

OFFICE OF THE AUDITOR GENERAL

**Report to the
Budget and Finance Committee
Navajo Nation Council**

**Research
of the
Tsaile/Wheatfields Agriculture Project
funded by the
Navajo Nation Permanent Trust Fund Income
December 2018**


**Report No. 19-05
December 2018**

**Performed by:
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M-E-M-O-R-A-N-D-U-M

TO : Seth Damon, Chairperson
BUDGET AND FINANCE COMMITTEE

FROM : 
Elizabeth Begay, CIA, CFE
Auditor General
OFFICE OF THE AUDITOR GENERAL

DATE : December 18, 2018

SUBJECT : Research of the Tsaile/Wheatfields Agriculture Project

The Office of the Auditor General herewith transmits Report No. 19-05, Research of the Tsaile/Wheatfields Agriculture Project funded by the Navajo Nation Permanent Trust Fund Income. The objective of our research was to determine whether the \$1.7 million allocated to the Tsaile-Wheatfields-Black Rock Dineh Water Users Association (TWBDWUA) for the Tsaile/Wheatfields Agriculture Project was used in accordance with the Memorandum of Agreement executed for the project. Our research covered the period of fiscal year 2017 to 2019 (as of December 2018).

EXECUTIVE SUMMARY

Based on our research, the TWBDWUA expended the \$1.7 million consistent with the intent of the project. However, we noted the following issues:

- A. Familial relationships – There are board members and staff who are related by blood or marriage, but there are no controls in place to minimize conflicts of interests.
- B. Project expenses – Goods/services were not procured competitively especially the farm equipment costing \$1.2 million. Pay rate for key employees exceed the market rates based on education/qualifications.
- C. Financial status – The project financial and performance reporting do not provide a clear picture of the agriculture project outputs and outcomes.
- D. Project beneficiaries – Farmers participation in the project was lower than expected.

Overall, the Tsaile/Wheatfields Agriculture Project has good intentions and if successful, will provide important benefits to the surrounding communities. However, the project is at risk of failing due to the division that has arisen between the TWBDWUA and Farm Board regarding the project. The project is a joint effort between the TWBDWUA and Farm Board based on common goals and initiatives. As such, their collaborative efforts are crucial to meeting the project goals and objectives.

Per the MOA, the success of the Tsaile/Wheatfields Agriculture Project will be measured by whether the TWBDWUA and the Farm Board can successfully secure funding from USDA for the Upper Wheatfields irrigation project. Therefore, if the Navajo Nation deems the project should continue, the recommendations provided in this report needs to be implemented to address the issues identified.

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I. PROJECT BACKGROUND

- A. *Permanent Trust Fund five-year expenditure plan*** – In April 2016, the Navajo Nation Council passed resolution no. CAP-19-16 to approve the five-year expenditure plan for the Permanent Trust Fund (PTF) income. The PTF income became available to fund major waterline and economic development projects across the Navajo Nation. Per the resolution, \$150 million was approved as follows:
- | | |
|---|---------------------|
| Navajo Nation waterline projects: | \$68,250,000 or 46% |
| Regional economic development projects: | \$81,750,000 or 54% |

The \$150 million would be disbursed on average of \$30.5 million annually over a five year period. An attachment to the resolution summarizes the projects and respective allocation amounts per each year. Three projects were identified as agriculture-related projects including the Tsaille/Wheatfields Agriculture Project which was approved to receive \$3 million by year 2 and another \$2 million by year 5.

- B. *Tsaile/Wheatfields Agriculture Project*** - The agriculture project is a collaboration between the Tsaille/Wheatfields/Blackrock Dineh Water Users Association (TWBDWUA) and the Tsaille/Wheatfields Farm Board based on a plan they developed called the "Revitalization of Farming Project." The goal of the project is to have 80% of the necessary infrastructure for water development in place by year 2020 in order to have 100% usable farmland in production.

To improve the community irrigation systems, the TWBDWUA and Farm Board plan to seek funding from the Environmental Quality Incentive Program from the Natural Resources Conservation Service under the U.S. Department of Agriculture (USDA). To be eligible for such funding, the funding applicant must meet a major requirement which is to provide evidence that the farmlands have been utilized for the last two years. Currently, of the 1,678 acres of farmland within the Tsaille-Wheatfields-Blackrock communities, 86% was reported as idle farmland in 2016. In addition, of the 89 farmers who were surveyed, 95% indicated their biggest obstacles in farming their land were: a) lack of farm equipment, b) lack of water and c) lack of financial resources.

Overall, the TWBDWUA and Farm Board have to demonstrate farmlands are utilize before they can seek funding from USDA. Since a majority of the farmlands are idle, the Tsaille/Wheatfields Agriculture Project is intended to 'revitalize' interest in farming through education, training, technical assistance, partnerships and community support with the farmers/ranchers.

- C. *Memorandum of Agreement for the Tsaille/Wheatfields Agriculture Project*** – The Navajo Nation Council resolution no. CAP-19-16 did not stipulate the administrative aspects of how the projects would be implemented. The Council relied on the Navajo Nation departments assigned to monitor the PTF projects to determine the best mechanism for implementing the projects.

The Division of Natural Resources assigned to monitor the Tsaille/Wheatfields Agriculture Project decided on a Memorandum of Agreement (MOA) since the funds were to be disbursed to a non-profit entity. The MOA was executed on March 6, 2017 between the

Navajo Nation and TWBDWUA. The term of the MOA is for a 10-year period from February 1, 2017 to September 30, 2027.

