; however, it did not transfer the revenue into the Fund until the end of March 2011.

DMV staff indicated to us that revenue was to be transferred quarterly; however, in FY 2011, three of the four transfers happened at the end of the fiscal year. We also found that the DMV had not been transferring Anacostia River license plate renewal fees into the Fund, totaling approximately \$9,100. We learned that the DMV collected renewal fees in two different ways: \$10 due annually or \$20 due biennially, dependent upon whether the resident chooses a one or two year vehicle registration.¹

An MOU or signed agreement could also increase Fund revenue by clarifying the additional production costs of the Anacostia River license plate. The Act directs the DMV to "recover the cost of producing and issuing" the Anacostia River license plate "...from the proceeds collected from the one-time \$25 fee." Regardless of which plate is desired (a standard plate or Anacostia River plate), all residents pay a fee to register their vehicles in the District. Upon registration, residents receive a standard plate for no additional cost. If residents choose the Anacostia River license plate they must pay an additional \$25 fee. The production cost of the Anacostia license plate is \$2.35 more than the production cost of the standard

¹ The Act states that the \$20 fee is to be collected biennially.

A lack of comprehensive signed agreements with partner agencies may have impacted Program operations

license plate.² Currently, the DMV recovers the full production cost of the Anacostia license plate, not just the \$2.35 additional cost.

Although the DMV's current practice is compliant with the Act, we believe that in keeping with the spirit of the law, the DMV should consider recovering only the \$2.35 production cost difference between the standard license plate and the Anacostia license plate. Under this proposal, DDOE could enter into an MOU or signed agreement with the DMV that stipulates that the DMV would transfer \$22.65 to the Fund for each plate sold. This would allow the DMV to recover the additional cost of producing and issuing the Anacostia River license plates from the \$25 fee, while also increasing revenue for meeting the priorities of the Act.

Office of Tax and Revenue (OTR)

DDOE did establish an MOU with OTR for the transfer of bag fee revenue and voluntary tax contributions. We tested six months of OTR's revenue reconciliations and transfers and determined them to be accurate.

The MOU also required that OTR conduct regular audits to ensure retailers are paying the bag fees. During OTR's audits of sales tax returns, OTR auditors review the amount of bag fees submitted compared to an estimate of the retailer's sales. If OTR finds that a retailer appears to have under-reported the bag fees it collected, or should have collected, OTR will instruct the retailer to submit those fees. However, OTR does not conduct a follow-up to ensure subsequent compliance with submitting the bag fees and OTR did not report the name of those retailers to DDOE.

DDOE attempted to obtain the names of the retailers, however the MOU with OTR did not include a provision that OTR provide this information and DDOE stated that OTR would not release this information due to the sensitivity of releasing tax payer information.

While we understand the sensitivity of tax data, we believe that DDOE and OTR can craft an agreement to ensure that OTR informs DDOE of which retailers are not in compliance with the Act. Without this information, DDOE cannot add these higher-risk retailers to its secret shopping inspections, resulting in lost revenue from both bag fees and penalties.

² The production cost for a standard plate is \$5.50 and the production cost for an Anacostia River license plate is \$7.85.

- 4. The DMV should immediately comply with legal requirements to transfer Anacostia River license plate renewal fees into the Fund and clarify the requirement to ensure consistent, timely transfers.**

The DMV had not transferred Anacostia River license plate renewals fees collected into the Fund

The Act requires that revenue from the Anacostia River license plate's one-time fee, less the DMV's costs of producing and issuing the plate, and biennial renewal fees be transferred into the Fund. Our review found that the DMV had not transferred an estimated \$9,100 in collected license plate renewal fees into the Fund.

While the DMV transferred the net of the one-time license plate fees, DMV management cited miscommunication as the cause of renewal fees not being transferred into the Fund. This miscommunication resulted in less money available for spending on the Fund's 14 priorities and incomplete budget information available to DDOE for planning purposes.

5. DDOE should strengthen its strategic planning process to detail the Program’s interagency collaborations, goals and objectives, strategies and resources, and program evaluation.

According to the GAO, strategic plans are the basis for program goal setting and performance measurement. The strategic planning process includes: “a description of interagency collaboration to achieve the agency’s goals and objectives; a description of the strategies and resources required to achieve the agency’s goals and objectives; and program evaluations used to establish or review the agency’s general goals and objectives.”

The Program could benefit from a strategic plan with short-term and long-term goals that meet the priorities of the Act

While we recognize that DDOE has an agency strategic plan as well as other strategic plans related to restoring the Anacostia River, DDOE did not have a strategic plan for the Program that tracked performance toward achievement of the priorities of the Act or the Program’s compliance with the Act, since program inception.

DDOE staff indicated that a strategic plan was not necessary because DDOE had created a multi-year plan to guide annual spending, which identified potential grant projects. Although DDOE did develop a multi-year plan that strategizes annually on the best uses for the available funds, DDOE did not have an over-arching strategic plan that could be used to allocate Fund spending based on short and long-term goals and objectives and to measure progress.

A more detailed strategic plan could have prevented many of the issues discussed in this report. Specifically, if a strategic plan had been in place for the Program, the system of monitoring Fund expenditures may have been stronger, projecting revenues and expenditures could have been evaluated and clear and complete communications with partner agencies could have been addressed. Further, a detailed strategic plan is even more important because the Program has a great amount of public interest with the public contributing directly to the Fund through bag fees, income tax contributions and the purchase/renewal of the Anacostia River commemorative license plates. Given this public interest, a plan, and progress toward meeting its goals and objectives should be made publicly available on an annual basis.

Now that the Program is four years old, DDOE has historical information to create a strategic plan for the next five years in order to increase the program’s effectiveness.

Area of Concern

While it did not rise to the level of a finding, we believe that DDOE had insufficient procedures to ensure that all personnel costs billed to the Fund were for new and aggressive river cleaning activities, thereby reducing funds available to carry out the purpose of the Act.

Based on our understanding of the Act's purpose and the related committee reports, the Fund was intended to be used for "new and aggressive"³ river cleaning initiatives that would not have been possible without the additional source of revenue provided by the Act. Among other things, these new initiatives would bring attention to the state of pollution in the District's rivers and educate the public on the ways to clean the District's waterways.

When it came to personnel costs, we found that several staff charged to the Fund were performing the same job duties before and after the Act was adopted. However, additional money was available from the Fund for "new and aggressive" river cleaning initiatives, including the actual personnel costs of implementing them. In keeping with the spirit and intent of the law, we believe that only projects or activities launched since the Act should be charged to the Fund, as these would be considered "new and aggressive."

