

GAO

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Report to the Chairman, Committee on
Interior and Insular Affairs, House of
Representatives

February 1987

SURFACE MINING

State Management of Abandoned Mine Land Funds



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United States
General Accounting Office
Washington, D.C. 20548

**Resources, Community, and
Economic Development Division**

B-226046

February 6, 1987

The Honorable Morris K. Udall
Chairman, Committee on Interior
and Insular Affairs
House of Representatives

Dear Mr. Chairman:

This report is in response to your request that we evaluate state management of Abandoned Mine Land funds under the Surface Mining Control and Reclamation Act of 1977. The report discusses the financial controls the states have in place to ensure that funds are properly spent; whether the states are addressing, correcting, and managing eligible projects in accordance with federal requirements; and whether the completed projects correct the reclamation problem.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time we will send copies to the Secretary of the Interior and the Director, Office of Management and Budget. Copies will also be made available to others upon request.

This work was performed under the direction of Michael Gryzkowicz, Associate Director. Other major contributors are listed in appendix I.

Sincerely yours,

J. Dexter Peach
Assistant Comptroller General

Executive Summary

Purpose

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) was enacted, in part, to promote the reclamation of areas severely damaged in the past by coal mining operations. The Secretary of the Interior has overall responsibility for administering this abandoned mine reclamation program. However, the Secretary has granted twenty-two states exclusive authority to reclaim lands within their borders. These states have received about \$901 million in grants, out of the estimated \$3 billion which is expected to be available, to conduct their reclamation programs.

The Chairman, House Committee on Interior and Insular Affairs, requested GAO to evaluate how effectively the states are managing their reclamation funds. GAO's review focused on the following questions:

- Do the states have adequate financial controls to ensure that reclamation funds are properly spent?
- Are the states reclaiming eligible sites in proper priority sequence?
- Are the states managing projects in accordance with federal procurement, monitoring, and reporting standards?
- Do the completed projects correct the problems?

As agreed with the Chairman, GAO reviewed the reclamation programs in Colorado, Kentucky, Pennsylvania, West Virginia, and Wyoming. As of March 1986, these states had completed 291 of their 702 currently authorized reclamation projects.

Background

States having approved regulatory programs under Title V of SMCRA may develop and submit to the Secretary for approval a state abandoned mine reclamation plan to implement the reclamation program requirements of Title IV of SMCRA. After the Secretary approves the reclamation plan, it becomes the reclamation program for that state, and the state assumes exclusive responsibility and authority to reclaim abandoned mine lands within its borders.

To pay the abandoned mine reclamation program costs, SMCRA established an Abandoned Mine Land Fund, which is supported by fees paid by current mine operators. Interior's Office of Surface Mining Reclamation and Enforcement (OSMRE) provides grants to the states from this fund to finance their administrative expenses and project construction costs.

In addition to complying with the act's program requirements, states receiving grant funds must also comply with the administrative and financial requirements of the Office of Management and Budget (OMB) Circular A-102, Uniform Requirements for Assistance to State and Local Governments. These standards require the states to have in place systems that provide adequate assurance that funds are only used for authorized purposes, expenditures are properly recorded and accounted for, and all assets are safeguarded. Regarding project construction, the Circular prescribes procurement, monitoring, and reporting standards to ensure that abandoned mine land projects are adequately managed

Results in Brief

The five states that GAO reviewed:

- Have, for the most part, implemented financial control procedures and practices to ensure that the expenditures of reclamation funds are proper. Only one state, however, is complying with all related grant payment, audit, and inventory requirements.
- Are generally reclaiming eligible, high priority projects as required under the act.
- Are managing their reclamation projects in compliance with OMB Circular A-102 procurement and project monitoring standards, with the exception of selecting design contractors in Kentucky and certain reporting requirements.

GAO could not readily assess the overall success of the projects in abating identified problems because summary data are not available. Each of the five states we visited conducts inspections both immediately after construction is complete and again at a later date to make sure the projects successfully resolve their reclamation problems. While none of the states compiled summary data, state and OSMRE officials told us that on the basis of their observations, most completed projects successfully abate the problems at hand.

Principal Findings

Financial Controls

All five states have established financial management systems which for the most part are consistent with OMB Circular A-102 requirements. To test the implementation of these systems, GAO reviewed 143 randomly selected invoices in Pennsylvania and all invoices in the four

other states for March 1986. GAO found that the expenditures covered by all 420 invoices were properly authorized and processed by personnel from more than one organizational unit of state government. In addition, the states maintained adequate records of these transactions and fully documented the expenditures.

GAO's review disclosed that three states hold grant funds longer than needed to pay program expenses. For example, in one selected month Kentucky and West Virginia held excess cash amounting to over \$5.6 million. Assuming a 6-percent interest rate, this cost the federal government about \$8,000. This practice conflicts with OMB Circular A-102, which requires that states draw federal funds for spending as closely as possible to the dates payments are made.

GAO also found other OMB Circular A-102 requirements that were not met. One state is not performing periodic inventories of equipment purchased with grant funds, and two states have not performed mandatory audits of their programs. GAO concludes that OSMRE needs to take action to bring states into compliance with OMB Circular A-102.

**Project Eligibility and
Priority**

To be eligible for funding under SMCRA's abandoned mine lands program, the mined area had to be abandoned in an unreclaimed condition before August 3, 1977. GAO found adequate controls are in place to assure that only eligible projects are conducted. At the outset, OSMRE requires the states to certify that each proposed project is eligible when the state submits its grant application. Then OSMRE field office officials review the proposed project's eligibility as part of their approval of the application. In some cases, OSMRE has questioned a proposed project's eligibility and had it removed from the grant.

GAO also found that the states are generally concentrating their reclamation efforts on projects designed to protect the public health, safety, general welfare, and property. Of the 702 currently authorized projects, 653 address the highest priorities established in the act. GAO found that OSMRE field office officials reviewed the state supplied information justifying the project's priority and visited each site prior to awarding the construction grants.

Project Management

OMB Circular A-102 prescribes standards to ensure that (1) procurements of design and construction services are made in an efficient and effective manner, (2) contractor performance is closely monitored, and

(3) summary information on project performance is accurately and timely reported to program managers and decision makers

GAO found that the procurement procedures in all five states are in compliance with these federal requirements, except for the selection of design contractors in Kentucky, which was not properly documented. To test the implementation of these procedures, GAO reviewed 53 construction contracts and found that the lowest responsive bidder was always awarded the contract. With respect to adherence to other procurement procedures, GAO's review of the contract files did not disclose any significant instances of noncompliance by the states.

Although GAO found that the states have adequate project monitoring systems, none of the states are submitting project performance reports to OSMRE that contain all Circular A-102 required information. Specifically, the reports contain no comparisons of actual accomplishments to goals and no reasons why goals are or are not met. GAO believes that OSMRE needs this information to properly oversee state activities.

Project Success

Although not required by OSMRE, the states are conducting periodic inspections of project sites after construction is completed to determine whether the projects are successful. While the states perform these inspections, Colorado and West Virginia do not document the inspection results and none of the states summarize this information. Consequently, GAO could not readily determine the overall success of the projects in abating problems. In the absence of summary data, GAO discussed the issue with state and OSMRE field office officials. These officials told GAO that the projects are generally successful although exceptions exist. These exceptions most frequently involve conditions such as steep slopes subject to landslides in which available technology does not permit the certainty that, even after stabilization efforts are completed, problems will not reoccur.

Recommendations

GAO recommends that the Director, OSMRE, emphasize to the states the importance of complying with OMB Circular A-102 requirements related to disbursing federal grant funds in a timely manner, inventorying physical equipment, and conducting audits. To ensure that states have taken any necessary steps to bring their programs into compliance, the Director, OSMRE, should follow up on their compliance as part of the

agency's annual oversight evaluations. GAO is also making recommendations related to procurement, project reporting, and post-inspection documentation. (See p. 39.)

