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

Audit

Infrastructure Investment and Jobs Act Orphaned Well Initial Grant Awarded to the State of Texas, Railroad Commission of Texas

Report No. 2024-ER-010

February 2025

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

FEB 10 2025

Memorandum

To: Wei Wang
Executive Director, Railroad Commission of Texas

Kimbra G. Davis
Director, Orphaned Wells Program Office

From: Kathleen Sedney
Assistant Inspector General for Audits, Inspections, and Evaluations

Subject: Final Audit Report – *Infrastructure Investment and Jobs Act Orphaned Well Initial Grant Awarded to the State of Texas, Railroad Commission of Texas*
Report No. 2024-ER-010

This memorandum transmits our audit report on the Infrastructure Investment and Jobs Act orphaned well initial grant awarded to the State of Texas, Railroad Commission of Texas.

Because we are not offering recommendations, we do not require a response to this report. We will notify Congress about our findings, and we will summarize this work in our next *Semiannual Report to Congress*, as required by law. We will also post a public version of this report on our website.

If you have any questions, please contact me at aie_reports@doioig.gov.

Contents

Cover photo source: vicnick08/stock.adobe.com

Results in Brief

Objective

To determine if the State of Texas expended Infrastructure Investment and Jobs Act (IIJA) orphaned well initial grant funds and fulfilled program goals in accordance with applicable laws, Federal regulations, and grant terms.

Findings

We found that the State of Texas properly expended IIJA orphaned well initial grant funds and fulfilled program goals in accordance with applicable laws, Federal regulations, and grant terms.

Impact

The IIJA established the orphaned well program to address the public health and environmental impacts of orphaned wells through plugging, remediation, and restoration programs at the Federal, State, and Tribal levels. Approximately 40 percent of abandoned oil and gas wells in the United States are unplugged and may be continuously emitting methane, which can have serious public health impacts from asthma to cancer to premature death. Orphaned wells that have not been reclaimed also pose safety risks, including the threat of potential combustion. When an oil or gas well is orphaned, the cleanup and associated costs fall on the Federal or State Governments.

Recommendations

We make no recommendations as there are no reportable findings.

Introduction

Objective

The objective of our audit was to determine if the State of Texas expended Infrastructure Investment and Jobs Act (IIJA) orphaned well initial grant funds and fulfilled program goals in accordance with applicable laws, Federal regulations, and grant terms.

See the Appendix for our audit scope and methodology.

Background

Orphaned wells no longer produce oil or gas and have no known owner or operator capable of plugging the well and reclaiming the well site. For more than a century and a half, companies drilled an estimated 800,000 to 1 million wells across the United States before regulations were established requiring oil and gas operators to plug and reclaim the wells at the end of their useful life.[1] However, the true extent of orphaned wells across the United States is not fully known. Because of the lack of information collected, Federal and State agencies have faced challenges in estimating the numbers, locations, and conditions of orphaned wells within their respective jurisdictions. Consequently, the existing data gap between the amount of documented and undocumented wells creates challenges in well-plugging efforts. The number of orphaned oil and gas wells in the United States is not static, and the status may change for a variety of reasons, including:

- A liable operator is identified and held financially responsible for plugging the well.
- Orphaned wells may change from being undocumented to documented.[2]
- A company bankruptcy might lead to the orphaning of wells.

Orphaned wells pose public health and safety and environmental risks. According to the U.S. Department of the Interior (DOI), millions of Americans live within a mile of an orphaned oil or gas well. These wells can pollute residential and recreational areas and public spaces. As a result, orphaned wells have been a concern for residents, environmental groups, landowners, and State and Federal agencies for many years. These stakeholders are directly affected by the outcome of the efforts to address orphaned wells, particularly through plugging. When an oil or gas well is orphaned, the cleanup and associated costs fall on the Federal or State Governments. Figure 1 shows an unplugged orphaned well in Texas.

[1] U.S. Department of the Interior, Orphaned Wells, https://edit.doi.gov/orphaned-wells-program-office-stories.

[2] The Interstate Oil and Gas Compact Commission defines a "documented" well as a well for which the State or regulatory agency has a drilling report, completion report, inspection report, or other record establishing the existence of the well, including its precise location. An "undocumented" well refers to a well that is entirely unknown to a State or agency or one for which a State or agency has some evidence but requires further verification.

Figure 1: Unplugged Orphaned Well

Source: Railroad Commission of Texas.

