



Memorandum from the Office of the Inspector General

September 7, 2011

Tom Kilgore, WT 7B-K
Anda A. Ray, WT 11A-K

**REQUEST FOR FINAL ACTION – INSPECTION 2010-13407 – SECTION 26A
PROCESS REVIEW**

Attached is the subject final report for your review and final action. Your written comments, which addressed your suggestions, management decision and actions planned or taken, have been included in the report. Please notify us within one year from the date of this memorandum when final action is complete.

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 or wish to discuss our findings, please contact me at (865) 633-7450; Lisa H. Hammer, Director, Financial and Operational Audits, at (865) 633-7342; or Greg R. Stinson, Director, Inspections, at (423) 365-2336. We appreciate the courtesy and cooperation received from your staff during the inspection.

Robert E. Martin

Robert E. Martin
Assistant Inspector General
(Audits and Inspections)
ET 3C-K

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OIG File No. 2010-13407



Tennessee Valley Authority
Office of the Inspector General

Inspection Report

SECTION 26A PROCESS REVIEW

Inspection 2010-13407
September 7, 2011

ACRONYMS AND ABBREVIATIONS

E&SER	Employee & Stakeholder Environmental Relations
E&T	Environment and Technology
L&SM	Land and Shoreline Management
OIG	Office of the Inspector General
PER	Problem Evaluation Report
RSLR	Resource Stewardship Land Records
TVA	Tennessee Valley Authority
V&E	Violations and Encroachment

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MEMORANDUM DATED AUGUST 12, 2011, FROM ANDA A. RAY TO
ROBERT E. MARTIN



Inspection 2010-13407 – Section 26a Process Review

EXECUTIVE SUMMARY

Why the OIG Did This Review

This review was performed at the request of Tennessee Valley Authority's (TVA) Chief Executive Officer. The objective of this review was to evaluate key aspects of TVA's Section 26a permitting process for effectiveness and efficiency. To achieve our objective, we (1) reviewed the cost recovery process to determine whether fees were fairly and consistently applied and to identify opportunities for improvement, (2) examined customer survey results to determine whether results were utilized to improve the permitting process, and (3) examined fee waivers for standard applications to determine whether they were properly approved. The scope of the review included the documented 26a process as of July 1, 2010, the current process as described by Land and Shoreline Management (L&SM) personnel, and all 26a applications submitted during the period of October 1, 2007, through June 22, 2010, including related invoices and costs associated with the applications. In addition, we examined key internal controls for processing applications.

What the OIG Found

We identified improvements that could be made regarding the effectiveness and efficiency of the 26a permitting process. Specifically, we determined (1) costs may not be fairly and consistently applied and that opportunities exist to improve the cost-recovery process, (2) processes could be improved for examination and utilization of customer satisfaction survey results, and (3) fee waivers were not properly documented. We also identified two other issues related to the segregation of duties for receiving and refunding application fees.

In addition, we determined that while L&SM has a defined listing of estimated ranges for how much an applicant may pay, a listing of predetermined standard fees to be charged, methods for tracking application costs and cycle time and means for assessing customer satisfaction, utilization of these tools could be improved.

We recommend the Environment and Technology Senior Vice President, in conjunction with other organizations:

- Establish a process for (1) reconciling application classifications between the Resource Stewardship Land Records and Oracle, (2) ensuring costs for fee-waived cost-recoverable applications are being invoiced, and (3) identifying and closing short codes for closed applications.
- Revise the (1) current guidance to include the specific costs to be recovered and how those costs are to be calculated and (2) TVA invoice detail to ensure compliance with TVA's Information Management Policy.



Inspection 2010-13407 – Section 26a Process Review

EXECUTIVE SUMMARY

- Institute a formal process to periodically review and update standards for fees, cost ranges, and cycle time.
- Implement a formal process for assessing survey results and utilizing suggested process improvements.
- Implement and/or strengthen controls to mitigate the risk of not retaining appropriate documentation for all fee waivers.
- Implement controls addressing the lack of segregation of duties in the process for receiving and refunding funds to reduce the risk of fraud.

TVA management agreed with our recommendations and has taken, or is taking, actions to address these recommendations. TVA management also suggested clarifying changes to the report. We revised the report as necessary based on those comments. See the Appendix for TVA management's complete response.

BACKGROUND

The Tennessee River system is a network of dams and reservoirs developed by Tennessee Valley Authority (TVA) that generates power, controls flooding, and provides recreational opportunities. Under Section 26a of the TVA Act of 1933, TVA has the authority to regulate land use and development along the river system's 11,000 miles of public shoreline. Section 26a requires that TVA's approval be obtained prior to the construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public land or reservations along the Tennessee River and its tributaries. Approvals for construction under Section 26a are considered federal actions and are therefore subject to the requirements of the National Environmental Policy Act and other federal laws. Construction projects requiring a Section 26a permit are classified as minor and major projects. Minor construction projects include structures such as boat docks, piers, boathouses, and shoreline-based shelters. Major construction projects would include commercial marinas, community docks, barge terminals, bridges, culverts, and other structures.

