




**OFFICE OF
INSPECTOR GENERAL**
U.S. DEPARTMENT OF THE INTERIOR

May 30, 2013

Memorandum

To: Eric Eisenstein
Division Chief, Internal Control and Audit Follow-up
Office of Financial Management

From: Charles Haman 
Central Region Manager for Audits, Inspections, and Evaluations

Subject: Verification Review of Recommendations for the Evaluation Report, "Office of Enforcement, Office of Natural Resources Revenue" (CR-EV-MMS-0002-2010) Report No. C-VS-ONRR-0006-2013

The U.S. Department of the Interior, Office of Inspector General (OIG), has completed a verification review of the seven recommendations presented in the evaluation report "Office of Enforcement, Office of Natural Resources Revenue" (CR-EV-MMS-0002-2010). The objective of this verification was to determine whether the recommendations were implemented by the Office of Natural Resources Revenue (ONRR) as reported to the Office of Financial Management (PFM), Office of Policy, Management and Budget (PMB). PFM reported to OIG when each of the seven recommendations in the subject report had been addressed and provided supporting documentation. The evaluation report effectively closed on August 20, 2012. Based on our verification, we concur that all recommendations are resolved and implemented.

Background

Our January 2012 evaluation report "Office of Enforcement, Office of Natural Resources Revenue" (CR-EV-MMS-0002-2010) noted that ONRR had an opportunity to improve the timeliness and efficiency of its compliance activities. We made seven recommendations to improve the efficiency of ONRR's enforcement process and to obtain more timely compliance from companies.

In a memorandum dated November 29, 2011, ONRR concurred with all seven recommendations in the draft report. ONRR provided a response to each recommendation that identified corrective actions to be taken by the fourth quarter of fiscal year 2012. Based on this response, we considered all seven recommendations resolved but not implemented. On January 13, 2012, we referred the recommendations to PMB for tracking and implementation.

Subsequently, PFM issued a series of memorandums as they closed the recommendations. On June 9, 2012, PFM reported that Recommendations 4, 5, 6, and 7 were implemented and closed. On August 14, 2012, PFM reported that Recommendation 3 was

implemented and closed. On August 20, 2012, PFM issued its final memorandum indicating that Recommendations 1 and 2 had been implemented and closed.

Scope and Methodology

The scope of this review was limited to determining whether ONRR took action to implement the seven recommendations of the report. To accomplish our objective, we reviewed the supporting documentation that ONRR officials provided to PFM and us. We discussed ONRR's actions related to each recommendation and independently verified their implementation.

We did not visit any sites or conduct other fieldwork to determine if ONRR corrected the underlying deficiencies that we initially identified. As a result, this review was not conducted in accordance with the Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States or the "Quality Standards for Inspection and Evaluation" of the Council of the Inspectors General on Integrity and Efficiency.

Results of Review

We concluded that ONRR implemented and resolved all seven recommendations.

Recommendation 1: Improve procedures and management controls to ensure that operating divisions with delegated NONC [Notices of Noncompliance] authority issue NONC's timely and return NONCs promptly back to OE for civil penalty assessment once the cure period has expired.

Recommendation 2: Strengthen procedures to ensure that NONCs are issued promptly, and that civil penalties are assessed and increased when companies do not comply timely.

We consider Recommendations 1 and 2 resolved and implemented.

Action Taken: First, for context, ONRR consists of three divisions: Financial and Program Management, Audit and Compliance Management, and Office of Enforcement (OE) (the subject of this review). The latter has three branches: Enforcement Operations Branch, Alternative Dispute Resolution Branch, and Litigation Support Branch.

To implement Recommendations 1 and 2, ONRR updated section 3.6 "Redelegated NONCs" of "Enforcement Operations Core Procedures" to include better tracking procedures that ensure timelier issuing and processing of NONCs. The guidance, finalized on March 27, 2012, requires OE to:

- 1) request signed NONCs for its case files,
- 2) enter NONC issue dates into their tracking system, and
- 3) follow up with the appropriate case accountant or specialist 45 days after a company receives the NONC.

In addition, the new guidance requires the enforcement operations officer to generate a monthly report and follow-up on all delegated cases where OE has not issued a civil penalty 90 or more days following issuance.

