

GAO

Testimony

Before the Subcommittee on Energy and Mineral
Resources, Committee on Resources, House of
Representatives

For Release on Delivery
Expected at
2 p.m.
Thursday,
March 29, 2001

BUREAU OF LAND
MANAGEMENT

Improper Charges Made to
Mining Law Administration
Program

Statement of Linda M. Calbom
Director, Financial Management and Assurance



Madam Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss our review of certain charges made to the Bureau of Land Management's (BLM) Mining Law Administration Program (MLAP). Accurate cost information is crucial for proper program management and is especially important for MLAP since this program is partially funded through mining fees that the Congress has designated to be used only for mining law administration operations.

We last reported on this program a year ago when we briefed your office on BLM's administration and use of mining maintenance fees. That work resulted in BLM undertaking a review of its contracts and services charged to MLAP in the previous 2 fiscal years and identifying some improper charges to that program. Our prior work also led to your request that we

- (1) review labor charges to MLAP during the first 10 months of fiscal year 2000,
- (2) review the methodology that BLM used in its review of MLAP charges for contracts and services during fiscal years 1998 and 1999 and evaluate its approach for correcting improper charges, and
- (3) determine whether BLM employees were aware of the sources of MLAP funding.

My statement will focus on the results of our work in these three areas. A detailed discussion of our findings is contained in our report *Bureau of Land Management: Improper Charges Made to Mining Law Administration Program (GAO-01-356)*, which is being released today.

In brief, BLM employees we surveyed disclosed that many of the hours charged to MLAP during the first 10 months of fiscal year 2000 did not accurately reflect hours actually worked on MLAP. Based on our survey sample, we estimate a net overcharge of almost 11 percent for the 10 month audit period, resulting in a potential overcharge of about

\$1.2 million¹ for the nine BLM administrative states² and offices included in our review.

BLM's review of contracts and services over \$1,500 that were charged to MLAP during fiscal years 1998 and 1999 employed a methodology that was appropriate and identified the majority of the contracts and services that were improperly charged to MLAP operations during that time period. Specifically, BLM determined that about \$716,000 in contracts and services should not have been charged to MLAP.

Finally, in response to our survey, approximately 70 percent of BLM employees stated they were either not aware of the source of MLAP funding or did not know that the program is partially funded by fees collected from miners and designated for MLAP operations.

To address the weaknesses identified through our work, we have made recommendations to BLM intended to create more specific criteria and clearer policies related to the use of MLAP funds.

Background

BLM's MLAP is responsible for managing the exploration and development of locatable minerals on public lands. Locatable minerals include the so-called "hardrock minerals," such as copper, lead, gold, silver, and uranium. MLAP operations include activities such as

- reviewing and approving plans and notices of mining operations,
- conducting inspections and enforcement to ensure compliance with the terms of plans and notices of operation and related state and local regulations, and
- identifying and eliminating cases of unauthorized occupancy of mining claims.

MLAP operations do not include work on nonlocatable or common variety minerals, such as sand or gravel, or oil and gas work.

¹Since this figure is derived from sample data, it is subject to sampling error. Taking this random variation due to sampling into account, we are 95 percent confident that the actual overcharge ranges between \$0.6 and \$1.9 million. This result offers assurance that a net overcharge for MLAP occurred for the survey period.

²Administrative states are BLM's administrative offices, which in some cases have jurisdiction over areas beyond the boundaries of the state named. Our work examined 9 of BLM's 18 administrative states and offices.

The program is funded through mining fees and by appropriations to the extent that the fees are inadequate to fund the program.³ Since 1993, mining fees have included an annual \$100 mining maintenance fee on unpatented mining claims and sites and a \$25 location fee on new claims and sites. The maintenance fees are collected in lieu of the annual \$100 worth of labor or improvements (also called “assessment work”) required by the Mining Law of 1872. The authorization for these fees expires on September 30, 2001.

Some Labor Costs Were Improperly Charged to MLAP

Our survey of BLM employees showed that the number of hours charged to MLAP were not a reliable record of the number of hours actually worked on the program. According to employees, the number of hours charged to MLAP were often in excess of the number of hours worked on MLAP issues, or were charged for work unrelated to mining. In addition, some employees received bonuses or awards from MLAP funds although they charged no hours to the program.

Our survey population consisted of BLM employees who charged labor hours to MLAP during the first 10 months of fiscal year 2000. The 9 administrative states and offices included in our review reported MLAP obligations of over \$23 million in fiscal year 2000, representing approximately 72 percent of total reported MLAP obligations. In this survey population, about one-half of the employees reported working and charging the same amount of time to the program. However, almost 39 percent reported that they charged more time to MLAP than was actually worked, while only about 11 percent reported charging less time to MLAP than was actually worked. These results are summarized in attachment 1.