Permitting Process

TVA's Environment and Technology (E&T) organization is responsible for TVA's environmental, natural resource stewardship, and research and development programs. Land and Shoreline Management (L&SM), one of E&T's business units, directs and manages TVA land and shoreline programs. L&SM is responsible for the stewardship of TVA's natural and recreational resources, including the permitting of construction activities under Section 26a. During our review, L&SM was in the process of reorganizing and implementing a new leadership structure. This reorganization included consolidating the 26a process into one organization, which, according to E&T, was done to address the issue of consistent applications of both guidelines and cost recovery across all reservoirs. Permits are issued by L&SM's Reservoir Land Use and Permitting group.

To apply for a 26a permit, applicants must provide information such as a project description, site plan, and location map in addition to a completed permit application. These documents are collected by L&SM personnel and retained in the Resource Stewardship Land Records (RSLR) system. Applications are not processed if it is determined a permit is not required because the project scope does not create an obstruction affecting navigation, flood control, or public land or reservations. In addition, applications may be returned if the applicant does not include all necessary information or denied for reasons such as site constraints or lack of land rights. Fees, which are assessed when the application is submitted online or to a Reservoir Land Use and Permitting representative, may be refunded if an application is returned.

During the permitting process, environmental and cultural issues may need to be addressed before the permit can be issued. E&T's Environmental Permits and Compliance group is responsible for providing consultation and guidance in these areas.

Fee Structure

Section 26a applications are categorized as standard or nonstandard based on purpose and/or complexity. According to the Stewardship Guidelines, which govern the Section 26a permitting process, processing fees are assessed for both standard and nonstandard applications. These standard fees were established in 1995 to generally cover the cost of site investigations, record searches, and permit preparation as well as other administrative activities associated with Section 26a applications (see Table 1).

Section 26a Action	Standard Fee
All applications for construction activities on the Tennessee River or its tributaries not located on a reservoir.	\$100
Applications from property owners for docks, boathouses, bank stabilization, or other related minor shoreline alterations and applications for transfer of ownership of existing permitted facility.	\$200
Applications from local, state, or federal agencies for permits to construct, change, or operate major public facilities.	\$500
Applications from property owners, commercial businesses, or industries for permits to construct or operate marinas, barge terminals, community facilities, bridges, or for other major shoreline alterations.	\$1,000

Table 1

For activities that are determined to be nonstandard, full-cost recovery is required if processing costs are expected to exceed the standard fees. In addition to the standard fees, nonstandard applications may also be subject to the cost of detailed analyses, such as special biological assessments, archaeological surveys, or environmental assessments. Nonstandard applications are typically assessed a standard fee of \$500 or \$1,000 based on the type of Section 26a action.

TVA publishes the cost estimates located in Table 2 for cost-recoverable applications.

Section 26a Action	Typical Cost
Modifications to existing projects, new projects requiring limited additional special studies, or actions not covered by a U.S. Army Corps of Engineers general permit, typically exceed the standard fee.	\$1,000 - \$3,000
Projects requiring in-depth or additional review of at least one environmental or programmatic issue.	\$5,000 - \$10,000
Projects that require in-depth or additional review of multiple environmental or programmatic issues. An environmental assessment ¹ may be required.	Up to \$15,000
Projects that require in-depth, detailed studies for multiple or significant environmental or programmatic issues. An environmental assessment or Environmental Impact Study ² may be required.	\$25,000 or significantly more

Table 2

Fees may be waived for Section 26a projects where TVA is a partner in the project, a waiver is in the public interest, or the project has a corresponding benefit to TVA. In March 2009, a standard application fee waiver was authorized for preapproval of applications from the State Department of Transportation, shoreline or stream bank stabilization projects, Natural Resources Conservation Service projects, sewage pump-out facilities at marinas, and fish attractors. Waivers for other projects or types of fees must be requested from the L&SM Vice President.

L&SM coordinates with TVA's Business Services to track costs for permits deemed as cost recoverable. Business Services utilizes the Oracle system to assign a short code and track these costs and to invoice applicants for Section 26a permits. Permits are issued once the application is processed, any necessary environmental and cultural reviews are performed, and all fees have been paid.

¹ An environmental assessment provides sufficient evidence and environmental analysis to determine if there are potential significant environmental impacts.

² An Environmental Impact Statement/Study is a detailed National Environmental Policy Act document prepared when a proposed action or alternatives have the potential for significant environmental impacts and/or significant public controversy regarding those impacts.

TVA contracts with Abt SRBI Inc., a global research and strategy organization to assess customer satisfaction of the permitting process. The survey has been conducted since 2008 and is currently performed biannually. The July 2010 survey showed general satisfaction with the 26a process.

