



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

BUREAU OF LAND MANAGEMENT'S RENEWABLE ENERGY PROGRAM: A CRITICAL POINT IN RENEWABLE ENERGY DEVELOPMENT





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Memorandum

To: Michael L. Pool
Acting Director, Bureau of Land Management

From: Mary L. Kendall *Mary L. Kendall*
Acting Inspector General

Subject: Final Evaluation Report – Bureau of Land Management’s Renewable Energy
Program: A Critical Point in Renewable Energy Development
Report No. CR-EV-BLM-0004-2010

This memorandum transmits the results of our evaluation of the Bureau of Land Management’s (BLM) Renewable Energy Program. Our objective was to assess the effectiveness of BLM’s development and management of its renewable energy program.

We found that BLM is poised for a massive expansion of wind and solar projects. BLM has taken aggressive action to increase its processing of renewable energy rights-of-way (ROW) grants. BLM’s focus on increasing the number of renewable energy projects, however, has exposed some weaknesses in financial accountability and resource protection including obligations to protect the Government’s financial interests by collecting rental revenues, managing the bond process, and by appropriate monitoring and enforcing ROW requirements.

We make nine recommendations to improve the long-term management of BLM’s Renewable Energy Program to ensure the accurate and timely collection of rents, for managing the bond process, and for monitoring and enforcing ROW requirements. BLM substantially concurred with all nine of our recommendations and agreed to implement them. Based on BLM’s response to the draft report (see appendix 3), we consider recommendations 2 and 3 resolved and implemented and the remaining seven recommendations resolved but not implemented (see appendix 4). Accordingly, no further response to the Office of Inspector General (OIG) on this report is necessary.

The legislation creating the OIG requires that we report to Congress semiannually on all audit reports issued, actions taken to implement our recommendations, and recommendations that have not been implemented.

We appreciate the cooperation and assistance of the BLM staff during our review. If you have any questions regarding this report, please contact me at 202-208-5745.

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Results in Brief

The Bureau of Land Management (BLM) is poised for a massive expansion of wind and solar projects. At the time of our review, BLM had 29 of 31 authorized wind projects in operation, and 5 of 9 authorized solar projects under construction. Based on the number of wind-testing projects and wind and solar applications, wind projects may quadruple and solar projects may increase tenfold in the near future.

BLM has taken aggressive action to increase its capacity to process renewable energy grants for rights-of-way (ROW). BLM's focus on increasing the number of renewable energy projects, however, has exposed some weaknesses in its management of these projects. Financial accountability and resource protection are integral to the renewable energy program. These include obligations to protect the Government's financial interests by timely and accurately collecting rental revenues and managing the bonding process, and to protect the country's natural resources by monitoring and enforcing grant requirements. Wind and solar projects can cover thousands of acres and therefore have the potential for biological, cultural, historical, paleontological, archaeological, and visual resource degradation.

Secretary Salazar established the production, development, and delivery of renewable energy as one of the U.S. Department of the Interior's (Department) highest priorities by signing Secretarial Order 3285, "Renewable Energy Development by the Department of the Interior," on March 11, 2009. The order describes the need for strategic planning and a thoughtful, balanced approach to domestic resource development. It also noted the Department's role in coordinating and ensuring environmentally responsible renewable energy production and development.

We reviewed BLM's renewable energy activities to assess the effectiveness of BLM's development and management of its renewable energy program. We found that BLM has opportunities to improve in developing and implementing renewable energy policies. For example, although BLM issued guidance on wind rental payments and wind bonding requirements, it did not establish a process to ensure timely implementation of the guidance. This resulted in a loss of \$1.2 million in rental revenues on 22 wind projects from 2009 through 2011 and insufficient bonding by \$8.5 million on 14 wind projects (see appendix 2). In addition, BLM has not developed and implemented Bureau-wide guidance on monitoring and inspecting wind and solar projects or for enforcing compliance with ROW requirements. We also found that BLM could potentially generate millions of dollars in additional revenues if it used a competitive bidding process.

We make nine recommendations to improve the long-term management of BLM's renewable energy program. Our recommendations present opportunities for BLM to accurately collect rental revenues, manage the bonding process, monitor and

ensure compliance with ROW requirements, and generate additional revenues by using a competitive bidding process for wind and solar ROW.

Introduction

We evaluated the Bureau of Land Management's (BLM) renewable energy activities and found that BLM is poised for a massive expansion in renewable energy construction and development of wind and solar projects. At the time of our review, BLM had 29 of 31 authorized wind projects in operation. It also had 137 authorized wind-testing projects that could transition into full development projects, and an additional 47 pending applications. BLM had five of nine authorized solar projects just beginning construction, and another 103 applications pending review.

Objective

Our objective was to assess the effectiveness of BLM's development and management of its renewable energy program.

Background

Secretarial Initiatives

On January 16, 2009, former Secretary Kempthorne signed Secretarial Order No. 3283, "Enhancing Renewable Energy Development on the Public Lands." The Order facilitates the U.S. Department of the Interior's (Department) efforts to achieve the goal that Congress established in section 211 of the Energy Policy Act of 2005. That goal is to approve non-hydropower renewable energy projects on public lands—projects with a total generation capacity of at least 10,000 megawatts (MW) of electricity per hour—by 2015. In the Order, the Department declares its support for issuing permits for environmentally responsible development of wind, solar, biomass, and geothermal resources on public lands. The Assistant Secretary for Land and Minerals Management is responsible for issuing permits for renewable energy projects in accordance with applicable laws and regulations, and for establishing renewable energy coordination offices to support permitting activities. Additional responsibilities under the Order include consistently applying renewable energy policies, recovering costs associated with processing renewable energy applications, and monitoring authorized projects. The Federal Land Policy and Management Act of 1976 (FLPMA) authorizes rental payments and cost recovery.

On March 11, 2009, Secretary Salazar signed Secretarial Order No. 3285, "Renewable Energy Development by the Department of the Interior," establishing the production, development, and delivery of renewable energy as a high priority. The Order describes the need for strategic planning and a thoughtful, balanced approach to domestic resource development. It also outlines the Department's role in coordinating and ensuring environmentally responsible renewable energy production and development.

History and Status of BLM's Wind and Solar Activities

BLM manages 20.6 million acres of public lands in 11 Western States that have commercial wind generation potential. BLM has collected \$26 million in wind energy rents (\$20.5 million from generating facilities and \$5.5 million from testing projects) from 1984 through 2010, starting with California in 1984, Wyoming in 1999, Arizona in 2006, and Utah in 2009. BLM has 31 authorized wind projects. Twenty-nine of these projects are currently operating and have a total installed capacity of 783 MW. The largest operating project covers 7,800 acres and generates 80 MW of electricity. BLM also has 137 authorized wind-testing projects that may transition into energy development projects in the future, and 47 wind applications pending.