D. *Tsaile-Wheatfields-Blackrock Dineh Water Users Association* – TWBDWUA was created in 2002 as a non-profit organization under Internal Revenue Code Section 501(c) 12. As such, TWBDWUA is recognized as a mutual ditch or irrigation company and therefore, exempt from federal income tax. TWBDWUA filed its 2017 tax return with the Internal Revenue Service in May 2018.

The board comprises of five members, three as officers (President, Vice President, and Secretary/Treasurer) and two members who are elected at annual membership meetings. The members are voted in by majority vote. Each member serves a four-year staggered term and may be elected for successive terms. The board members serve voluntarily and are not compensated for their time and services. Overall, the bylaws outline the roles, responsibilities, and authority of the board and its members. These bylaws were last updated by the TWBDWUA in March 2018.

The TWBDWUA articles of incorporation states the purpose of the association is to engage in all activities necessary to develop, promote, operate and maintain water conservation systems to sustain agriculture and community activities in the Tsaile-Wheatfields-Blackrock community for present and future generations. The articles of incorporation was recently updated in November 2018 and filed with the Navajo Nation Business Regulatory Department.

Based on available records, the TWBDWUA has worked with the Tsaile/Wheatfields Farm Board basically since its inception based on common goals they share for their communities. The MOA executed for the PTF funds addresses the collaborative effort between both parties.

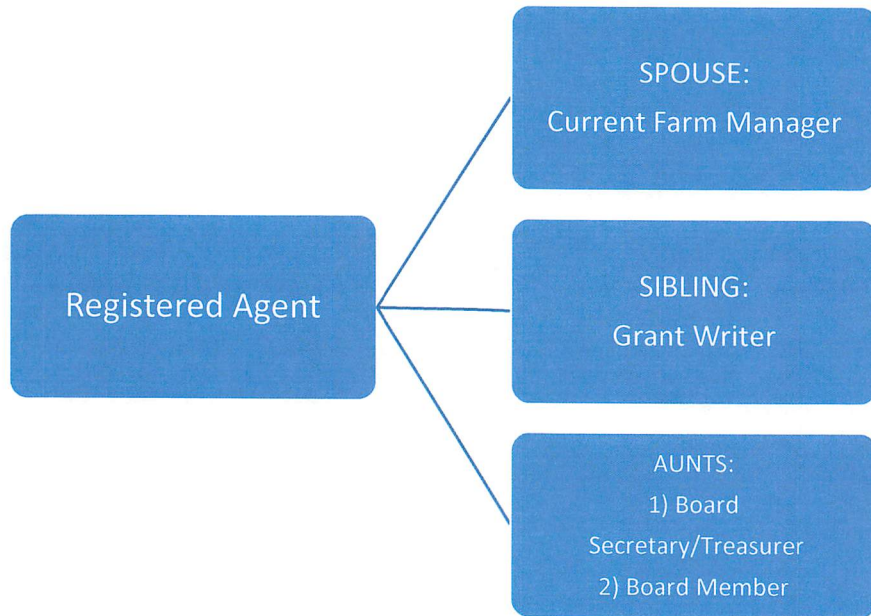
II. RESEARCH RESULTS

Based on our research in response to the Budget and Finance Committee’s directive, the auditors determined the following:

A. Familial relationships within TWBDWUA staff and board members

There are TWBDWUA board members and staff who are related via blood relations and marriage. The organization acknowledged the following relationships that start with their registered agent as illustrated below:

[See next page]



Records show that the Registered Agent and her husband who is the current Farm Manager, served on the TWBDWUA board since 2013 and 2010, respectively. Although the Registered Agent did not become a TWBDWUA board member until 2013, she has been involved with the organization since she became aware of its existence in 2009 when she was elected as the Farm Board secretary. She credits herself for the research that was done to determine its organizational and financial status and the efforts to re-establish the organization as a non-profit entity. In February 2018, the Registered Agent resigned from both the Farm Board and TWBDWUA as the secretary but remains active with the organization as their registered agent.

To address conflicts of interest, the TWBDWUA included a stipulation in their bylaws that board members shall refrain from conflicts of interests or appearances of improprieties in carrying out the business of the organization. Board members shall abide by Navajo Nation Ethics in Government Law, and established policy regarding nepotism and supervision over family members in its Employee policies. However, the TWBDWUA has not adopted a conflict of interest policy that is highly recommended for non-profit entities by the Internal Revenue Service (IRS).

A conflict of interest is defined as a transaction or arrangement that might benefit the private interest of an officer, board member, or employee. According to our Internet research, conflicts of interest for board members can take several forms including: a) related parties on the board, b) board members related to employees, c) certain transactions and d) dual-capacity individuals who are responsible for both the governance of the organization as well as its management and operations. The following are key recommendations to avoid or minimize conflicts of interests:

- a) Organization's quorum: If a board comprises of five members, of whom two are related, all five members must be present to satisfy quorum because the majority of board members present must be unrelated.
- b) Inurement prohibition: This means individuals within an organization cannot receive excessive compensation or benefit from their employment or association to the organization.

- c) Board member recusal: If a board member's relative is to be hired by the organization, the related board member must recuse themselves of voting on the hiring and compensation amount for their relative.
- d) Documentation: To avoid questions by IRS, all decision-making should be documented and ensure all meetings have proper board members to satisfy quorum.
- e) Conflict of interest policy: Avoiding conflicts of interest is best practice and as such, non-profit organizations are advised to adopt conflict of interest policy.