During the audit period, the Fund was used to pay for portions of 17 employees' salaries, almost all of which were budgeted for river cleaning activities in years prior to the Act. Although all of these employees' job duties overlapped with the Fund's 14 priorities, only one new position was created as a result of the Act. We identified instances in which personnel costs for duties and activities that existed before the Act were being billed to the Fund. Some examples are listed below:

- 60 percent of one employee's salary was billed to the Fund in one year, but based on our interviews with the employee and their supervisor, we did not find that the duties were directly related to implementing the Act, in the form of new activities;
- 50 percent of an employee's salary was billed to the Fund in one year, but their duties – monitoring water quality – existed prior to the Act and were required under federal regulations;
- 60 percent of an employee's salary was billed to the Fund in one year, but our interviews with the employee and their

³ See Council of the District of Columbia, Committee on Finance and Revenue, Committee Report on Bill 18-150, the "Anacostia River Clean Up and Protection Act of 2009," dated May 14, 2009, page 4.

supervisor determined that only 20 percent of the employee's time was actually spent carrying out additional duties that arose from the Act; and

- Nearly 100 percent of an employee's salary was billed to the Fund in one year, but our interviews with the employee and their supervisor determined that only 30 percent of the employee's time was actually spent carrying out additional duties that arose from the Act.

DDOE should examine its procedures for allocating personnel costs to the Fund and take steps to ensure that only costs related to new river cleaning activities that were made possible by the Program are being charged to the Fund, in keeping with the spirit and intent of the Act.

Audit Results Summary

Our audit identified five recommendations that could strengthen the District Department of the Environment's (DDOE) implementation of the Act. In order to ensure compliance with legislative requirements and management authorizations, we recommend that:

Recommendation	Finding
1. DDOE strengthen its system to monitor and document that the Fund's expenditures are meeting the Anacostia River Act's priorities in order, on an annual basis.	<ul style="list-style-type: none"> DDOE did not have a system to document that priorities were met and in the order stipulated by the Act.
2. DDOE establish written Standard Operating Procedures for the Program's revenue and expenditure processes, and grant management processes.	<ul style="list-style-type: none"> DDOE did not have detailed Standard Operating Procedures (SOPs) for the Program's revenue and expenditure processes.
3. DDOE establish complete MOUs or signed agreements with its partner agencies.	<ul style="list-style-type: none"> DDOE did not enter into an MOU or signed agreement with the DMV regarding the transfer of funds from the sale of the Anacostia license plate and DDOE's MOU with OTR did not include a provision that OTR inform DDOE of the retailers that have under-reported the bag fees it collected, or should have collected.
4. The DMV immediately comply with legal requirements to transfer Anacostia River license plate renewal fees into the Fund and clarify the requirement to ensure consistent, timely transfers.	<ul style="list-style-type: none"> The DMV did not transfer to the Fund an estimated \$9,100 in Anacostia license plate renewal fees that it had collected.
5. DDOE strengthen its strategic planning process to detail the Program's interagency collaborations, goals and objectives, strategies and resources, and program evaluation.	<ul style="list-style-type: none"> DDOE did not have a strategic plan for the Program to track performance on achieving the priorities of the Act and the Program's compliance with the Act, since program inception.

Conclusion

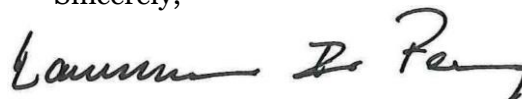
Overall, we determined that the Anacostia River Clean Up and Protection program (Program) lacked some key internal controls and compliance with the Act was not fully achieved regarding revenue and expenditure processes. Specifically, DDOE did not establish a sufficient system to monitor compliance with meeting the Fund's priorities, in order of priority, and lacked Standard Operating Procedures (SOPs) for some revenue and expenditure processes.

We also found that DDOE did not have a Memorandum of Understanding (MOU) or signed agreement with the Department of Motor Vehicles (DMV) and at the time of our audit, the DMV was not transferring Anacostia River license plate renewal fees into the Fund. We further found that DDOE's MOU with the Office of Tax and Revenue (OTR) did not have a key oversight component and DDOE did not establish a strategic plan for the Program from which to measure performance.

While we identified ways in which DDOE's implementation of the Act could be strengthened, we also identified areas where implementation was strong, notably enforcement actions, and DDOE's grant bidding process was timely, independent and competitive.

Because District residents contribute to the Anacostia River Clean Up and Protection Fund through bag fees paid, tax contributions made and Anacostia River license plates purchased/renewed, there is a great deal of public interest in how funds are spent from the Fund. It is imperative that DDOE establish a sufficient system to monitor compliance with meeting the Fund's priorities, in order of priority laid out in the Act.

Sincerely,



Lawrence Perry,
Acting District of Columbia Auditor

Agency Comments

On August 8, 2014, we submitted a draft report to the District Department of the environment (DDOE) for review and comment. We had a telephone conference with DDOE regarding the August 8, 2014 draft. As a result of the telephone conference, on September 5, 2014, we submitted a second draft report to DDOE for review and comment. We had another telephone conference with DDOE regarding the September 5, 2014 draft which resulted in the issuance of a third draft report submitted to DDOE on September 24, 2014. The Auditor received written comments from DDOE on September 30, 2014. DDOE's response is included in this report.

On September 5, 2014, we submitted a draft report to the Department of Motor Vehicles (DMV) for review and comment. The Auditor received written comments from the DMV on September 10, 2014. The DMV's response is included with this report.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

District Department of the Environment



Office of the Director

September 30, 2014

Mr. Lawrence Perry
Acting District of Columbia Auditor
Office of the District of Columbia Auditor
717 14th St NW, Suite 900
Washington, DC 20005

Subject: DDOE response to draft Anacostia River Fund Audit, September 24, 2014

Mr. Perry:

Thank you for the opportunity for the District Department of the Environment (DDOE) to review and comment on ODCA's draft report on the Anacostia River Clean Up and Protection Fund (the Fund) and program from FY10 - FY13. I appreciate ODCA's recognition that DDOE has established key internal controls to operate the program. I also appreciate your staff's diligence and interest in helping the program become even more effective as we continue to implement the Anacostia River Clean Up and Protection Act of 2009 (the Act).

DDOE is proud of its record in implementing the Act. Eighty percent of residents are using fewer disposable bagsⁱ, and stream clean-up groups are finding 60 percent fewer disposable bags during clean-up eventsⁱⁱ. In addition, bag fees have supported a range of important initiatives to clean and protect District waterbodies, including:

- DDOE has installed four new in-stream trash traps using the Fund. The Fund supports the maintenance of these and two other traps, which have removed 12 tons of trash from District waterbodies since 2010.
- From 2011-2013, bag fees funded 1,684 rain gardens and other green infrastructure projects to reduce stormwater runoff from District homes.
- The Fund supported environmental education programming for 1,522 District students in 2013-2014.