BLM also manages more than 20 million acres of public lands that have potential for solar energy development. These lands lie in six Western States. Solar energy projects can provide significant amounts of electricity while emitting virtually no greenhouse gases, but they require large areas of relatively flat land. Some technologies also use substantial amounts of water, a scarce commodity in arid climates where solar resources are the most productive. BLM has nine authorized solar projects with a total generating capacity of 3,682 MW. Five projects are under construction—four in California and one in Nevada. The largest authorized project covers 7,025 acres, which will generate 1,000 MW of electricity. BLM also has 103 solar applications pending.

In response to the Secretary's renewable energy initiatives, BLM established 5 Renewable Energy Coordination Offices that, together, have 71 positions; and 6 Renewable Energy Support Teams with 35 positions. This represents a significant investment in renewable energy resources.

Project Authorization

BLM authorizes grants for rights-of-way (ROW) for wind and solar projects under Title V of FLPMA and Title 43, Part 2800, "Rights-of-Way," in the Code of Federal Regulations. BLM reviews ROW applications using a first-come-first-considered process. ROW terms and conditions (called stipulations) contain all the details applicable to a grant. By accepting the grant, the grantee agrees to comply with all of the project's stipulations.

BLM instruction memoranda (IM) establish guidance for the renewable energy program. IM 2009-043, "Wind Energy Development Policy," issued December 19, 2008, guides the Bureau on wind projects. The IM was to expire on September 30, 2010, but BLM extended it to September 30, 2012.

BLM authorizes wind projects using three types of ROW grants:

- **Type 1 Site-specific Grant for Testing and Monitoring**—A site-specific grant for individual, wind-measuring, meteorological towers and facilities. These are term limited to 3 years with no renewal option.

- Type 2 Project Area Grant for Testing and Monitoring—A wind project grant for a larger site-testing and monitoring area where wind resource information is collected to determine the wind energy resource potential of the area. These grants have a term of 3 years that BLM may renew for an additional 3 years if the grantee submits an application for a Type 3 wind energy development ROW, along with a plan for developing the project.
- Type 3 Development Grant—A development grant for wind energy with associated wind turbines as well as on-site access roads, electrical and distribution facilities, and other support facilities. BLM established the term of wind project grants at 30 years to recognize the overall costs and useful life of wind energy facilities.

IM 2011-003, “Solar Energy Development Policy,” issued October 7, 2010, is the current guidance on solar projects. Due to the substantial investments required for solar energy projects and the projected life of these facilities, BLM issues these grants for a term not to exceed 30 years.

Rentals and Fees

Grantees pay rents on wind projects in advance for a full calendar year with the following terms:

- Type 1 Site-specific Grant for Testing and Monitoring—A minimum rental rate of \$100 per meteorological tower per year. Grantees can pay in advance for the full 3-year term of the ROW.
- Type 2 Project Area Grant for Testing and Monitoring—The higher of \$1,000 per year, or \$1 per acre per year. Grantees can pay in advance for the full 3-year term of the ROW.
- Type 3 Development Grant—Based on the anticipated MW capacity of the project. The current rate is \$4,155 per MW.

Rents for solar projects include two components: base rent charged on a per acre basis starting when BLM issues the ROW, and an MW capacity fee that is phased in over 5 years once the project starts generating power. BLM bases these rents and fees on the approved MW capacity and the type of solar project.



Figure 1. Wind turbines near Palm Springs, CA. Rents for wind rights-of-way vary based upon capacity and type of project. Source: OIG.

In addition to rents, all wind and solar energy ROW applications and authorizations are subject to cost recovery fees for Bureau processing and monitoring. After BLM receives and conducts an initial review of the ROW application, it estimates the cost of processing the application and issuing a ROW grant. Both BLM and the applicant sign an agreement regarding the Bureau's recovery of these processing costs.

After processing the application, BLM estimates its costs for monitoring the construction, operation, maintenance, and termination of the project; and for protecting and ensuring the rehabilitation of the lands covered by the ROW grant. BLM and the applicant then sign another cost recovery agreement. With both processing and monitoring fees, BLM establishes fee schedules based on the estimated number of Federal work hours for both activities with fixed dollar amounts for estimates of 1 to 50 hours. For those projects that exceed 50 hours, BLM and the grantee negotiate reimbursable agreements with varying fee amounts based on the estimated processing and monitoring hours.

Bond Requirements

BLM uses bonds to ensure compliance with ROW stipulations and applicable regulations, and to protect the Government against loss, damage, or injury to human health, the environment, or property. Currently, the minimum bond rate for wind projects is \$2,000 per meteorological tower for wind-testing

authorizations (Type 1 and 2 grants) and \$10,000 per wind turbine for development projects (Type 3).

Instead of establishing minimum bond amounts, the solar IM describes the three required components of the bond to cover: 1) environmental liabilities; 2) decommissioning, removal, and disposal of improvements and facilities; and 3) site reclamation, revegetation, and restoration. It also establishes a Solar Energy Bond Review Team to assist BLM's state and field offices in reviewing reclamation cost estimates and developing bond requirements.



Figure 2. This is a solar project in California that uses a central power tower in the middle of a circle of mirrors. Source: BLM.

Findings

Rental Revenues Collection

We found that BLM lost rental revenues of \$1.2 million on 22 wind projects for calendar years 2009 through 2011 because it did not implement increased rental rates (see appendix 2).

In December 2008, BLM increased the annual rental rate for wind projects from \$2,365 per MW (established in October 2002) to \$4,155 per MW. Since companies pay rents for the calendar year in advance, any changes in rental rates are effective the next billing date after rate revisions. BLM did not issue the revised rate with sufficient time to allow field offices to amend the ROW agreements for 2009 and issue the bills for 2009 with the new rental rate.

Furthermore, BLM did not establish a process to ensure that all field offices implemented the new rate. We found two field offices in California, the Palm Springs-South Coast Field Office and the Ridgecrest Field Office, never implemented the new rate for wind projects we reviewed. The Palm Springs-South Coast Field Office was still using rental rates established as far back as 1997. We determined that if BLM had issued the revised rental rate earlier and implemented the new rate on all 22 wind projects in California, BLM could have collected \$404,000 more in rental revenues each year from 2009 through 2011, totaling \$1.2 million.

Field office personnel acknowledged that they knew about the change in the rental rate and that they had not revised the rates on these agreements. Ridgecrest Field Office personnel said that there were some questions about how to apply the new rental rate and that they had asked for guidance from the State Office. They did not have an answer from the State Office at the time of our visit.