Agency and State Comments

The Department of the Interior was asked but did not provide official agency comments. However, OSMRE program officials stated that they agreed with GAO's conclusions and recommendations. The five states provided comments, which generally dealt with technical issues. (See pp. 27 and 39.)

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Abbreviations

AML	Abandoned mine lands
GAO	General Accounting Office
OSMRE	Office of Surface Mining Reclamation and Enforcement
SMCRA	Surface Mining Control and Reclamation Act
TFCS	Treasury Financial Communications System

Introduction

Mined lands that are not adequately reclaimed can degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health and safety of the public. On August 3, 1977, the Congress enacted the Surface Mining Control and Reclamation Act (SMCRA) to regulate future coal mining activities and to reclaim mined lands left without adequate reclamation prior to the act's passage.

The Secretary of the Interior administers the abandoned mine reclamation program established under the act, including the approval of state programs to reclaim abandoned land within their borders. To help pay the program costs, the act created an Abandoned Mine Reclamation Fund, which is to be supported by fees assessed on current mine operations through August 2, 1992. In 1986, a Congressional Research Service Report estimated that \$33 billion may be needed to correct problems caused by mined lands left unreclaimed prior to the act. The fund, however, will only generate an estimated \$3 billion during its 15-year life.

Abandoned Mine Reclamation Program

Under Title IV of SMCRA, the Secretary of the Interior, acting through the Office of Surface Mining Reclamation and Enforcement (OSMRE), is to administer a program to promote the reclamation of mined areas left without adequate reclamation before the act's passage on August 3, 1977, and for which there is no continuing reclamation responsibility under state or other federal laws. However, states having approved regulatory programs under Title V of SMCRA may develop and submit to the Secretary for approval a state abandoned mine reclamation plan to implement the requirements of Title IV of SMCRA. After the Secretary approves the reclamation plan, it becomes the reclamation program for that state, and the state assumes exclusive responsibility and authority to reclaim abandoned mined lands within its borders. Thereafter, OSMRE is responsible for monitoring and overseeing the progress and quality of the state program.

The state reclamation plan, in part, identifies the abandoned mine areas to be reclaimed, the specific criteria for ranking and identifying projects to be funded, and the state's legal authority and programmatic capability (that is, organizational structure, staffing, and accounting and procurement systems) to carry out a reclamation program. As of September 1986, 22 states have been granted exclusive responsibility for reclaiming their abandoned mined lands. In the remaining states and on federal and Indian lands, OSMRE administers a federal reclamation program to reclaim abandoned mines.

To help the states carry out their reclamation plans, OSMRE provides grant funding for both administrative expenses and actual project construction. The annual administrative grants cover the state's costs for such things as inspector salaries, office space and supplies, vehicles, and other equipment necessary to administer the approved state reclamation program. In addition, the state may annually submit to the Secretary a construction grant application requesting funds to construct specific reclamation projects over a 3-year grant period. The construction grant application must contain

- a general description of each proposed project;
- an evaluation of each proposed project's priority;
- a statement of the estimated benefits to be gained through the reclamation effort,
- the estimated cost of each proposed project; and
- other information related to research and demonstration projects, if any; lands to be acquired under the program; and an inventory of projects funded under prior grants.

If the construction grant funds are not spent within 3 years of allocation to the state, the Secretary may reclaim the funds and use them wherever needed to meet the purposes of the act.

In addition to the approved state reclamation programs, OSMRE and the U.S. Department of Agriculture conduct other abandoned mine reclamation activities as well. These activities are commonly referred to as the federal reclamation program. OSMRE manages federal reclamation projects in nine states and on tribal lands without approved reclamation programs. OSMRE also conducts emergency and high priority reclamation projects nationwide as it deems necessary. To date, about \$266 million has been appropriated to carry out these Interior projects. OSMRE, under its Small Operator Assistance Program, also supports payments to laboratories for authorized services to small mine operators in preparing permit applications. About \$24 million has been appropriated for this Small Operator Assistance Program. Agriculture's Soil Conservation Service, under the Rural Abandoned Mine Program, provides assistance to landowners and land users for reclamation, conservation, and development of rural abandoned lands affected by past coal mining. To date, about \$89 million has been appropriated under this program.

Abandoned Mine Reclamation Fund

To promote the reclamation of mined areas left without adequate reclamation before enactment of SMCRA, the Congress established an Abandoned Mine Reclamation Fund, commonly called the Abandoned Mine Land (AML) Fund, to be administered by the Secretary of the Interior. Reclamation fees, paid quarterly by all coal mine operators—generally 35 cents per ton of coal produced by surface mining and 15 cents per ton of coal produced by underground mining—represent 99 percent of the deposits into the AML Fund. The remaining deposits come from late charges imposed on operators who do not pay their reclamation fees on time and revenues generated by the sale of coal produced as a result of state or federal reclamation projects.

Of the \$1.7 billion deposited into the AML Fund as of August 1, 1986, about \$1.4 billion had been appropriated.¹ Of the \$1.4 billion appropriated, the 22 states with approved reclamation programs have been awarded about \$901 million, about \$379 million has been obligated under the federal reclamation program, and about \$89 million has been appropriated to OSMRE for technical assistance, AML Fund management, and program administration.

Under SMCRA, 50 percent of the funds collected in any state or on Indian lands are allocated to the state or Indian tribe. The allocation is made by the Secretary pursuant to an approved abandoned mine reclamation program. The remaining balance of the funds, commonly referred to as the Secretary's share, may be spent by the Secretary, either directly or through additional grants to the states, wherever needed to meet the purposes of the act. However, up to 10 percent of the AML Fund is to be reserved for the Small Operator Assistance Program, and up to 20 percent is to be allocated to the Secretary of Agriculture for the Rural Abandoned Mine Program.

Expenditures from the AML Fund must reflect the priorities set out in SMCRA. These priorities range from the protection of public health and safety from extreme danger of adverse effects of coal mining practices to the development of publicly owned land adversely affected by coal mining practices. Although the act's primary emphasis is the reclamation of abandoned coal mines, abandoned noncoal mines may also be reclaimed under one of the following conditions

¹The \$1.4 billion includes AML funds provided to Tennessee up to October 1, 1984, when the state relinquished its regulatory authority and therefore was no longer eligible to receive AML funds.

1. The governor of a state certifies that all reclamation associated with abandoned coal lands or coal development impacts have been addressed.
2. The governor certifies that the impacts of a noncoal mine constitute a hazard to the public health and safety.

Objectives, Scope, and Methodology

On October 24, 1985, the Chairman, House Committee on Interior and Insular Affairs, requested that we evaluate how effectively the states manage their AML funds. In conducting this review, we agreed to focus on the following questions:

- Do the states have in place adequate financial controls to ensure that AML grant funds are properly spent?
- Are the states addressing and correcting eligible AML projects in proper priority sequence?
- Are the states managing their projects in accordance with established federal procurement, monitoring, and reporting standards?
- Do completed projects correct the reclamation problem?

As agreed with the Chairman's office, we selected Colorado, Kentucky, Pennsylvania, West Virginia, and Wyoming for review to provide information on AML efforts aimed at addressing Appalachian, midwestern, and western states mine reclamation requirements. Projects completed in these states are shown in table 1.1.

Table 1.1: Reclamation Projects Completed as of March 31, 1986

State	Currently authorized projects	Completed projects
Colorado	94	59
Kentucky	225	122
Pennsylvania	213	52
West Virginia	151	56
Wyoming	19	2
Total	702	291

Because each state program is unique, the information collected is not projectable nationwide, but the information from these states should be useful in identifying patterns of any management weaknesses. Through August 7, 1986, the five states we reviewed received \$535.5 million, or about 59 percent of the AML grant funds awarded to all the states under

the program. Our evaluation did not include a review of the rural abandoned mine, small operator assistance, or Indian tribe reclamation programs.