The attached narrative includes DDOE's responses to the report's recommendations. Some recommendations were very helpful and DDOE is taking action to implement



them, including establishing procedures to ensure that license plate renewal revenues and enforcement revenues are posted accurately and timely.

Some recommendations we disagree with, specifically that DDOE should spend Fund revenues in each fiscal year strictly in order of the Fund's 14 priorities in descending dollar value from the first priority to the last. ODCA's interpretation reads more into the Act than is written, and following that interpretation would limit DDOE's ability to achieve the Act's intent of maximizing the Fund's beneficial impacts for the Anacostia River and other District waterbodies. For example, ODCA's interpretation would result in more of the Fund being spent each year on making free reusable bags available to District residents (priority 2) than on capital-intensive projects such as installations of in-stream trash-collection equipment (priority 3) and restoration of stream corridors and habitat (priorities 6 and 9). DDOE uses sound judgment in pursuing the Fund's priorities and maximizing the Fund's impact to clean and protect District waterbodies.

ODCA also recommends that each expenditure be categorized by individual priority. However, there is considerable overlap among the priorities. For example, priority one is focused on a "public education campaign...on trash" and priority four emphasizes "youth-oriented...water pollution educational campaigns" while priority seven is directed toward "promoting conservation programs." DDOE has undertaken educational initiatives that address all of these priorities, and the related personnel or project costs can be attributed to all of these priorities. It would be arbitrary to select only one priority that such a project advances. Moreover, the legislation does not require this, and doing so would not enable DDOE to do a better job achieving the objectives of the Act. Nonetheless DDOE has and will continue to assess the multiple priorities that Fund-supported projects address, and DDOE plans to improve its efforts to document and provide updates on how Fund-supported projects meet multiple Fund priorities.

Finally, although the report does not question any costs -- all expenditures of the fund have been for river-cleaning purposes described in the law -- ODCA cites as an "Area of Concern" the use of the Fund to continue some river-cleaning activities that existed before the Fund was created. ODCA claims that the Fund may be spent only for "new" river-cleaning activities, although the Act does not specify that and ODCA's basis for this assertion is unclear.

While DDOE has used the Fund to increase and expand initiatives to clean up District waterbodies, few types of river-cleaning activities are "new" since the Act. The types of activities that existed prior to establishment of the Fund are generally the same that exist today, including trash clean-up, stream restoration, public education, monitoring, and other Fund priorities. Likewise, activities related to river cleaning that were previously funded by other sources, such as federal stimulus grants that ended, may only be continued in future fiscal years with other resources, including the Fund, when approved

by the Mayor and Council and appropriated by Congress in the annual budget. It is also important to note that, excluding the approximately \$2 million received into the Fund each fiscal year, the amount of other appropriated operating funds dedicated to cleaning our rivers has continued to increase. In other words, the Fund has not replaced existing resources, but instead has allowed DDOE to increase efforts to restore the District's rivers.

As DDOE has successfully established the Bag Law Program, we have earned recognition from other jurisdictions, which frequently call on DDOE for guidance and support as they consider and implement similar bans. As the Program continues, I am eager to see DDOE achieve even greater impact for protecting and restoring District waterbodies, and I appreciate ODCA's assistance in helping us to identify ways to make the Program even more effective.

Sincerely,



Keith A. Anderson
Director

Attachment

ⁱ See Report of Findings on DC Resident and Business Bag Use Surveys, available via ddoe.dc.gov/bags (Under the "Press Information" heading)

ⁱⁱ See http://fergusonfoundation.org/wp-content/uploads/2012/12/DC-case-study-for-World_Bank_3-10-12_FINAL.pdf

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
District Department of the Environment**



Attachment

**DDOE Response to Anacostia River Clean and Protection Fund Audit by
the Office of the District of Columbia Auditor (ODCA)**

Recommendation No.1 – *We recommend that DDOE strengthen its system to monitor and document that the Fund’s expenditures are meeting the Anacostia River Act’s priorities in order, on an annual basis.*

DDOE disagrees with ODCA’s recommendation to spend the Anacostia River Clean-Up and Protection Fund strictly in the order of the Fund’s fourteen priorities each fiscal year. DDOE has documented its position that the funds have been correctly and efficiently spent to meet the Act’s priorities since budget authority was first established in FY 2010. DDOE has been able to implement a variety of projects critical to the restoration of our local water bodies, and has leveraged existing staff to help carry out those initiatives.

ODCA has defined compliance as spending the Fund revenues in each fiscal year precisely in order of the Fund’s fourteen priorities in descending dollar value from the first priority to the last. ODCA’s interpretation of the Act reads more into the legislation than is written, and following that interpretation would limit DDOE’s ability to sensibly achieve the Act’s intent of maximizing the Fund’s beneficial impacts for the Anacostia River and other District waterbodies.

Under ODCA’s interpretation of the Act, DDOE would need to spend more money on priority 1 than on priority 2 every year in order to be compliant with the law, regardless of the progress already achieved toward each priority and regardless of differences in costs for the types of projects that achieve these priorities. This approach would result in more of the Fund being spent each year on making free reusable bags available to District residents (priority 2) -- despite the fact that DDOE has already distributed tens of thousands of reusable bags -- than on capital-intensive projects designed to directly clean the river (priority 6, preserving and protecting water quality).

Furthermore, due to the extensive overlap among some of the Fund’s priorities, it is impractical to assign, as ODCA recommends, each Fund expenditure to one of the 14 priorities. For example, the Fund has enabled DDOE staff to manage and develop stream restoration projects. Such projects help achieve priority 6, focused on “Preserving or enhancing water quality and fishery or wildlife habitat” and also priority 9, focused on “Restoring and enhancing wetlands and green infrastructure.” In this context, there is no clear basis for assigning these personnel costs to just one of these priorities, and such a decision would be arbitrary. Not only is assigning each expenditure to only one of the 14 priorities impractical, making such a distinction does nothing to increase the impact that the Fund has on the restoration of District waterbodies.

Though it is impractical to assign each expenditure to an individual priority, DDOE will track the multiple priorities achieved by projects and initiatives supported by the Fund.

Recommendation No.2 – *We recommend that DDOE establish written Standard Operating Procedures for the program’s revenue and expenditure processes, and grant management processes.*

The audit report states that the Fund program presents “*unique risks of the Program’s revenue and expenditure-related processes, such as multiple sources of revenue and multiple inter-agency transfers.*” DDOE disagrees that there are risks unique to the Fund. The Fund is one of several special purpose revenue funds, grants, and other sources of revenue, all managed using agency-wide standard operating procedures. However, DDOE agrees that it needs to standardize its grant agreements to ensure consistent compliance of its grantees.

