



## Restore the Delta State Auditor Fact Sheet

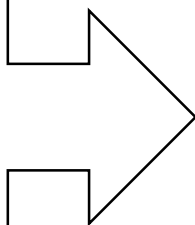
**The California Department of Water Resources (DWR) has accrued a nearly \$300 million slush fund that it could use to start building WaterFix, derived from surplus State Water Project contractor payments.**

As of December 2013, DWR had an available surplus of \$10.7 million which grew to \$286 million by the end of April 2017, and is projected to increase to \$293 million by the end of December 2017. (Pages 20-21.) “DWR told State Water Project contractors in June 2017 that these funds are,” wrote the Auditor, “available to pay for new State Water Project facilities, including WaterFix. **However, DWR has not developed any concrete plans for how it will use this growing surplus revenue balance.” (Page 21.)**

**The costs and timeline for preparing the Bay Delta Conservation Project (BDCP) increased because of the scale and unexpected complexity of the project.**

The budget for the BDCP—before it was rebranded as CA WaterFix—in 2006 began at \$13 million. The need for greater stakeholder involvement, scientific study, the ecological complexity of the Delta as an estuary, and a clean water resource for environmental justice communities resulted in an increase of the DWR-controlled budget to \$261 million, of which it has now spent 99 percent, according to the Auditor. (Pages 17-20.)

**DWR has not completed either an economic or a financial analysis to demonstrate the financial viability of the project.**



### Questions That Economic and Financial Analyses Answer

ECONOMIC ANALYSIS	FINANCIAL ANALYSIS
<b>Answers the questions:</b>	<b>Answers the questions:</b>
Should the project be built at all?	Who benefits from the project?
Should it be built now?	Who will repay the costs?
Should it be built to a different configuration or size?	Can the beneficiaries meet repayment obligations?
Will it have a net positive social value for Californians regardless of who receives the benefits and who pays the costs?	Will the beneficiaries be better off financially after they meet repayment obligations?

Source: DWR's *Economic Analysis Guidebook*.

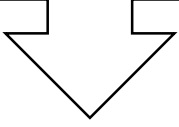
**DWR did not follow state law when it replaced the program manager for the conservation and conveyance program.**

In spring 2008, DWR complied with state contractor bidding policies to select URS Corporation as BDCP program manager. DWR changed its program manager to Hallmark Group “without demonstrating that Hallmark was qualified to provide these services,” wrote the Auditor (page 24). Soon after, DWR required URS to “subcontract” with Hallmark, even though DWR’s subcontract made clear Hallmark would work directly for DWR (and not URS as in a normal contractor-subcontractor relationship). Because of this twisted relationship, DWR would eventually issue Hallmark its own contract with DWR. (Pages 23-29.)