We issued a Notice of Potential Findings and Recommendations to the district manager for the California Desert District Office with our findings and recommendations to apply the new rental rate to all District wind projects by January 1, 2012, and develop and implement procedures to ensure that any future rate changes will be identified and applied. We also recommended that BLM consult with appropriate policy and legal staff to determine whether the new rental rate might be retroactively applied in order to collect revenues lost from 2009 through 2011. The California Desert District Office responded that it started taking actions to address our recommendations, including reviewing regulations, and it will take appropriate action pending the outcome of its review.

In examining data from the Palm Springs-South Coast Field Office, we found that the office was using a rental rate of \$2,630 per authorized MW, \$265 more than the \$2,365 rate applicable from 2003 through 2008. This may have been acceptable and intended by BLM because the October 2002 policy that established the \$2,365 rate cited this as a “minimum rent.” We are raising this

issue because rate-setting policies after 2002 no longer call the rate a “minimum rate,” but simply the “rental fee,” which raises the question of whether or not a refund is appropriate after considering the increased rate starting 2009.

Recommendations

1. Develop and implement procedures to ensure collection of the current rental rate on all existing wind energy agreements, and timely issuance and prompt application of future rate changes to all wind projects.
2. Determine whether BLM can make the rental rate from December 2008 retroactive in order to collect wind revenues lost during calendar years 2009 through 2011.
3. Determine whether a refund is appropriate for the Palm Springs-South Coast Field Office companies that were charged a higher rate than the established minimum rate from 2003 through 2008.

Bonds on Wind Projects

Bond Requirements on Wind Projects

BLM does not have consistent bond requirements for wind projects. Bonds protect the Government’s interests in case of loss, damage, or injury to human health, the environment, or property. The Bureau does not consistently manage bond information or surety instruments to ensure compliance with ROW stipulations and regulatory requirements. As a result, we found 14 wind projects that were either not bonded or insufficiently bonded by a total of \$8.5 million (see appendix 2).

Bonding is critical on wind and solar projects because of the “boom” environment created in the wind and solar renewable energy area with the Federal and state governments’ renewable energy initiatives, the availability of funding with the American Reinvestment and Recovery Act of 2009, Department of Energy loan guarantees, and tax incentives at both the Federal and state level. BLM experienced this “boom” through the dramatic increase in renewable energy applications, particularly in solar ROW applications in the California Desert District, where solar applications increased from only 2 in 2004 to 130 in 2008. According to BLM renewable energy personnel, the solar energy initiative hit so fast there was very little time for planning by either BLM or companies, with some companies rushing to submit applications just to place “holds” on BLM land. There were concerns about companies creating a speculative environment by trying to obtain a ROW and then sell or transfer the ROW for profit. The changing technologies and financial commitment required of wind and solar projects also creates a high-risk business environment.

This volatile business environment is evident in existing wind projects. For the 31 authorized wind ROW, 21 have been reassigned or changed their names. Two of these have gone through bankruptcy and subsequent reassignment. Eight of the 21 companies have gone through 3 or more name changes.

The uncertain business environment for solar projects is clearly demonstrated by the recently announced bankruptcy of Solar Millennium AG, a German company. Its American subsidiary, Solar Trust of America, currently holds two solar ROW and has two additional applications under review. Development of Solar Millennium's 1,000 MW Blythe project is currently on hold because the company announced its intent to change the project's technology. Such uncertainties reinforce the importance of appropriate levels of performance and reclamation bonding.

BLM did not require bonds on all wind projects. Prior to 2006, BLM's wind policy stated: "A bond is discretionary by the authorized officer, but will usually be required for wind energy development right-of-way grants to ensure compliance with the terms and conditions of the authorization and the requirements of the regulations, including reclamation." Despite this intent, however, BLM field offices did not enforce a bond requirement since the policy made bonds discretionary.

In 2006, the wind policy was revised to make bonding mandatory on new wind energy development projects. The policy did not require, however, bonding on existing wind projects. Bonds on testing projects (Types 1 and 2 ROW) also remained discretionary. The policy suggested \$2,500 bonds for wind turbines but stated the actual amount of the required bond would be determined during the ROW authorization process based on site-specific and project-specific factors.

BLM's current wind policy that was issued in December 2008, requires minimum bonds of \$2,000 per meteorological tower on Types 1 and 2 wind testing ROW and \$10,000 per wind turbine for development projects. It also states that the amount of the bond will be determined during the ROW authorization process based on site-specific and project-specific factors. The explicit requirement for bonds on existing projects, however, remains discretionary because the policy states: "Existing wind energy right-of-way authorizations requiring amendments *may* include provisions of this IM" [emphasis added].

We found that the Palm Springs-South Coast Field Office did not require bonds on 4 wind projects, 1 of which supports about 460 turbines. The Field Office also obtained bonds that were less than the minimum requirements for 10 other projects. In total, BLM did not bond, or insufficiently bonded, 14 projects by \$8.5 million (out of 16 wind projects' files reviewed), leaving BLM at risk to future liabilities for land reclamation and the potential damage to natural resources.

We also found that the Pahrump Field Office in Las Vegas, NV, did not bond five projects that are testing wind energy using meteorological towers. We issued a Notice of Potential Findings and Recommendations to BLM reporting the lack of bonds on two wind-testing projects at the Pahrump Field Office and recommended bonding these projects and identifying any other projects without bonds. The acting state director for Nevada agreed with our findings and recommendations. She also identified three additional projects without bonds and assured us that BLM would obtain bonds from the grant holders.

Also in response to our Notice of Potential Findings and Recommendations, BLM issued new wind policies in April 2011 in an effort to establish bonding requirements for all wind projects.¹ We observed, however, that this policy does not rescind and replace wind policies issued in 2008, but reiterates and provides guidance on them. As a result, some BLM personnel and the public may still believe bonding on existing wind projects is discretionary, which according to BLM's Energy Policy Team manager, was not intended.

Bond Coverage on Wind Projects

We found that current minimum bonding requirements for wind projects might not cover potential reclamation costs. The current wind policy does not provide useful instructions on how to determine the appropriate bond amount for wind projects. Instead of including specific instructions for conducting site-specific analysis and assessment to determine bond amounts for wind projects, the policy establishes a minimum bond amount of \$10,000 per turbine. BLM field personnel did not know how this minimum bond amount was developed, and expressed their belief that this rate should be higher. Existing bonds we found covering projects for wind energy development ranged from \$171 per turbine (a \$12,500 bond to cover 73 turbines) to \$50,000 per turbine.

The Government Accountability Office (GAO) reported similar issues in BLM's bonding of oil and gas leases in their February 2011 report², saying BLM has not consistently implemented its policies for managing potential oil and gas well liabilities. GAO reported that BLM faces two challenges in this area: 1) the minimum bond amounts, not updated in more than 50 years, may not be sufficient to encourage all operators to comply with reclamation requirements; and 2) limitations with the data system BLM uses to track oil and gas information on public lands restricts BLM's ability to evaluate potential liability and monitor agency performance. GAO recommended that BLM develop a comprehensive strategy to increase minimum bond amounts and improve its data system to better evaluate potential liabilities and agency performance.