While relying on the above recommendations as guiding principles to determine the TWBDWUA's level of conflict of interest, we noted concerns based on the following:

- For the five-month period of August to December 2018, the board president did not attend 4 of 7 (58%) board meetings;
- The secretary/treasurer position was vacant for 6 of 7 (86%) board meetings;
- As a result, the resolutions passed by the board were acted on by a majority of related members (the board vice-president and one member are sisters);
- The board vice-president certified all board meeting minutes as well as a majority of the board resolutions;
- No evidence that the aunts who are board members recused themselves from approving the hiring and salary for their niece who was hired by the organization as the grant writer;
- No evidence that the aunts who are board members recused themselves from approving the hiring and salary for the farm manager who is the husband of their niece that also serves as the registered agent for the organization;
- The board approved a pay rate of the grant writer that was the highest amount among all employees hired by the organization; the grant writer is related to two board members; and
- There is no formal conflict of interest policy in place by the TWBDWUA especially in light of the number of board members and staff that are related by blood and/or marriage.

RECOMMENDATIONS:

- a) Establish a conflict of interest policy.
- b) For voting situations, all board members shall be present in order for the majority of the board members present to be unrelated.
- c) Board members shall recuse themselves when approving the hiring of family members.

B. Expenditure of the project funds

In July 2017, the TWBDWUA received two disbursements totaling approximately \$1.7 million as an advance to implement the Tsaille/Wheatfields Agriculture Project. The advance was to cover the startup costs of the project and to build the project's infrastructure and operational capacity. The disbursements were based on the budget that was approved for the project as part of the MOA.

The TWBDWUA agreed to expend the funds in accordance with their established policies and procedures. The organization adopted policies and procedures covering fiscal management, procurement, travel, equipment and employee practices. Records showed that all these policies, with the exception of fiscal management, were adopted after the organization received the \$1.7

million advance. Per the organization, the policy development was part of building their operational capacity.

To verify whether project expenditures were made in accordance with the MOA and applicable policies, we examined the following expenses:

➤ Operating expenses

- A sample of 10 expenses totaling \$41,274 were examined and we noted:
 - 1) four expenses did not have quotes or request for proposals to demonstrate competitive procurement; and
 - 2) 10 expenses showed no prior approval other than signatures on the checks.

- While examining these operating expenses, we also noted:
 - 1) Two consultants were hired to assist the TWBDWUA and based on their disbursements as of October 2018, both consultants exceeded their respective budget amounts; the management consultant had a budget of \$3,500 but total disbursements was \$18,948 and the budget for an agriculture consultant was \$20,000 but total disbursements was \$20,089.
 - 2) The contract for the management consultant does not disclose the contract amount other than an hourly rate of \$75.00 and the consulting services would involve activities that support the Agriculture Project and its organizational operations; the contract would remain effective until December 31, 2020.
 - 3) Four expenses were incurred with a credit card but the fiscal management policy does not address the use of a credit card as a payment method; the credit card was used mainly for expenses involving supplies, dues & subscription, equipment maintenance, fuel & oil, and farm materials.
 - 4) All expenses examined were consistent with the intent of the Agriculture Project.

➤ Payroll expenses

- A sample of 12 payroll expenses over two pay periods totaling \$21,058 were examined and we noted:
 - 1) 12 expenses were supported with timecards but no timesheets;
 - 2) two expenses had hours per the timecards that were inconsistent with hours posted in the accounting system; and
 - 3) seven expenses had timecards that were approved by individuals other than the authorized individuals per the organizational chart (for example, the grant writer's payroll expense was approved by the farm manager who is her brother-in-law).

- While examining these payroll expenses, we also noted:
 - 1) No master timesheets were used as part of payroll processing.
 - 2) The Farm Manager approved his own work hours per the timecard.
 - 3) Employees took vacation leave but no supporting documentation was found on file to substantiate the work absences.
 - 4) Approval dates on the timecards did not coincide with the pay period ending dates and payroll dates.

➤ Heavy Equipment expenses

- All 18 equipment purchases totaling approximately \$1.2 million were examined and we noted:

- 18 expenses had supporting documentation on file such as purchase orders, equipment invoice, retail purchase agreements and/or receiving records;
 - 18 expenses did not have the required number of quotes on file to demonstrate competitive procurement;
 - two equipment were not on the premises; per the Farm Manager, these items were back with the vendor for repair; and
 - two other equipment costing \$40,000 do not have insurance coverage.
- While examining the equipment purchases, we also noted:
 - 1) There was no record to substantiate the claim that equipment offsite are being repaired.
 - 2) The backhoe is rented as part of the chapter burial assistance but the equipment policy does not address equipment rental.
 - 3) No identification tags affixed to the equipment and other property.
 - 4) No property inventory maintained of all property/equipment own and controlled by the TWBDWUA.
 - 5) Per the MOA, all equipment purchased shall become property of the TWBDWUA and the titles for the truck and trailer reflect TWBDWUA ownership; titles for farm equipment are not issued because they do not operate on public roads.

➤ Staff wages for key staff

- A comparative analysis of the salaries for three key staff: Farm Manager, Grant Writer and Accountant revealed the following:

TWBDWUA Staff		Salary Range for position based on Internet search*		
Position Title	Salary Information:	Comparison #1	Comparison #2	Comparison #3
Farm Manager	Annual Salary: \$ 63,128	\$26,875-\$76,417	\$41,759-\$70,437	\$45,000-\$85,000
	Hourly Payrate: \$ 30.35	\$12.92-\$36.74	\$20.08-\$33.86	\$21.63-\$40.87
Grant Writer	Annual Salary: \$ 65,936	\$34,208-\$65,432	\$49,724-\$85,555	\$29,841-\$73,161
	Hourly Payrate: \$ 31.70	\$16.45-\$31.46	\$23.91-\$41.13	\$14.35-\$35.17
Accountant	Annual Salary: \$ 47,008	\$37,329-\$70,805	\$50,910-\$87,916	\$46,685-\$56,467
	Hourly Payrate: \$ 22.60	\$17.95-\$34.04	\$24.48-\$42.27	\$22.44-\$27.15