Monitoring of Violations and Encroachments

E&T's Employee & Stakeholder Environmental Relations (E&SER) organization is responsible for the violations and encroachment (V&E) process. This process, according to E&SER, includes investigation of unauthorized uses or activities on TVA land and/or potential actions in disregard to TVA regulations and policies that occur on TVA lands or lands where TVA possesses land rights. According to L&SM, potential V&Es are currently identified through discovery by L&SM personnel when performing site inspections for an application or notification to L&SM by other individuals, such as neighbors of the potential violator. These V&Es could be violations of Section 26a.

In the past, shoreline inspections were performed annually for a sample of permits that were issued in the previous year. According to E&SER, plans are under way to conduct shoreline inspections again this fiscal year. According to L&SM personnel, the process for identifying V&Es is currently being evaluated for process improvements.

According to E&SER, there are two systems, the RSLR and the Automated Land Information System, which house V&E information. For more efficient tracking of V&Es, E&SER personnel are currently using SharePoint and the Maximo³ system to house information related to confirmed V&Es. If the V&E is determined to be permissible and voluntary compliance is obtained, the Regional Land Use and Permitting group will proceed with permitting the property. If the V&E is not permissible or voluntary compliance is not achieved, L&SM sends the potential V&E along with a recommendation to E&SER. When potential V&Es are forwarded from L&SM to E&SER for further investigation, E&SER personnel add the item to an internal workflow list and prioritize it based on standard criteria. E&SER investigates to confirm the issue is a V&E and generates a Problem Evaluation Report (PER) for the Management Review Committee's consideration. Issues are discussed weekly by the Management Review Committee, including the L&SM Vice President and his direct reports as well as the E&SER manager and other personnel. The Management Review Committee is responsible for approving and assigning PERs to the responsible L&SM manager and approving and assigning corrective action plans and time lines assigned to the PERs. L&SM managers and their staff implement the corrective action plan to resolve the V&E. E&SER validates V&E resolution before the PER is closed in Maximo.

A corrective action plan may be developed to allow some V&Es of significant value to remain at their present location, subject to specific terms and conditions. In these instances, a sufferance agreement will be entered into by TVA and the

³ Maximo is the system utilized to house the PER and corrective action program data.

party owning the structure. The sufferance agreement normally contains a condition stating that, if warranted, TVA can request the structure to be removed. According to the September 2010 Stewardship Guidelines, a minimum fee of \$400 is assessed annually for these types of agreements. In addition, administrative costs that typically consist of fees related to field inspections, contract compliance, routine record keeping, and appraisals are also assessed for sufferance agreements. The applicant receives a copy of the sufferance agreement, which is considered a written legal instrument capable of being recorded at the county courthouse. According to L&SM personnel, the sufferance agreements process has been reviewed by a peer team, and changes to the process are currently being reviewed by management for approval.

During the period of October 1, 2007, through June 22, 2010, there were approximately 5,200 applications for Section 26a permits documented in TVA's RSLR system. Approximately 4,800 of these applications were considered approved. According to Business Services, Section 26a permits generated approximately \$2 million during October 1, 2007, through June 30, 2010.

OBJECTIVE, SCOPE, AND METHODOLOGY

This review was performed at the request of TVA's Chief Executive Officer. The objective of this review was to evaluate key aspects of TVA's Section 26a process for effectiveness and efficiency. To achieve our objective, we (1) reviewed the cost-recovery process to determine whether fees were fairly and consistently applied and to identify opportunities for improvement, (2) examined customer survey results to determine whether results were utilized to improve the permitting process, and (3) examined fee waivers for standard applications to determine whether they were properly approved. In addition, we examined key internal controls for processing applications.

The scope of the review included the documented 26a process as of July 1, 2010, the current process as described by L&SM personnel, and all 26a applications submitted during the period of October 1, 2007, through June 22, 2010, including related invoices and costs associated with the applications. To achieve our objective, we:

- Interviewed E&T's L&SM and E&SER as well as Business Services personnel to (1) gain a better understanding of the 26a permitting, invoicing, and monitoring processes and/or (2) obtain concerns and/or ideas pertaining to potential process improvements.
- Reviewed policies, procedures, and regulations, including the TVA Act and Stewardship Guidelines, to gain a better understanding of the 26a permitting, invoicing, and monitoring processes.

