Memorandum from the Office of the Inspector General

August 7, 2008

Anda A. Ray, WT 11A-K

FINAL REPORT – INSPECTION 2007-11428-06 – REVIEW OF FOOSHEE PASS CAMPGROUND LICENSE AGREEMENT

At the request of the Chief Financial Officer's (CFO) office, we initiated reviews of selected marina and campground contracts to determine whether (1) payments to TVA were accurate and timely and (2) key provisions of the license agreement were complied with. This report presents the results of our work regarding Fooshee Pass Campground (FPC).[1] The Vice President (VP) of Environmental Stewardship and Policy (ES&P) specifically requested FPC be included as one of the marinas/campgrounds reviewed. Under the terms of the license agreement, FPC was provided use of the TVA land, the shore land, and mobile home workshop for commercial recreation purposes and the benefit and enjoyment of the general public. TVA was to be paid a fee for the use of the property based on a percentage of gross revenue. TVA refers to these contracts as "percentage of gross" contracts.

In summary, we found the payments were calculated in accordance with payment terms, and FPC provided the required supporting documentation. However, the 2006 payment was not submitted in accordance with the dates outlined in the agreement. In addition, while TVA accounting practices[2] provide guidance on the invoicing and receiving of lease and license payments, they contain no documented guidance on the management of the "percentage of gross" contracts (i.e., licenses and leases) including the verification of the accuracy of Licensee and Lessee payments. While not reflected in license and lease agreements for campgrounds and marinas, ES&P has implemented new payment control activities requiring supporting documentation for revenues. We also found nothing to indicate FPC was not in compliance with other key provisions of the license agreement pertaining to (1) installation of improvements, permanent structures, and equipment; and (2) commercial general liability insurance.

BACKGROUND

On March 29, 1996, TVA entered into Contract RLR-11403 licensing the use of FPC.

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[1] TVA entered into a license agreement for the operation of FPC. The Licensee will be referred to throughout this report as FPC.

[2] The applicable TVA accounting practices were External Billing (Standard Principles and Practices [SPP] 13.7) and Accounts Receivable (SPP 13.15).

The contract is an open-ended agreement with either TVA or the Licensee having the right to terminate the agreement at any time. The licensed premises located in Ten Mile, Tennessee, is owned by TVA, Tract No. XWBR-46PT, and includes all existing facilities, equipment, and the mobile home workshop as well as the shore lands. The Licensee is permitted use of the land, the shore land, and mobile home workshop for commercial recreation purposes and the benefit and enjoyment of the general public. The campground has approximately 55 campsites.

Per the agreement, the FPC Licensee:

- Is to pay TVA a license payment equal to three percent of gross income. FPC was required to make the payment no later than January 20th for the previous operating year ending December 31st.
- Must support the January 20th payment with a report of gross income for the previous annual period which, at a minimum, contained a breakdown of revenue for campsite rental, day use fees, launching fees, and miscellaneous income.
- Is to operate and maintain, at a minimum, (1) the campground and day use area from May 1st through September 30th and (2) the boat ramp year-round.
- Has the right to make improvements, erect structures, and install equipment on the premises upon receipt of advanced written approval from TVA. The Licensee was not to install or permit the installation of porches, equipment storage sheds, appliances, or similar structures. In addition, FPC could not use or permit the use of mobile homes or campers for residences. However, upon TVA's advanced written approval, one residence could be established for a resident manager along with appropriate equipment storage facilities.
- Is to maintain commercial general liability insurance.
- Could allow seasonal campsite rentals with durations up to eight months. However:
    - Seasonal campsite rentals could not occupy more than 75 percent of the campsites.
    - TVA's advanced written approval of detailed operational guidelines was required.
    - The remaining 25 percent of the campsites could not be rented for more than 21 consecutive days.
    - Campsites below the maximum shoreline contour (elevation 750 mean sea level) may not be rented between November 1st and March 31st for more than 14 consecutive days.

TVA has developed a campground compliance committee with the objective of developing a consistent campground contract compliance process. According to TVA personnel, issues being discussed include a methodology of ensuring campsites at licensed/leased campgrounds are available to the general public for use.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to determine whether (1) payments to TVA were accurate and timely and (2) key provisions of the license agreement were complied with. To achieve our objectives, we:

- Identified and documented key agreement provisions by (1) reviewing the license and (2) interviewing key TVA personnel.
- Interviewed applicable TVA ES&P employees to (1) determine whether payments have been made to TVA under the license agreement, (2) determine whether TVA granted written approval for any modifications to the property, (3) identify key control activities, (4) ascertain whether any opportunities exist to improve contract language and controls, and (5) identify any other potential issues pertaining to the license.
- Obtained supporting documentation for license payments to determine whether license payments have been made in accordance with the contract provisions.
- Obtained and reviewed documentation to ensure commercial general liability insurance was maintained as required by the agreement.
- Performed a site visit and walkdown of the property to (1) document FPC operations, (2) review documentation applicable to the key contract provisions, and (3) visually observe structures and equipment. An ES&P employee escorted us on our walkdown of FPC.

The scope of the inspection included payments to TVA from FPC and other license provisions from January 1, 2005, through December 31, 2007. This inspection was conducted in accordance with the "Quality Standards for Inspections."