¹ Bureau of Land Management, IM 2011-096, Certification of Bonding—Wind Energy Site Testing and Wind Energy Development Authorizations (April 7, 2011). The IM requires bonds on all wind energy testing and development projects. It also requires BLM state directors to certify that all wind energy authorizations in their state were bonded.

² Government Accountability Office, GAO-11-292, Oil and Gas Bonds; BLM Needs a Comprehensive Strategy to Better Manage Potential Oil and Gas Well Liabilities (February 2011).

We did find examples of promising practices in determining bond requirements. For one project, a realty specialist at the Palm Springs-South Coast Field Office determined that neither the minimum bond amount of \$10,000 per turbine nor the existing bond rate of \$13,000 per turbine was enough. She researched salvage and reclamation costs on comparable wind projects and determined a bond amount of \$50,000 per turbine was appropriate, considering decommissioning and removal of the turbines, access roads, and project facilities, and reclamation of the site. She requested \$200,000 in bonds for four wind turbines. The company complied.

A realty specialist at the Ridgecrest Field Office also determined that the \$10,000 bond per turbine was not enough. On a project that had eight wind turbines, he developed an estimate of \$169,800 (\$21,225 per turbine) for the bond by taking into consideration compliance monitoring, decommissioning, removal, and site reclamation for the turbines, foundations, and access roads.

A promising practice on solar projects is the use of bond review teams. These teams assist state and field offices in developing site-specific bond requirements for solar energy projects. BLM's solar policy contains very detailed instructions on requirements for solar bonds and the necessary components for establishing the bond amounts. This process was used on a 1,000 MW solar project in California covering 7,025 acres. The bond review team in the State Office reviewed the company's engineering estimates for decommissioning and reclamation of the project and determined the \$1.08 million performance and reclamation bond amount for the initial construction phase of the project. As the project progresses into the power generation phase, a new bond amount will be determined.

Bond Management

We found that BLM is not effectively managing the bond process on wind projects. BLM has an incomplete and inaccurate inventory of bonds for wind projects. We found examples of inaccurate bond information in BLM's land and minerals database Legacy Rehost System, called LR2000, at the field offices we visited. The inaccuracies included incorrect bond amounts and incorrect numbers of meteorological towers and wind turbines.

Field personnel told us that the bonding information is only as good as the data in LR2000, and that sometimes they do not input this data. In an effort to improve managing bonds, BLM added requirements in the April 2011 wind policy for all field offices to review and update bond data on wind projects in LR2000's "Bond and Surety System," and to certify this information to BLM Headquarters annually.

BLM also still holds bonds for unidentified, transferred, or closed projects. In the Palm Springs-South Coast Field Office, we found six certificates of deposit (CDs) from 1986 that totaled \$62,500. Field office personnel did not know which wind projects the CDs covered and speculated that the projects might have been transferred or closed. They told us they knew about the CDs, but had not done the

research necessary to determine their proper disposition. We issued a Notice of Potential Findings and Recommendations to BLM reporting these as unidentified bonds and recommended corrective action. The acting manager for the California Desert District responded that BLM agreed with our findings and recommendations.

Recommendations

4. Issue an updated wind IM that clearly requires bonds on all projects.
5. Reassess the minimum bond amounts for wind projects as well as methods for determining the bond amount, including expanding the use of a bond review team.
6. Track and manage bond information on all renewable energy projects, including the amount of the bond, when BLM requested and received the bond, contact information for the bonded party, the type of bond, and when the bond requires updating.
7. Develop and implement procedures to ensure that when a project is transferred, BLM returns the first bond to the company that obtained it and requests a new bond from the newly assigned company.

Monitoring and Inspection

BLM does not have consistent, Bureau-wide guidance for monitoring and inspecting wind and solar ROW. BLM did not monitor or enforce the changing rental and bond requirements for wind projects. This resulted in lost rental revenues of \$1.2 million, insufficient bonding of \$8.5 million on 14 wind projects, and incomplete and inaccurate bond data. Bureau-wide guidance will also enable industry to know what to expect when planning and developing renewable energy projects.

Monitoring

Wind and solar projects cover large areas—thousands of acres in some cases. These sites may have biological, cultural, historical, paleontological, archaeological, and visual considerations. There may also be environmental concerns related to wind and solar projects regarding the use of chemicals such as pesticides, herbicides, and hazardous materials. As an example of the potential scale of renewable energy projects, BLM approved the largest solar project in California—the Blythe Solar Power Project—a 1,000 MW project covering 7,025 acres. It will include solar power units and ancillary facilities including buildings, access and maintenance roads, bioremediation areas, wastewater treatment facilities, perimeter fencing, gas pipelines, water wells, fiber optic lines, and power lines. Wind-testing projects can also cover large areas. For example, BLM

issued a testing and monitoring ROW for a wind project in Nevada that encompassed 34,456 acres.

Monitoring ROWs provides assurance that the grantee is complying with the grant requirements on both the project and program levels. Individual projects need on-the-ground monitoring for changing circumstances such as amendments to the ROW agreement, changing bond levels, changing rental rates, and evolving project life-cycle phases. Life-cycle phases include ROW issuance, project development, construction, operations (power generation), maintenance, and decommissioning (shutdown). ROW agreements can have extensive project stipulations. For example, one authorized solar ROW agreement contains 51 stipulations covering 14 pages of text. Each stipulation requires monitoring and possible enforcement.

Inspection

Inspection ensures compliance with the terms and conditions of individual ROW grants at the project level. ROW agreements do not specifically cite BLM's inspection, monitoring, or enforcement activities, but do include provisions that the holder will pay monitoring fees for BLM's costs, from construction through termination of the ROW.

Our review of wind project files revealed very little inspection documentation for wind projects and no monitoring plans. One BLM field manager told us that wind projects "run themselves" and do not have many issues requiring monitoring.

During our fieldwork, however, we learned that continued monitoring is important to ensure the project site is properly maintained and safe. Monitoring activities can identify incidents such as collapsed wind turbines, bird deaths as a result of hitting wind turbines, damage from fallen meteorological towers, and oil leaks from hydraulic systems.

We found one incident of an unreported, collapsed wind turbine. The collapsed wind turbine was on the only operational BLM wind project in Wyoming in November 2010. The turbine was 1 of 33 turbines on a 21 MW wind project in operation since 1999. The operator did not report the collapsed turbine to BLM. BLM's headquarters personnel found out about the collapsed turbine from pictures posted on Facebook™ and notified the field office in January 2011. According to BLM, the ROW has changed ownership several times. Personnel from the current company said they were not aware they had to report the incident to BLM even though reporting requirements are clearly spelled out in the ROW.