- Identified and tested key control activities for nine randomly selected 26a permit applications with varying project statuses.⁴
- We classified the 5,241 applications by characteristics, such as standard fee waived and cost recoverable, and identified 1,022 applications containing standard fee waivers and 600 cost-recoverable applications.⁵ From those populations, we selected the following samples:⁶

Application Type	Population	Sample
Standard Fee Waived	1,022	48
Cost Recoverable	591	48
Misclassified Cost Recoverable	9	4
Total Cost Recoverable	600	52

- Utilized a critical error rate of 6 percent and a 95 percent desired confidence level to select the above random sample for testing:
 - Approvals of fee waivers for 48 out of 1,022 applications where the standard fee was waived.
 - Whether cost-recovery fee amounts were fairly and consistently applied for 48 out of 591 cost-recoverable applications.
- Judgmentally selected a sample of four out of nine cost-recoverable applications with a fee of \$500 or more⁷ that were not previously classified as cost recoverable to determine whether fee amounts were fairly and consistently applied.
- Reviewed documentation related to cycle time for processing cost-recoverable applications.
- Examined applicant's process suggestions included in the July 2010 customer satisfaction survey prepared by Abt SRBI Inc. for the 26a permitting process.

This review was conducted in accordance with the "Quality Standards for Inspections."

FINDINGS

We identified improvements that could be made regarding the effectiveness and efficiency of the 26a permitting process. Specifically, we determined (1) costs may not be fairly and consistently applied and that opportunities exist to improve the cost-recovery process, (2) processes could be improved for examination and

⁴ Project statuses include, but are not limited to, active applications, denials, and withdrawn applications.

⁵ The sampling characteristics could apply to the same application; therefore, some applications had the probability of being chosen for both samples.

⁶ The remaining applications were neither fee-waived nor cost recoverable and were not included in testing.

⁷ A fee of \$500 or more is the standard fee charged for cost-recoverable applications.

utilization of customer satisfaction survey results, and (3) fee waivers were not properly documented. We also identified two other issues related to the segregation of duties for receiving and refunding application fees.

Although L&SM has a defined listing of estimated ranges for how much an applicant may pay, a listing of predetermined standard fees to be charged, methods for tracking application costs and cycle time and means for assessing customer satisfaction, utilization of these tools could be improved.

COSTS MAY NOT BE FAIRLY AND CONSISTENTLY APPLIED

To determine how fees were assessed and whether fees were fairly and consistently applied, we interviewed L&SM and Business Services personnel and tested a sample of 52 out of 600 applications deemed as cost recovery. We concluded that costs may not be fairly and consistently applied for cost-recoverable applications. Specifically, not all costs were invoiced to the applicants, and inconsistencies existed in the costs that were invoiced.

Not All Cost-Recoverable Applications Were Invoiced to the Applicant

When applications are entered into the RSLR system, they are categorized as standard or nonstandard based on purpose and/or complexity. Applications are then assigned a short code based on the categorization. Standard applications are assigned a generic short code, and cost-recoverable applications are assigned an application-specific short code. Costs assigned to the generic short codes cannot be tracked; whereas, costs assigned to the application-specific short codes are tracked and invoiced by Business Services personnel. We determined that not all cost-recoverable applications were invoiced to the applicant due to (1) misclassification of applications and (2) inaccurate assignment of short codes.

Misclassification of Applications

We identified 9 of the 5,241 applications that were misclassified within the RSLR system. These applications were classified as not being cost recoverable; however, we determined costs should have been recovered for these applications based on the standard fee amount that was charged⁸ and discussions with L&SM personnel. Four of these applications were included in the sample of 52 cost-recoverable applications. We determined that two of those four were not classified as cost recoverable by Business Services. According to Business Services personnel, classification of applications is communicated to them by L&SM personnel. We also identified 1 of the remaining 48 sampled items where the application was classified as cost recoverable by L&SM; however, not by Business Services. Based on the results of our testing, TVA is not recovering the costs that it should recover.

⁸ Applicants were charged a fee of \$500 or more, which is the standard fee charged for cost-recoverable applications.

Inaccurate Assignment of Short Codes

We also identified 18 of 52 sampled applications where cost-recoverable fees were not invoiced to the applicants. These applications were marked as "fee waived" by L&SM personnel, indicating that standard fees were waived for these applications. Due to a system configuration, when standard application fees are waived, the system assigns a generic short code to the application. The generic short code indicates to Business Services that all fees, including cost recoverable, are to be waived so the applicants are not billed.

According to L&SM personnel, cost-recoverable fee-waived applications are not assigned a unique short code but are instead charged to a generic short code since, in most instances, there are no fees associated with these applications other than the standard fee, which is waived. We were also informed by L&SM personnel that costs for performing an environmental assessment would be recouped for projects where cost-recovery fees were waived. In these instances, a specific short code would be created for recovery of environmental assessment costs. However, we identified 1 of the 18 fee-waived applications in which a cost estimate exceeding the standard fee was documented, which indicates that TVA may not be recovering the costs that it should recover.

Since costs for these 18 applications are not tracked, there is no way to determine the total amount of costs that have been incurred during the processing of the fee-waived application. In addition, if it cannot be determined whether costs for fee-waived applications exceeded the standard fee, it would be difficult to determine whether all or partial costs for environmental assessments should be charged to the applicant.