Note : Annual salary calculated based on pay rate x 2080 hours

** Salary range from entry level (1-3 years experience) to senior level (8+ years of experience)*

- Based on the employee resumes for these key positions, all three employees do not have more than three years of professional experience in their respective fields. However, their current pay rates with the TWBDWUA exceeded a majority of the entry level pay rates identified, as shown in the above table.
- The Grant Writer has a Bachelor's degree in Agribusiness Management and Master's degree in Education while the current delegated Accountant has a Bachelor's degree in Business Administration. Most of the Grant Writer's professional experience is elementary education. The delegated Accountant has not held any accountant positions but gained bookkeeping experience while employed as an administrative/executive assistant.
- The former accountant who resigned in September 2018 had only a bookkeeping certificate at the time of his employment with the TWBDWUA.

- The Farm Manager does not have a college degree but has over 15 years of supervisory experience. His resume states his farming and ranching experience comes from being a rancher and farmer but no professional experience based on related employment.
- In contrast, the Navajo Agricultural Products Industry (NAPI) job description for a Crop Manager, which is comparable to the TWBDWUA Farm Manager position, requires a Bachelor's degree in Agriculture, Agricultural Business, Agricultural Economics or directly related field along with three years progressive experience in agribusiness, agronomics, marketing, logistic, and administering contracts plus supervisory experience in an agricultural environment.
- The total wages paid for these key positions can be found at Exhibit A.
- We also noted the Grant Writer was budgeted for only six months (1,040 hours) but her total wage expense as of October 2018 was \$44,729 (1,411 hours) which is 371 hours more than the approved salary budget for this position.
- The current Accountant was re-assigned from Office Specialist when the former Accountant resigned from the organization. The board and Farm Manager approved the reassignment rather than re-advertise the position. The delegated Accountant represented the reassignment is temporary until the project funding issues are resolved.

RECOMMENDATIONS:

- a) Obtain quotes for applicable purchases to ensure competitive purchasing.
- b) Solicit professional services with request for proposals and competitive bidding.
- c) Update policies to reflect current activities such as the use of credit cards and equipment rental.
- d) Develop a property inventory of all heavy equipment, trailers, vehicles, office equipment, computers, etc.
- e) Insure all equipment/property.
- f) Tag all property to establish proper ownership.
- g) Revisit the payroll process to make sure there are proper segregation of duties with regards to payroll approval.
- h) Adhere to the budget when expending funds.
- i) Provide salary for staff that are commensurate with the market.
- j) Adhere to employee policies to properly fill vacant positions.

C. Financial status of the project

To date, the TWBDWUA has received approximately \$1.7 million of the \$5 million that was allocated for the Tsaille/Wheatfields Agriculture Project. The \$1.7 million covered the 2nd and 3rd quarters of fiscal year 2017 and Exhibit A is the budget to actual summary of the expenses as of October 2018 based on auditor's compilation.

As the summary shows, the budget is intended to cover only six months of expenses whereas the actual expenses covered 18 months since no further allocation was given to the TWBDWUA. As a result, there were budget deficits in several expense categories such as personnel wages and consulting services. All indications are that budget balances for other expense categories have offset the deficits.

Outstanding Invoices - The budget for the Agriculture Project was created on a quarterly basis over the five-year period of the project. To receive future allocations, the organization is required

to submit invoices based on the established budget. Listed below are TWBDWUA invoices that were submitted to the Division of Natural Resources:

<u>Invoice #</u>	<u>Invoice Date</u>	<u>Amount</u>	<u>Period</u>
3	10/17/2018	\$ 168,606.18	FY2017 - 4th quarter
4	10/17/2018	\$ 109,621.18	FY2018 - 1st quarter
5	10/17/2018	\$ 224,207.22	FY2018 - 2nd quarter
6	10/17/2018	\$ 89,906.78	FY2018 - 3rd quarter
7	10/17/2018	\$ 87,806.78	FY2018 - 4th quarter
		<u>\$ 680,148.14</u>	

None of the invoices totaling \$680,148 have been approved by the Division of Natural Resources (DNR). As a result, the organization has been operating on the initial advance of \$1.7 million that shows an unspent balance of \$63,716 as of October 2018 (Exhibit A).

According to the TWBDWUA, they did not meet DNR requirements for a number of reasons including the lack of clear direction and guidance from DNR, lack of technical assistance from the Tsaille/Wheatfields Farm Board, and interference by the Farm Board with their allegations of misuse of project funds and mismanagement of the overall project. According to DNR, the \$680,148 was not released to the TWBDWUA because of poor performance reporting by the TWBDWUA regarding the Agriculture Project.

Project performance reporting - The MOA outlines all the project goals, objectives, and activities over the five year period of the project. As such, the TWBDWUA acquired a grant tracking software to manage and report project activities. With assistance from a consultant, the Agriculture Project was input into the grant tracker and Exhibit B shows the performance progress reported as of December 2018.

This performance progress report is a 33-page report. A majority of the report addresses the different activities recorded for each objective. For each activity, the grant tracker requires an output. Per DNR, the past progress reports were deemed incomplete because not every activity was reporting an output and as a result, DNR was unable to properly assess the performance for each objective. DNR also questioned the accuracy of the completion percentages based on the performance indicators that were established for the project.