DDOE and the District of Columbia Office of the Chief Financial Officer (OCFO) Shared Services Accounting Group in the Government Services Cluster (GSC) deal with many funds that have multiple revenue sources collected at multiple locations, in multiple ways, and in multiple financial offices within the city. Processes for controlling personnel and non-personnel vendor payments are conducted through PeopleSoft and PASS systems, and include multiple procedures, electronic entry, and multiple levels of approval that provide internal controls to ensure the accuracy of charges to all city funding sources and special purpose revenue funds.

Citywide procedures and processes for managing revenue for all funds, and specifically for special purpose revenue (SPR) funds, are robust and have been in place since long before the creation of the Fund. Such procedures must encompass use of the city-wide INOVA cash management system, citywide procedures and requirements related to recordation of credit card receipts, and Office of Tax and Revenue procedures related to collection of tax revenue. There are no separate procedures appropriate for these city-wide processes. Examples of previously created and managed SPR funds for DDOE include:

- Fishing license (multiple locations/collection methods);
- Storm Water Enterprise Fund (collections of MS4 fees by third party);
- Utility Discount and Energy Trust Fund (managing benefits to low income citizens, and receipts from various utilities); and

- PACE program (loan payments transferred from OTR).

Examples of additional GSC managed funds with multiple, complex funding sources include:

- District Department of Transportation Enterprise Fund, Parking Meter Fund, Performance Parking Zones, and Sustainable Transportation Fund;
- Department of Public Works Solid Waste and Recycling collection systems; and
- DMV revenues from many locations, two large complex IT systems and two large vendors who manage revenue collecting systems.

The city-wide systems and procedures in place for all of the above funds have served the GSC agencies well, and there have been no audit findings related to revenue collection or recordation for any cluster agencies in over a decade.

Expenditure-related processes are centrally controlled through the PeopleSoft and PASS systems. There is separation of duties in both systems. Employees must electronically enter time in PeopleSoft and their supervisor must review and approve. There are multiple review processes carried out by the OCFO after payrolls are posted including review of SP485 (payroll) reports and reviews of actual expenditure to the budget and spending plans. No separate procedures are appropriate for management of the PeopleSoft labor process. Payments to vendors are controlled by PASS. Program staff must requisition funds. Review by the contracting officer and entry of budget are required before a requisition can be entered, approved, and converted to a purchase order. After services are rendered or goods received, the PASS system electronically controls the payment process by requiring input of a valid invoice, electronic receipt of the items/services, and availability of budget within the purchase order. No payment can be processed absent these three items. Again, there are no separate procedures appropriate for management of this process.

The issues cited by ODCA do not require unique, program-specific standard operating procedures for correction, as discussed below:

- Transfer of renewal fees for Anacostia River License plates: DMV has forwarded the amounts due and a memorandum of agreement will specify procedures for regular transfers to DDOE. This was an oversight in set-up of the DMV controlled Destiny database system that has been corrected so that DMV will be in full compliance.
- Six deposit errors related to penalties: This was an inadvertent error and DDOE has since instituted a revised review procedure to ensure that penalties assessed match deposited amounts.
- Payment of 17 invoices totaling \$246,722: ODCA did not question any of the \$246,722 paid to the grantees; however, DDOE's grant agreements should have been more consistent in terms of the documentation requested of grantees to support payment of invoices. To clarify, ODCA noted concerns that can be attributed to inconsistency in the

development of grant agreement requirements for how grantees document personnel costs, with certain agreements inadvertently requiring far more in support than others. Since the grants reviewed during the audit were executed, DDOE has established standard requirements for grant agreements to ensure that all grants have the same requirements. DDOE is currently providing mandatory training to grant managers to ensure consistent implementation of these requirements.

Recommendation No. 3– *We recommend that DDOE establish complete MOUs or signed agreements with its partner agencies*

DDOE agrees with ODCA’s recommendation regarding the need for a signed agreement with the Department of Motor Vehicles (DMV), but disagrees with ODCA’s recommendation regarding enhancements to the existing MOU with the Office of Tax & Revenue (OTR).

DDOE agrees that a written agreement with DMV will help to clarify the responsibilities of each agency in carrying out the program; however, as detailed in DMV’s audit response letter dated September 10, 2014, a memorandum of agreement (MOA) would be more appropriate in this case than an MOU. The audit report states on page 13, “...DC Code requires MOUs between agencies when there is an exchange of work or services.” In the case of the Anacostia River license plate revenue, there is no exchange of work, goods or services taking place between DDOE and DMV. Further, an MOU is necessary when funds are transferred from one agency’s budget to another. Since DMV is not transferring budgetary funds, but revenue collected, an MOU would not be appropriate. DDOE is currently working with DMV to develop an MOA. The MOA will stipulate that funds must be transferred quarterly from DMV to DDOE. Reports on revenue collected by DMV will also be provided quarterly.

The audit report states that OTR does not report audit results to DDOE, including the names of retailers who did not remit required fees. However, as required by the existing MOU between DDOE and OTR, OTR has provided a monthly summary of retail establishments that collected and remitted Fees on Sales and Use Tax Returns, including name, address, and whether fees were collected. OTR does not provide additional tax audit data because OTR has stated to DDOE that it is legally prohibited from sharing audit data because of federal IRS disclosure rules. DDOE is in conversations with OTR regarding the possibility of developing an agreement that will assist in the disclosure of tax audit data by OTR to DDOE.

Recommendation No. 4 - *We recommend that the DMV immediately comply with legal requirements to transfer Anacostia license plate renewal fees in the Fund and clarify the requirement to ensure consistent, timely transfers.*

The \$9,100 in renewal fees have been deposited into the Fund, and the MOA with DMV will require the regular deposit of these fees. DMV will be providing DDOE with quarterly updates on Anacostia River license plate sales and renewal revenues.

Recommendation No.5 - *We recommend that DDOE strengthen its strategic planning to detail the Program's interagency collaborations, goals and objectives, strategies and resources, and program evaluation.*

DDOE thinks strategically about how to implement the Act and achieve its objectives, as well as the objectives of other individual DDOE programs with a focus on restoring District waterbodies. However, an individual strategic plan is not a requirement of the Act, and it would not be productive for the Bag Law Program or the other individual programs to each have its own strategic plan. Nonetheless, DDOE plans to better document and provide updates on how Fund-supported projects and initiatives advance the multiple priorities specified in the Act.

The Bag Law Program is one program among others at DDOE that share similar objectives related to protecting and restoring District waterbodies. DDOE works hard to promote collaboration among these programs and leverage all of them to maximize benefits for District waterbodies. Developing a strategic plan for one program in isolation from the broader set of programs of which it is part would discourage collaboration among programs and not be a good use of resources.