Inconsistencies Existed in Costs Invoiced to Applicants

As previously stated, cost-recoverable applications may be subject to the cost of detailed analyses, such as special biological assessments, archaeological surveys, or environmental assessments. As shown in Table 2 in the Background section, cost estimates communicated to the public for nonstandard applications range from \$1,000 to \$25,000 or more, depending on the type of action. While these ranges are communicated to the applicants, they do not provide a breakdown of the types of costs that may be required for a specific permit. No specific guidance exists that details the costs that may or may not be included. Because of this, inconsistencies exist in the charges invoiced to the applicant. For example, our sample of 52 out of 600 cost-recoverable applications and corresponding invoices revealed that four application invoices included charges for vehicle usage. According to L&SM, some personnel may not charge vehicle usage costs to the invoice, whereas some may charge the invoice when mileage exceeds a certain amount.

OPPORTUNITIES EXIST TO IMPROVE THE COST-RECOVERY PROCESS

We determined that opportunities exist to improve the cost-recovery process. Specifically, we determined there was a lack of (1) short code closure resulting in costs being invoiced to the applicant after permit issuance and (2) a formal process for reviewing standard fee, cost range, and cycle time standards on a periodic basis. Also, we determined the process for verifying that all costs are recovered is not in compliance with TVA policy.

Lack of Short Code Closure

In May 2010, L&SM revised its policy to require that all application fees be collected prior to the issuance of a permit. To ensure this occurs, L&SM personnel are responsible for notifying Business Services when applications are closed, indicating that work is complete. Business Services is then responsible for closing the corresponding short codes to ensure that no additional costs can be invoiced to the applicant. Of the 52 sampled applications, there were 17 closed applications that had an open short code. Of those 17, we identified 2 applications for which the May 2010 requirement date was applicable where a permit was issued before all fees were received. According to the L&SM Vice President, prior to E&T's recent reorganization, training on proper short code usage was to be provided to the staff. However, this training did not occur. Currently, Business Services personnel are in the process of identifying and addressing any closed applications having open short codes.

Lack of Formal Process for Reviewing Cost and Cycle Time Standards

Around 2008, the Section 26a peer team (1) reviewed the cost ranges assessed for cost-recoverable applications and (2) developed a cycle time decision model to assess the cycle time for processing applications and to aid in setting application completion targets. Cost ranges were reviewed again in 2010 by another L&SM peer team. However, according to L&SM personnel, there is no formal process in place for periodically assessing the ranges, fees, or cycle time standards.

As previously stated, Business Services personnel track costs for permits deemed as cost recoverable. Of the 28 cost-recoverable applications where costs were tracked by Business Services personnel, five contained costs that were less than the standard fee that was charged. According to Business Services personnel, monies are not refunded⁹ if these costs are less than the standard fee; rather the difference is accounted for as "profit." Standard fees are assessed to generally cover the cost of administrative activities associated with processing Section 26a applications, not to generate revenue. In addition, we identified two applications in which the invoiced amount was \$9,600 and \$17,300 less than the estimates provided the applicant.

⁹ For instance, if the fee charged was \$1,000 and the actual project costs totaled \$600, the difference of \$400 is not returned to the applicant.

We also noted that 25 of the 52 sampled items were processed within the 90-day cycle time frame that was determined by the 2008 peer team as the expected time frame in which a typical nonstandard application could be processed. Sixteen of those twenty-five were processed within 60 days. Of the remaining 27 applications, 19 were not completed within the 90-day time frame. For nonstandard applications requiring more in-depth reviews, the peer team established cycle time modifiers ranging from 15 days to 3 years. These modifiers would allow L&SM personnel to add days to the 90-day base cycle time due to specific circumstances, such as requirement of Board approval. Timeliness of application processing is based on whether the actual number of days to complete an application met or was less than the 90-day base cycle time and any additional modifiers. Of the 19 that were not completed within the 90 days, 17 had a cycle time modifier assigned to the base number of days. Approximately 82 percent of those applications were completed within seven days up to about two years prior to the revised cycle time. The remaining two projects were not completed within the cycle time and had no cycle time modifier or explanation.

Based on the above, fees assessed to cover administrative costs may be in excess, cost estimates are well below the published ranges, and the majority of cost-recoverable applications were processed well within the established cycle times. To accurately assess fees, cost estimates and timeliness of application processing as well as to improve efficiency, it is important to periodically assess fees, cost ranges, and cycle time, including modifiers, for reasonableness.

Noncompliance With TVA Policy

To verify costs to be charged to an applicant, Business Services provides L&SM personnel with a monthly TVA invoice detail report containing costs charged to the applicant for the respective month. The report contains information such as the name of the employee and/or contractor who charged time to the application as well as the total dollars charged for that individual. According to TVA's Information Management Policy, personnel and financial information and/or records are considered restricted personally identifiable information; therefore, L&SM personnel should not have knowledge of other employees' salaries.