Figure 3. Collapsed 600 kilowatt turbine on BLM wind project in Wyoming that went unreported for several weeks. Source: BLM.

BLM asked the company to investigate the cause of the collapsed turbine. The company submitted a report in July 2011 summarizing the results of the investigations and analyses conducted by the manufacturer and an independent wind energy consultant. The report concluded that the cause of the turbine collapse was a hydraulic system failure during a power outage, which, combined with high winds, caused the turbine blades to spin faster than their designed speed, thereby overstressing the turbine. The report identified the root cause of the hydraulic system failure as a faulty O-ring that caused significant oil leakage.

BLM's greatest concern was the risk to Native American archaeological resources and the environment. The collapsed wind turbine occurred near 25 archaeological sites (hearths and cairns). Although the collapsed turbine did not damage any of the sites, activities removing the turbine may come within 20 feet of ancient cairns. The collapsed turbine also leaked hydraulic fluids. The company wanted to delay the cleanup of the collapsed turbine to do more analysis after the 2011 winter, but BLM required the removal by October 2011 because of its concerns related to the archaeological resources and leaking fluids.

The company's report required maintenance and inspections related to hydraulic components to be performed with extreme care to prevent foreign objects from entering the hydraulic system. The report also recommended that the company manually check key components frequently, and that remedial action be taken if components have failed.

If BLM had conducted periodic site inspections of this project, the oil leaks may have been identified sooner and the hydraulic system failure may have been

prevented. We were informed that this project was incorrectly coded in LR2000 in 1999 and, therefore, was never identified as requiring a compliance check.

Monitoring Fees

BLM has no Bureau-wide policy for monitoring and enforcement, leaving field offices to develop their own practices. We found considerable inconsistency in monitoring fees at the field offices we visited. At one field office, we reviewed 17 wind project files and found that BLM did not collect monitoring fees for 9 of the projects. For the other eight wind projects, monitoring fees ranged from \$5,000 annually to one payment of \$5,373 for the 30-year term of the ROW. In most cases, field office personnel did not document how they determined the monitoring fees. In addition, personnel informed us that the monitoring fees reported in LR2000 were unreliable due to a failure to code them correctly.

At one field office, personnel collected monitoring fees for two wind-testing projects, but the amounts were disparate. For one testing project covering 14,222 acres, the office collected only \$354 in monitoring fees based on BLM's fee schedule. For the other testing project covering 34,456 acres, the office collected a monitoring fee of \$18,853. The field office staff did not document how this fee was determined.

We also found inconsistent monitoring fees for solar projects. One field office used a flat fee of \$50,000 each for two solar projects in Las Vegas (a 50 MW project covering 619 acres and a 484 MW project covering 4,350 acres). Another field office, however, developed detailed estimates of \$606,000 for a 1,000 MW project covering 7,025 acres and \$579,500 for a 250 MW project covering 1,950 acres in Palm Springs.

Third-party Contracting

We also found BLM is using third-party contracting for monitoring and compliance without any Bureau guidance or management controls over the process. BLM is using third-party contractors for six solar projects authorized in California and one wind project authorized in Utah. The ROW grantee contracts for and pays the monitoring and compliance contractor. During this time of Government austerity, use of third-party contractors may be a viable solution to budget reductions and staffing shortages. BLM needs to maintain an oversight role, however, since inspecting and monitoring wind and solar projects is primarily BLM's responsibility, and building management controls into the process will decrease inconsistency and reduce the risk of noncompliance. One potential option may be a self-inspection and self-certification process with consequences for noncompliance. For example, on oil and gas leases, BLM requires industry to self-inspect and the Department has authority to penalize false reporting.

Recommendation

8. Develop and implement Bureau-wide guidance for monitoring and enforcement on solar and wind projects, including but not limited to—
 - a consistent process for developing fees for monitoring projects;
 - procedures to plan, conduct, and document monitoring and enforcement of regulations and stipulations;
 - controls over the use of third-party contractors for monitoring and compliance; and
 - self-reporting and self-certification with consequences for non-compliance.

Competitive Bidding for Wind and Solar ROW

In one case in June 2004, BLM used a competitive bidding process for wind energy development instead of the current first-come-first-considered ROW application process. BLM's Palm Springs-South Coast Field Office accepted bids from five companies for a preferential right to apply for a ROW to construct, operate, and maintain wind energy testing and generating facilities on 285 acres. BLM selected the winning bid of \$226,500, or \$795 per acre. Ordinarily, BLM would have received nothing up front and then the standard ROW fees after issuing the grant.

We estimated that BLM could potentially generate almost \$2.5 million in additional revenues if the \$795 per acre was applied to the 3,067 acres of BLM land under wind ROW in this area. Of the 19 wind energy development ROW in this area, 15 are due to expire by the end of 2015. Nationally, BLM has more than 30,000 acres currently under wind ROW and more than 31,000 acres under solar ROW. In addition, BLM has identified almost 21 million acres of public lands with wind energy development potential, and more than 20 million acres that have the potential for solar energy development.

BLM informed us that it has initiated formal rulemaking for a competitive bidding process for wind and solar development. BLM drafted an Advance Notice of Proposed Rulemaking that is currently going through its review process. With the demonstrated success of the Palm Springs-South Coast Field Office, the imminent expiration of several ROW in this area, and the current and future wind and solar energy development potential on BLM land, the timing is right for BLM to take the initiative to obtain fair market value for public lands.

Recommendation

9. Develop and implement Bureau-wide guidance for using competitive bidding on wind and solar ROW.

Conclusion and Recommendations

Summary

Conclusion

With the projected increase in wind and solar projects on Government lands, the urgency of protecting the people's interests through monitoring and enforcing ROW requirements will increase substantially. By implementing our recommendations, BLM will appreciably improve its immediate and long-term project management. This will involve few additional resources, but will create greater integrity and accountability within the renewable energy program.

BLM responded to the findings and recommendations in our draft report on April 9, 2012 (see appendix 3). BLM substantially concurred with all nine recommendations and completed two of the recommendations (see appendix 4). BLM plans to complete corrective actions for the remaining seven recommendations by April 2013. The responsible official for Recommendations 1, and 4 through 9, is the Assistant Director, Minerals and Realty Management. The responsible official for Recommendations 2 and 3 is the State Director, California State Office.

Recommendations Summary

1. Develop and implement procedures to ensure collection of the current rental rate on all existing wind energy agreements, and timely issuance and prompt application of future rate changes to all wind projects.