Our work was performed from December 1985 through October 1986 primarily at the state offices in Denver, Colorado; Frankfort, Kentucky; Harrisburg, Pennsylvania; Charleston, West Virginia; and Cheyenne, Wyoming. We also interviewed OSMRE headquarters officials in Washington, D.C., and OSMRE field office officials in Albuquerque, New Mexico; Lexington, Kentucky; Harrisburg, Pennsylvania; Charleston, West Virginia; and Casper, Wyoming. We reviewed SMCRA and OSMRE's policies, procedures, and practices to obtain an understanding of the AML program and its requirements. We also reviewed OMB Circular A-102, revised January 1981, which provides uniform administrative requirements for grants to state governments.

To evaluate the states' financial control systems, we compared the states' systems with the administrative and financial requirements of OMB Circular A-102 and the specific internal control standards related to documentation, execution of transactions and events, and separation of duties contained in Standards for Internal Controls in the Federal Government, U.S. General Accounting Office, 1983. We also reviewed (1) the Secretary of the Interior's 1985 annual statement and report required by the Federal Managers' Financial Integrity Act of 1982 to identify control weaknesses and actions taken or planned to resolve them and (2) the results of any state audits of the AML program. To determine whether state financial control practices were consistent with established procedures and standards, we examined all AML Fund invoices for the month of March 1986 in Colorado, Kentucky, West Virginia, and Wyoming. Because of the large number of transactions in Pennsylvania during March 1986, we randomly selected and reviewed 143 of the 395 nonpayroll related transactions. We selected March 1986 as our period of review because March was representative of financial control practices used throughout the year. To determine whether the states are promptly disbursing federal grant funds, we computed the time interval between drawdown of the grant funds from OSMRE to the mailing of the payment checks by the state to vendors during October 1985. We selected October 1985 because October is an active reclamation construction season month and a larger number of drawdowns involving construction grant funds were made as opposed to March 1986. March is an inactive reclamation construction season month and few drawdowns involving construction grant funds were made during March 1986.

To determine whether the states are addressing and correcting eligible, high priority AML problems as required by SMCRA and their approved state reclamation plan, we reviewed the eligibility and priority certifications submitted by the states to OSMRE as part of their grant applications. We did not, however, visit or technically evaluate the proposed projects to determine whether the assigned priorities were consistent with the act's requirements. We then identified the extent to which the OSMRE field offices review state project eligibility and priority certifications to assure that the states are undertaking eligible projects in accordance with SMCRA-established priorities. Finally, we reviewed the priorities assigned to the projects undertaken to date.

To assess whether the states are managing approved projects in accordance with established federal management standards, we compared state procurement, project monitoring, and project reporting procedures with the requirements set forth in OMB Circular A-102. We then examined a selected number of contract files and conducted interviews with state project management officials to determine whether state practices were consistent with the established procedures. To this end, we also reviewed previous OSMRE annual evaluation reports of each of the five states.

To gather information about whether completed reclamation projects actually correct the problem, we obtained the states' semiannual performance reports, which are submitted to OSMRE, and the states' inspection policies and procedures designed to ensure that the reclamation problem was corrected. We also discussed the success of reclamation projects and reasons why some projects fail to abate the problem with state AML and OSMRE field office officials. We did not, however, independently inspect completed project sites. Further, because summary data on project success do not exist, we could not confirm the various views expressed by these officials.

To supplement this specific work, we also conducted other generalized review steps to help provide a more thorough evaluation of how effectively the states are managing their AML funds. In this connection, we interviewed OSMRE field office officials responsible for overseeing the states' programs. We also reviewed OSMRE annual evaluation reports on the state programs, correspondence, project files, and other memoranda to identify state AML program deficiencies as well as corrective action taken by the states as a result. At the state level, we interviewed the administrators of the five state AML programs, reviewed the state's reclamation plan, and examined financial and management reports, project

files, memoranda, correspondence, inspection reports, and administrative and construction grant applications.

On December 2, 1986, the Department of the Interior was asked but did not provide official agency comments. However, OSMRE program officials orally commented that they agreed with our conclusions and recommendations. Our work was performed in accordance with generally accepted government auditing standards.

State Financial Management of Grant Funds Is Adequate With Some Exceptions

To receive AML administrative and construction grants, states must comply with the administrative and financial requirements set forth in OMB Circular A-102 and other federal standards. Each of the five states we reviewed have established financial management systems consistent with Circular A-102 requirements to ensure that AML program funds are used only for authorized purposes. However, only one of the five states is in full compliance with all circular requirements related to making disbursements from grant funds as promptly as possible, performing biennial audits, and periodically inventorying equipment purchased under the grants.

Federal Grant Administrative and Financial Requirements

States receiving federal grant funds must comply with the administrative and financial requirements of OMB Circular A-102, Uniform Requirements for Assistance to State and Local Governments. These requirements are intended to establish consistency and uniformity among federal agencies in administering grants to state and other governments. In addition, although directed at federal agencies, the standards outlined in the Comptroller General's Standards for Internal Controls in the Federal Government, 1983, have general applicability to state programs. Together, these standards require the states to have in place systems that provide adequate assurance that

- funds, property, and other assets are used solely for authorized purposes;
- expenditures are recorded and accounted for so that reliable financial and statistical reports may be prepared and accountability of assets may be maintained; and
- all assets are safeguarded against waste, loss, unauthorized use, and misappropriation.

Specific additional requirements imposed on the states under OMB Circular A-102 include

- minimizing the time elapsing between the transfer of funds from the U.S. Treasury and their disbursement by the state;

- performing a physical inventory of property and reconciling the results of the inventory every 2 years; and
- performing independent audits of financial operations on an organization-wide basis at least once every 2 years.¹

States' AML Expenditures Appear Proper and Are Adequately Documented

The five states we reviewed have received grants totaling about \$535.5 million through August 7, 1986, to administer their programs and to reclaim their abandoned mine lands as shown in table 2.1.

Table 2.1: Total AML Grant Funding Through August 7, 1986

State	Grant		Total
	Administrative	Construction	
Colorado	\$7.2	\$10.3	\$17.5
Kentucky	12.1	115.5	127.6
Pennsylvania	15.3	175.3	190.6
West Virginia	11.6	93.7	105.3
Wyoming	11.5	83.0	94.5
Total	\$57.7	\$477.8	\$535.5

All five states have established systems aimed at ensuring that these funds are used only for authorized purposes. Each system requires that (1) adequate records, with supporting documentation, be maintained for all expenditures, (2) only authorized personnel acting within the scope of their responsibility execute and approve transactions, and (3) key duties and responsibilities in authorizing, processing, recording, and reviewing transactions be separated among individuals. The Pennsylvania expenditure processing and approval system described below is typical of the state systems that we reviewed.

- The Department of Environmental Resources's (DER) Bureau of Abandoned Mine Reclamation approves the payment invoice, places the

¹The audit requirements contained in Circular A-102 have been superseded by OMB Circular A-128, Audits of State and Local Governments. Circular A-128 implements the Single Audit Act of 1984 (31 U.S.C. Chapter 75) and applies to Department of the Interior AML grants awarded on or after July 18, 1985. Circular A-128 requires annual audits with few specific exceptions and establishes policies and procedures for conducting these audits.

proper accounting code on the document, and forwards it to the DER Comptroller's Office.