Since L&SM personnel should have no knowledge of salaries, it would be difficult to verify whether all costs were included on the unreleased invoice report. However, L&SM personnel should have knowledge of the amount of time it takes to process applications; therefore, it would be more beneficial for them to review and verify the number of hours charged to the project rather than total dollars charged. In addition, this would lessen the risk of personnel having knowledge of restricted personally identifiable information.

CUSTOMER SURVEY RESULTS COULD BE BETTER UTILIZED

As previously stated, E&T contracts with Abt SRBI Inc. to conduct a customer satisfaction survey of Section 26a applicants. According to the July 2010 survey results, 86 percent of the 200 survey respondents were satisfied with the permitting process, and 78 percent were satisfied with the time it took to process their applications. Approximately half of the respondents offered no suggestions for improvement, and 20 percent offered service-related suggestions such as faster response time.

Results of the survey are provided to L&SM personnel; however, we could not determine whether the survey was utilized to improve the process. Survey results were not utilized in 2008 when assessing the cycle time for processing applications because the survey was conducted after the peer team development of the cycle time decision model. We found no evidence the survey results were being used to improve the permitting process.

FEE WAIVERS WERE NOT PROPERLY DOCUMENTED

According to the Stewardship Guidelines, fees may be waived for 26a applications when there is a corresponding benefit to TVA, TVA is a partner in a project, or a waiver is in the public interest. In addition, in some instances costs incurred under cost-recoverable applications may also be waived.

Between October 1, 2007, and June 22, 2010, 1,022 of 5,241 applications had the standard fee waived. According to L&SM personnel and the Stewardship Guidelines, there are two types of documentation that could be used as evidence of fee-waiver approval. Effective March, 2009, Section 4.2.10.1 of the Stewardship Guidelines is required to be attached to the RSLR if the application meets the preapproval criteria. If the application fee is waived but does not meet the preapproval criteria, a waiver approval form is required to be completed and attached to the reservoir land record within the RSLR. Subsequent to testing, the Stewardship Guidelines were updated to reflect that L&SM senior managers have the authority to approve fee waivers up to \$1,000. We selected a sample of 48 out of 1,022 applications that had the standard fee waived. We identified the applicant and/or purpose of the project to determine whether the application was properly preapproved. In addition, we examined the fee-waiver documentation to ensure that appropriate evidence of the approval was included in the RSLR system. We determined that:

- Forty-six of the applications met the preapproval criteria. Of the two that did not, one had approval from the L&SM Vice President as per the Stewardship Guidelines, and one was not considered to be an obstruction affecting navigation, flood control, or public land or reservations and therefore required no permit.

- Seven of the applications that met the preapproval criteria had either no fee-waiver approval documentation or did not have appropriate evidence of approval in the RSLR system. Five of the seven had waiver approval forms or other documentation attached rather than the required preapproval criteria attachment. The other two applications were initiated in fiscal year 2010 and met the preapproval criteria; however, there was no approval documentation included in the RSLR system.

To evidence that granting of fee waivers is an objective process, it is important to retain appropriate documentation that includes the reason for the waiver.

SEGREGATION OF DUTIES COULD BE IMPROVED

In addition to our findings above, we identified two control gaps related to segregation of duties. As previously stated, applications and fees may be submitted online or to a Reservoir Land Use and Permitting representative. Fees are collected by Business Support Representatives within the Reservoir Land Use and Permitting group, who are also responsible for forwarding funds to TVA Treasury Management. However, according to Reservoir Land Use and Permitting personnel, controls over the process for ensuring that cash is forwarded to Cash Collections is the responsibility of TVA Treasury Management, including those individuals determined to be authorized collection agents. We determined through interviews with L&SM personnel that a preventive control did not exist to ensure that all funds collected are sent to Cash Collections. In addition, the only method for detecting this is reliance on the applicant to contact TVA personnel to ensure the application and fee were processed.

Also, Stewardship Guidelines state that a standard return letter is to be prepared by the individual who is also responsible for collecting fees from and returning fees to the applicant. We determined there was not a preventive control to ensure that all refunds are returned to applicants. The only method for detecting this would occur if an applicant contacted someone else within TVA to determine the status of the application or refund.

To mitigate the risk of fraud, it is important to have proper segregation of duties or to implement controls to review the activities performed by one individual.

CONCLUSION

Although L&SM has a defined listing of estimated ranges for how much an applicant may pay, a listing of predetermined standard fees to be charged, methods for tracking application costs and cycle time and means for assessing customer satisfaction, utilization of these tools could be improved. For instance, although some costs are tracked for cost-recoverable applications, the information is not used to periodically assess whether fees are sufficient to recoup all administrative costs. Nor is there a formal process to periodically

assess whether the published estimate ranges or cycle time standards are reasonable. Furthermore, while L&SM has continuously conducted customer satisfaction surveys, there is no evidence that survey results are being utilized to assess the process or to implement process improvements.