Infrastructure Investment and Jobs Act

The IIJA, signed into law on November 15, 2021, established the orphaned well program, which includes both a Federal program for addressing orphaned wells on Federal land and a grant program for States and Tribes to establish or grow and manage their own orphaned well-plugging, remediation, and restoration programs.[3] IIJA Title VI, "Methane Reduction Infrastructure," § 40601, "Orphaned Well Site Plugging, Remediation, and Restoration," expands the Federal reclamation role for orphaned oil and gas wells by providing $4.68 billion in supplemental appropriations for the Federal reclamation program and grants to State and Tribal programs to complete reclamation within their respective jurisdictions. Under § 40601 of the IIJA, Congress appropriated funding for various purposes to include:

- $250 million for DOI to carry out orphaned oil and gas well reclamation on Federal lands.
- $775 million for initial grants to States in support of administrative actions necessary to assess and update the inventory of their orphaned well sites, prepare applications for obtaining formula and performance grants, and carry out other activities as stipulated, including plugging orphaned wells.

IIJA § 40601 allows for certain activities that States may undertake using IIJA funds, such as administering a State-level program to carry out orphaned well-plugging, remediation, and restoration activities. Under the initial grants, each State can request up to $25 million. Congress also appropriated $2 billion in formula grants[4] to States. To be eligible to receive a formula grant, a State must submit an application to the Orphaned Well Program Office (OWPO), an office that was established in 2023 to administer the IIJA orphaned well program. The application must include documentation that describes the State-level program's current authorities and activities, activities to be carried out using the formula grants, and how reclamation activity information is made

[3] Pub. L. No. 117-58, 135 Stat. 429 (2021).

[4] Formula grants are grants to bolster States' well-plugging programs and provide significant financial resources over several years to plug, remediate, and reclaim thousands of orphaned wells on State and private lands.

public, among other information. The amount that a State receives for a formula grant is dependent upon the factors[5] considered in the State's application.

The IIJA also provides $1.5 billion for performance grants, which consist of two types—regulatory improvement grants and matching grants. A State would qualify for a regulatory improvement grant by demonstrating within a 10-year period after its initial grant application that it has strengthened State plugging and reclamation standards and financial assurance mechanisms. Matching grants may be provided based on the difference States spend on plugging wells between 2010 and 2019 and the amount the State expects to spend during the fiscal year the State receives the grant. Matching grants are limited to a cumulative total of $30 million per State from fiscal years 2022 to 2031.

Under the IIJA, Tribes are also eligible to receive grants. Congress authorized another $150 million intended to be used to address orphaned oil and gas wells on Tribal lands.

DOI Orphaned Wells Program Office

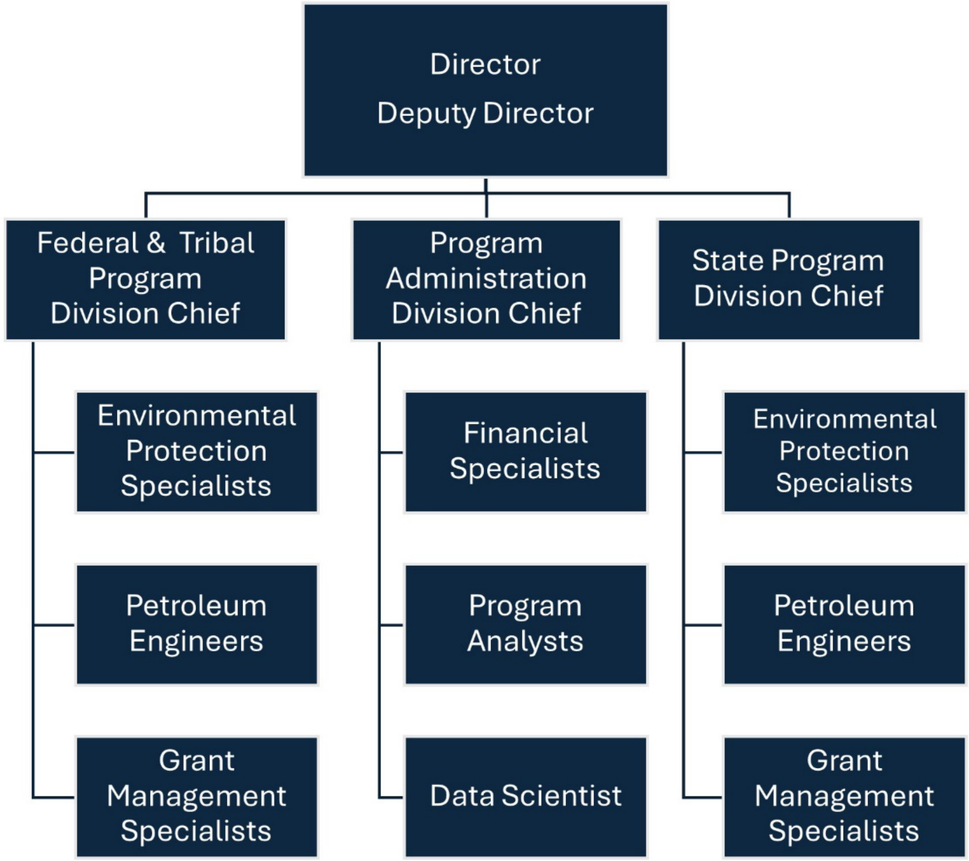
On January 10, 2023, the Secretary of the Interior, through Secretary's Order No. 3409, *Establishment of the Orphaned Wells Program Office*, established OWPO, which is responsible for carrying out the Secretary's responsibilities under § 40601 of the IIJA, specifically to:

- Establish a program to plug, remediate, and reclaim orphaned wells located on Federal land.
- Provide initial grants, formula grants, and performance grants to the States to carry out plugging, remediating, and reclaiming activities related to orphaned wells.
- Establish a program under which the Secretary will (1) provide Indian Tribes grants to carry out plugging, remediating, and reclaiming activities related to orphaned wells, or (2) in lieu of a grant, an Indian Tribe may request the Secretary to administer and carry out plugging, remediating, and reclaiming activities related to orphaned wells on behalf of the Indian Tribe.

OWPO is organizationally structured within DOI's Policy and Environmental Division under the Office of Policy, Management and Budget (see Figure 2). OWPO management and staff are responsible for oversight and administration of the Federal, State, and Tribal programs, which includes reviewing State grant applications, awarding grants to the States, and reviewing financial and performance reports submitted by the grant recipients.

[5] Factors considered include oil and gas industry job losses between March 1, 2020, and November 15, 2021, and the number of documented orphaned oil and gas wells in the State.

Figure 2: OWPO Organizational Structure



Source: *Orphaned Wells Program Annual Report to Congress*, November 2023.

* Note: DOI OIG reformatted the organization chart found in the original source material.

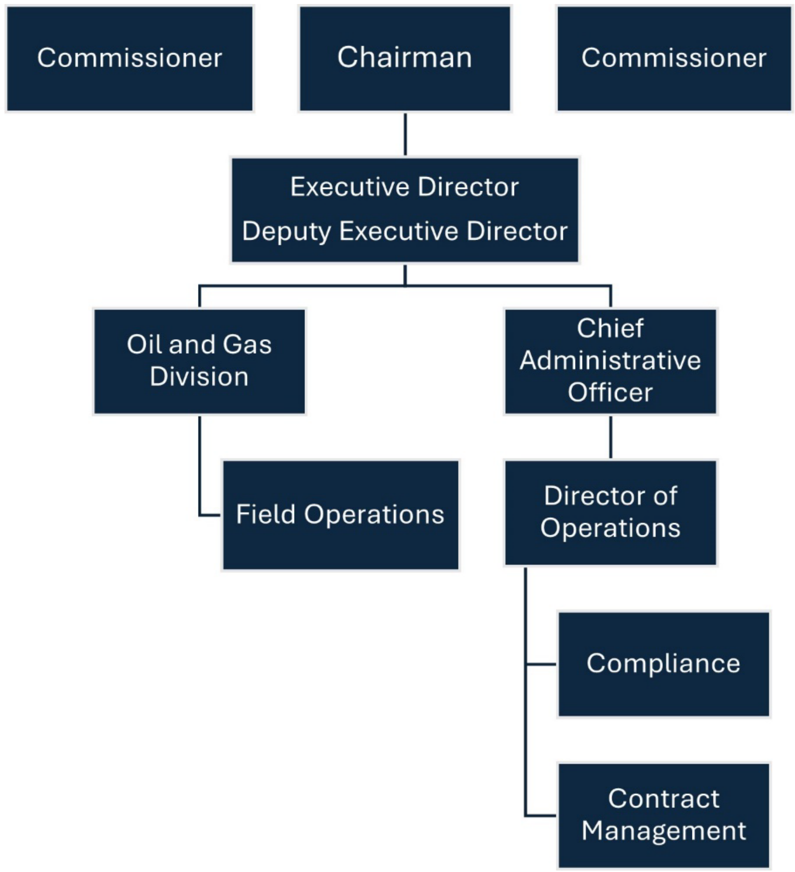
Railroad Commission of Texas

The Railroad Commission of Texas (RRC) is the State agency responsible for oil and gas activities and executes the IIJA orphaned well grants.[6] The RRC's responsibility for well-plugging began in the early 1960s when legislation first appropriated funds for plugging leaking wells. In 1984, the RRC established a formal well-plugging program.