- The Comptroller's Office performs a pre-audit review of the invoices to determine whether all forms are complete and signed by authorized officials; all invoice and support documents contain proper accounting codes, the documents are mathematically correct; and that valid purchase orders and contracts exist in the accounting system.
- The Comptroller's Office prepares a voucher transmittal package and enters the transaction data into the computerized accounting system. The computer then generates a voucher transmittal form that must be signed by both the Comptroller and the DER Secretary. The package is then sent to the state Treasurer's Office for final payment processing.
- The Treasurer's Office performs the same checks on the voucher transmittal package as did the Comptroller's Office. This provides an independent check on compliance with payment procedures and makes fraudulent payments more difficult
- The Treasurer's Office prepares the check for payment and provides the Comptroller a warrant report—a report showing payments authorized by the state Treasurer's Office—and a check register (includes the check number and date, the vendor's name, and the amount of the check). The Comptroller's Office uses this information to cross-check and verify the accuracy of payments.

To determine whether state practices are in compliance with the state's established expenditure controls, we reviewed all March 1986 AML invoices in four states and 143 randomly selected invoices for March 1986 in Pennsylvania.² In total, we reviewed 420 AML invoices valued at over \$4 million as shown in table 2.2

Table 2.2: March 1986 Invoices Reviewed

State	Number	Amount
Colorado	58	\$364,083
Kentucky	44	2,011,205
Pennsylvania	143	54,046
West Virginia	105	155,461
Wyoming	70	1,518,978
Total	420	\$4,103,773

We found that all 420 invoices appear to be for expenditures authorized under the states' AML programs and that they were properly authorized

²Because of the large number of invoices in Pennsylvania during March 1986, we randomly selected and reviewed 143 of the 395 nonpayroll related transactions

and processed by personnel from more than one organizational unit of state government. In addition, the states maintained adequate records of these transactions and properly documented the expenditures in each case.

Grant Payment, Audit, and Equipment Inventory Requirements Not Always Met

Of the five states we reviewed, only Colorado was in full compliance with selected OMB Circular A-102 requirements related to disbursing grant funds in a timely manner, periodically inventorying equipment purchased under the grants, and performing biennial audits. Three of the other four states did not comply with one of these requirements, and West Virginia did not comply with any of the requirements as shown in table 2.3.

Table 2.3: State Compliance With Selected OMB Circular A-102 Requirements

OMB Circular A-102 requirements	Colorado	Kentucky	Pennsylvania	West Virginia	Wyoming
Prompt disbursement	Yes	No	Yes	No	No
Equipment inventory	Yes	Yes	Yes	No	Yes
Biennial audit	Yes	Yes	No	No	Yes

Prompt Disbursement of Grant Payments Not Always Made

OSMRE provides funds from the AML Fund to the states under both the administrative and construction grants through a federal letter of credit payment method. Under this method, a state draws cash against its total authorized grant payment in increments as expenses such as salaries, rents, or construction costs are incurred. Compared with paying out the full grant award at the start of the grant period, the letter of credit payment method slows the rate at which funds are withdrawn from the AML Fund's account in the U.S. Treasury.

To help ensure that grant funds are maintained in Treasury balances as long as possible, OMB Circular A-102 requires states with letters of credit to draw down funds as close as possible to the dates payments are due to their creditors. In this connection, OSMRE uses the Treasury Financial Communications System (TFCS) letter of credit system to process grant funds to the states. This system allows the states to request funds one day with a high degree of assurance that funds will be transferred to them the next day, unless the request is disapproved by the agency. If the request is disapproved, the state is notified the same day the request is made. Therefore, states can wait and request funds until they know

the exact amount of their expenditures and the checks for those expenditures are ready for preparation.

We consider excess cash to be the amount of federal cash provided to the state grantees that is not immediately used (within 1 day) to redeem checks or warrants issued by the states to pay expenditures relating to the AML program. Excess cash can be broken down into two major components—cash received before checks are issued and cash associated with check float.

Our review disclosed that three of the five states we reviewed hold excess cash.³ The excess cash held by Kentucky and West Virginia for one selected month—October 1985—exceeded \$5.6 million. Because the Intergovernmental Cooperation Act of 1968, precludes the federal government from collecting interest on excess cash balances maintained by state governments, this excess cash cost the federal government almost \$8,000 assuming a 6-percent interest rate, excluding interest associated with check float. Wyoming, on the other hand, voluntarily reimburses OSMRE for the interest it earns on its excess cash.

Tables 2.4 and 2.5 show that during October 1985 Kentucky and West Virginia received funds significantly before they issued checks to pay program expenses. Together, this excess cash amounted to more than \$5.6 million.

Table 2.4: Intervals Between Drawdown and Disbursement—Kentucky

Calendar days	October 1985 transactions			
	Number	Percent	Value	Percent
0 to 1	2	2	\$1,742 00	0
2 to 7	55	64	2,156,337 02	91
More than 7	29	34	219,352 10	9
Total	86	100	\$2,377,431.12	100

Most of the lengthiest disbursement delays in Kentucky involve project inspection services contracts. Under Kentucky contract payment requirements, these contracts contain a ceiling amount that cannot be exceeded. When payment of an invoice would cause the ceiling to be exceeded, the payment must be held until the ceiling is increased. Thus, while the state draws down its letter of credit to pay the contractor, in

³Colorado and Pennsylvania pay program expenses out of state funds first and then request reimbursement under the letter of credit. Kentucky uses the reimbursement method for its administrative grants and the advance method for its construction grants

these circumstances it can not release the payment. According to a state official who reviews inspection invoices, the state implemented a new procedure in August 1986 that precludes processing inspection invoices to draw down the letter of credit when the amounts exceed the contract ceiling

Table 2.5: Intervals Between Drawdown and Disbursement— West Virginia

Calendar days	October 1985 transactions			
	Number	Percent	Value	Percent
0 to 1	31	15	\$374,900.59	11
2 to 7	44	22	952,705.03	29
More than 7	128	63	2,008,684.85	60
Total	203	100	\$3,336,290.47	100

The West Virginia AML program invoice processing system results in extended intervals between drawdowns of federal funds and disbursements because AML program officials do not begin processing invoices for payment until after the federal funds are received. State Treasury officials advised us that other state agencies processed drawdown requests and invoices concurrently and did not have extensive intervals between receipt and disbursement of funds. State AML officials said that they would develop procedures to process invoices and drawdowns concurrently.

Wyoming state law (Wyoming Statutes 1977, sec. 9-2-1007) provides that no expenditures shall be made in excess of the amount appropriated or otherwise authorized by law. State officials told us that this law requires federal funds to be on hand before disbursements are made.⁴ To comply with this requirement, AML program managers have used two payment practices that (1) delay disbursement from federal grant advances and (2) provide the state with the opportunity to invest the idle funds and earn interest. First, the state has established a working fund of \$50,000 to cover operating expenses such as salaries and travel. To establish this fund, the state made a one-time draw of \$50,000 from its fiscal year 1983 grant authorization. Since that time it has maintained this balance by drawing upon its letter of credit to replenish the fund as operating expenses are paid. Thus, through this practice the state keeps \$50,000 of federal funds on a continuous basis that are not committed to paying current obligations.

⁴Wyoming recordkeeping practices did not enable us to calculate the intervals between drawdown and disbursement

Second, Wyoming procurement regulations require the state to withhold final contract payments—that, according to the state, represent about 5 percent of total contractor claims—until a 40-day public notice period expires. During the 40-day period, therefore, the state holds the outstanding contractor payment balances in its accounts. A Wyoming official advised us that effective June 16, 1986, Wyoming revised its drawdown procedures and now waits until the 25th day of the 40-day period before starting the final payment voucher process.

Although these two practices are contrary to Circular A-102 requirements, Wyoming has taken voluntary steps to minimize the impact of its payment practices. Although not required to do so under the Intergovernmental Cooperation Act, Wyoming effectively reimburses OSMRE for interest it earns off its letter of credit advances by deducting that amount from its administrative grant request for the following year. Between fiscal year 1983 and the first 6 months of fiscal year 1986, Wyoming officials said that the state earned \$55,252 on its grant advances. All of this interest was used to offset funds requested in its 1986 administrative grant. An OSMRE Casper Field Office official stated that OSMRE has not verified that the \$55,252 is the total amount of interest earned by Wyoming.