Overall, the progress report is unclear on the Agriculture Project’s accomplishments of its objectives specific to performance output and outcome since July 2017. We noted the following issues with the performance reporting:

- The progress report is lengthy due to the growing number of activities that are being reported for each objective.
- The report is cumulative meaning that every activity since the funding was received by the TWBDWUA in July 2017 is reported; there is no reporting done by each year to help verify whether the planned activities identified on a yearly basis per the MOA have been accomplished.
- The objectives and activities reported to date cover Year 1 although the project is now starting on Year 3.
- Actual results do not coincide with target indicators and as a result, completion percentages are questionable.

Accounting system – When the project first started, the TWBDWUA purchased the Peachtree accounting software for its accounting needs. This software was later converted to the Sage non-profit software. However, due to rising support costs, the TWBDWUA replaced the Sage software with QuickBooks Pro accounting software. Their management consultant helped with the conversion but not all accounts were reconciled. The QuickBooks Pro ending fund balance as of October 2018 was approximately \$28,000 but the corresponding ending bank balance was approximately \$56,000 leaving a variance of \$27,000.

In addition to the QuickBooks Pro, the TWBDWUA also uses Grant Tracker which is software that tracks all aspects of their grants including the finances. In comparing the budget expense reports from the QuickBooks Pro to the Grant Tracker, we also noted a variance of \$18,000. The current accountant indicated the conversion of the accounting software and how expenses were posted into Grant Tracker likely contributed to the variance. These variances raise questions about the reliability of the accounting system and the accuracy of financial reporting for the project.

The comparative analysis also revealed posting of expenses to travel and meeting expense accounts within the QuickBooks Pro that were not approved for the project and were not found in the Grant Tracker. These expenses may be deemed unauthorized project expenses.

RECOMMENDATIONS:

- a) Revisit the current setup of the Agriculture Project grant in Grant Tracker to streamline the performance reporting; the activities should focus on those identified in the MOA.
- b) The performance reporting should be clear about performance inputs, outputs and outcomes to properly gauge the success of the project.
- c) The progress reporting should be done yearly to better assess actual performance against the yearly activities delineated in the MOA.
- d) Target indicators should be revised to ensure accurate completion percentages.
- e) The accounting books via QuickBooks Pro needs to be reconciled to the bank account balances to ensure accurate reporting of expenses and fund balances.
- f) The QuickBooks Pro should interface with the Grant Tracker to make sure both systems are consistent in the accounting and reporting of grant funds.
- g) The unauthorized expenses should be justified; if the expenses are not related to the Agriculture Project, the funds should be repaid to the grant.

D. Beneficiaries of the agriculture project

The Agriculture Project is intended to benefit the farmers and ranchers within the Tsaille/Wheatfields community. The proposal identified over 1600 acres of farmland that belong to 127 farmers that need to be revitalized and the goal is to have 80% of the farmland producing products by the year 2020.

Although the \$1.7 million initial allocation was advanced in July 2017, the implementation of the project did not start until April 2018 when the TWBDWUA identified land tracts and their respective farmers and began providing services such as plowing the fields and planting seeds. The TWBDWUA also installed perimeter fencing around designated fields. According to the Farm Manager, once seeds were planted, it was the responsibility of the farmers to irrigate and maintain their fields.

According to the Farm Manager, when the planting season started, there were only verbal discussions regarding the responsibilities of the TWBDWUA and farmers. In the absence of any written agreements, there was confusion on what was expected of the farmers and TWBDWUA. This confusion and misunderstandings may explain the poor yield results summarized at Exhibit C. For the 2018 planting season, approximately 56 of 127 (44%) farmers had their respective farm plots totaling 696 acres worked on as part of the Agriculture Project. However, of the 696 acres, only about 20% (140 acres) produced crops which were three types of hay. Per the yield report, a total of 1,160 bales of 3-wire hay was successfully produced by 11 farmers (also 20% of 56 farmers). Of the 1,160 bales, 195 (17%) were sold which generated \$1,887 in revenues for the TWBDWUA.

Since only 20% of farmers and acres produced crops, the remaining 80% were unsuccessful in producing measureable crops. Per the yield report, 24 of 56 (43%) farmers irrigated their fields but despite their efforts, they did not produce sufficient crop levels to warrant cutting and baling of the hay. The remaining 21 (38%) farmers did not irrigate their fields after the seeds were planted.

Cost tracking – Since the TWBDWUA does not have a system to track costs such as labor, equipment usage and materials (i.e., seeds and fuel) for each farm plot that was worked on, any financial loss could not be readily determined for those farmers that did not effectively irrigate their fields and as a result produced no crops.

According to the Farm Manager, he does not consider it a financial loss for those fields that did not produce any crops. He explained that since the farmlands that were part of the 2018 planting season have been idle for so long, the hay grazer seeds that were planted will provide much-needed nutrients to the soil and refurbish the fields. With that, these fields will be in better conditions for the next planting season and the TWBDWUA can anticipate better yields with each future planting season.

Nonetheless, we analyzed the numbers compiled at Exhibit C and noted that had all 696 acres that were part of the 2018 planting season were successful in producing crops, over 5,500 bales of hay could have been produced and based on average sale price of \$10/bale, approximately \$55,000 could have been generated in revenues from hay sales.

Farmers – The Farm Manager did not know the reasons why 38% of the farmers who participated in the Agriculture Project did not bother to irrigate their fields and why another 43% made efforts but still did not produce crops. He said there could be a number of reasons: not a priority, limited time, physical limitations, financial limitations, or misunderstanding of TWBDWUA services. However, those are assumptions at this time because he has not met with these farmers to determine the actual reasons.

The Farm Manager indicated that a key reason may be confusion about their services. He indicated that some farmers were under the impression that the TWBDWUA would be providing the irrigation services as well as all the other farming services for their respective farm plots. As a result, these farmers did not bother with irrigating their fields. The Farm Manager explained that was not the agreement when the farmers elected to participate in the project. However, none of these agreements were put in writing. For the 2018 planting season, the TWBDWUA did not implement written agreements with the farmers to clearly delineate the responsibilities of both sides and the potential consequences if either party does not meet their obligations.

