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

UNITED MINE WORKERS OF AMERICA HEALTH AND RETIREMENT FUNDS (REVISED)

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U.S. DEPARTMENT OF THE INTERIOR

DEC 13 2013

Memorandum

To: Joseph Pizarchik
Director, Office of Surface Mining Reclamation and Enforcement

From: Hannibal M. Ware
Eastern Regional Manager for Audits, Inspections, and Evaluations

Subject: Inspection Report – United Mine Workers of America Health and Retirement Funds (Revised)
Report No. ER-IS-OSM-0007-2013

We recently completed an inspection at the request of the Office of Surface Mining Reclamation and Enforcement (OSM) into the United Mine Workers of America Health and Retirement Funds (UMWAF). We reviewed concerns expressed by OSM about increasing administrative costs associated with UMWAF, as well as OSM's authority to provide programmatic oversight of the trusts related to UMWAF.

We make one recommendation to assist OSM with increasing its oversight authority of administrative costs associated with UMWAF.

Background

As of fiscal year 2012, UMWAF provided healthcare to 31,871 retired union coal-mine workers and their dependents for a total of $392,263,098. There are three primary trusts that provide coverage for health benefits: the Combined Benefit Fund (CBF), the 1992 Benefit Plan (92BP), and the 1993 Benefit Plan (93BP).[1]

A memorandum of understanding (MOU) currently exists between UMWAF and OSM outlining the responsibilities of both parties under the Surface Mining Control and Reclamation Act (SMCRA). SMCRA, codified in 30 U.S.C. §§ 1201-1328, is the primary Federal law that regulates the environmental effects of coal mining in the United States. SMCRA created the Abandoned Mine Lands (AML) fund, managed by OSM, to pay for the cleanup of mine lands. Amendments passed in 1992 and 2006 require that interest from the AML fund be transferred to the three trusts to support healthcare benefits. Deposits to the AML fund are derived from a tax levied on mining operators per tonnage of coal harvested.

[1] The Coal Industry Retiree Health Benefit Act of 1992 (Coal Act) established CBF and 92BP to provide healthcare benefits to qualified retired union miners, their dependents, and their surviving spouses. Collective bargaining with the Bituminous Coal Operators' Association created 93BP outside the context of the Coal Act. Unlike CBF and 92BP, which have a statutory basis, the outcome of the collective bargaining process will continue to determine the existence of 93BP.

At the beginning of each fiscal year, UMWAF submits a funding request that details projected costs to OSM. OSM then transfers interest earned from the AML fund to support UMWAF; adjustments are made at the end of the year based on actual expenditures. In the event that interest generated does not cover expenses, the three trusts are entitled to payments from the U.S. Treasury, subject to a $490 million cap on all combined annual transfers from the Treasury and the AML fund. Transfers under the current law began in 1992 to CBF and in 2008 to 92BP and 93BP. These payments cover the costs of providing healthcare benefits to unassigned beneficiaries, or miners who retired from a coal operator that is no longer in business.

The Office of Inspector General (OIG) previously issued an audit report[2] and an advisory letter[3] on the CBF in February 2001. The audit report focused on the accuracy of the amounts transferred and the amounts paid for the healthcare of unassigned beneficiaries. The report concluded that both dollar amounts were accurate. The advisory letter focused on the long-term sustainability of the CBF and concluded that without additional funding the CBF may not be able to meet its future obligations

Findings

Administrative Costs

UMWAF actuaries project all costs associated with the funding. These cost projections provided to OSM are determined in part based on data received from the Social Security Administration as prescribed by the Coal Act. UMWAF uses an independent auditing firm to review the administrative costs.

Although OSM expressed concerns about increasing administrative costs associated with UMWAF, our review of the independent auditor's financial reports and of the budget information provided by OSM, which included administrative costs for all three trust funds, indicated that administrative costs are at or below the 12 percent observed in private industry[4] (see Figure 1).

[2] "Funds Transferred to the United Mine Workers of America Combined Benefit Fund by the Office of Surface Mining Reclamation and Enforcement." Report No. 01-I-187, February 2001.
[3] "Advisory Letter on Selected Aspects of the Operation of the United Mine Workers of America Combined Benefit Plan," No. 01-i-188, February 2001.
[4] Lemieux (2005): "Perspective: Administrative Costs of Private Health Insurance Plans." Center for Policy and Research, American Health Insurance Plans. (2005).