OSMRE Lexington, Casper, and Charleston Field Office officials told us that they have not reviewed the states' systems for disbursing federal grant funds to assure compliance with OMB Circular A-102. They said that OSMRE headquarter's guidance for conducting the annual oversight evaluation of state programs does not direct the field offices to examine individual transactions to determine if grant payment requirements are met.

Equipment Inventories Not Performed in West Virginia

West Virginia is not performing inventories at least once every 2 years as required by OMB Circular A-102 of its equipment, vehicles, office furniture, computers, and other items purchased under its AML program. Periodic physical inventories help safeguard assets from unauthorized use, loss, or theft and provide information on the current use and condition of the assets and the need for additional purchases.

The Administrator, AML Program, West Virginia Department of Energy, told us that an equipment inventory is on file but the inventory has not been checked in the past 2 years. The Chief, AML Branch, OSMRE Charleston Field Office, advised us that he was not aware that the state had not conducted the required physical inventories. This official stated

that OSMRE headquarters' guidance for conducting annual oversight evaluations does not specify that the field offices determine if the physical inventory requirement is met. OSMRE officials, in turn, told us that they have not evaluated compliance with this Circular A-102 requirement as part of its oversight reviews.

Biennial Audits Not Performed in Two States

Two of the five states—Pennsylvania and West Virginia—did not perform, every 2 years, audits of their AML programs as required by OMB Circular A-102.⁵ Such audits are made to determine whether financial operations are being conducted properly, the organization is in compliance with expenditure requirements for federal funds, and internal procedures are established to meet the program's objectives. Officials of both states advised us that in the future audits will be performed in compliance with both OMB Circular A-102 and A-128. OSMRE field office officials told us they have not evaluated state compliance with this provision as part of their annual program oversight reviews

The most recent audit of Pennsylvania's AML program covered the period July 1, 1981, through June 30, 1983, and was reported on October 12, 1984. Under the requirements of OMB Circular A-102, another audit should have been started in late 1985, however, an audit was not started until August 1986. A Pennsylvania audit official advised us that because of limited staff resources the state did not perform audits under A-102 until 1984. As a result, a backlog developed, which caused the 1-year delay. The audit, begun in August 1986, covers a 3-year period. The first 2-year period—July 1, 1983, through June 30, 1985—will be performed under the provisions of OMB Circular A-102 whereas the final 1-year period—July 1, 1985, through June 30, 1986—will be performed under the single audit provisions of OMB Circular A-128. Pennsylvania officials said that they will attempt to comply with future audit schedules.

The only audit report of West Virginia's AML program covered the period from March 15, 1979, to June 30, 1982, and was issued in February 1983. West Virginia officials could not explain why the biennial audit requirements of Circular A-102 were not met. A State Legislative Auditor's Office official advised us in August 1986, however, that his office would begin an audit of the West Virginia Department of Natural Resources in September 1986. The audit would cover the period from

⁵Effective April 12, 1985, OMB Circular A-128, which implements the Single Audit Act of 1984 (31 U.S.C. Chapter 75), superseded OMB Circular A-102 audit requirements

before the state assumed primary regulatory responsibility (January 21, 1981) through June 30, 1985. The ending date coincides with the date that program responsibility was passed to the West Virginia Department of Energy. This official also advised us that the state is taking bids for performance of a single audit covering the period July 1, 1985, through June 30, 1986. OSMRE officials in the Harrisburg and Charleston Field Offices advised us that OSMRE headquarters has provided no guidance that directs field offices to determine if audit requirements are met.

The audit reports we reviewed for the states of Colorado, Kentucky, and Wyoming did not comment on whether the states were holding excess cash, but in two states inventory control system weaknesses were identified. In Colorado and Kentucky, the audit reports indicated that the states should take steps to assure that assets are recorded. The Wyoming audit report commented that no material weaknesses were found in the state's internal controls.

Conclusions

The states we reviewed generally complied with federal requirements to ensure that expenditures of AML funds are proper. However, some states were not complying with selected OMB Circular A-102 requirements. Three states are not making drawdowns of their letters of credit as close as possible to the date payments are due. In Kentucky and West Virginia this practice resulted in the states receiving almost \$8,000 interest income (assuming a 6-percent rate of interest) for 1 month at the expense of the federal Treasury. Wyoming, on the other hand, voluntarily reimburses OSMRE for interest it earns on its excess cash. To conform to federal cash management requirements, OSMRE needs to take steps to assure that the states do not maintain excess cash.

West Virginia has not periodically inventoried assets purchased under its AML grants, and Pennsylvania and West Virginia have not performed all required audits of their programs. Those states that did not perform the required audits, however, are taking steps to meet today's audit requirements. OSMRE guidance for performing annual oversight evaluations of state programs does not require the OSMRE field offices to evaluate state compliance with these Circular requirements, nor have the field offices done so in the past. These instances of noncompliance weaken administrative control over grant funds and weaken OSMRE's assurance that its state grantees are properly administering grant funds.

Recommendations

We recommend that the Secretary of the Interior require the Director, OSMRE, to emphasize to the states the importance of complying with OMB Circular A-102 requirements related to disbursing federal grant funds in a timely manner, inventorying physical equipment, and conducting audits. To ensure that states have taken any necessary steps to bring their programs into compliance, the Director, OSMRE, should follow up on their compliance as part of the agency's annual oversight evaluations.

Views of Agency and State Officials

OSMRE program officials agreed with our conclusions and recommendations. Wyoming and Kentucky officials, however, commented that disbursing funds within 1 day, as we suggested, is unreasonable. Wyoming officials said that the state's accounting system will not accommodate the receipt and payout of money within this time period. They said the only way the state could comply would be to disburse state funds first and then be reimbursed with federal funds, but this is contrary to state law. Kentucky officials raised a similar concern and stated that the state also has a requirement that the federal money be in hand before disbursement by the state. They further said that OSMRE officials told them that disbursement within 5 days of receipt of funds met OMB Circular requirements for timely disbursement. We continue to believe that, under the TFCS letter of credit system, a 1-day turnaround is possible and reasonable. However, state procedures for requesting drawdowns may have to be revised to meet this requirement.

Although Pennsylvania officials appreciated the overall tone of the report, they disagreed with our draft report finding that the state was not performing annual physical equipment inventories. On the basis of our review of information provided by the state that was not given to us by AML program officials during our review, we agree that the state is in compliance with inventory requirements, and we revised our report accordingly.

West Virginia officials commented that the report presents a true picture of the West Virginia program and Colorado officials commented that the report was fair and objective

States' Management of AML Reclamation Projects Is Generally Adequate

AML funds collected under SMCRA can only be used for projects that meet specific eligibility requirements defined in the act. Recognizing that funds will not be available to reclaim all pre-existing abandoned mine sites, the act also established priorities so that higher priority problem areas will be addressed first. Based on our review of OSMRE's procedures for approving reclamation projects and the assigned priorities of the projects undertaken to date, state AML agencies are generally reclaiming eligible, high priority projects as required under the act.

In addition to addressing the highest priority reclamation needs, it is also important that the states manage their reclamation projects in an effective manner. To this end, OMB Circular A-102 prescribes procurement, project monitoring, and project reporting standards to ensure that state AML construction grant funds are adequately controlled. With respect to these standards, we found that the states, except for the selection of design contractors in Kentucky, are managing their reclamation projects and are monitoring contractor performance in compliance with federal standards. However, none of the states are preparing and submitting project performance reports to OSMRE that contain all required information. Relatedly, we found that summary data are not readily available to determine whether completed projects are, as a whole, effectively resolving the associated reclamation problem.