After budget authority was provided towards the end of FY10, DDOE evaluated spending opportunities that would be consistent with the Act's funding priorities and developed a multi-year spending plan. Following this initial assessment, DDOE has continued to assess funding opportunities as each fiscal year budget is developed by evaluating whether they are consistent with the fund uses defined in the Act. DDOE plans to make this multi-year spending plan process more robust and better document how Fund-supported projects and initiatives advance the multiple priorities specified in the Act.

Area of Concern – *DDOE had insufficient procedures to ensure that all personnel costs billed to the Fund were for new river cleaning activities, thereby reducing funds available to carry out the purpose of the Act.*

DDOE disagrees that the intent of the law was to provide funding solely for “new” river cleaning activities. DDOE interprets the appropriate use of the Fund as including increasing existing cleaning activities and continuing activities that might not otherwise be funded. Rather than being used to generally replace other funding, DDOE notes that the resources for cleaning activities have grown since the Act's enactment through FY 2015.

To better understand ODCA's specific meaning, DDOE asked ODCA for the basis of its conclusion that only “new” activities should be funded by the Act. In response, ODCA referred DDOE to the specific committee reports¹ to support its position. DDOE carefully reviewed these

¹ Committee on Government Operations and the Environment: <http://dcclims1.dccouncil.us/images/00001/20090827154522.pdf>
Committee on Finance and Revenue: <http://dcclims1.dccouncil.us/images/00001/20090827154621.pdf>

and other Council reports but was unable to find any reference to “new” activities or Council intentions that the Fund be utilized solely for new activities.

DDOE interprets the appropriate use of the Fund to include increasing existing cleaning activities or continuing existing activities that might not otherwise be funded. Generally these activities are not “new.” The types of activities that existed prior to establishment of the Fund are generally the same that exist today, including trash clean-up, stream restoration, public education, monitoring, and other Fund priorities. The Fund has enabled DDOE to increase, expand, or continue these types of activities. For example, stream restoration efforts that were funded by federal stimulus grants that ended would not have been able to continue unless alternative funding was identified. The Fund has been used in these types of instances.

Though the Fund has enabled DDOE to continue initiatives that may otherwise have ended when a specific temporary funding source ended (e.g. the Federal stimulus), this does not mean that the overall resources available for cleaning and protecting the Anacostia River and other impaired waterways have remained at the same level as when the Act passed. Excluding the approximately \$2 million of revenues received into the Fund each fiscal year, the amount of other appropriated operating funds dedicated to cleaning District waterbodies increased during the course of the audit timeframe through FY 2015: from \$21 million in FY 10 to \$28 million in FY 15. In addition, significant capital funds have been provided to cleaning the Anacostia River, including \$3 million through FY 14, an additional \$6 million in FY 15, and \$39 million more in the city’s capital financial plan. The Mayor and Council have increased resources for cleaning the rivers, in addition to the Fund.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLES



Office of the Director

September 10, 2014

Mr. Lawrence Perry
Acting District of Columbia Auditor
717 14th Street, NW, Suite 900
Washington, DC 20005

RE: Anacostia River Fund Audit

The District of Columbia Department of Motor Vehicles (DC DMV) is providing comments related to the recommendations in the DC Auditor's draft report on the Anacostia River Fund Audit as indicated in the paragraphs below.

Recommendation #4: We recommend that DDOE establish complete MOUs with its partner agencies.

We do not agree with the recommendation that the District Department of Environment (DDOE) establishes an MOU with DMV for the transfer of Anacostia River license plate funds. As indicated in your statement on page 13, "...DC Code requires MOUs between District agencies when there is an exchange of work or services." Since the transfer of Anacostia River license plate funds is not an exchange of work, goods or services, a MOU is not the appropriate vehicle to use because there is nothing for us to bill DDOE against. Additionally, a MOU is the vehicle in which funds from one agency's budget are transferred to another agency's budget. Since we are not transferring DMV budgetary funds (note we are transferring revenue collected), a Memorandum of Agreement would be the appropriate vehicle to address your recommendation that a tool is needed to ensure each party has clear and sufficient information about each of their responsibilities in carrying out the program.

The report states DC DMV is collecting renewal fees in two different ways: \$10 due annually or \$20 due biennially. However, the Anacostia River Clean Up and Protection Act of 2009 states a \$20 biennial fee should be collected for the issuance of Anacostia River license plates. It is necessary for DMV to collect the fee in this manner since residents have the legal option of either a one or two year registration. If fees were only collected biennial, then those residents who chose to renew for one year would not owe the "biennial" fee. Clearly, it was not the intent of the Act to negatively impact revenue in this manner.

The report incorrectly assumes \$5.50 of the \$72 vehicle registration fee is related to the cost of purchasing the license plate. However, the cost of purchasing license plates is not included in the vehicle registration fee. Instead, the vehicle registration fee is an arbitrary amount which goes into the District's General Fund, and the agency receives the cost to purchase license plates as part of our annual budget. Therefore,

it is an incorrect to say DC DMV should not retain the full amount (i.e., \$7.85/license plate) of the cost to produce the Anacostia River license plates in accordance with the Act.

Recommendation #5: We recommend that the DMV immediately comply with legal requirements to deposit Anacostia license plate renewal fees in the fund and clarify the requirement to ensure consistent, timely transfers.

DMV agrees with this recommendation and has already put controls in place to ensure quarterly transfers of funds to the DDOE occur. To achieve this objective, our Budget Office now receives monthly reports providing the necessary Anacostia River license plate new issuance and renewal information such that fund amounts can be identified and transfers timely made. Additionally, DMV will ensure the FY15 Memorandum of Agreement with DDOE includes this information.

Thank you for the opportunity to respond to your draft report and recommendations. Please contact me at Lucinda.babers@dc.gov or 202-727-2200 if there are any questions or concerns.

Sincerely,



Lucinda M. Babers
Director

cc: Keith Anderson, Director, District Department of Environment
Kimberly Borges, DC DMV Agency Fiscal Officer, OCFO

Auditor's Response to Agency Comments

The Auditor appreciates the comments provided by the District Department of the Environment (DDOE) and the Department of Motor Vehicles (DMV).

DDOE disagreed with our Recommendation 1. We revised the finding and subsequent recommendation to clarify that ODCA is not suggesting that priority one has the highest level of Fund spending, but that DDOE should strengthen its system for monitoring when priorities are met and that they are met in order of priority. This would include tracking expenditures by priority so that DDOE can accurately report how much has been spent on each priority both annually and over multiple years. We are encouraged that DDOE stated it will increase its tracking of expenditures by priority.

DDOE disagreed with our Recommendation 2. We stand by this recommendation and are further encouraged that DDOE is establishing and revising procedures, as well as, providing mandatory training for staff.