ONRR has also instituted additional reporting and tracking procedures to improve timeliness in issuing and processing NONCs and ensuring civil penalties are assessed for those not in compliance. The Production Reporting and Verification unit within the Financial and Program Management Division runs a tracking report mid-month, and reviews the report to ensure NONCs are issued timely for Orders to Report that are past due.¹ OE's Enforcement Operations Branch also created two new monthly case-aging reports for delegated NONCs. The first report shows delegated cases that have gone 60 days with no actions. The second report shows issued NONCs that are more than 60 days old for which no civil penalties have been assessed.

Recommendation 3: Fully document the justification for civil penalty amounts.

We consider Recommendation 3 resolved and implemented.

Action Taken: In response to our report, ONRR noted that the elements justifying civil penalty amounts already existed throughout its case files, but to improve record keeping they developed a standardized form to capture the justification elements in one place in each file. In addition to case number and company name, this “Civil Penalty Assessment Worksheet” contains several fields including one for an Assessment Rate and one for the Assessment Basis and Justification (required only when OE assesses a civil penalty). Each factor listed also contains a determination, and the date and location within the case file.

Recommendation 4: Prepare and document a preliminary risk assessment summary, as required by the “Negotiated Agreement Manual,” prior to entering into negotiations with companies.

Recommendation 5: Include instructions in the “Negotiated Agreement Manual” that a preliminary minimum settlement amount should be determined, with justification for that amount, and added to the preliminary risk assessment summary prior to negotiating a settlement amount.

We consider Recommendations 4 and 5 resolved and implemented.

Action Taken: ONRR developed a form to capture, in one place, preliminary risk assessment summary information in case files. The form includes space to: summarize the case, describe the applicable risks associated with each issue of the case, and state the minimum settlement terms including a justification for the minimum settlement amount. Furthermore, ONRR revised its “Negotiated Agreement Manual,” as of March 31, 2012, to clearly indicate that a risk assessment should be conducted prior to negotiating a settlement amount, should document the minimum

¹ In the sample drawn for our original report, the majority of NONC cases originated from the Financial and Program Management Division.

settlement amount, and should include a justification if the settlement terms are less than 100% of what is owed.

Recommendation 6: Develop and implement written policies and procedures to: 1) instruct companies to prepay the Agreement in Principle amount by a date certain to avoid lost interest while the final settlement agreement is being processed and executed, and 2) require companies to make additional interest payments should they not make the full prepayment by the specified date.

We consider Recommendation 6 resolved and implemented.

Action Taken: On March 16, 2012, the Program Manager for OE distributed a memorandum to the Alternative Dispute Resolution Branch documenting the policies and procedures regarding Payment of Settlement Agreement Amounts. The memorandum notes that every settlement agreement must include a requirement that the company pre-pays the Settlement Agreement in Principle Amount by a certain date or pay interest from the time the prepayment was due through the date ONRR receives payment. The memorandum also states that prior to negotiating a settlement agreement, OE personnel must inform the company and non-OE members of the settlement team that the requirement is non-negotiable. A reference to further detailed policies and procedures regarding payments of interest on agreements in principle was included in the March 31, 2012 revised addition of the “Negotiated Agreements Manual.”

Recommendation 7: Continue to improve the tracking system for sureties so that the surety accountant can easily identify that all sureties are received, and all updates obtained timely.

We consider Recommendation 7 resolved and implemented.

Action Taken: On May 10, 2012, ONRR updated its surety process under the “Office of Management and Budget, Circular A-123-Management’s Responsibility for Internal Control” (A-123) to include a procedure whereby the OE accountant checks the Appeals Database for new appeals. OE also has documented procedures for ensuring that appeals requiring a surety are in compliance, including importing information from the Appeals Database into the Surety Database for tracking. Every 2 weeks, the OE accountant runs reports from the latter system to identify if OE should increase or update a surety based on the current interest calculation, and to identify active appeals that are not in compliance with surety requirements. An ONRR A-123 quarterly testing report from the first quarter of fiscal year 2012 found no discrepancies in OE’s surety process, that procedures were being followed, and that identified risks were being mitigated.

Conclusion

We informed ONRR officials of the results of this review on April 25, 2013. ONRR agreed with the results of our review.

cc: Gregory J. Gould, Director, Office of Natural Resources Revenue

Deborah Gibbs Tschudy, Deputy Director, Office of Natural Resources Revenue
Sarah Inderbitzin, OE Program Manager, Office of Natural Resources Revenue
Gwenna Zachini, Audit Liaison, Office of Natural Resources Revenue
Nancy Thomas, Office of Financial Management