RECOMMENDATIONS

We recommend the E&T Senior Vice President, in conjunction with other organizations:

- Establish a process for (1) reconciling application classifications between the RSLR and Oracle, (2) ensuring costs for fee-waived cost-recoverable applications are being invoiced, and (3) identifying and closing short codes for closed applications.
- Revise the (1) current guidance to include the specific costs to be recovered and how those costs are to be calculated and (2) TVA invoice detail to ensure compliance with TVA's Information Management Policy.
- Institute a formal process to periodically review and update standards for fees, cost ranges, and cycle time.
- Implement a formal process for assessing survey results and utilizing suggested process improvements.
- Implement and/or strengthen controls to mitigate the risk of not retaining appropriate documentation for all fee waivers.
- Implement controls addressing the lack of segregation of duties in the process for receiving and refunding monies to reduce the risk of fraud.

MANAGEMENT'S RESPONSE AND OUR EVALUATION

TVA management stated that they agree with the facts found during the audit and has taken, or is taking, the following actions to address the above recommendations:

- L&SM and Business Services plan to work with Information Technology to enhance the RSLR system to (1) send automated communications when short codes are automatically updated based on project changes, (2) allow only Business Services to enter manual changes to the short codes, and (3) require fee-waived, cost-recoverable actions to obtain individual short codes. Guidance will also be updated and staff informed of the process change related to the cost-recoverable actions.

L&SM and Business Services implemented process controls in June 2010 that require Business Services personnel to close a short code when the final invoice is approved and released. Permits are not issued until Business Services notifies L&SM that all invoices are collected. Business Services is currently in the process of reviewing and closing remaining legacy short

codes. Legacy issues are on track to be completed by the end of the year. Monthly reports of all projects closed in the RSLR system will be issued to Business Services who will review to ensure that all projects on the list have been closed in Oracle.

- L&SM and Business Services plan to work jointly to identify specific costs to be recovered. L&SM will update the Stewardship Guidelines to include these instructions. Business Services and L&SM will review guidelines with attendees on a semiannual basis.

Business Services will work with Information Technology to develop a report that retains labor hours rather than dollars for labor-related activities. In the interim, Business Services will manually delete labor hours and will insert dollars prior to issuing the invoice data to L&SM.

- L&SM and Business Services will establish a process for periodic review of the reasonableness of the application fee, estimated cost ranges, and cycle time. After implementation of the guidance and a period of tracking, L&SM and Business Services will review the administrative costs of full cost-recoverable actions to determine whether the initial application fee exceeds the standard administrative charge.
- L&SM will expand the current process for assessing survey results to include forwarding the survey and summary to the L&SM Process Specialists for consideration and recommendations for process improvements.
- L&SM will (1) update Stewardship Guidelines to emphasize the requirements for retaining fee-waiver documentation, and (2) implement staff training to reinforce procedures and required approvals for fee waivers. Business Services will expand their review of short code closures (as noted above) to also include all partial waivers. In addition, periodic random sampling of preapproved waivers will be performed by Business Services and L&SM to ensure adequate documentation of fee-waived projects that are not assigned an individual short code.
- L&SM will review current office procedures and will work with Business Services to identify potential issues or gaps in procedures and to document current control procedures utilized in the Regional Land Use and Permitting group. L&SM will implement Valley-wide controls and procedures where gaps are identified.

The Office of the Inspector General (OIG) agrees with the actions planned and taken by TVA management.

TVA management also made suggestions related to language within the report. As suggested to further clarify the report, we made changes related to four of management's comments. The following addresses management's suggestions that were not incorporated into the report. Management suggested:

- Adding language related to the revision and posting of fee structure and guidelines since the review period of October 1, 2007, through June 10, 2010. While it is true that testing covered the above review period, we also reviewed the documented process as of July 1, 2010, as well as the current process as described by L&SM personnel. This should have included any updates to the documented fee structures and guidelines.
- Adding language to the Objective, Scope, and Methodology stating the (1) focus of the OIG review was on the cost-recoverable 26(a) permitting process, which is a small percentage of the applications within the review period, and (2) review did not evaluate the standard fee structure, its associated permitting process, or if the standard fees covered TVA costs. While it is true the majority of our testing focused on the cost-recoverable 26(a) actions, our review focused on more than the cost-recoverable 26(a) permitting process. As stated in the Objective, Scope, and Methodology section of the report, we (1) interviewed L&SM personnel about the 26(a) permitting process, (2) reviewed policies, procedures, and regulations to gain a better understanding of the 26a permitting process, (3) tested internal controls for randomly selected applications, and (4) tested fee waivers for standard applications. These steps would have included both standard and cost-recoverable actions.
- Revising the recommendation related to segregation of duties to "Review all TVA procedures to ensure preventative controls, segregation of duties, and approvals are consistent with TVA's Treasury Management requirements regarding fund collection and refunds. Implement additional controls and procedures where gaps are identified." Treasury Management's Standard Programs and Processes documentation contains the procedures to be followed by individuals receiving funds on behalf of TVA; however, the guidelines do not contain a description of the preventive controls or segregation of duties to be implemented by organizations receiving funds on behalf of TVA.