However, for the upcoming planting season, the Farm Manager drafted a written agreement that clarifies responsibilities and facilitates a firm commitment by the farmers. The draft agreement still needs board review and approval.

Farm Board – The Tsaille/Wheatfields Agriculture Project is intended to be a collaborative effort between the Farm Board, TWBDWUA and local farmers/ranchers. The collaborative effort was based on common goals and interests shared by all parties for the betterment of their communities including Tsaille, Upper Wheatfields and Lower Wheatfields. However, based on interviews and records, we noted the working relationship between the TWBDWUA and Farm Board has gradually deteriorated over the past several months and has led to various allegations by both sides against each other. By all indications, this has created a division in the community farmers that are supposed to participate in the project.

According to the Farm Board, they want full transparency with this project since Navajo Nation funds are funding the project. As such, the Farm Board periodically requested for financial reports and were having joint meetings with the TWBDWUA until March 2018. However, the TWBDWUA is critical of the Farm Board for a number of reasons: a) interference in implementing the Agriculture Project; b) unfounded allegations made against the board and staff; c) lack of technical assistance that was supposed to be provided via the MOA; d) misleading farmers on the project and services provided; e) inaction by the Farm Board regarding the land use permits is impeding the project; and f) lack of courtesy and professionalism by current board members.

The TWBDWUA board president explained that when she was elected she made the decision to stop the joint meetings with the Farm Board because she no longer wanted to subject the board and staff to the Farm Board's criticism and allegations of improprieties by the TWBDWUA with regards to the Agriculture Project. The board also approved revisions to their bylaws in March 2018 at their annual water user association meeting to remove the requirement to hold monthly joint meetings with the Farm Board but instead hold monthly TWBDWUA board meetings every 1st Sunday of each month. As a non-profit entity, the board has discretion to amend its bylaws but their actions to sever ties with the Farm Board may place the Agriculture Project at risk should such actions be found contrary to the MOA.

RECOMMENDATIONS:

- a) A cost tracking system should be developed to help track the costs incurred for each farm plot and per farmer; costs such as labor, equipment use, materials should be tracked.
- b) Written agreements should be used to make clear the responsibilities and obligations of the TWBDWUA and farmers.
- c) The Farm Manager should follow-up with each farmer to determine the reasons why certain fields were not irrigated and develop a plan with each farmer to avoid similar incidents in the next planting season.
- d) Resolve differences with the Farm Board and if necessary, have DNR mediate meetings between both parties to address concerns and issues.
- e) Determine the impact of the bylaw amendments that removed provisions regarding the Farm Board, on the MOA and the overall project; take appropriate corrective action if necessary.

OVERALL SUMMARY

Per the MOA, the success of the Tsaille/Wheatfields Agriculture Project will be measured by whether the TWBDWUA and the Farm Board can successfully secure funding from USDA for the Upper Wheatfields irrigation project. To qualify for the federal funding, both parties need to show the farmlands within this area are actively farmed for at least two years.

Since the farmlands have been idle for years, the first step was to revitalize these farmlands via the Tsaille/Wheatfields Agriculture Project. The project is a joint effort between the TWBDWUA and Farm Board based on common goals and initiatives. As such, their collaborative efforts are crucial to meeting the project goals and objectives.

However, our research of the project has revealed a number of issues. Familial relationships among board members and staff create conflicts of interest or the appearance of conflicts. Such conflicts are discouraged by the Internal Revenue Service for non-profit entities. Although project expenses were basically consistent with the intent of the project, there were various internal control deficiencies. There was no competitive procurement, no professional services contract for consulting services, inadequate segregation of duties with payroll processing, and no property inventory. Further, salary pay rates for key staff exceeded market rates. Project performance reporting is confusing and the reliability of the accounting systems is questionable. Lastly, only a small portion of the 56 farmers who participated in the project were successful in producing crops and only generated about \$1,800 in revenues for the TWBDWUA.

Although the Agriculture Project has good intentions and benefits the communities of Tsaille/Wheatfields, the project is at risk of failing due to the division that has arisen between the TWBDWUA and Farm Board regarding the project. A partnership that was defined by the MOA has deteriorated with both sides making allegations against each other about project mismanagement and lack of transparency. The project is supposed to be starting Year 3 but with no additional funding allocations due to questionable performance reporting, the project is basically stuck in Year 1 with no clearly defined accomplishments. Overall, the TWBDWUA has spent over \$1.7 million for project infrastructure and building its capacity but with challenges along the way. If the project should continue, the recommendations provided should be implemented to address the issues identified.