BLM Response: BLM concurred with this recommendation. BLM has procedures to ensure it is collecting current rental rates on existing ROW grants for the testing and development of wind sites. BLM issued wind energy policy IM 2009-043 on December 22, 2008, which addresses processing, rental, and bonding wind energy projects. It provides guidance to BLM's state and field offices. Many of the 2009 rental bills had already been sent to existing grant holders pursuant to the previous rental policy, as established by BLM policy IM 2003-020 in October 2002. The updated rental rate, as identified in wind energy policy IM 2009-043, was not issued with the intent of amending existing grant-holder rental bills. After BLM sent the initial bills to the grant holders, BLM provided a rental notice and bill wherein grant holders were required to pay the difference in rents to BLM for the years 2009 through 2011.

BLM is also currently in rulemaking for a competitive wind and solar energy leasing program that will also include requirements for paying current rental fees for all wind and solar energy authorizations.

BLM will establish an implementation plan to ensure BLM offices follow the existing procedures and policy guidance. The plan will include regular conference calls, video broadcasts, and an internal review of records to ensure BLM receives current rental rates on all existing wind energy authorizations.

Office of Inspector General (OIG) Analysis of BLM Response: We consider this recommendation resolved, but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

2. Determine whether BLM can make the rental rate from December 2008 retroactive in order to collect wind revenues lost during calendar years 2009 through 2011.

BLM Response: BLM concurred with this recommendation. BLM California State Office, in consultation with the Pacific Southwest Regional Solicitor's Office, determined that a retroactive rental for the calendar years 2009 through 2011 was appropriate. The California State Office sent decision letters in July 2011 to the 21 holders of existing grants regarding the adjusted rental for those years. Sixteen grant holders have paid in full.

OIG Analysis of BLM Response: We consider this recommendation resolved and implemented. No further action is required.

3. Determine whether a refund is appropriate for the Palm Springs-South Coast Field Office companies that were charged a higher rate than the established minimum rate from 2003 through 2008.

BLM Response: BLM concurred with this recommendation. BLM determined, in consultation with the Pacific Southwest Regional Solicitor's Office, that a refund of rentals collected on existing authorizations charged at a rate higher than the established "minimum" rate from 2003 through 2008 is not appropriate. Those rentals were charged based on BLM policy IM 2003-020 which stated that the rental was a "minimum rent," allowing for a higher rental payment if determined appropriate by BLM.

OIG Analysis of BLM Response: We consider this recommendation resolved and implemented. No further response is required.

4. Issue an updated wind IM that clearly requires bonds on all projects.

BLM Response: BLM partially concurred with this recommendation. The OIG draft report noted that IM 2011-096 did not rescind and replace BLM's 2008 wind-energy policy guidance. IM 2011-096, however,

requires bonds for all wind projects and requires that bonds be entered into LR2000. Under this IM, each BLM state director must submit an annual certification of bond status to the Washington Office.

The 2011 annual certifications have been submitted to the Washington Office, ensuring that bonds are received on all site testing and development authorizations and entered into LR2000. Where an authorization is missing a bond, a letter of noncompliance has been issued to the holder, which includes a timeframe to provide the bond to BLM. BLM's current rulemaking effort for the competitive wind and solar energy leasing program will also include requirements for bonds on all wind site testing, and wind and solar development authorizations.

BLM will establish a plan to ensure that existing procedures and policy guidance to the BLM offices are followed, that there is a complete understanding of the policy, that bond information is promptly and accurately entered into LR2000, and that the annual certification required by IM 2011-096 is received from each BLM state director. The plan will include regular conference calls, video broadcasts, and an internal review of records to ensure bonds are received on all wind energy authorizations.

OIG Analysis of BLM Response: We consider this recommendation resolved, but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

5. Reassess the minimum bond amounts for wind projects as well as methods for determining the bond amount, including expanding the use of a bond review team.

BLM Response: BLM concurred with this recommendation. BLM will review the minimum bond requirements for wind projects based upon bonds for recently authorized projects and the methods for determining bond amount, including the use of a bond review team. BLM will issue policy guidance, if appropriate.

OIG Analysis of BLM Response: We consider this recommendation resolved, but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

6. Track and manage bond information on all renewable energy projects, including the amount of the bond, when BLM requested and received the bond, contact information for the bonded party, the type of bond, and when the bond requires updating.

BLM Response: BLM concurred with this recommendation. IM 2011-096 requires entering bonds for all wind projects into LR2000. This includes entering the information suggested in Recommendation 6. Under this IM, each BLM state director must submit an annual certification of bond status to the Washington Office. The BLM state directors also are required to ensure that bonds are received on all site testing and development authorizations and entered into LR2000. Where an authorization is missing a bond, BLM issued a letter of noncompliance to the holder, which includes a timeframe to provide the bond to BLM.

Bond information for solar energy development projects is required as a standard practice. BLM's Washington Office has reviewed, prior to approval, every solar energy development project authorized. A component of the review is an evaluation of the bond amount for the development facility. BLM policy IM 2011-003 requires the submission of the bond to BLM prior issuing a Notice to Proceed for project development and is subject to Solicitor review prior to acceptance by BLM.

BLM will review data entered in LR2000 for both wind and solar authorizations and determine if additional fields are necessary to better track and manage bond information. Additionally, BLM will establish an implementation plan for IM 2011-096 as it relates to wind energy authorizations and ensure bond information is collected for solar energy authorizations. The implementation plan will include conference calls, video broadcasts, and Washington Office internal records reviews.

OIG Analysis of BLM Response: We consider this recommendation resolved, but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

7. Develop and implement procedures to ensure that when a project is transferred, BLM returns the first bond to the company that obtained it and requests a new bond from the newly assigned company.

BLM Response: BLM concurred with this recommendation. BLM will develop and implement policy guidance to ensure that it receives new bonds as part of the approval process for an assignment, and that it returns old bonds.

OIG Analysis of BLM Response: We consider this recommendation resolved, but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

8. Develop and implement Bureau-wide guidance for monitoring and enforcement on solar and wind projects, including but not limited to—
- a consistent process for developing fees for monitoring projects;
 - procedures to plan, conduct, and document monitoring and enforcement of regulations and stipulations;
 - controls over the use of third-party contractors for monitoring and compliance; and
 - self-reporting and self-certification with consequences for non-compliance.

BLM Response: BLM concurred with this recommendation. BLM noted that the OIG’s draft report acknowledges the value of using third-party contractors as a solution to budget reductions and staffing issues. BLM will develop and implement policy guidance for wind and solar authorizations to address monitoring, enforcement, and compliance requirements.