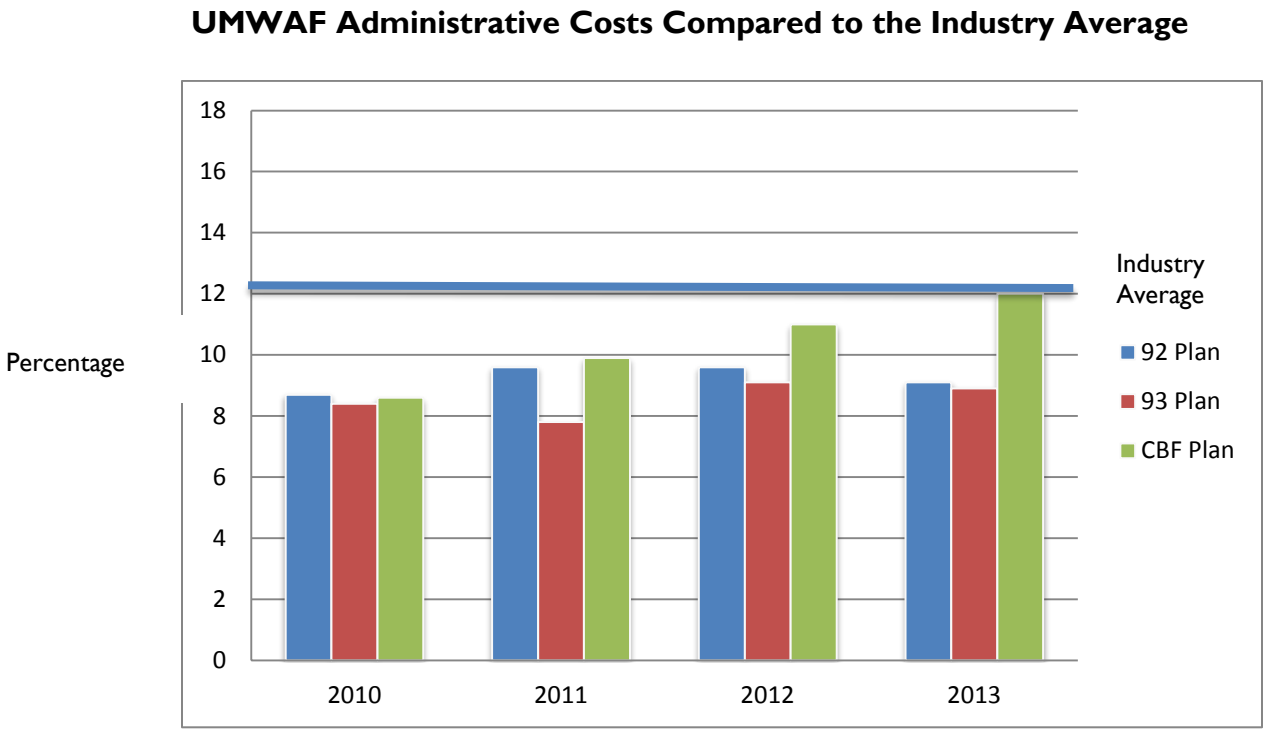

Figure 1: UMWAF administrative costs by percentage for the three healthcare trusts compared to the industry average.

In addition, 26 U.S.C § 9705 (b)(2)[5] states that any amount transferred from the AML fund for any fiscal year "shall be used to pay benefits and administrative costs." No dollar amount or percentage ceiling is associated with administrative costs.

Based on the data reviewed, we conclude that the administrative costs associated with UMWAF appear reasonable.

Limited Programmatic Overview

SMCRA does not expressly require OSM to oversee management of UMWAF, including how administrative costs are spent. The law requires that OSM make payments to the three health trusts. OSM manages the AML fund and facilitates transfers of interest on the AML fund to CBF, 92BP, and 93BP. OSM serves primarily as a pass through for funds transferred to the trusts.

Although SMCRA does not have specific provisions for oversight authority, the current MOU between OSM and UMWAF provides OSM some monitoring rights. The current MOU states: "The Federal Government reserves the right to audit any and all records involving the receipt and use of Federal funds and the computation of subsequent adjustments." The MOU allows OSM to receive and review audited annual financial statements and monthly unaudited statements, both provided by UMWAF. In addition, the MOU names OIG as the cognizant auditing agency, granting OIG the authority to review any UMWAF records involved in the

[5] 26 U.S.C. §§ 9702 -9708 references the Coal Industry Health Benefits.

receipt and use of Federal funds. OIG, at its option, can choose to rely on audit work conducted by internal auditors, external auditors, UWMAF's private accounting firm, the U.S. Government Accountability Office, or any other source OIG deems fit. The current MOU expires at the end of fiscal year 2014, providing a window of opportunity for OSM to negotiate additional programmatic oversight authority under any new agreement with UMWAF.

Additional Observations

As early as 1992, OSM invested the balance of the AML fund in short-term securities and U.S. Treasury bonds. The interest collected from the AML fund investment has been used to finance UMWAF. Use of the interest earned on the AML fund has decreased over time, significantly shifting the financial burden to the Treasury (see Figure 2).

We noted that in fiscal year 2012, interest from the AML fund was used to pay $48.4 million (19 percent) into UMWAF, while the Treasury paid $205.6 million (81 percent), for a total of $254 million. For fiscal year 2013, interest from the AML fund is expected to contribute $54.8 million (28 percent) while Treasury is projected to provide $140.6 million (72 percent) in funding for a total of $195.4 million.