Currently, the State-managed program is under the RRC Oil and Gas Division's purview within its Field Operations department. The RRC Field Operations department is divided into 12 oil and gas districts under 9 district offices responsible for executing the orphaned well-plugging efforts in the districts. Also within the Field Operations department are project management and technical project management functions, which are responsible for the management of the financial and technical aspects of the orphaned well-plugging program. The RRC Operations department performs the contract management and compliance functions related to the IIJA initial grant well-plugging effort (see Figure 3).

[6] The RRC was established in 1891 to prevent discrimination in railroad charges and establish reasonable tariffs. However, it no longer has any jurisdiction or authority over railroads in Texas.

Figure 3: RRC Organization Chart



Source: Railroad Commission of Texas Organizational Charts, dated February 2024.

* Note: DOI OIG has condensed the organization chart from its original format.

In August 2022, OWPO awarded the State a $25 million orphaned well initial grant under IIJA § 40601 to establish, conduct, and report on plugging, remediating, and reclaiming orphaned wells on State and private lands. The State is also expected to receive nearly $319 million in formula grant funds—the largest amount out of all States eligible for orphaned well grant funds.[7]

[7] States are eligible for formula grants based on a formula that factors job losses in the State for the oil and gas industry between March 1, 2020, and November 15, 2021; the number of documented orphaned wells located in the State; and the projected costs to plug and/or reclaim the orphaned wells.

Results of Audit

We found that the RRC expended IIJA orphaned well initial grant funds and fulfilled program goals in accordance with applicable laws, Federal regulations, and grant terms.

Federal regulations require the Federal awarding agency to collect financial information required by the terms and conditions of the Federal award.[8] The initial grant awarded to the RRC required quarterly financial reporting throughout the period of performance.

The RRC complied with the grant terms to report on expenditure and unobligated amounts and program income earned and expended. Specifically, during State fiscal years 2023 and 2024, the State expended all $25 million of its initial grant funds. It also expended $1.3 million in program income that the RRC earned through the sale of scrap material salvaged during the plugging of the wells using IIJA funds. Nearly 93 percent of total funds expended were for contract costs (see Figure 4).

Figure 4: IIJA Initial Grant Funds and Program Income Expended on Orphaned Well-Plugging

Cost Element	Amount	% of Federal Award & Program Income
Contract	$24,499,129	92.99
Labor	$1,146,262	4.35
Equipment	$582,999	2.21
Supplies/Misc	$110,291	.41
Travel	$9,405	.04
Totals	**$26,348,086**	**100**

IIJA § 40601 requires that States report how the State used the IIJA orphaned well initial grant funds to accomplish orphaned well-plugging program goals. Additionally, Federal regulations require that the State submit performance reports at the interval required by the Federal awarding agency to best inform improvements in program outcomes and productivity.[9] The initial grant required that the State submit quarterly performance reports that include the number of orphaned wells plugged and the number of jobs created or saved through the funded activities.

The RRC demonstrated that it fulfilled program goals by submitting quarterly performance reports describing how it used the funds, including the number of wells plugged and how many jobs were created. The RRC reported that it plugged 730 wells out of an estimate of up to 800 wells to be plugged with initial grant funds during the period of performance of the grant. We validated the reported number of wells that were plugged by reconciling the RRC's report to the wells identified in the contractor work orders and invoices with no exceptions. Also, the RRC created 19 plugging inspector positions with IIJA initial grant funds. These inspectors monitored the wells to ensure the wells were plugged according to State requirements and in accordance with recommended initial grant standards. In addition to these positions, the contractors plugging the wells reported a total of 366 employees performing well plugging under the IIJA initial grant. Figure 5 shows an orphaned well that was plugged using IIJA funds.

[8] 2 C.F.R. § 200.328.

[9] 2 C.F.R. § 200.329(c)(1).

Figure 5: Orphaned Well Plugged Using IIJA Initial Grant Funds

Source: DOI OIG.

Federal regulations state that "the non-Federal entity must establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award."[10] We found that the RRC had effective internal control over the management of the IIJA initial grant award.

