JORDAN VALLEY
WATER CONSERVANCY DISTRICT

Special Project
For the Period January 1, 2014 through January 30, 2018

Report No. JVWC-18-SP

OFFICE OF THE
STATE AUDITOR

AUDIT LEADERSHIP:

John Dougall, State Auditor
Julie Wrigley, CPA, Audit Manager
Leslie Larsen, CPA, Audit Supervisor

JORDAN VALLEY WATER CONSERVANCY DISTRICT

FOR THE PERIOD JANUARY 1, 2014 THROUGH JANUARY 30, 2018

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OFFICE OF THE
STATE AUDITOR

REPORT NO. JVWC-18-SP

November 16, 2018

Board of Directors
Jordan Valley Water Conservancy District
8215 South 1300 West
West Jordan, UT 84088

Dear Board Members:

We have completed a limited review of certain aspects of Jordan Valley Water Conservancy District's (District) compliance for the period January 1, 2014 through January 30, 2018 unless otherwise noted. The purpose of these procedures is to evaluate compliance with relevant statutes, District policy, and best practices for procuring bond-related professional services. We performed the following procedures at the District:

1. We analyzed District documentation for the procurement of professional services related to bond issuances to determine compliance with statutes, policies, and best practices.
2. We researched prevailing best practices for procurement of professional services using a variety of sources. As part of this procedure, we surveyed twelve local government entities in Utah to determine their philosophy and practices in procuring these services. We also conferred with investment and procurement professionals and the Government Finance Officers Association.

Our procedures were more limited than would be necessary to express an audit opinion on compliance or on the effectiveness of the District's internal control or any part thereof. Accordingly, we do not express such opinions. Alternatively, we have identified the procedures we performed and the findings resulting from those procedures. Had we performed additional procedures or had we made an audit of the effectiveness of the District's internal control, other matters might have come to our attention that would have been reported to you.

Our findings resulting from the above procedures are included in the attached finding and recommendation.

By its nature, this report focuses on exceptions, weaknesses, and problems. This focus should not be understood to mean there are not also various strengths and accomplishments. We appreciate the courtesy and assistance extended to us by the personnel of the District during the course of the engagement, and we look forward to a continuing professional relationship. If you have any questions, please contact me at 801-538-1340 or jwrigley@utah.gov.

Sincerely,

Julie Wrigley, CPA, CFE
Audit Manager

cc: Richard Bay, General Manager

BACKGROUND

State and local government entities often take advantage of bond financing to fund capital improvements and other projects. A significant part of issuing new bond debt is to assemble a team of various professionals to help with the bond issuance process. The team may include a municipal or financial advisor, bond counsel, and underwriter(s).

Government bond issuers engage municipal or financial advisors to assist in the structuring and issuance of bonds, which includes the determination of whether to use a competitive or negotiated sale process.

The foremost responsibility of the underwriter in a negotiated sale is to market the government issuer's bonds to investors.

It is important to understand that the municipal or financial advisor has a fiduciary responsibility to the issuer, and that the roles of the municipal or financial advisor and the underwriter are separate, adversarial roles. While the advisor has a clear fiduciary duty to the issuer, the underwriter does not.

FINDING AND RECOMMENDATION

BEST PRACTICES FOR BOND SALES AND SELECTION OF UNDERWRITERS

The District contracted with an underwriter for a period of 5 years. We question whether it is best practice to engage in a long-term contract with an underwriter—especially given that the District and the underwriter have competing interests, with the District seeking to minimize costs and the underwriter motivated to maximize its earnings. There is a risk that the underwriter may not be motivated to offer the lowest costs once it is engaged in a long-term contract with the District. We noted that the District has used the same underwriter for each of its bond issues since at least 2009. We also had concerns related to best practices for selecting the method of sale of bonds, which can be sold either through a competitive sale or a negotiated sale.

To address these concerns, we researched various publications, including Government Finance Officers Association (GFOA) best practice guides related to the sale of bonds[1], an audit report from the Missouri State Auditor[2], and an article by Mark D. Robbins and Bill Simonsen regarding the use of underwriters and the cost of borrowing[3]. We also conferred with various investment and procurement professionals and the GFOA. Finally, we performed a survey of 12 local government entities in Utah which have issued bonds within the last 4 years. None of the entities we surveyed engaged in long-term contracts with underwriters. In addition, the article by Robbins and Simonsen provided evidence that contracting long-term with an underwriter, or even using the same underwriter for consecutive years, can result in higher borrowing costs to the entity. From our discussions with industry professionals and the GFOA personnel, we concluded that it is generally not considered advantageous to enter into a long-term contract with a single underwriter. Typically, a truly open and competitive procurement process for services results in lower costs. Also, we determined that while there are advantages and disadvantages to

both the competitive sale and the negotiated sale methods, there are some best practice recommendations an entity should implement when making the method of sale decision in order to achieve the lowest borrowing cost and increase transparency.