OIG Analysis of BLM Response: We consider this recommendation resolved, but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

9. Develop and implement Bureau-wide guidance for using competitive bidding on wind and solar ROW.

BLM Response: BLM concurred with this recommendation. BLM has initiated formal rulemaking for a competitive wind and solar leasing program. The Advance Notice of Proposed Rulemaking (ANPR) was published in the Federal Register on December 29, 2011. Public comments on the ANPR are currently under review. The final rule will address competitive wind and solar energy leasing, rental fees, required bonding on wind and solar authorizations, and processing and monitoring fees.

OIG Analysis of BLM Response: We consider this recommendation resolved, but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

Appendix I: Scope and Methodology

Scope

Our scope included BLM's wind and solar activities, including issued ROW, policies, and guidance.

Methodology

We did this review from March 2010 through December 2011. We visited six BLM offices where we interviewed renewable energy personnel; reviewed selected wind, solar, and transmission ROW files; and observed field operations. The sites visited were Sacramento, Moreno Valley, Palm Springs, Barstow, and Ridgecrest, CA; and Las Vegas, NV. We also interviewed, in person or by telephone, BLM renewable energy personnel in Washington, DC; Lakewood, CO; Reno, NV; Cheyenne and Rawlins, WY; Prineville, OR; and Safford, AZ. We also interviewed a National Park Service employee regarding coordinating activities with BLM related to BLM's wind and solar activities.

We conducted this evaluation in accordance with "Quality Standards for Inspections" issued by the Council of Inspectors General on Integrity and Efficiency. We believe that the work we performed provides a reasonable basis for our conclusions and recommendations.

Appendix 2: Potential Monetary Impact

| Issue | Monetary Impact |
|---------------------------------------|-----------------|
| Lost Rental Revenue | \$1.2 million |
| Insufficient Bonding on Wind Projects | \$8.5 million |
| | |

Appendix 3: Bureau's Response

The Bureau of Land Management's response to the draft report follows on page 26.



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Washington, D.C. 20240
<http://www.blm.gov>



APR 09 2012

In Reply Refer To:
1245/2800 (830/301)

To: Assistant Inspector General for Audits, Inspections, and Evaluations

Through: Marcilynn A. Burke *Marcilynn A. Burke*
Acting Assistant Secretary – Land Minerals Management

From: *Robert V. Abbey*
Robert V. Abbey
Director

Subject: Office of the Inspector General Evaluation Draft Report, Bureau of Land Management's Renewable Energy Program: A Critical Point in Renewable Energy Development (CR-EV-BLM-0004-2010)

Thank you for the opportunity to review and comment on the Office of the Inspector General (OIG) draft Evaluation Report, "Bureau of Land Management's Renewable Energy Program: A Critical Point in Renewable Energy Development" (CR-EV-BLM-0004-2010). The Bureau of Land Management (BLM) concurs with eight of the nine recommendations and partially concurs with the recommendation for updating policy to clearly require bonds for the BLM's renewable energy program. The BLM acknowledges a need to reinforce existing policy and provide additional guidance on resource protection, collection of rental revenues, and wind bonding requirements for renewable energy projects. As explained further in the attachment, the BLM has initiated a rulemaking effort for the competitive wind and solar energy leasing program, which will also address several recommendations made by the OIG in its draft report. Additionally, I am pleased to report that we have completed actions to implement two of the recommendations.

As noted in the draft report, the "BLM is poised for a massive expansion of wind and solar projects." As of April 5, 2012, the BLM has 34 authorized wind energy development projects; 140 authorized wind site testing projects; and an additional 166 pending wind energy development and site testing applications. For solar energy development, the BLM has 10 authorized solar energy projects (one project in Nevada is nearly complete in its construction), in addition to another 76 pending solar energy applications.

The attachment provides a summary of the actions taken or planned by the BLM to comply with the OIG's recommendations, as well as the contact information for the responsible official and the target dates of implementation.

If you have any questions about this response, please contact Ray Brady, National Renewable Energy Coordination Office Manager, at 202-912-7312, or LaVanna Stevenson, BLM Audit Liaison Officer, at 202-912-7077.

Attachment

**Response to the Recommendations included in the Office of Inspector General Report,
Bureau of Land Management's Renewable Energy Program: A Critical Point in
Renewable Energy Development (CR-EV-BLM-0004-2010)**

Recommendation 1: Develop and implement procedures to ensure collection of the current rental rate on all existing wind energy agreements and timely issuance and prompt application of future rate changes to all wind projects.

Response: The BLM currently has procedures in place to ensure the collection of current rental rates on existing wind site testing and development right-of-way grants. The BLM issued wind energy policy IM 2009-043 on December 22, 2008, which addressed the processing, rental and bonding of wind energy projects. It was issued in an effort to provide guidance to the BLM State and Field Offices to ensure the continued efficient and timely processing of wind energy applications. Many of the 2009 rental bills had already been sent to existing grant holders pursuant to the previous rental policy, as established by BLM policy IM 2003-020 in October 2002. The updated rental rate, as identified in wind energy policy IM 2009-043, was not issued with the intent of amending existing grant holder rental bills. However, after the initial bills were sent to the grant holders, a rental notice and bill was provided wherein grant holders were required to pay the difference in rental to the BLM for the years 2009 through 2011.

The BLM is also currently engaged in a rulemaking effort for a competitive wind and solar energy leasing program that will also include requirements for the payment of current rental fees, as established by the BLM, for all wind and solar energy authorizations.

The BLM will establish an implementation plan to ensure the existing procedures and policy guidance to the BLM States is followed. The implementation plan will include a suite of actions such as regular conference calls, video broadcasts, and a targeted Washington Office internal review of records to ensure current rental rates are received on all existing wind energy authorizations.

Target Date: December 31, 2012

Responsible Official: Michael D. Nedd, Assistant Director, Minerals and Realty Management

Recommendation 2: Determine whether BLM can make the rental rate from December 2008 retroactive in order to collect wind revenues lost during calendar years 2009 through 2011.

Response: The BLM California State Office, in consultation with the Pacific Southwest Regional Solicitor's Office, determined that a retroactive rental for the calendar years 2009 through 2011 was appropriate. The BLM California sent decision letters in July 2011 to the 21 holders of existing grants regarding the adjusted rental for those years. Collection of retroactive rental is currently ongoing. Sixteen grant holders have paid in full. Standard BLM collection policies and practices are being used for the remaining five grants.

Target Date: Completed

Responsible Official: Jim Kenna, State Director, California State Office

Recommendation 3: Determine whether a refund is appropriate for the Palm Springs-South Coast Field Office agreements that were charged a higher rate than the established minimum rate from 2003 through 2008.

Response: The BLM determined, in consultation with the Pacific Southwest Regional Solicitor's Office, that a refund of rentals collected on existing authorizations charged at a rate higher than the established "minimum" rate from 2003 through 2008 is not appropriate. Those rentals were charged based on BLM policy IM 2003-020 which stated that the rental was a "minimum rent," allowing for a higher rental payment if determined appropriate by the BLM.