The RRC developed and implemented policies and procedures specific to the management of the IIJA orphaned well grants in addition to its already established *Procurement and Contract Management Guide*. Specifically, the policies and procedures pertain to compliance with the Davis-Bacon Act;[11] management of expenditures of contractual costs, salaries, and operating costs; and management of grant drawdowns and program income.

Additionally, the RRC performs enhanced monitoring on all the contractual work performed on the well-plugging using IIJA funds. To accomplish the grant mission, the RRC awarded contracts to eight vendors. These contract costs make up 93 percent of the grant expenditures. We verified that the RRC appropriately determined that these vendors were contractors as opposed to subrecipients, in accordance with Federal regulations.[12] We tested the RRC's oversight of all eight contractors to ensure the contractor complied with Federal requirements and grant expectations. We also selected a statistical sample of 60 invoices totaling nearly $3.4 million from the 8 contractors to ensure invoices were billed in accordance with contract terms and the work was performed in accordance with laws, Federal regulations, and grant terms and conditions and found no exceptions. See the Appendix for specific details of the contract testing. The RRC plugging staff are continuously at the well-plugging site ensuring that the contractor is following the plugging standards and procedures for each well. This staff also submits daily reports on completed work and the costs for the day to ensure the contractor invoices are accurate. When the contractor submits the invoices to the RRC for billing, the RRC performs three levels of review to ensure that the invoice is accurate.

---

[10] 2 C.F.R. § 200.303(a).

[11] Davis-Bacon Act, Pub. L. No. 107-217 (2002). The IIJA initial grant terms and conditions require that all contractors and subcontractors performing construction, alteration, and repair work under Federal contracts in excess of $2,000 pay their laborers and mechanics not less than the prevailing wage and fringe benefits for the geographic location. The contractor or subcontractor is also required to pay the laborers and mechanics at least once a week.

[12] 2 C.F.R. § 200.331 states that an entity must determine whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor.

Other Matters

The IIJA incorporates the Build America, Buy America Act (BABAA) under Division G, Title IX, which states that "in procuring materials for public works projects, entities using taxpayer-financed Federal assistance should give a commonsense procurement preference for the materials and products produced by companies and workers in the United States."[13] It further states that this applies to all iron and steel, manufactured products, and construction materials. Federal regulations expound that this preference applies to Federal awards where funds are made available for infrastructure projects in the United States. It further stipulates that the Federal awarding agency should interpret the term "infrastructure" and consider whether the project will serve a public function as opposed to a project that is privately owned.[14]

DOI provided guidance to the RRC in 2022, prior to the establishment of OWPO, stating that property solely on private land with no public access is not subject to BABAA. Therefore, the RRC did not verify if BABAA applicable materials used by its contractors to plug wells using IIJA orphaned well initial grant funds were produced in the United States. However, in 2023, once DOI established OWPO to administer and oversee the States' usage of IIJA orphaned well grant funds, OWPO determined that emissions from wells on private land could potentially affect the public and therefore could be considered infrastructure. The RRC indicated that since receiving the guidance from OWPO, it has put in place a process to verify that applicable materials purchased using IIJA orphaned well grant funds comply with BABAA. One RRC official stated that this process was put in place after the initial grant funds were expended. Therefore, since we tested only initial grant funds, we did not test this process as it was outside the scope of our audit.

[13] Pub. L. No. 117-58, 135 Stat. 1294 (2021).

[14] 2 C.F.R. § 184.4 (a), (d).

Conclusion

We found that the RRC expended IIJA orphaned well initial grant funds and fulfilled program goals in accordance with applicable laws, Federal regulations, and grant terms. We also found that the RRC had effective internal controls over the management of the IIJA initial grant award.

We make no recommendations as there are no reportable findings.

Appendix: Scope and Methodology

Scope

We audited the State of Texas' use of grant funds awarded by the U.S. Department of the Interior under Infrastructure Investment and Jobs Act (IIJA) § 40601, "Orphaned Well Site Plugging, Remediation, and Restoration." We reviewed the initial grant funds expended during State fiscal year 2023 through February of State fiscal year 2024. The audit included expenditures of $25 million in grant funds and $1.3 million in program income funds.

Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We assessed whether internal control was significant to the audit objectives. We determined that the Railroad Commission of Texas' (RRC's) control activities and the following related principles were significant to the audit objectives:

- Management should design control activities to achieve objectives and respond to risks.
- Management should implement control activities through policies.
- Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.