Recommendations:

In order to increase competition and potentially lower costs, we recommend that the District, with the assistance of its financial advisor:

- **Select a method of sale based on a thorough analysis of the factors affecting the proposed bond issue, and ensure the method selected is expected to achieve the lowest cost of borrowing.**
- **If a negotiated sale is advantageous, justify or document the reasons for foregoing a competitive sale in favor of a negotiated sale.**
- **For both methods of sale, select the underwriter through a formal request for proposal (RFP) process, and ensure the criteria and process for underwriter selection are adequately documented and publicly available.**
- **To address instances where time is of the essence, the District could utilize the request for statement of qualifications process outlined in Utah Code 63G-6a-410 to identify a pool of qualified underwriters to draw upon.**
- **Select the underwriter on a bond-issue by bond-issue basis, unless the District can demonstrate that contracting with an underwriter for a specified length of time saves taxpayers and rate payers money.**

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[1] Government Finance Officers Association (GFOA, 2014). *Selecting and Managing the Method of Sale of Bonds*. Available at http://www.gfoa.org/selecting-and-managing-method-sale-bonds and *Selecting and Managing Underwriters for Negotiated Bond Sales*. Available at http://www.gfoa.org/selecting-and-managing-underwriters-negotiated-bond-sales

[2] Missouri State Auditor (2005). *General Obligation Bond Sales Practices Follow-Up*. Report no. 2005-101. Available at https://app.auditor.mo.gov/Repository/Press/2005-101.htm

[3] Robbins, Mark D, and Bill Simonsen "Persistent Underwriter Use and the Cost of Borrowing." *Municipal Finance Journal,* Volume 28, Number 04, Winter 2008, pp. 1-13.

Attachment A

JORDAN VALLEY WATER
CONSERVANCY DISTRICT

8215 South 1300 West • West Jordan, UT 84088 • Ph: 801.565.4300 • www.jvwcd.org

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November 14, 2018

John Dougall, State Auditor
Julie Wrigley, Audit Manager
Leslie Larsen, Audit Supervisor
Utah State Capitol Complex
East Office Building, Suite E310
Salt Lake City, UT 84114

Subject: Report No. JVWC-18-SP

Dear Mr. Dougall, Ms. Wrigley, and Ms. Larsen:

We received your draft report on Special Project No. JVWC-18-SP. Since February of this year, Jordan Valley Water Conservancy District (the District) has submitted extensive documents and written responses to your draft recommendations. The District has fully complied with all pertinent state laws regarding bond issues and selection of underwriters.

You have now requested that we comment on the five recommendations in your draft, final report. We respond as follows:

Recommendation No. 1: Select a method of sale based on a thorough analysis of the factors affecting the proposed bond issue, and ensure the method selected is expected to achieve the lowest cost of borrowing.

Response: We agree. This is our practice, and it has been our practice through the time period you selected, January 2014 through January 2018.

Recommendation No. 2: If a negotiated sale is advantageous, justify or document the reasons for foregoing a competitive sale in favor of a negotiated sale.

Response: We agree.

Recommendation No. 3: For both methods of sale, select the underwriter through a formal request for proposal (RFP) process, and ensure the criteria and process for underwriter selection are adequately documented and publicly available.

Response: We agree. This is our practice, and it has been our practice through the time period you selected, January 2014 through January 2018.

Recommendation No. 4: To address instances where time is of the essence, the District could utilize the request for statement of qualifications process outlined in Utah Code 63G-6a-410 to identify a pool of qualified underwriters to draw upon.

Response: We agree.

Recommendation No. 5: Select the underwriter on a bond-issue by bond-issue basis, unless the District can demonstrate that contracting with an underwriter for a specified length of time saves taxpayers and rate payers money.

Response: We will continue to follow all requirements of state law, including those in §63G-6a-410 of the Utah Procurement Code, in selecting underwriters, with consideration given to the practice you have suggested.

We appreciate the courtesies and assistance provided by Leslie Larsen from your office during the process of this review.

Sincerely,

Corey L. Rushton
Chair

Cc: Board of Trustees
Richard Bay
Bart Forsyth
Alan Packard
Reid Lewis
Dave Martin