**Tsaile/Wheatfields Agriculture Project
Budget Expenditure Report
For the period of July 2017 thru October 2018**

Expense Description	Budget for \$1.7 million advance	Actual expenses between July 2017 to Oct. 2018		Variance
Personnel-Wages:				
Farm Manager	\$ 26,303.24	\$ 57,543.60	\$ (31,240.36)	
Accountant	\$ 19,582.00	\$ 45,822.40	\$ (26,240.40)	
Office Specialist	\$ 14,576.40	\$ 17,105.94	\$ (2,529.54)	
Grant writer	\$ -	\$ 44,728.70	\$ (44,728.70)	
Equipment Operator	\$ 11,700.00	\$ 21,937.50	\$ (10,237.50)	
Irrigation Technicians (Seasonal)	\$ 30,326.40	\$ 27,760.32	\$ 2,566.08	
Personnel-Fringe Benefits:				
Full Time Fringe	\$ 26,603.12	\$ 44,631.71	\$ (18,028.59)	
Part Time Fringe	\$ 4,202.64	\$ -	\$ 4,202.64	
Consulting:				
BP Management Consulting	\$ 3,500.00	\$18,948.00	\$ (15,448.00)	
KB Walcoma Consulting	\$ 20,000.00	\$20,089.38	\$ (89.38)	
Irrigation-4 laborer@10.00@8wks@40hrs(Y45 2X)	\$ 14,400.00	\$175.00	\$ 14,225.00	
Fencers -5 laborer @ 10.00 @4wks @40 hrs	\$ 8,000.00	\$0.00	\$ 8,000.00	
Supplies*	\$ 5,640.00	\$20,931.44	\$ (15,291.44)	
Insurance	\$ 6,000.00	\$18,312.00	\$ (12,312.00)	
Communication	\$ 1,000.00	\$3,690.44	\$ (2,690.44)	
Utilities	\$ 1,800.00	\$ 1,315.16	\$ 484.84	
Dues & Subscriptions	\$ 2,500.00	\$ 966.21	\$ 1,533.79	
Equipment Purchases:				
8RT Series Tractor	\$ 319,600.00	\$ 297,228.00	\$ 22,372.00	
7R Cab Tractor	\$ 64,400.00	\$ 54,000.00	\$ 10,400.00	
Backhole Tractor	\$ 92,800.00	\$ 59,900.00	\$ 32,900.00	
CAT 924K Wheel Loader	\$ 152,500.00	\$ 117,900.00	\$ 34,600.00	
Six Bottom Switch Plow	\$ 20,600.00	\$ 21,598.00	\$ (998.00)	
19ft Finishing Ripper	\$ 49,400.00	\$ 9,500.00	\$ 39,900.00	
Offset disc	\$ 31,900.00	\$ 37,532.00	\$ (5,632.00)	
Seeder Drill	\$ 31,900.00	\$ 33,641.00	\$ (1,741.00)	
TG Schmieesa Till & Pack	\$ 19,500.00	\$ 26,268.00	\$ (6,768.00)	
Shank Lister	\$ 37,100.00	\$ 41,637.00	\$ (4,537.00)	
D-16 Darbyshire Box Scraper	\$ 19,500.00	\$ 16,500.00	\$ 3,000.00	
GPS subinch RTK and 1 grade land leveling	\$ 44,200.00	\$ 28,950.00	\$ 15,250.00	
Windrower	\$ 162,800.00	\$ 151,195.00	\$ 11,605.00	
Heavy Duty Wheel Hay Rake	\$ 52,700.00	\$ 29,565.00	\$ 23,135.00	
Freeman 3 twine Baler	\$ 41,200.00	\$ 48,000.00	\$ (6,800.00)	
Bale wagon	\$ -	\$ 147,000.00	\$ (147,000.00)	
Compaction Rollers	\$ 15,400.00	\$ -	\$ 15,400.00	
6in gate pipes at 6,000ft	\$ 21,600.00	\$ -	\$ 21,600.00	
10in to 6 in bonnets	\$ 3,600.00	\$ -	\$ 3,600.00	
Miscellaneous pipe fitting	\$ 2,500.00	\$ -	\$ 2,500.00	
Water Pump	\$ 10,000.00	\$ -	\$ 10,000.00	
Flow meters	\$ 6,100.00	\$ -	\$ 6,100.00	
Storage Building (200 ft by 80ft)	\$ 125,900.00	\$ -	\$ 125,900.00	
Truck	\$ 43,000.00	\$ 55,121.06	\$ (12,121.06)	
Flatbed	\$ 10,000.00	\$ 11,945.00	\$ (1,945.00)	
Equipment Repairs & Maintenance*	\$ 1,400.00	\$ 14,264.08	\$ (12,864.08)	
Fuel & Oil	\$ 23,000.00	\$ 17,620.54	\$ 5,379.46	
Farm Materials/Supplies*	\$ 61,897.69	\$ 45,127.16	\$ 16,770.53	
Training & Education	\$ 1,000.00	\$ -	\$ 1,000.00	
Construction	\$ 130,000.00	\$ 121,144.55	\$ 8,855.45	
Contingency	\$ 1,678.45	\$ -	\$ 1,678.45	
GRAND TOTAL:	\$ 1,793,309.94	\$ 1,729,594.19	\$ 63,715.75	

**Tsaile/Wheatfields Agriculture Project
Performance Reporting
For the period of July 2017 thru December 2018**

Goal #1: To build a healthy food system for its community and to contribute in strengthening its economy by increasing productive farmlands and rangelands.

<u>Objective #</u>	<u>Objective</u>	<u>Target indicator</u>	<u>% of completion</u>	<u># of Activities per Year</u>			<u>Total # of Activities</u>
				<u>Year 1 - FY2017</u>	<u>Year 2 - FY2018</u>	<u>Year 3 - FY2019</u>	
1	Establish full-time positions	5 positions	120%	3	17	-	20
2	Establish part-time positions	10 positions	20%	1	7	-	8
3	Install grant award tracker	1 install	100%	2	7	-	9
4	Write letters to 127 farmers to participate in project	30 participants	423%	1	10	-	11
5	Provide selected farms with orientation on expectations and responsibilities	20 orientations	145%	-	18	1	19
6	Implement project with current subleases.	3 subleases	67%	-	150	18	168
7	Install perimeter fencing for all 3 farmland areas	3 farmland areas	Not reported	-	12	-	12
8	Have all selected farmers attend workshops	30 participants	877%	-	16	-	16
9	Purchase necessary farm equipment	20 items	100%	2	14	-	16
10	Purchase necessary storage facility	1 storage building	100%	2	14	-	16
11	Develop policies and procedures for equipment operation & maintenance	1 policy manual	100%	-	12	-	12
12	Fidelity bonding	1 board	100%	-	8	-	8
13	Internet connectivity	1 install	100%	1	6	-	7
Total-Goal #1:				12	291	19	322
Percent:				4%	90%	6%	100%

Goal #2: By 2020, 80% of infrastructure for water development will improve irrigation system and increase revitalizing of earthen dams for farmers and ranchers to utilize for growing their produce and crops.