These improper charges to MLAP mean that BLM’s financial records do not reflect the true cost of the program. They are also in conflict with BLM’s policy, which stresses that “Charging work tasks, employee salaries, procurement or contract items, or equipment purchases to any subactivity other than the benefiting subactivity violates the terms of the Appropriations Act.” BLM’s policy also emphasizes that “records of actual costs and accomplishments must be (as) accurate as possible.” Based on our survey sample, we estimate a net overcharge to MLAP of almost 11

³BLM has general statutory authority to use receipts from mining fees for MLAP operations. Annual appropriations acts establish an amount of BLM’s appropriation for Management of Land and Resources (MLR) to be used for MLAP operations. The appropriations acts require, however, that the mining fees that BLM collects be credited against the MLR appropriation until all MLR funds used for MLAP are “repaid.” To the extent that fees are insufficient to fully credit the MLR appropriation, the MLR appropriation absorbs the difference and therefore partially funds MLAP.

percent for the 10-month audit period, resulting in a potential overcharge of about \$1.2 million for the 9 BLM administrative states and offices included in our review.

Many employees reported that the improper charges to MLAP were driven by BLM's funding allocations⁴ rather than the actual work performed. In other words, charges were improperly made to MLAP because that subactivity had funds available for obligation. Based on our survey, approximately 56 percent of the employees who charged more time than worked to MLAP said they did so because funds were available in that program. Employees also stated that they charged MLAP based on directions from their supervisor or a budget officer. Approximately 50 percent⁵ of the employees who charged more time than worked to MLAP reported that they did so based on the directions of a supervisor or budget officer. Again, this is in direct conflict to BLM's policy that indicates charging a subactivity simply because "money is available there" is a violation of the appropriations act. These results are summarized in attachment 2.

Of the employees who stated that they charged more time to MLAP than they actually worked, some reported charging time for such non-MLAP related tasks as processing applications to drill oil and gas wells; working on environmental remediation projects; doing recreation management; preparing mineral reports for land exchanges; and conducting work on common variety minerals, such as sand and gravel. BLM officials characterized these tasks as generally not appropriate for MLAP.

Our analysis of BLM records also showed that certain BLM employees received bonuses and awards from MLAP funds for work unrelated to mining. In clarifying BLM's policy, BLM's Director of Budget stated that any bonuses and awards received as a result of the labor performed should be charged to the subactivity that benefited from that labor. However, awards were given to individuals for tasks unrelated to MLAP operations,⁶ such as assisting in the moving of a BLM office to a new

⁴OMB Circular A-34 defines allocation as one method of restricting federal funds available for obligation. It is used broadly to include any subdivision of funds below the suballotment level, such as subdivisions made by agency financial plans or program operating plans, or other agency restrictions.

⁵Employees could provide more than one explanation, therefore the percentages listed above do not total to 100 percent.

⁶We also found individuals who received awards from MLAP funds for MLAP-related work, even though the hours and associated labor were not charged to MLAP. BLM officials stated that charging these awards to MLAP was appropriate and that the associated labor should also have been charged to the program. Not charging the associated labor costs to MLAP resulted in program costs being understated.

facility and as compensation for not using BLM's relocation service when selling a private residence as part of a lateral transfer. When asked why such bonuses and awards had been charged to MLAP, BLM officials either could provide no explanation or stated that MLAP had been charged by mistake.

BLM Effectively Identified Contracts and Services Improperly Charged to MLAP but Needs Additional Procedures to Prevent Recurrence

BLM's review of contracts and services over \$1,500 that were charged to MLAP during fiscal years 1998 and 1999 employed a methodology that was appropriate and thorough and identified the majority of the contracts and services improperly charged to MLAP operations during that time period. The contracts reviewed represented over \$8 million, or almost 90 percent, of the contracts and services obligated to MLAP during that time period. BLM determined that about \$716,000 in contracts and services should not have been charged to MLAP. The improper payments, as shown in attachment 3, included

- over \$34,000 for janitorial services,
- \$30,000 for the appraisal of federal coal leaseholds,
- \$25,000 for an attorney in an Equal Employment Opportunity settlement for an employee who had not worked on MLAP tasks, and
- \$2,000 for a habitat survey of a threatened and endangered species of butterfly in an area with no active mining.