States Undertaking Eligible High Priority Projects

SMCRA specifies project eligibility criteria that must be met before AML funds can be used to cover the cost of reclamation. The act also specifies six reclamation project priorities that should be undertaken in order of importance. We found that the five states included in our review are undertaking reclamation projects consistent with the act's requirements. The states are initiating projects that meet established eligibility criteria and are generally restricting their attention to reclaiming high priority sites.

Project Eligibility

SMCRA states that land and water eligible for reclamation are.

“ those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this Act [Aug 3, 1977], and for which there is no continuing reclamation responsibility under State or other Federal laws ”

Noncoal mine sites that also meet this eligibility criteria may be reclaimed if the governor of the state certifies that all coal-related reclamation projects have been accomplished in the state or the project is necessary to protect public health and safety.

To assure that SMCRA's eligibility requirements are met, OSMRE requires the states to certify that each proposed project in their AML reclamation construction grant applications is eligible. Therefore, OSMRE requires that the certification be signed by the chief legal officer of either the state or the state AML agency.

The extent to which OSMRE field offices review the project eligibility certifications varies. In the western states—Colorado and Wyoming—the field offices generally accept the certifications submitted by the states. In the eastern states of Pennsylvania, Kentucky, and West Virginia the field offices also make site visits during their review of a proposed project's eligibility. Our review of OSMRE annual oversight reports for each state shows that OSMRE field office officials review the proposed project's eligibility as part of their approval of the state grant application. In reviewing grant files, we found documentation showing that eligibility was reviewed by OSMRE field office officials and, in the east, that site visits were made. We also noted instances in which these reviews questioned a project's eligibility for funding. For example, Charleston Field Office officials questioned the eligibility of four projects requested by West Virginia in 1984. West Virginia provided additional information regarding the projects' eligibility, and the field office subsequently approved three projects for funding. OSMRE disapproved the fourth project because it believed that other projects had higher priority that had not yet been undertaken in the state. Likewise, Lexington Field Office officials rejected a proposed project submitted by Kentucky in 1985 because it had not clearly proven that the problem was caused by mining conducted prior to SMCRA.

We also noted that, in those states reclaiming mine sites affected by noncoal-related activities, the governors had formally requested funding and certified that the projects were eligible. Three of the five states included in our review have undertaken the reclamation of noncoal sites. In May 1984, the governor of Wyoming certified that all known coal-related reclamation projects had been addressed in the state and therefore its attention would be placed on reclaiming noncoal mining-related sites. In 1985, the governor of Colorado requested and OSMRE approved 13 noncoal projects to correct public health and safety hazards. Likewise, the governor of Pennsylvania requested and OSMRE

approved three noncoal mined sites because they were public health and safety hazards

Project Priority	Abandoned mine reclamation projects undertaken by the states must reflect the priorities established under SMCRA in the following order
Priority I	The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices
Priority II	The protection of public health, safety, and general welfare from adverse effects of coal mining practices.
Priority III.	The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity
Priority IV :	Research and demonstration projects relating to the development of surface mining reclamation and water quality program methods and techniques.
Priority V :	The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices.
Priority VI .	The development of publicly owned land adversely affected by coal mining practices including land acquired as provided in the act for recreation and historic purposes, conservation and reclamation purposes, and open space benefits.

While priorities are clearly delineated in the act, the Department of the Interior's Office of the Solicitor has determined that this does not require that all higher priority projects be completed before a project of lower priority can be addressed. In a May 18, 1982, memorandum, the Solicitor's Office stated that states and OSMRE have ample authority to fund lower priority projects along with higher priority projects as long as the total program reflects that high priority projects are being addressed. Further, OSMRE's Assistant Director for Program Operations and Inspections told us that the agency's policy is to allow the reclamation of priority III projects that are in close proximity to higher priority

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States' Management of AML Reclamation
Projects Is Generally Adequate**

reclamation projects because it is more cost-effective to do the projects concurrently.

The five states are generally concentrating their reclamation efforts on priority I and II projects as shown in table 3.1. These priority designations were reviewed by OSMRE field office officials prior to awarding the construction grants. This review, according to field office officials, involves a review of state supplied information justifying the project's priority and OSMRE field visits to each site. The priority is then determined based on the standard criteria outlined under SMCRA.

Table 3.1: Approved Projects by Priority Through March 31, 1986

State	Total projects	Priority ^a		
		I & II	III	V
Colorado	94	84	10	0
Kentucky	225	190 ^b	30	5
Pennsylvania	213	213	0	0
West Virginia	151	151	0	0
Wyoming	19	15 ^b	4	0
Total	702	653	44	5

^aWith the exception of one priority III/IV project in Wyoming, no priority IV or VI projects have been approved.

^bWe used the highest priority for those projects with dual priorities.

Source: State Reclamation Agencies.

As shown in table 3.1, only Kentucky has undertaken priority V projects—that is, projects to repair or replace public facilities adversely affected by coal mining. Of the five priority V projects, three were mentioned in the House Appropriation Committee reports on Interior's 1984 and 1985 appropriations bills as being worthy of funding, and two were considered high priority projects by the state. According to OSMRE's Assistant Director for Program Operations and Inspection, these projects involved the reclamation of two water supplies adversely affected by coal mining. Until recently, OSMRE's policy has been to automatically classify such projects as priority V projects. He said that this policy has been revised and now water supply projects will not automatically be considered priority V projects just because they involve public facilities.

Project Management Systems Generally Adequate With Some Exceptions

OMB Circular A-102 sets forth various requirements to ensure that (1) procurements of design and construction services are made in an efficient and effective manner, (2) contractor performance is closely monitored, and (3) summary information on project performance is accurately and timely reported to program managers and decision makers. We found that for procurement, with the exception of Kentucky's approach to selecting design contractors, the states' procurement procedures are generally consistent with federal requirements. In the area of project monitoring, all five states have structured systems to ensure that contractor performance in achieving time schedules and cost goals are constantly reviewed. Regarding project reporting, however, we found that none of the states are preparing and submitting performance reports to OSMRE that contain all required information

Procurement of Design and Construction Services

OMB Circular A-102 prescribes specific requirements governing state procurement of project design and construction services. With respect to project design, the Circular authorizes the use of competitive negotiations as an acquisition technique. Under competitive negotiations the state requests proposals from design firms, selects the most qualified firm on the basis of the proposals submitted, and then negotiates the contract price with the selected firm. When using competitive negotiations, the Circular requires states to (1) solicit proposals from an adequate number of sources to assure competition is achieved, (2) identify in the request for proposals all significant evaluation factors and their relative importance, and (3) maintain records of each procurement including, at a minimum, the rationale for the method of procurement, the selection of contract type, the selection or rejection of the contractor, and the basis for cost or price

Four of the five states that we reviewed contract for project design services. In Pennsylvania, state personnel design all AML reclamation projects. The four states use competitive negotiations to obtain contractor design services. Of the four states, with the exception of Kentucky, their procedures generally comply with OMB Circular A-102 requirements governing competitive negotiations. Kentucky's process for selecting project design contractors does not comply with the Circular requirements in two ways (1) the requests for proposals do not show the criteria to be used in evaluating the proposals submitted and (2) no written determinations are made or documentation prepared to show why a particular engineering firm was awarded the contract or how the contract price was determined.

We discussed Kentucky's noncompliance with the Circular's standards with OSMRE Lexington Field Office officials. We found that OSMRE's position has been somewhat inconsistent over time. Its first annual evaluation report of Kentucky issued in July 1983 criticized Kentucky's process for selecting and awarding project design contracts. The report noted that OSMRE could not determine the criteria used to evaluate the firms' proposals and the justification to award a contract to a particular firm. Kentucky responded to OSMRE's criticism in a memorandum dated August 24, 1984, which laid out a detailed explanation of the state's procurement process and why the process met applicable standards. After reviewing the state's response, OSMRE Lexington Field Office officials notified Kentucky, in a September 19, 1984, letter, that Kentucky was in compliance with OMB Circular A-102. On the basis of our finding, however, OSMRE Lexington Field Office officials now take the view that changes to the Kentucky system are necessary. They told us that the agency would take steps to bring Kentucky into compliance.