The projected cost derived from the interest earned on the AML fund in fiscal year 2014 will decrease significantly to approximately $14.9 million (8 percent), while the Treasury will likely pay $180 million (92 percent), for a total cost of $195 million. Moving forward, the availability of funding from the interest earned on the AML fund will continue to decrease because of maturing bonds, and the Treasury will be required to take on an even larger percentage of the funding for UMWAF. In fiscal year 2015, when all bonds have matured, the projected contribution from the interest earned on the AML fund will be just $6 million (3 percent), while the Treasury will provide $185 million (97 percent), for a total of $191 million, dramatically decreasing the AML fund contributions.

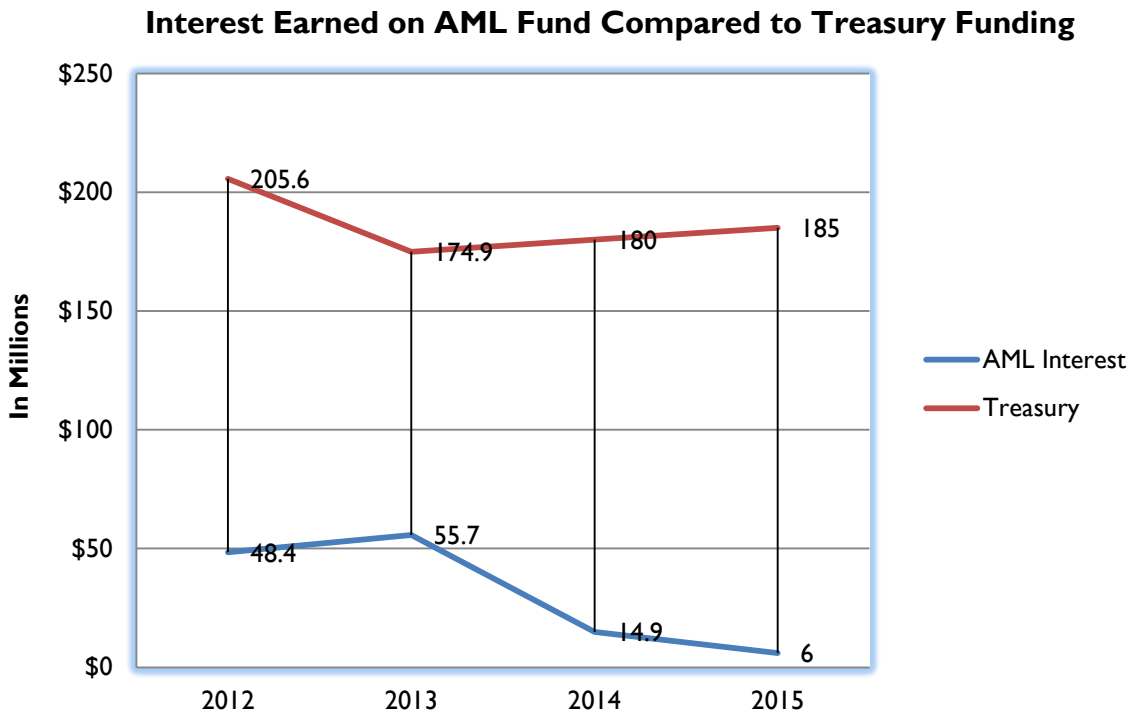

Figure 2: AML fund interest level compared to Treasury funding of UMWAF from fiscal years 2012 through 2015.

Our review determined that the projected costs derived from the interest earned on the AML fund will continue to decrease, while the Treasury's financial obligations will continue to increase.

Conclusion and Recommendations

Although the funding of UMWAF falls under auspices of OSM, it has no direct programmatic oversight ensuring the adequate and appropriate use of money transferred from the AML fund for the intended purpose. The current MOU, however, does provide some audit authority available to OSM.

We recommend that OSM:

Negotiate more specific provisions for programmatic oversight when the current MOU expires at the end of fiscal year 2014; or seek to adopt regulations under SMCRA providing for additional oversight authority.

Scope and Methodology

We performed our work between May and July 2013. To accomplish our objective, we—

- reviewed UMWAF;
- reviewed the MOU between UMWAF and OSM;

- reviewed SMCRA and its amendments;
- reviewed relevant budgetary documentation;
- reviewed previous OIG and U.S. Government Accountability Office reports;
- reviewed OSM's current financial costs associated with UMWAF;
- reviewed UMWAF's administration role;
- reviewed OSM's programmatic oversight role; and
- interviewed OSM personnel.

We conducted our inspection in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

Please provide us with your written response to this report within 30 days. The response should provide information on actions taken or planned to address the recommendations, as well as target dates and title(s) of the official(s) responsible for implementation. Please address your response to:

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

If you have any questions regarding this report, please do not hesitate to contact me at 202-208-5745.

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