DDOE partially agreed with our Recommendation 3. We stand by the recommendation that calls on DDOE and OTR to improve information sharing related to businesses found not to be remitting the correct amount of bag fees.

Lastly, DDOE partially agreed with our Recommendation 5. We stand by the recommendation and are encouraged that DDOE plans to better document and update how Fund-supported initiatives advance the Act's priorities, as well as to make its multi-year spending plan more robust.

The DMV disagreed with our September 5, 2014 draft report recommendation 4 regarding the transfer of commemorative license plate fees less production costs. We made changes to this final report where applicable. However, we feel that consideration of the proposal outlined in this report on page 14 could strengthen the program by adding additional revenue. The DMV agreed with our Recommendation 5 and we are pleased that the DMV is taking steps towards implementing the recommendation.

Appendix A

D.C. Code § 8-102.05

DISTRICT OF COLUMBIA OFFICIAL CODE
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*** Current through laws effective as of May 19, 2014, and through D.C. Act 20-306 ***

DIVISION I. GOVERNMENT OF DISTRICT
TITLE 8. ENVIRONMENTAL AND ANIMAL CONTROL AND PROTECTION
SUBTITLE A. ENVIRONMENTAL CONTROL AND PROTECTION
CHAPTER 1. ENVIRONMENTAL CONTROLS
SUBCHAPTER I-A. **ANACOSTIA RIVER CLEAN UP AND PROTECTION**

D.C. Code § 8-102.05 (2014)

§ 8-102.05. Establishment of the **Anacostia River Clean Up and Protection Fund**

(a) There is established as a nonlapsing fund the **Anacostia River Clean Up and Protection Fund**. The fees established by § 8-102.03 for disposable carryout bags and transmitted to the Office of Tax and Revenue, the net proceeds from the issuance of Anacostia River Commemorative License Plates, and the net proceeds from the voluntary tax check-off provided in § 47-1812.111c [§ 47-1812.11d] shall be deposited in the Fund. The Fund shall be used solely for the purposes set forth in subsection (b) of this section and shall be administered by the Office of the Director of the District Department of the Environment.

(b) The Fund shall be used solely for the purposes of cleaning and protecting the Anacostia River and other impaired waterways. Funds shall be used for the following projects in the following order of priority:

(1) A public education campaign to educate residents, businesses, and tourists about the impact of trash on the District's environmental health;

(1A) The pilot program described in § 8-102.06a, and, at the discretion of the District Department of the Environment, the pilot program's full implementation;

(2) Providing reusable carryout bags to District residents, with priority distribution to seniors and low-income residents;

(3) Purchasing and installing equipment, such as storm drain screens and trash traps, designed to minimize trash pollution that enters waterways through storm drains, with priority given to storm drains surrounding the significantly impaired tributaries identified by the District Department of the Environment;

(4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools;

(5) Monitoring and recording pollution indices;

(6) Preserving or enhancing water quality and fishery or wildlife habitat;

(7) Promoting conservation programs, including programs for wildlife and endangered species;

(8) Purchasing and installing signs and equipment designed to minimize trash pollution, including anti-littering signs to be installed in areas where littering would impact the Anacostia River, recycling containers, and covered trash receptacles;

(9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;

(10) Funding community cleanup events and other activities that reduce trash, such as increased litter collection;

(11) Funding a circuit rider program with neighboring jurisdictions to focus river and tributary clean-up efforts upstream;

(12) Supporting vocational and job training experiences in environmental and sustainable professions that enhance the health of the watershed;

(13) Maintaining a public website that educates District residents on the progress of clean-up efforts; and

(14) Paying for the administration of this program.

(c) (1) The Fund shall not be used to supplant funds appropriated as part of an approved annual budget for Anacostia River cleaning activities.

(2) The Fund shall not be used to fund street sweeping activities.

(d) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General

Fund of the District of Columbia at the end of the fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization from Congress.

HISTORY: Sept. 23, 2009, D.C. Law 18-55, § 6, 56 DCR 5703; Sept. 24, 2010, D.C. Law 18-223, § 1132, 57 DCR 6242; Oct. 23, 2012, D.C. Law 19-188, § 2(b), 59 DCR 10151.

NOTES:

SECTION REFERENCES. --This section is referenced in § 2-1226.36, § 8-102.01, § 8-102.03, § 8-102.07, § 47-1812.11d, and § 50-1501.03.

EFFECT OF AMENDMENTS. --D.C. Law 18-223, in subsec. (c), designated the existing text as par. (1) and added par. (2).

The 2012 amendment by D.C. Law 19-188 added (b)(1A); and in (b)(8), inserted "signs and" and "anti-littering signs to be installed in areas where littering would impact the Anacostia River."

TEMPORARY AMENDMENT OF SECTION. --Section 802 of D.C. Law 18-222 rewrote subsec. (c) to read as follows:

"(c)(1) The Fund shall not be used to supplant funds appropriated as part of an approved annual budget for Anacostia River cleaning activities.

"(2) The Fund shall not be used to fund street sweeping activities."

Section 2002(b) of D.C. Law 18-222 provided that the act shall expire after 225 days of its having taken effect.

EMERGENCY LEGISLATION. --For temporary (90 day) amendment of section, see § 802 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 802 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see § 1132 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

LEGISLATIVE HISTORY OF LAW 18-55. --For Law 18-55, see notes following § 8-102.01.

LEGISLATIVE HISTORY OF LAW 18-223. --Law 18-223, the "Fiscal Year 2011 Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

LEGISLATIVE HISTORY OF LAW 19-188. --See note to § 8-102.04.

SHORT TITLE. --Short title: Section 1131 of D.C. Law 18-223 provided that subtitle N of title I of the act may be cited as the "**Anacostia River Clean Up** and Protection Clarification Amendment Act of 2010".