Target Date: Completed

Responsible Official: Jim Kenna, State Director, California State Office

Recommendation 4: Issue an updated wind IM that clearly requires bonds on all projects.

Response: The BLM partially concurs with this recommendation. It was observed in the draft report that IM 2011-096 did not rescind and replace the BLM's 2008 wind energy policy guidance, which may have contributed to confusion about bonding requirements. However, IM 2011-096 requires bonds for all wind projects and requires that bonds be entered into the BLM's Legacy Rehost System 2000's (LR2000) Bonds and Surety System. Under this IM, each BLM State Director must submit to the BLM Washington Office an annual certification of bond status.

The 2011 annual certifications have been submitted to the BLM Washington Office, ensuring that bonds are received on all site testing and development authorizations and entered into LR2000's Bonds and Surety System. Where an authorization is missing a bond, a letter of non-compliance has been issued to the holder, which includes a timeframe in which to provide the bond to BLM. The BLM's current rulemaking effort for the competitive wind and solar energy leasing program will also include requirements for bonds for all wind site testing, and wind and solar development authorizations.

The BLM will establish an implementation plan to ensure that existing procedures and policy guidance to the BLM States are followed, that there is a complete understanding of the policy, that bond information is promptly and accurately entered into the Bonds and Surety System, and that the annual certification required by IM 2011-096 is received from each BLM State Director. The implementation plan will include a suite of actions such as regular conference calls, video broadcasts, and a targeted Washington Office internal review of records to ensure bonds are received on all wind energy authorizations.

Target Date: December 31, 2012

Responsible Official: Michael D. Nedd, Assistant Director, Minerals and Realty Management

Recommendation 5: Reassess the minimum bond amounts for wind projects as well as methods for determining the bond amount, including expanding the use of a bond review team.

Response: The BLM will review the minimum bond requirements for wind projects based upon bonds established on recently authorized projects and the methods for determining bond amount, including the use of a bond review team. The BLM will issue policy guidance, if appropriate, by December 31, 2012.

Target Date: December 31, 2012

Responsible Official: Michael D. Nedd, Assistant Director, Minerals and Realty Management

Recommendation 6: Track and manage bond information on all renewable energy projects, including the amount of the bond, when BLM requested and received the bond, contact information for the bonded party, the type of bond, and when the bond requires updating.

Response: The BLM policy IM 2011-096 requires the entry of bonds for all wind projects into the BLM's LR2000 Bonds and Surety System. Recordation of bonds in the BLM's LR2000 Bonds and Surety System includes the entry of information suggested in Recommendation 6. Under this IM, each BLM State Director must submit to the BLM Washington Office an annual certification of bond status. The BLM State Directors also are required to ensure that bonds are received on all site testing and development authorizations and entered into LR2000's Bonds and Surety System. Where an authorization is missing a bond, a letter of non-compliance has been issued to the holder, which includes a timeframe in which to provide the bond to the BLM

Bond information for solar energy development projects is required as a standard practice for the BLM. The BLM Washington Office has reviewed, prior to approval, every solar energy development project authorized to date. A component of the review is evaluation of the bond amount for the development facility. The BLM policy IM 2011-003 requires the submission of the bond to the BLM prior to the issuance of a Notice to Proceed for project development and is subject to Solicitor review prior to acceptance by the BLM.

To strengthen its existing policies further, the BLM will review data entered in its LR2000 Bonds and Surety System for both wind and solar authorizations and determine if additional fields are necessary to better track and manage bond information. Additionally, the BLM will establish an implementation plan for IM 2011-096, as it relates to wind energy authorizations, and ensure bond information is collected for solar energy authorizations at the appropriate time. The implementation plan will include a suite of actions such as conference calls, video broadcasts, and targeted Washington Office internal record reviews.

Target Date: December 31, 2012

Responsible Official: Michael D. Nedd, Assistant Director, Minerals and Realty Management

Recommendation 7: Develop and implement procedures to ensure that when a project is transferred, BLM returns the first bond to the company that obtained it and requests a new bond from the newly assigned company.

Response: The BLM will develop and implement policy guidance to ensure that it receives new bonds as part of the approval process for an assignment, and that it returns old bonds.

Target Date: December 31, 2012

Responsible Official: Michael D. Nedd, Assistant Director, Minerals and Realty Management

Recommendation 8: Develop and implement Bureau-wide guidance for monitoring and enforcement on solar and wind projects, including but not limited to:

- a consistent process for developing fees for monitoring projects;
- procedures to plan, conduct, and document monitoring and enforcement of regulations and stipulations;
- controls over the use of third-party contractors for monitoring and compliance; and
- self-reporting and self-certifications with consequences for non-compliance.

Response: The OIG report acknowledges the value of using third-party contractors as a solution to budget reductions and staffing issues in the current budget environment. The BLM is committed to strengthening its oversight role and developing management controls as a means to increase consistency, reduce the risk of noncompliance, and strengthen environmental protections.

The BLM will develop and implement policy guidance for wind and solar authorizations that addresses monitoring, enforcement, and compliance requirements.

Target Date: December 31, 2012

Responsible Official: Michael D. Nedd, Assistant Director, Minerals and Realty Management

Recommendation 9: Develop and implement Bureau-wide guidance for using competitive bidding on wind and solar ROW.

Response: The BLM has initiated formal rulemaking for a competitive wind and solar leasing program. The Advance Notice of Proposed Rulemaking (ANPR) was published in the *Federal Register* on December 29, 2011. The public comments on the ANPR are currently under review. The Final Rule is expected to be completed by April 30, 2013. The Final Rule will address competitive wind and solar energy leasing, rental fees, required bonding on wind and solar authorizations, and processing and monitoring fees. The BLM is pleased that the OIG concurs

that the timing is right for the BLM to take the initiative to obtain fair market value for the use of the public lands.

Target Date: April 30, 2013

Responsible Official: Michael D. Nedd, Assistant Director, Minerals and Realty Management

Appendix 4: Status of Recommendations

In response to our draft report, BLM substantially concurred with all nine of our recommendations and agreed to implement them. BLM provided corrective action plans and an action official for each recommendation (see appendix 3). Therefore, we consider two recommendations resolved and implemented and seven recommendations resolved but not implemented.

| Recommendations | Status | Action Required |
|-------------------------|---------------------------|---|
| 2 and 3 | Resolved and implemented | No further action required. |
| 1, 4, 5, 6, 7, 8, and 9 | Resolved, not implemented | The recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation. |

Report Fraud, Waste, and Mismanagement



Fraud, waste, and mismanagement in Government concern everyone: Office of Inspector General staff, Departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and mismanagement related to Departmental or Insular Area programs and operations. You can report allegations to us in several ways.



| | | |
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