We tested the operation and reliability of internal controls over activities related to our audit objectives. Our tests and procedures included:

- Gathering background information on the work and mission of the RRC.
- Interviewing officials, including the RRC's management and staff.
- Reviewing policies and procedures.
- Determining if the RRC's use of contractors versus subrecipients was appropriate in accordance with Federal regulations.
- Analyzing the RRC's procurement procedures to verify that the procedures comply with Federal regulations and grant terms and conditions.
- Verifying that all eight contracts included the required contract provisions in accordance with Federal regulations and grant requirements.
- Verifying the accuracy of the wells reported as plugged to the Department of the Interior Orphaned Wells Program Office by validating the report to RRC supporting documentation.
- Analyzing and testing the RRC's grant oversight processes. We tested a sample of contractor invoices to verify that the RRC was monitoring the contractors' performance of grant activities as required by its policies and procedures. Although we did not assess the quality of the plugged wells, we verified that the RRC performed enhanced monitoring of its contractors, including having an RRC plugging inspector on the plugging site at all times to ensure that the contractor is executing the contract

appropriately, reviewing daily reports showing the work performed by the contract and costs incurred on each contract, complying with the Davis-Bacon Act, and complying with Texas' well-plugging standards.

- Analyzing and testing RRC contract costs. We tested a sample of contractor costs to determine if costs complied with Federal laws and regulations and grant terms and conditions, including verifying that:
    - Costs were permissible in accordance with the IIJA § 40601 requirements;
    - Costs were reasonable, allocable, and allowable in accordance with the Code of Federal Regulations;
    - Contractor labor costs were supported by certified payroll records and complied with the requirements of the Davis-Bacon Act;
    - Material costs complied with the Build America, Buy America Act;
    - Contract services complied with the contract and work orders and were invoiced correctly; and
    - Contract invoices were reviewed and approved by RRC staff to verify that the detail was sufficient to identify the work order and corresponded to the contract.
- Conducting site visits to the RRC's headquarters in Austin, Texas, and a plugged orphaned well site in Luling, Texas.

We did not find deficiencies in internal control.

We relied on computer-generated data the RRC provided from its official accounting system. We tested the data by sampling expenditures and verifying them to source documents such as contract documents, invoices, and RRC reports. While we assessed the accuracy of the transactions tested, we did not assess the reliability of the accounting system as a whole.

Based on the results of our initial assessments, we assigned a level of risk and generated a statistical sample of contractor invoices under Grant No. D22AP00226 for testing. Using a 90-percent confidence level, a maximum allowable margin of error of 10 percent, and an expected compliance testing rate of 50 percent, out of a population of 492 invoices, we selected 60 invoices for testing. We selected the 60 invoices through random sample.

We conducted an exit conference on January 10, 2025, with the Railroad Commission of Texas and an exit conference on January 17, 2025, with the Orphaned Well Program Office. During the conferences, responsible officials were given the opportunity to provide their views on our results. Neither the Railroad Commission of Texas nor the Orphaned Well Program Office had any comments for inclusion in the report.

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

REPORT FRAUD, WASTE, ABUSE, AND MISMANAGEMENT

The Office of Inspector General (OIG) provides independent oversight and promotes integrity and accountability in the programs and operations of the U.S. Department of the Interior (DOI). One way we achieve this mission is by working with the people who contact us through our hotline.

WHO CAN REPORT?

Anyone with knowledge of potential fraud, waste, abuse, misconduct, or mismanagement involving DOI should contact the OIG hotline. This includes knowledge of potential misuse involving DOI grants and contracts.

HOW DOES IT HELP?

Every day, DOI employees and non-employees alike contact OIG, and the information they share can lead to reviews and investigations that result in accountability and positive change for DOI, its employees, and the public.

WHO IS PROTECTED?

Anyone may request confidentiality. The Privacy Act, the Inspector General Act, and other applicable laws protect complainants. Specifically, 5 U.S.C. § 407(b) states that the Inspector General shall not disclose the identity of a DOI employee who reports an allegation or provides information without the employee's consent, unless the Inspector General determines that disclosure is unavoidable during the course of the investigation. By law, Federal employees may not take or threaten to take a personnel action because of whistleblowing or the exercise of a lawful appeal, complaint, or grievance right. Non-DOI employees who report allegations may also specifically request confidentiality.

If you wish to file a complaint about potential fraud, waste, abuse, or mismanagement in DOI, please visit OIG's online hotline at **www.doioig.gov/hotline** or call OIG's toll-free hotline number: **1-800-424-5081**