<u>Objective #</u>	<u>Objective</u>	<u>Target indicator</u>	<u>% of completion</u>	<u># of Activities per Year</u>			<u>Total # of Activities</u>
				<u>Year 1 - FY2017</u>	<u>Year 2 - FY2018</u>	<u>Year 3 - FY2019</u>	
1	Revitalize 3 earthen dams to usable condition to increase water development	3 dams	Not reported	-	2	-	2
2	Identify meeting dates with ranchers	1 schedule	Not reported	-	-	1	1
Total-Goal#2:				0	2	1	3
Percent:				0%	67%	33%	100%

Tsaile/Wheatfields Agriculture Project Crop Yield Report - For 2018 Planting Season

By acreage:									
Status	Upper Wheatfields		Lower Wheatfields		Tsaile Irrigation Project		Grand Total		*
	acres	percent	acres	percent	acres	percent	acres	percent	
Irrigated, cut & bale:	35.64	24%	73.32	18%	36.66	27%	145.62	21%	*
Irrigated, still in progress:	-	-	115.79	28%	64.48	47%	180.27	26%	
Irrigated, never cut:	79.71	55%	127.63	31%	3.3	2%	210.64	30%	
Never irrigated:	30.82	21%	96.4	23%	32.43	24%	159.65	23%	
TOTAL:	146.17	100%	413.14	100%	136.87	100%	696.18	100%	

By farmers:									
Status	Upper Wheatfields		Lower Wheatfields		Tsaile Irrigation Project		Grand Total		*
	farmers	percent	farmers	percent	farmers	percent	farmers	percent	
Irrigated, cut & bale:	3	25%	4	13%	4	31%	11	20%	*
Irrigated, still in progress:	-	-	5	16%	3	23%	8	14%	
Irrigated, never cut:	6	50%	9	29%	1	8%	16	29%	
Never irrigated:	3	25%	13	42%	5	38%	21	38%	
TOTAL:	12	100%	31	100%	13	100%	56	100%	

By plots:									
Status	Upper Wheatfields		Lower Wheatfields		Tsaile Irrigation Project		Grand Total		*
	plots	percent	plots	percent	plots	percent	plots	percent	
Irrigated, cut & bale:	4	31%	5	14%	4	31%	13	23%	*
Irrigated, still in progress:	-	-	7	20%	3	23%	10	18%	
Irrigated, never cut:	6	46%	9	26%	1	8%	16	29%	
Never irrigated:	3	23%	14	40%	5	38%	22	39%	
TOTAL:	13	100%	35	100%	13	100%	61	109%	

* 2018 crop yield:		
Product type	Qty	%
Hay Grazer - 3 wire bales	724	62%
Oats - 3 wire bales	135	12%
Alfalfa - 3 wire bales	301	26%
TOTAL:	1,160	100%

Product Distribution		
	Qty	%
Farmer Share:	965	83%
TWBDWUA Share:	195	17%
TOTAL:	1,160	100%

Revenue		
	Amount	%
Sale of Products:	\$ 1,887	60%
Farm Equipment usage:	\$ 1,255	40%
TOTAL:	\$ 3,142	100%

METHODOLOGY

- Contacted the following entities:
 - a) Tsaile-Wheatfields-Blackrock Dineh Water Users Association (TWBDWUA) – board members and staff
 - b) Tsaile/Wheatfields Farm Board
 - c) Tsaile/Wheatfields Chapter (via the Community Services Coordinator)
 - d) Navajo Nation Division of Natural Resources
 - e) Navajo Nation Business Regulatory Office
 - f) Navajo Nation Office of Vital Records
 - g) Navajo Nation Ethics and Rules Office
- Obtained and reviewed the following records from TWBDWUA:
 - a) Bylaws and articles of incorporation
 - b) Policies and Procedures (fiscal, personnel, procurement)
 - c) Organizational chart
 - d) IRS form for non-profit status
 - e) Employee listing and hiring history
 - f) List of current and prior board members
 - g) Financial reports from July 2017 to October 2018
 - h) Equipment/vehicle listing
 - i) Proof of insurance
 - j) Invoices for the PTF funding
 - k) Quarterly reports from July 2017 to September 2018
 - l) Crop yield reports
- Reviewed the Memorandum of Agreement between the Navajo Nation and TWBDWUA for the Agriculture Project
- Researched the Internet regarding non-profit entities (specifically 501(c) 12 provisions)
- Interviewed the following individuals:
 - a) Current TWBDWUA board members
 - b) Current TWBDWUA staff members
 - c) Current TWBDWUA registered agent
 - d) Division of Natural Resources Deputy Director
 - e) Tsaile/Wheatfields Farm Board President
 - f) Legal Consultant for the Budget and Finance Committee
- Researched the Internet for salary information for Farm Manager, Grant Writer and Accountant; used information from the following websites:
 - a) Payscale.com
 - b) Salaryexpert.com
 - c) Salary.com
 - d) Salarycomparison.com
 - e) Navajopride.com

The Office of the Auditor General expresses their appreciation to the TWBDWUA board members and staff as well as all other entities who contributed to this research for their cooperation and assistance.