Regarding procurement of construction services, OMB Circular A-102 specifies that contracts should generally be awarded through competitive bidding. In conducting the competitions, the Circular further requires that:

- Bids be solicited from an adequate number of known suppliers, and in sufficient time before the date set for opening the bids. In addition, the invitation for bid is to be publicly advertised.
- The invitation for bids include specifications that clearly define the items or services needed for the bidders to properly respond to the invitation.
- All bids be opened publicly at the time and place stated in the invitation for bids.
- A firm-fixed price (lump sum or unit price) contract award be made to the responsible bidder whose bid is lowest.

The procurement procedures in all five states are in compliance with Circular A-102 requirements. Further, to test the implementation of these procedures, we reviewed 53 construction contracts in the five states, ranging from 5 in Colorado to 22 in Pennsylvania. On the basis of this review, we found that the lowest responsive bidder was always awarded the contract. With respect to adherence to other procurement procedures, our review of the contract files did not disclose any significant instances of noncompliance by the states. Finally, the latest OSMRE annual evaluation reports for each state noted that the states were in compliance with Circular requirements.

Contractor Monitoring

OMB Circular A-102 requires states to constantly monitor contractor performance to ensure that time schedules are being met, projected costs remain accurate, and performance goals are being achieved. The five states that we reviewed have systems in place to constantly monitor contractor performance along the lines set forth in the Circular. The systems for monitoring both design and construction contractors are discussed below.

Design Contractors

In each of the five states, design contractors are generally monitored the same way. At the outset, design contractors are selected based on project concept proposals rather than detailed work plans. The contractor does not submit a detailed work plan and cost proposal until after the contract selection has been made. Once the contractor submits the detailed work plan, state officials review and approve it, negotiate a fair and reasonable price, and award the contract. The contract specifies the period of performance and requires the contractor to submit preliminary and final design drawings. Once the contract is awarded, the states generally assign a project officer to monitor the design contractor's performance. The project officer periodically meets with the design contractor, reviews and approves final drawings, and reviews payment requests for services performed to assure that costs are reasonable and supported. This approach is consistent with Circular requirements.

Construction Contractors

The five states also used similar processes, although varying in details, for monitoring construction contractors. The states monitor construction contractors performance against the terms of firm-fixed unit price contracts.¹ These contracts, used exclusively by the five states in hiring construction contractors, set forth specific completion time frames, design specifications, and unit costs. To ensure that a contractor's work is performed within contractual time frames and in accordance with design specifications, each state conducts on-site inspections. The number of on-site inspections as well as who performs them is summarized in table 3.2.

¹Under a firm-fixed unit price contract, each contract line item has a fixed unit price. For example, line item 1 is shown in the contract as "furnish and install an 8-inch pipe, estimated quantity required 500 feet and the fixed unit price is \$10 a foot. Even though the actual quantity used may increase or decrease, the unit price remains fixed. In addition, the construction contractor is paid only for the actual quantity used.

Table 3.2: On-Site Construction Inspections

State	Number of and who performs on-site inspections
Colorado	For projects designed by state personnel (87 percent of all projects), the AML project manager visits the site during critical phases of construction, for example, when blasting occurs. For the remaining 13 percent of the projects, normally the largest and most complex projects, which are designed by professional engineering firms, the state hires the design firm to provide a full-time on-site inspector.
Kentucky	For projects designed by professional engineering firms (90 percent of all projects), the state hires the design firm to provide a full-time on-site inspector. State personnel are used as full-time on-site inspectors on the remaining 10 percent of projects that are designed by state personnel.
Pennsylvania	State personnel are used as full-time on-site inspectors on all projects.
West Virginia	State personnel visit 90 percent of the projects on a daily basis. The remaining 10 percent are visited every other day.
Wyoming	All projects are designed by professional design firms, and the state hires the firm to provide a full-time on-site inspector.

Regarding project costs, as discussed earlier, all construction contracts in the five states fix the cost for each unit of service delivered in the contract. If the number of units charged was not properly controlled, however, project costs could still escalate. To help ensure that the number of units charged are controlled, each state requires the project inspector to provide the initial review and approval of construction contractor's request for payment. To request payment for work performed, the contractor submits an invoice that shows, by contract line item, the amount of work performed during the period (generally 2 weeks or a month) and the amount of work performed since construction began. The on-site inspector reviews and either approves or disapproves the construction contractor's payment request. Once construction is completed, each state requires a final inspection before final payment is made to the construction contractor. State AML officials, the construction contractor, and the design contractor conduct the final inspection. At the final inspection the construction contractor's work is reviewed to ensure that the work is in compliance with the design specifications. If the work is not in compliance with the design specifications, the construction contractor must correct the work before state officials authorize final payment.

Project Reporting

For OSMRE to properly oversee state AML program activities, it must receive accurate summary information on how well states are managing their AML projects. In this connection, OSMRE, in implementing OMB Circular A-102, requires states to submit semiannual performance reports

on each reclamation project. Under terms of the Circular, the reports must contain the following information:

- A comparison of actual accomplishments to the goals established for the period.
- Reasons why established goals were not met.
- Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Our review showed that none of the five states are complying with these Circular requirements. Each state is submitting semiannual reports, but the reports contain no comparisons of actual accomplishments to goals and no reasons why goals are or are not met.

The cognizant OSMRE field offices for the five states had different views of the practical significance of this reporting deficiency. OSMRE Charleston (West Virginia) and Harrisburg (Pennsylvania) Field Office officials told us that the type of analytical information specified in the Circular would improve the semiannual reports' usefulness as an oversight tool. To this end, the Charleston Field Office Director, in a May 2, 1986, letter, requested West Virginia to provide information in its semiannual performance reports that meets the Circular's standards. The letter also noted that if the Circular's reporting requirements were met, the field office could update its project tracking system more quickly and accurately, and thereby, more accurately reflect West Virginia's AML program accomplishments. While West Virginia's most recent semiannual performance report compares scheduled milestones with actual project milestones, the report does not provide reasons why scheduled milestones are not met. Similarly, the semiannual performance reports submitted by Pennsylvania do not contain the reasons why project goals are not met. A Harrisburg official stated that the field office's fiscal year 1986 draft annual evaluation report notes that Pennsylvania's semiannual performance reports are not in compliance with the Circular's requirements. This same official said that field office personnel must now obtain the analytical information required by the Circular through project inspections and meetings with state officials.

Casper (Wyoming), Lexington (Kentucky), and Albuquerque (responsible for Colorado) Field Office officials did not share the same view. They told us that the information contained in their respective state's semiannual performance reports met their oversight needs. The officials said that they filled the reports' analytical gaps with information that they developed on their own through interviews and project inspections

Essentially then, these field offices relied less on the reports and consequently found the analytical deficiencies less troublesome.

Summary Data Not Available to Confirm Success of Reclamation Projects

No matter how well managed, reclamation projects would be of little value if they did not correct the public health, safety, or environmental problem that they were designed to address. Accordingly, in structuring an effective reclamation program, it is important to establish a system for following up on completed projects with post-construction completion inspections. Although not required by OSMRE, our review showed that all five states have established systems for conducting such inspections

Each of the five states inspects their reclamation projects upon completion of construction to determine whether all contracted work is completed. However, in some cases, design or construction deficiencies do not show up immediately, or other subsequent events (such as heavy rains) can occur, which can diminish the effectiveness of the reclamation project. Therefore, to make sure problems such as these are detected, each state conducts post-construction completion inspections. The basic approach to these inspections used in each state is summarized in table 3.3.