Appendix B

Project Period	Project Name	Grantee	Division	Total Grant Award	Total Bag Bill Funding	Scope	Deliverables	Which projects priorities do these grants meet under Sec.6 of the Anacostia Clean-Up and Protection Act of 2009?
2008- 2012	Demonstration of Trash Reduction Technologies in the Anacostia Watershed	Anacostia Watershed Society	Watershed Protection Division	\$ 111,500.00	\$ 27,379.00	The purpose of this project was to design, install and maintain a trash trap in Nash Run, a tributary to the Anacostia River.	Design and construction of a litter trap in a tributary to the Anacostia; semi-annual reports; final report	(3) Purchasing and installing equipment, such as storm drain screens and trash traps, designed to minimize trash pollution that enters waterways through storm drains, with priority given to storm drains surrounding the significantly impaired tributaries identified by the District Department of the Environment; (5) Monitoring and recording pollution indices; (6) Preserving or enhancing water quality and fishery or wildlife habitat;
2010 - 2011	Non-Engineering Solutions for Trash Pollution	Alice Ferguson Foundation	Stormwater Management Division	\$ 163,300.00	\$ 28,784.00	The purpose of this project was to assess why people in the District litter. The project consisted of behavioral studies in the Deanwood community of northeast. Phone surveys were also conducted District wide. The findings from this study went towards developing anti-littering education and outreach materials. A concentrated effort of the campaign was also implemented in the Deanwood community. A initial study of the effectiveness of the campaign was also conducted.	Anti-litter education and outreach materials, and a final report.	(1) A public education campaign to educate residents, businesses, and tourists about the impact of trash on the District's environmental health; (8) Purchasing and installing signs and equipment designed to minimize trash pollution, including anti-littering signs to be installed in areas where littering would impact the Anacostia River, recycling containers, and covered trash receptacles;
2011-2014	Green Roof Rebate Program	Anacostia Watershed Society	Watershed Protection Division	\$ 1,083,108.00	\$ 145,000.00	This project provides a financial incentive for private property owners to adopt the use of "green roof" technology. Green roofs are a type of green infrastructure that works to protect the health of District waters by decreasing the volume, velocity and pollutant loads coming from rooftops. The Grantee is tasked implement an education and outreach program to gain adopters, inspect completed green roofs, provide maintenance training and documents, and distribute rebates.	~58K square feet of green roof rebated. Work Plan; quarterly reports; tracking databases; outreach materials; rebate administrative forms	(6) Preserving or enhancing water quality and fishery or wildlife habitat; (7) Promoting conservation programs, including programs for wildlife and endangered species; (9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;
2011-2014	District Pervious Paver and Rain Garden Rebate Demonstration	Alliance for the Chesapeake Bay	Watershed Protection Division	\$ 260,000.00	\$ 20,000.00	This project provides a financial incentive for District of Columbia private property owners to adopt the use of pervious pavers and rain gardens, and/or to remove impervious surface from their District properties. These types of green infrastructure protect District waters by decreasing the volume, velocity and pollutant loads coming from private property in the District. The Grantee is tasked implement an education and outreach program to gain adopters, and through this outreach, provide a rebate to no fewer than 100 District property retrofits.	Install LID on no fewer than 100 District residential properties.	(6) Preserving or enhancing water quality and fishery or wildlife habitat; (7) Promoting conservation programs, including programs for wildlife and endangered species; (9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;
2011-2014	RiverSmart Homes Rain Barrel Installation Program	DC Greenworks	Watershed Protection Division	\$ 790,645.00	\$ 242,257.00	This project works to retrofit private properties in the District with rain barrels. This low-cost, high efficiency green infrastructure technology decreases the volume, velocity and pollutant load of rain water runoff traveling from private properties to District waterways. Grantee is tasked to disconnect downspouts from the sewer system, install the rain barrel and demonstrate the use and maintenance of rain barrels for the homeowner.	1000 rain barrels installed. Work Plan; quarterly reports; tracking databases; outreach materials.	(6) Preserving or enhancing water quality and fishery or wildlife habitat; (9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;
2011-2014	RiverSmart Tree Installation Program	Casey Trees	Watershed Protection Division	\$ 292,483.00	\$ 71,494.00	This project encourages homeowners to plant large shade trees on their District properties. Large shade trees capture and use rain water, thereby reducing the volume, velocity and pollutant load of rain water runoff traveling from private properties to District waterways. The Grantee is tasked to plant the trees and educate the homeowner on care of trees for long-term survival.	500 or more trees planted. Work Plan; quarterly reports; tracking databases;	(6) Preserving or enhancing water quality and fishery or wildlife habitat; (7) Promoting conservation programs, including programs for wildlife and endangered species; (9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;

Project Period	Project Name	Grantee	Division	Total Grant Award	Total Bag Bill Funding	Scope	Deliverables	Which projects priorities do these grants meet under Sec.6 of the Anacostia Clean-Up and Protection Act of 2009?
2011-2014	Demonstration of Trash Reduction Technologies	Anacostia Riverkeeper	Stormwater Management Division	\$ 396,000.00	\$ 396,000.00	The purpose of this project was to install two new litter traps within the Anacostia River watershed. These BMPs are essential to reducing the amount of trash in the Anacostia and its tributaries.	Installation of two Bandalong litter traps in the Anacostia watershed. Monthly reports and updated data spreadsheets on the amount of trash collected from both litter traps.	(3) Purchasing and installing equipment, such as storm drain screens and trash traps, designed to minimize trash pollution that enters waterways through storm drains, with priority given to storm drains surrounding the significantly impaired tributaries identified by the District Department of the Environment; (5) Monitoring and recording pollution indices; (6) Preserving or enhancing water quality and fishery or wildlife habitat;
2011-2014	Watershed Stewards Academy	Anacostia Watershed Society	Watershed Protection Division	\$ 75,000.00	\$ 75,000.00	This award to the National Capital Region-Watershed Stewards Academy will provide comprehensive training to District Residents on watershed pollution, restoration practices and policy issues about nonpoint source pollution from stormwater.	Provide training to 45 District residents to become watershed stewards. Work Plan; quarterly reports; educational materials	(12) Supporting vocational and job training experiences in environmental and sustainable professions that enhance the health of the watershed;
2012-2013	Trash Focused Meaningful Watershed Experience	Alice Ferguson Foundation	Watershed Protection Division	\$ 33,160.00	\$ 33,160.00	This is a youth-oriented, water resources and water pollution educational campaign for students at District public and charter schools. In addition to watershed and nonpoint source pollution education, this project includes a trash-cleanup service project opportunity for the youth.		(4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools;
2013-2015	Maintenance of Kenilworth Litter Trap	Groundwork Anacostia River DC	Stormwater Management Division	\$ 90,000.00	\$ 45,000.00	A continuation of maintenance of the Bandalong litter trap first installed at the mouth of Watts Branch, a tributary to the Anacostia River, in 2009. The trap has been very successful at removing thousands of pounds of trash from Watts Branch since it was first installed.	Continued maintenance of trash trap. Monthly reports and updated data spreadsheets on the amount of trash collected from both litter traps.	(6) Preserving or enhancing water quality and fishery or wildlife habitat; (5) Monitoring and recording pollution indices
2013-2015	Maintenance of Nash Run Litter Trap	Anacostia Watershed Society	Stormwater Management Division	\$ 60,000.00	\$ 30,000.00	A continuation of maintenance of a custom designed trash trap first installed in Nash Run in 2009. The trap has been very successful at removing thousands of pounds of trash from Watts Branch since it was first installed.	Continued maintenance of trash trap. Quarterly reports and updated data spreadsheets on the amount of trash collected from both litter traps.	(6) Preserving or enhancing water quality and fishery or wildlife habitat; (5) Monitoring and recording pollution indices
2013	Bag Law Consumption Trends Study	Alice Ferguson Foundation	Stormwater Management Division	\$ 59,731.00	\$ 59,731.00	The purpose of this project was to conduct a Bag Law Survey measuring the impact of the Bag Law on bag usage rates across businesses, residents and bag distributors.	Work Plan; quarterly reports; resident and business surveys	(5) Monitoring and recording pollution indices;
2013-2014	Environmental Ambassadors	Living Classrooms of the National Capital Region	Watershed Protection Division	\$ 39,961.68	\$ 39,961.68	Through this project, Grantee will train high school students to serve as environmental role models for third (3rd) - eighth (8th) graders at community service events and through direct environmental education programming	Train 10-15 DCPS high school students to serve as environmental role models for approximately 60 third (3rd) - eighth (8th) graders. Work Plan; quarterly reports; educational materials	(4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools;
2013	Environmental Ambassadors	Earth Conservation Corps	Watershed Protection Division	\$ 36,144.00	\$ 20,000.00	Funding was provided to ECC to train environmental ambassadors to educate elementary and middle schools on the importance of recycling, trash removal, etc.	Train three young adults to provide four environmental education experiences for three DCPS classes. Work Plan; quarterly reports; educational materials	(4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools;
2013-2014	Environmental Ambassadors	Earth's Natural Force Connections	Watershed Protection Division	\$ 40,000.00	\$ 40,000.00	Funding was provided to Earth's Natural Force Connections to train elementary and middle school students to set an example by respecting the environment, actively working to remove litter and reducing the load of trash entering the District's waterways.	Provide environmental education events and activities for 6 DPCS schools, grades 3-8. Work Plan; quarterly reports; educational materials.	(4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools;