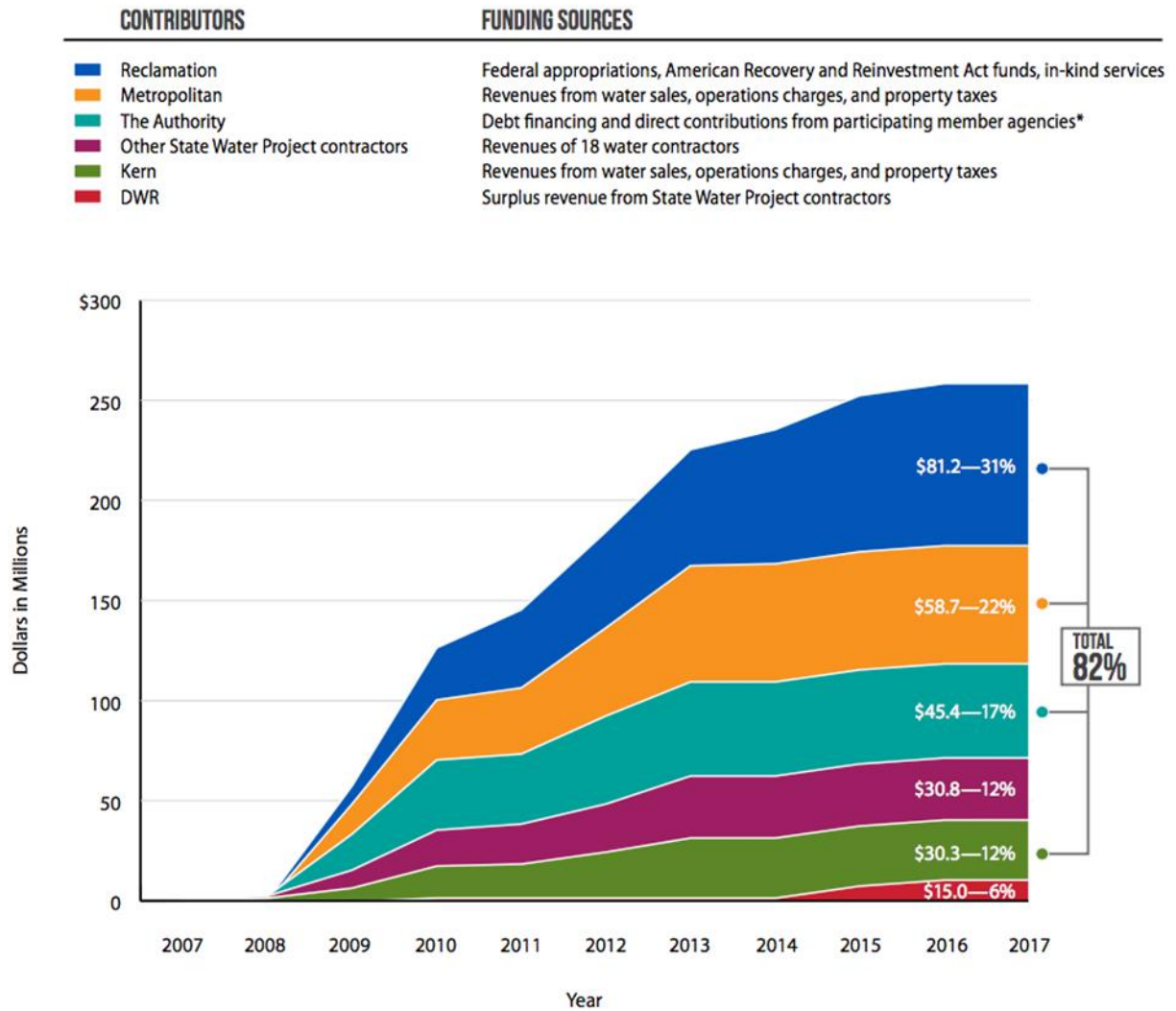
<p>When awarding Hallmark its own non-competitively bid contract in 2013, “DWR did not establish accurately the cost of the Hallmark contractor before awarding it, resulting in an increase in the expense of the original contract award.”</p>	<p>A contract originally involving \$4.1 million ballooned seven months later to \$11.4 million when errors in drafting were found, and increased to \$13.8 million as of July 2017. (Page 29.)</p>
<p>“DWR asserted that Metropolitan [Water District of Southern California, MWD] recommended Hallmark based on Metropolitan’s previous experience working with the firm.” However, general manager of MWD Jeff Kightlinger told the Auditor that although he did recommend Hallmark, Metropolitan had not previously worked with him.”</p>	<p>According to the Auditor, Kightlinger said he was given the name by a third party, but could not remember who recommended Hallmark. Moreover, <b>MWD could not document for the Auditor any interviews or documents that indicate how the water contractors arrived at recommending Hallmark.</b> “We were also unable to ascertain why Metropolitan was interviewing candidates on behalf of DWR.” (Page 25.)</p>
<p>DWR did not accurately value its initial contract with the new program manager—the Hallmark Group (Hallmark)—or ensure that it received fair and reasonable pricing for one of Hallmark’s subcontractors.</p>	<p>DWR internal auditing staff concluded Hallmark’s qualifications were insufficient and that DWR entered into the Hallmark contract without using a proper bidding process, a violation of state contracting law. They were overruled by legal counsel and upper management, with DWR legal counsel basing its opinion in part on an unsupported assertion that DWR had determined that Hallmark was qualified. (Page 27.)</p>
<p>Later, with a Hallmark subconsultant McKinsey, DWR contracting unit staff contended that McKinsey’s “task order” for providing a governance document for design and construction implementation was not “fair and reasonable” because Hallmark did not present price comparisons.</p>	<p>“...<b>DWR could not provide any documentation showing that the contracting unit staff’s concerns were ever addressed. Consequently,</b>” wrote the Auditor, “<b>we don’t believe that DWR had adequate assurance that Hallmark’s price” for McKinsey’s services was fair and reasonable.</b> Moreover, DWR “never made sure the consultant finalized the governance structure documents.” (Page 30.)</p>
<p>Brattle Group found that WaterFix would need taxpayer subsidies for agricultural contractors hoping to participate in the project.</p>	<p>Via a public record act request, Restore the Delta obtained a November 2015 draft economic analysis completed by the Brattle Group (led by University of California, Berkeley economist David Sunding) under contract with DWR in June 2015. DWR has not yet finalized the report. DWR claims, according to the Auditor, “the economic analysis could not be finalized because DWR determined it was not possible to complete an accurate cost-benefit analysis until understanding which agencies will be participating in and funding the project and at what level.” (Page 34.)</p>
<p>DWR’s financial analysis of WaterFix is also incomplete, although their financial consultant Public Finance Management has been paid \$276,000 through July 2017.</p>	<p>“However,” wrote the Auditor, “no final decisions on cost allocations or interim financing have been made because discussions with state and federal water contractors are still ongoing....<b>[T]he final financial analysis report cannot be prepared until the contractors desiring to participate in WaterFix are identified....[O]nce individual agencies decide to participate the financing will be tailored to meet each agency’s needs.</b>” (Pages 34-35.)</p>

DWR asserted in its response to the audit that all BDCP planning activities were paid for by the public water agencies (i.e., the “beneficiaries pay” principle).

The State Auditor stated this is incorrect because the largest source of funds to these activities was supplied by the U.S. Bureau of Reclamation (see chart below) which contributed \$81.2 million, 31 percent of total planning funds for BDCP/WaterFix. (Page 87.)



**Figure 5**  
**Four Entities Contributed Most of the Funding for the Conservation and Conveyance Program**  
 January 2008 Through June 2017



Source: California State Auditor, October 2017, Report 2016-132, p. 15.