Table 3.3: State Post-Inspection Requirements

State	Inspection approach
Colorado	State officials inspect completed projects when in the area
Kentucky	State officials inspect completed projects after the vegetation planted to cover the reclaimed area has had two growing seasons (for example, spring and summer) to establish itself
Pennsylvania	State officials inspect completed projects 10 months after completion
West Virginia	State officials inspect completed projects after 1 year
Wyoming	State officials inspect completed projects for three growing seasons

While all five states conduct post-construction inspections, two states (Colorado and West Virginia) prepare no reports on those inspections and none develop data that would summarize or consolidate information on their inspection results. Consequently, we could not readily assess the overall success of the states' projects in abating identified problems. In the absence of summary data, we discussed the issue with state and OSMRE field office officials. These officials told us that, by and large,

their projects successfully abate the problems at hand although exceptions exist. A 1986 report by the National Research Council² also concluded that the reclamation work on the completed projects it examined was very good.

The state and OSMRE officials told us the exceptions they identified most frequently involve conditions such as steep slopes subject to landslides in which available technology does not permit the certainty that even after stabilization efforts are completed, problems will not reoccur. Once again, without summary data we could not confirm the officials' observations about how frequently failed projects occur.

We discussed the absence of inspection reports and summary data with OSMRE officials. From these discussions, we learned that OSMRE is addressing long-term reclamation success in its 1986 state evaluation reports, which cover the 1-year period July 1985 through June 1986. The OSMRE guidance for conducting the evaluation required the OSMRE field offices to review a random sample of completed projects to determine how states monitor completed projects and to determine the projects' long-term success and maintenance needs.

Conclusions

Each of the five states that we reviewed had procedures in place to ensure that AML funds are being used to reclaim only eligible, high priority projects as required by SMCRA. Regarding project management, except for Kentucky's system for hiring design contractors, the five states generally follow federal procurement standards. Also, all the states had systems in place to closely monitor contractor progress in meeting project cost, schedule, and work performance goals. On the other hand, the five states do not provide all information required by federal reporting standards in their semiannual performance reports to OSMRE.

Finally, state and OSMRE officials believe the AML projects undertaken in the five states have generally abated the identified reclamation problem. However, we could not readily confirm these judgments with empirical data because two states do not document the results of their post-construction inspections, and none of the states prepare any data that summarize these results. OSMRE's 1986 oversight evaluations of the state

²Abandoned Mine Lands: A Mid-Course Review of the National Reclamation Program for Coal, 1986

programs will include a review of completed projects, and the information can be used to decide what additional steps, if any, should be taken by the states

Recommendations

To correct remaining weaknesses in state management of AML projects and OSMRE oversight of that management, we recommend that the Secretary of the Interior require the Director, OSMRE, to

- direct those states, like Kentucky, that do not comply with federal procurement standards to bring their programs into compliance,
- direct the states to provide all information required by federal performance reporting standards in the states' semiannual reports on specific projects to OSMRE, and
- strongly encourage those states not documenting the results of post-construction inspections to begin doing so.

Views of Agency and State Officials

OSMRE program officials agreed with our conclusions and recommendations. West Virginia officials commented that the report presents a true picture of the West Virginia program. Wyoming and Pennsylvania officials, however, commented on our presentation of project monitoring. Although Wyoming officials agreed that the semiannual project monitoring reports may lack some specific data, the officials said that we did not properly consider quarterly visits made by OSMRE personnel. During the quarterly visits made by OSMRE, the Wyoming officials discuss project schedules and status and field inspections. When all the information available is considered, Wyoming officials believe that OSMRE can properly perform its oversight function. Pennsylvania officials commented that OSMRE's Harrisburg Field Office recently informed the state that it was happy with the state's project tracking report and that it was satisfied with its content. However, the OSMRE Harrisburg Field Office Grant Administrator told us on January 7, 1987, that OSMRE plans to comment in its annual report on Pennsylvania that by failing to submit analytical data the state is not meeting the requirements of OMB Circular A-102, Attachment I.

Overall, Colorado officials commented that the report was fair and objective and they said that the state is pulling together the results of inspections conducted on completed projects, and so far the inspections found only minor project failures. A draft report is currently being prepared, and in the future such reports will be prepared on an annual basis.

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Kentucky officials made no substantive comments on the information presented in this chapter.

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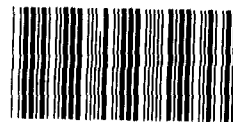
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Briefing Report to the Honorable
Edward M. Kennedy, U.S. Senate

February 1987

LIBERIA

Problems in Accountability and Control Over U.S. Assistance



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National Security and
International Affairs Division

B-226281

February 13, 1987

The Honorable Edward M. Kennedy
United States Senate

Dear Senator Kennedy:

On June 18, 1986, you asked us to review the U.S. assistance program in Liberia since 1980. Specifically, you asked (1) whether there was any evidence of misuse or diversion of U.S. assistance and (2) whether accountability of and controls over U.S. assistance were adequate. As requested, this briefing report provides an advance summary of our major findings and conclusions. A more detailed report will be provided in April 1987.

During fiscal years 1980-86, the United States provided approximately \$434 million in assistance to Liberia--about \$200 million in Economic Support Funds (ESF), \$85 million in Public Law (P.L.) 480 food aid, \$83 million in development assistance, and \$66 million in military assistance. The economic, development, and food assistance was administered by the Agency for International Development (AID); military assistance was administered by the U.S. Military Mission to Liberia. The purpose of the assistance, which has increased substantially since 1980, was to promote economic growth and political stability in a country that has been a long-standing friend of the United States. In addition, the United States has foreign policy and strategic interests in Liberia.

We analyzed information and held discussions with key officials in Washington, D.C., and in Liberia. We visited Liberia in September and October 1986, and met with representatives of responsible U.S. agencies, the host country, and other donors.

U.S. economic and food assistance to Liberia has faced a high risk of diversion and/or misuse since 1980. The

As a result of these conditions, the AID mission has had to continually revise and tighten controls over economic and food assistance funds. In our opinion, the controls that were put in place for the fiscal years 1985-86 ESF cash transfers are generally adequate to ensure that the funds will be used for the purposes intended. We feel, however, that although improvements have been made in the P.L. 480 program, further actions are needed to protect funds generated from the sale of commodities. These actions include tightening controls over receipts and disbursements of counterpart funds.

AID mission officials said that development assistance funds have been less vulnerable to misuse or diversion because the AID mission has avoided disbursing much of these funds through the Liberian government or local Liberian institutions. However, the effectiveness of AID's development assistance projects has been limited because the GOL has not always met its counterpart funding requirements. Liberia's problems in this area can be attributed to both its lack of financial liquidity and its mismanagement and misuse of funds in the P.L. 480 special accounts, which are intended for the support of development projects. Some projects we reviewed were adversely affected by the lack of counterpart funds.

The majority of the military assistance funds provided to Liberia has been for the construction of new military housing. We found that housing units were constructed under the direct monitoring of U.S. military personnel in Liberia. We did not find any evidence of misuse in this program; however, we question whether there were systematic controls over contract administration during fiscal years 1981-84 when the GOL handled the awarding of construction contracts in this program.

Beginning in 1985, the U.S. Army Corps of Engineers assumed responsibility for administering the housing construction contracts, to include evaluating bids and awarding contracts. This change became necessary when U.S. Department of Defense officials determined that the United States must be a direct party to all contracts funded with military assistance program grants. By fiscal year 1984 these grants had fully replaced foreign military sales credits as the program's funding source. Our analysis indicated that the Corps of Engineers had a systematic procedure for ensuring the reasonableness of

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