Project Period	Project Name	Grantee	Division	Total Grant Award	Total Bag Bill Funding	Scope	Deliverables	Which projects priorities do these grants meet under Sec.6 of the Anacostia Clean-Up and Protection Act of 2009?
2013-2015	Demonstration of Trash Reduction Technologies	Anacostia Watershed Society	Stormwater Management Division	\$ 50,000.00	\$ 50,000.00	The purpose of this project was to install and maintain a new trash trap. The trap was required to be installed in the Anacostia watershed.	Installation of a custom designed trash trap. Monthly reports on the traps maintenance. Data on the amount of trash collected by the trap.	(3) Purchasing and installing equipment, such as storm drain screens and trash traps, designed to minimize trash pollution that enters waterways through storm drains, with priority given to storm drains surrounding the significantly impaired tributaries identified by the District Department of the Environment; (6) Preserving or enhancing water quality and fishery or wildlife habitat;
2013-2015	Demonstration of Trash Reduction Technologies	Earth Conservation Corps	Stormwater Management Division	\$ 47,200.00	\$ 47,200.00	The purpose of this project was to install and maintain a new trash trap. The trap was required to be installed in the Anacostia watershed.	Installation of a series of booms to collect trash from a stormwater outfall. Quarterly reports on the traps maintenance. Data on the amount of trash collected by the trap.	(3) Purchasing and installing equipment, such as storm drain screens and trash traps, designed to minimize trash pollution that enters waterways through storm drains, with priority given to storm drains surrounding the significantly impaired tributaries identified by the District Department of the Environment; (6) Preserving or enhancing water quality and fishery or wildlife habitat; (5) Monitoring and recording pollution indices
2012-2013	Trash Focused Meaningful Watershed Experience	Live It Learn It	Watershed Protection Division	\$ 33,160.00	\$ 33,160.00	This is a youth-oriented, water resources and water pollution educational campaign for students at District public and charter schools. In addition to watershed and nonpoint source pollution education, this project includes a trash-cleanup service project opportunity for the youth.		(4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools;
2013	Overnight Meaningful Watershed Education Experience	Alice Ferguson Foundation	Watershed Protection Division		\$	- This is a youth-oriented, water resources and water pollution educational campaign for students at District public and charter schools. In addition to watershed and nonpoint source pollution education, this project includes a three-day overnight		(4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools;
2013	RiverSmart Homes Rain Barrel Installation Program	Community Resources dba DC Greenworks	Watershed Protection Division		\$	- This project works to retrofit private properties in the District with rain barrels. This low-cost, high efficiency green infrastructure technology decreases the volume, velocity and pollutant load of rain water runoff traveling from private properties to District waterways. Grantee is tasked to disconnect downspouts from the sewer system, install the rain barrel and demonstrate the use and maintenance of rain barrels for the homeowner.		(6) Preserving or enhancing water quality and fishery or wildlife habitat;

Appendix C

Fiscal year	Vendor Name	Total Bag Bill Funding	Scope	Deliverables	Which projects priorities do these capital expenditures meet under Sec.6 of the Anacostia Clean-Up and Protection Act of 2009?
2012	ANACOSTIA RIVERKEEPER	\$ 220,000.00	The purpose of this project was to install two new litter traps within the Anacostia River watershed. These BMPs are essential to reducing the amount of trash in the Anacostia and its tributaries.	Installation of two new Bandalong litter traps in the Anacostia watershed.	(3) Purchasing and installing equipment, such as storm drain screens and trash traps, designed to minimize trash pollution that enters waterways through storm drains, with priority given to storm drains surrounding the significantly impaired tributaries identified by the District Department of the Environment; (5) Monitoring and recording pollution indices; (6) Preserving or enhancing water quality and fishery or wildlife habitat;
2012	JOHNSON, MIRMIRAN THOMPSON	\$ 199,995.82	Stream restoration designs for Nash Run.	Set of 100%, permitted stream restoration designs for Nash Run. 90% designs were submitted	(6) Preserving or enhancing water quality and fishery or wildlife habitat; (7) Promoting conservation programs, including programs for wildlife and endangered species; (9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;
2013	JOHNSON, MIRMIRAN THOMPSON	\$ 189,070.18	This is for a change order to the original stream restoration design contract for Nash Run. The change order was to pay for the design of approximately an additional 400 feet.	Set of 100%, permitted stream restoration designs for Nash Run.	(6) Preserving or enhancing water quality and fishery or wildlife habitat; (7) Promoting conservation programs, including programs for wildlife and endangered species; (9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;
2013	LIMNOTECH	\$ 97,400.00	Design for comprehensive watershed restoration project for Alger Park. The project will include stream restoration designs, as well as designs for upland low impact development projects.	30% designs completed in FY13.	(6) Preserving or enhancing water quality and fishery or wildlife habitat; (7) Promoting conservation programs, including programs for wildlife and endangered species; (9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;