

2018-120 AUDIT SCOPE AND OBJECTIVES

San Francisco Bay Conservation and Development Commission

The audit by the California State Auditor will provide independently developed and verified information related to the enforcement activities, funding, operational needs, and structure of the San Francisco Bay Conservation and Development Commission (BCDC). The audit's scope will include, but not be limited to, the following activities:

1. Review and evaluate the laws, rules, and regulations significant to the audit objectives.
2. Review the BCDC enforcement program, including its policies and procedures for opening, prioritizing, investigating, and closing alleged violations of BCDC permits. Determine the frequency and extent to which enforcement staff work with alleged violators to resolve confirmed violations or refer the violations to the enforcement committee or the Attorney General's Office for prosecution.
3. Analyze the role and function of the enforcement committee and assess the enforcement committee's process for reviewing staff-recommended enforcement decisions and penalties.
4. Determine whether BCDC has adequate procedures in place to document and track permits issued and alleged violations. Identify the number of alleged violations for the most recent five years and identify any unusual trends in the volume and types of alleged violations and the reasons for these trends.
5. Review a selection of alleged violations including those related to violation of unpermitted or unauthorized bay fill to determine the following:
 - (a) Whether enforcement staff consistently followed laws, regulations, and internal policies and appropriately documented its investigation and penalty assessment. Additionally, determine whether serious violations and minor violations are given proportional penalty assessments.
 - (b) The frequency and extent to which the enforcement committee adopts, modifies, or rejects staff recommendations.
 - (c) To the extent possible, whether the enforcement committee members and the full commission approve enforcement decisions and penalties after a comprehensive and thorough review of the complete record.
 - (d) The length of time the enforcement committee and the full commission take to reach their final decisions and the reasonableness of the time frame.
 - (e) Whether the BCDC has adopted and implemented procedures for enforcement hearings before the enforcement committee and before the full commission that provide for notice, time limits, the admissibility of evidence, and other factors affecting the ability of a respondent to address the proposed enforcement action.
 - (f) Whether the hearings comply with open meeting requirements.

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- (g) For permit violations, whether the terms and conditions included in the permits are clear and reasonable and are consistent with the BCDC's authority under state law, regulations, and applicable court decisions. To the extent possible, identify best practices and opportunities that may help mitigate potential compliance issues.
- 6. Examine the policies and procedures BCDC has established to prevent real or perceived conflicts of interest in the enforcement program.
- 7. Review BCDC's use of the Bay Fill Clean Up and Abatement Fund to determine whether its use of the fund is consistent with its duty and authority and whether such uses are allowable and consistent with applicable state law.
- 8. Determine whether BCDC has adequate resources and staffing levels to meet current and anticipated permit and enforcement workload demands, and to address sea level rise.
- 9. Review and assess the governance structure of BCDC and, to the extent possible, compare it to similar organizations to determine whether other structures may lead to a more engaged commission with more effective oversight.
- 10. Review and assess any other issues that are significant to the audit.