




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

August 5, 2014

Memorandum

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

From: Michael P. Colombo 
Western Regional Manager for Audits, Inspections, and Evaluations

Subject: Verification Review of Recommendations for the Joint Evaluation/Investigation Report, "Immediate Action Needed to Stop the Inappropriate Use of Cooperative Agreements in BLM's Helium Program" (WR-IV-BLM-0003-2008/OI-CO-07-0206-I, August 2008)
Report No. WR-VS-BLM-0004-2014

The U.S. Department of the Interior (DOI) Office of Inspector General (OIG) has completed a verification review of the five recommendations presented in the subject evaluation/investigation report. The objective of the verification was to determine whether the Bureau of Land Management (BLM) implemented the recommendations as reported to the Office of Financial Management (PFM), Office of Policy, Management and Budget. PFM reported to OIG when BLM had addressed and provided supporting documentation for each of the five recommendations in the subject report. Based on our verification, we concur that all recommendations are resolved and implemented.

Background

Our August 19, 2008 evaluation/investigation report, "Immediate Action Needed to Stop the Inappropriate Use of Cooperative Agreements in BLM's Helium Program," contained five recommendations pertaining to the inappropriate use of cooperative agreements, overcharging, possible double billing, costly short-term financing, and unjustified allocating of equipment costs.

In a memorandum dated September 19, 2008, BLM stated that it would seek counsel from the Office of the Solicitor and obtain services from an independent consulting firm to review all the records described in the OIG report, the financial transactions relating to the Helium Fund from Fiscal Years 2000 through 2008, and the OIG report findings and recommendations.

On May 18, 2009, the BLM provided its response to the recommendations and the actions it planned to take. BLM did not concur with Recommendations 1, 2, 4, and 5, but concurred with Recommendation 3. On July 6, 2010, PFM reported all recommendations had been implemented and closed stating that it believed that BLM took the necessary steps to warrant closure by having independent reviews done by the Office of the Solicitor and the Office of Policy Analysis (PPA).

On October 18, 2010, the OIG issued a related inspection report “Follow-up to Office of Policy Analysis Report, ‘Review of Selective Aspects of the Federal Helium Program,’ June 2010” (WR-IN-BLM-0003-2010). This report included recommendations that covered all of the recommendations of the 2008 report except Recommendation 1.

Scope and Methodology

The scope of this review was limited to determining whether BLM took action to implement our recommendations of the August 2008 report. To accomplish our objective, we reviewed the supporting documentation that BLM and PFM provided and discussed actions taken relating to each of the five recommendations.

We did not perform any site visits or conduct fieldwork to determine whether BLM had corrected the underlying deficiencies we initially identified. As a result, this review was not conducted in accordance with the Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States or the Quality Standards for Inspection and Evaluation as set forth by the Council of the Inspectors General on Integrity and Efficiency.

Results of Review

We determined that all five recommendations have been implemented.

Recommendation 1: Immediately stop the renewal of both cooperative agreements and replace them with appropriate contract(s).

Action Taken: BLM did not concur with the recommendation. As a result, it requested the help of the Department’s Office of the Solicitor to determine whether it had the legal authority to use a cooperative agreement under the Helium Privatization Act of 1996. The Office of the Solicitor concluded that BLM had the authority to use a cooperative agreement. Based on the legal review of the Office of the Solicitor, we conclude that Recommendation 1 has been resolved and implemented.

Recommendation 2: Choose the proper contractual instrument using appropriate procurement guidelines. This includes a) reviewing and properly establishing indirect cost rates, processes for appropriate billing, clear guidelines as to what is to be considered major maintenance and when work is to be considered outside the scope of the contract; b) adjusting the ratio of costs to reflect the percentage of ownership in the assets as they change over time; and c) performing a critical review of profit fees.

Action Taken: BLM responded that it did not concur with the recommendation because it disagreed that the use of a cooperative agreement was improper. It hired an independent contractor Kforce Government Solutions (KGS) to perform a review of the report contents and recommendations. KGS concluded that it did not find improper indirect costs, inappropriate billing processes, or double billing of major maintenance.

BLM disagreed with the recommendation to adjust the ratio of costs to reflect the percentage of ownership in the assets as they change over time because the Government owned the majority of the other gases. This reflected 80 percent of the gases at Bush Dome Reservoir while helium reflected 20 percent of the gases and had mixed ownership. Even as the helium was sold, the Government would hold the majority of the benefits and therefore would pay the majority of the costs of operation.

A review conducted by the PPA concluded that the investment fees were not excessive, and it did not find any cases of double billing. However, it agreed with the OIG report that major maintenance could have been defined better, and the ratio of ownership needed to be revisited.

Based on the reviews conducted by KGS and PPA and because the OIG conducted a follow-up review in 2010 with a similar recommendation, we conclude that Recommendation 2 has been resolved and implemented.

Recommendation 3: Perform a thorough review of all agreement costs paid to determine allowability and appropriateness and recoup those costs determined to be unallowable or inappropriate, including any double billed costs.

Action Taken: BLM reported that the recommendation was implemented on November 6, 2008, as it hired an independent contractor KGS to conduct a review of the report recommendations. The KGS review did not find any cases of double billing or issues with the cost allocations.

PPA also conducted a review of the OIG report findings and did not find clear cases of double billing.

Based on the reviews conducted by KGS and PPA and because the OIG conducted a follow-up review in 2010 which had a similar recommendation, we conclude that Recommendation 3 has been resolved and implemented.

Recommendation 4: Review the BLM/contractor payment billing process and implement a process that eliminates any repetition of the existing arrangement.

Action Taken: BLM reported that it completed the first part of the recommendation by conducting a review of their billing process but did not concur with the second part of the recommendation which was to implement a billing process that eliminates any repetition in the existing arrangement. BLM stated that it would continue to follow the procurement, payment, and billing processes available under Federal, DOI, and BLM rules, regulations, and policies. BLM stated that the OIG depiction of the billing process in the report was incorrect, so it

provided a diagram of the correct process. BLM stated it would take action to eliminate the perception of providing cash flow to the Cliffside Refiners Limited Partnership (CRLP).

PPA's review of the billing process did not find any issues with the billing process but recommended BLM be more transparent in its process and arrangements with the CRLP.

Based on the reviews conducted by BLM and PPA and because the OIG conducted a follow-up review in 2010 which had a similar recommendation, we conclude that Recommendation 4 has been resolved and implemented.

Recommendation 5: Determine whether the Government has already reimbursed the contractor for the entire amount of actual costs incurred to build the equipment. If so, the new contractual instrument should not include these capital cost line items.

Action Taken: BLM responded that they did not concur with the recommendation. KGS conducted a review to determine if CRLP recouped its cost for designing and building the equipment, and it reported that BLM has reimbursed CRLP for the full amount of the equipment plus an investment fee which would last for the duration of the 15-year cooperative agreement.

PPA's review concluded that it agreed with the OIG report that BLM could have provided the initial capital costs of \$22 million to construct the Crude Helium Enrichment Unit. It believed the risks to CRLP were relatively low. It also concluded that the investment fee was not excessive.

Based on the reviews done by KGS and PPA and because the OIG conducted a follow-up review in 2010 which had a similar recommendation, we conclude that Recommendation 5 has been resolved and implemented.

Conclusion

We informed BLM officials of the results of this review. On July 31, 2014, they agreed with the results of our review and declined to have an exit conference.

If you have any questions about this report, please contact me at 916-978-5653.

cc: Neil Kornze, Director, Bureau of Land Management
Nancy Thomas, Liaison Officer, Office of Financial Management
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