FINDINGS

Our review found nothing to indicate that FPC was not in compliance with the payment terms and other key license agreement provisions we selected for review with one exception. The 2006 payment was not submitted in accordance with the due date specified in the agreement. In addition, our review of TVA policies and procedures found TVA accounting practices External Billing (SPP 13.7) and Accounts Receivable (SPP 13.15) provide guidance on the invoicing and receiving of lease and license payments. However, we found no documented guidance on the management of the "percentage of gross" licenses and leases including the verification of the accuracy of Licensee and Lessee payments. While not reflected in the agreements, ES&P has implemented new payment control activities requiring supporting documentation for revenues.

ACCURACY AND TIMELINESS OF PAYMENTS

We reviewed FPC revenue and payment documentation for the 2005, 2006, and 2007 operating seasons. ES&P personnel provided invoices, payment records, and revenue reports submitted by FPC to TVA to calculate the payment amount. During our walkdown of the facilities, we reviewed FPC's receipts and handwritten revenue records.

Our review found the 2005 receipts agreed with the revenue records of FPC as well as the revenue report submitted to TVA. For 2006, the receipts reviewed did not agree with the revenue records of FPC nor did they match the revenue report submitted to TVA. Upon reconciliation of the differences, it appears that FPC overpaid TVA an immaterial amount for the 2006 operating season.

At the time of our review, the 2007 revenue report had been submitted to TVA but lacked the supporting documentation (e.g., sales tax returns, revenue listing, and expense deductions) and payment. We reviewed the 2007 receipts which agreed with the revenue records of FPC. However, this amount is less than the amount submitted on the revenue report to TVA and is immaterial.

As previously mentioned, FPC was to submit a revenue report along with the three percent payment by January 20th for the previous operating season. During our review it was noted that the 2006 payment, while made to TVA with supporting documentation, was not submitted in accordance with the payment dates established in the agreement. The 2006 payment and revenue report were not submitted to TVA until September 2007 after an invoice was submitted by TVA in July 2007. As of April 3, 2008, the 2007 revenue report had been submitted but lacked the supporting documentation and payment. The table below outlines FPC payment information.

Operating Season	Date Invoiced	Date Payment Due Per Invoice	Date Payment Made	Amount of Payment
2005			August 11, 2005	$1,401[3]
2005	November 21, 2005	December 21, 2005	December 10, 2005	$519[3]
2006	July 17, 2007	August 15, 2007	September 5, 2007	$1,642

We noted that TVA does not consider the payment due January 20, 2008, late because TVA requested process changes. While the contract had not been modified and states that payments should be made by January 20th, during 2007 TVA Operations' Business Services requested all "percentage of gross" entities to send supporting documentation along with their revenue report. Business Services would then invoice based on that information. Therefore, the January 20th payment due date may no longer be applicable, and Business Services is working with Fooshee Pass to implement the new control requirements.

Policies and Procedures

TVA accounting practices External Billing (SPP 13.7) and Accounts Receivable (SPP 13.15) provide guidance on the invoicing and receiving of lease and license payments. We found no documented guidance on the management of the "percentage of gross" licenses and leases including the verification of the accuracy of Licensee and Lessee payments. TVA Operations' Business Services personnel recently took over the invoicing and payment process for the "percentage of gross" licenses and leases from the

[3] FPC closes annually on September 30th. Therefore, the payment for 2005 could be determined and paid before the end of the year.

individual watershed teams. According to Operations' Business Services personnel, key control activities relating to the payment process were implemented in 2007 including requiring Licensees and Lessees to provide gross revenue documentation prior to being invoiced by TVA. These new activities appear to address certain invoicing and payment controls. However, the licenses and leases have not been amended to reflect these changes.

COMPLIANCE WITH KEY CONTRACT PROVISIONS

We performed a walkdown of FPC and found no (1) permanent residences, with the exception of a manager's residence which is allowed under the contract; (2) buildings or structures on the premises that violate contract provisions; (3) improvements or modifications had been made that were not approved in advance by TVA. In addition, the campground appeared well maintained and clean as shown in the pictures below. Per ES&P personnel, there have been no problems with the campground or contract.

According to campground management, the campground and day use area are available for use from May 1st through September 30th. The receipts we reviewed were not dated outside this timeframe. In addition, the campground was closed during our offseason site visit and no campers were present. These observations indicate that FPC appears to be in compliance with the length-of-stay provisions in the contract.

FPC has submitted two separate requests to make improvements to the campground since the inception of the contract. These requests were submitted to TVA with the request that the improvements be made at the campground's expense in lieu of required license payments for the period. These requests were submitted in advance to TVA and TVA did approve, in writing, the plans and waiver of payment. During the site visit, it was noted by auditors and ES&P personnel that these improvements had been implemented.

During the site visit, we also reviewed and obtained copies of the required commercial general liability insurance policies for coverage through April 2008. The insurance policies reviewed appeared to be in compliance with the contract requirements.

RECOMMENDATIONS

We recommend the VP, ES&P:

- Implement written guidance, as deemed necessary, regarding the management of recreational facilities' "percentage of gross" contracts.
- Determine whether licenses and leases should be amended based on the implementation of payment control activities. ES&P personnel also plan to consider any opportunities for improvement identified by the campground compliance committee.

These recommendations also apply to the other six "percentage of gross" contracts in which separate reports were issued.

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This final report is for your review and final action. Please advise us of your planned actions (i.e., management decision) in response to our findings within 60 days of the date of this report.

Information contained in this report may be subject to public disclosure. Please advise us of any sensitive information in this report that you recommend be withheld.

If you have any questions, please contact Michael A. Driver, Project Manager, at (423) 751-8158 or Gregory C. Jaynes, Deputy Assistant Inspector General, Inspections, at (423) 751-7821. We appreciate the courtesy and cooperation received from your staff during this review.

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