In addition, our review identified an additional \$40,000 for 2 contracts and services that were improperly charged to MLAP. These contracts and services were for a cooperative agreement for geographic information system support and a biological survey. BLM officials agreed and stated that correcting adjustments would be made to the proper appropriation for the additional \$40,000.

BLM prepared an instruction memorandum to provide guidance on correcting the contracts and services charges that were improperly charged to MLAP in fiscal years 1998 and 1999. BLM officials have told us that they are identifying the appropriations for fiscal years 1998 and 1999 that should have been charged for these costs and that there are sufficient funds to make the correcting adjustments of about \$716,000.

Although BLM is taking the appropriate steps to correct these past improper charges of contracts and services to MLAP, it has not yet established specific procedures to prevent the recurrence of similar improper charges in the future. Until such procedures are established and

implemented, there continues to be a high risk of improper use of MLAP funds for unrelated contracts and services.

Many Employees Are Unaware of Source of MLAP Funding

Finally, as requested, in our survey we asked BLM employees whether they were aware of the source of funding for MLAP. Approximately 70 percent of BLM employees who responded were either not aware of the source of MLAP funding or did not know that the program is partially funded by fees collected from miners and designated for MLAP operations.

Conclusions

In summary, the costs of some labor and a number of contracts and services were improperly charged to MLAP, resulting in other subactivities benefiting from funds intended for MLAP operations. Therefore, fewer funds have been available for actual MLAP operations. Although BLM has taken steps to make correcting adjustments for some of these improper charges, it has not established specific guidance or procedures to prevent improper charging of MLAP funds from recurring in the future. Until additional procedures for MLAP are developed and effectively implemented, the Congress and program managers can only place limited reliance on the accuracy of MLAP cost information.

Recommendations for Executive Action

We have included in our report the following four actions that the Director of the Bureau of Land Management should take to address the issues I have discussed here today:

- make correcting adjustments for improper charges to appropriation accounts;
- remind employees that time charges and other obligations are to be made to the benefiting subactivity as stated in BLM's *Fund Coding Handbook* and develop a mechanism to test compliance;
- provide detailed guidance clarifying which tasks are chargeable to MLAP operations, such as those listed in the background section of our report; and
- conduct training on this guidance for all employees authorized to charge MLAP.

Madam Chairman, this concludes my statement. I would be happy to answer any questions that you or the Members of the Subcommittee may have.

Contact and Acknowledgments

For further information regarding this testimony, please contact Linda Calbom, Director, Financial Management and Assurance, at (202) 512-9508. Individuals making key contributions to this testimony included Mark P. Connelly, Edda Emmanuelli-Perez, Lisa M. Knight, W. Stephen Lowrey, Miguel A. Lujan, Mark F. Ramage, Shannah B. Wallace, and McCoy Williams.

Attachments

Mining Law Administration Program (MLAP) Time Worked Versus Time Charged



Mining Law Administration Program (MLAP) Time Worked Versus Time Charged

Time Worked and Charged to MLAP	Percent
Worked and charged the same time to MLAP	49.7
Worked less time than charged to MLAP	38.9
Worked more time than charged to MLAP	11.4
Total	100.0

Explanations for Overcharging Labor to Mining Law Administration Program (MLAP)



Explanations for Overcharging Labor to Mining Law Administration Program (MLAP)

Reasons Cited for MLAP Overcharges	Percent
Time charged based on funding allocation (funds were available)	56.3
Time charged based on directions of supervisor	27.5
Time charged based on directions of budget officer	22.1
No other codes available to charge	11.1
Other	38.1

Examples of Improperly Charged Contracts to Mining Law Administration Program (MLAP)



Examples of Improperly Charged Contracts to Mining Law Administration Program (MLAP)

- **\$30,000 for the appraisal of federal coal leaseholds,**
- **\$25,000 for an attorney in an Equal Employment Opportunity settlement for an employee who had not worked on MLAP tasks,**
- **over \$34,000 for janitorial services, and**
- **\$2,000 for a habitat survey of a threatened and endangered species of butterfly in an area with no active mining.**

(190009)

Ordering Information

Orders by Internet

For information on how to access GAO reports on the Internet, send an e-mail message with “info” in the body to:

Info@www.gao.gov

or visit GAO’s World Wide Web home page at:

<http://www.gao.gov>

To Report Fraud, Waste, and Abuse in Federal Programs

Contact one:

Web site: <http://www.gao.gov/fraudnet/fraudnet.htm>

E-mail: fraudnet@gao.gov

1-800-424-5454 (automated answering system)