August 12, 2011

Robert E. Martin, ET 3C-K

REQUEST FOR COMMENTS - DRAFT INSPECTION 2010-13407 - SECTION 26A PROCESS REVIEW

Thank you for the opportunity to review and provide input to the Draft Inspection Report 2010-13407 Section 26a Process Review. The report provides many opportunities for Environment and Technology (E&T) to improve the Section 26a permitting process, in particular, our 26a cost-recovery actions. The report identified six recommendations for improvement. Business Services (E&T) and Land & Shoreline Management (E&T) are working jointly on remediation of the recommendations. Several of the proposed actions require system changes that require coordination with Information Technology. We have initiated plans for improvement on several of the recommendations and are providing, by attachment, our comments, proposed actions, and estimated completion dates.

Additionally, we are providing for your consideration the following comments and clarifications for the final report.

1. We appreciate the suggestions for improvement to the 26(a) process. While several opportunities to the 26(a) process exist, we suggest adding an acknowledgement that several actions have been taken by TVA management and staff subsequent to the review period. This would provide a more accurate rendering of the review's findings and recommendations.

Suggested Additions:

Since the review period (October 1, 2007, through June 10, 2010):

- I. The Land & Shoreline Management organization reorganized to address:
 - a) Putting in place an entirely new leadership structure.
 - b) Consolidating the 26(a) permitting process into one organization (previously handled by individual watershed teams) to begin to address the issue of consistent applications across all reservoirs of both guidelines and cost recovery.
 - II. Fee Structure and Guidelines have been revised and posted for public access to provide more transparency to the public on the process and costs.
2. General - While the review has revealed a small percentage of the total 26(a) permit applications as having inconsistent application of costs and recovery of those costs, the review does not appear to indicate that there was an intentional bias toward an applicant or applicant type. Thus, we do not see where inconsistencies were the result of any bias, prejudice, or partiality. We respectfully request that references to "NOT FAIRLY" be removed from conclusions, text, and titles, as this may be misleading regarding intent.
 3. Page i - Consider stating in the Executive Summary, the timeframe of the 26(a) applications considered in this review: (e.g., October 1, 2007, through June 22, 2010).

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4. Page i - The draft report states, "*The objective of this review was to evaluate key aspects of TVA's Section 26(a) permitting process for effectiveness and efficiency.*" Please consider adding the following for clarity of the review's scope. "The focus of the review was on the cost-recoverable 26(a) permitting process, which covers activities that are determined to be non-standard, and therefore, full cost recovery is required if associated costs exceed standard fees.

This review did not evaluate the standard fee structure, its associated permitting process, or if the standard fees covered the TVA costs. Non-standard, cost-recoverable 26(a) applications account for approximately 11 percent (or 600 out of 5,241 applications) of the 26(a) permits over the review period."

5. Page 3 of the draft report states, "*Since March, 2009 standard application fee waivers have been preapproved for applications from the State Department of Transportation, shoreline or stream bank stabilization projects, Natural Resources Conservation Service (NRCS) projects, sewage pump-out facilities at marinas, and fish-attractors.*" The statement may imply that prior to March 2009, fee waivers on those projects were not authorized when, in fact, waivers of administrative costs were authorized previous to March 2009. For example, staff was authorized to waive administrative fees for DOT projects as early as 1997. In October 2008, RSLR was updated to require documentation of the fee waiver approval attached in the record. In March 2009, L&SM Stewardship Guidelines were updated to include the forms that are required to be attached in the record, and NRCS projects were added to the pre-approved list. For these reasons, we suggest the statement be revised to state, "Since October 2008, RSLR system controls were in place to require documentation of approval of all waivers."
6. Page 12 of the draft report states, "*To mitigate the risk of fraud, it is important to have proper segregation of duties or to implement controls to review the activities performed by one individual.*" E&T conforms to Treasury Management's procedures for cash collections procedures (TVA SPP 13.31 Collection Procedures) and convenience check accounts (TVA SPP 13.9.1 Convenience Check Accounts) and is committed to the proper handling and safeguarding of all funds. Control measures including segregation of duties, reporting, review, and approval are established by Treasury Management through these procedures and are implemented by L&SM's Collection Agents and Convenience Check Account Holders located in the Regional Watershed Offices. For these reasons, we respectively recommend that the final recommendation be revised as follows:
 - Review all TVA procedures to ensure preventative controls, segregation of duties, and approvals are consistent with TVA's Treasury Management requirements regarding fund collection and refunds. Implement additional controls and procedures where gaps are identified.

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I appreciate the detailed review your staff provided, which has helped identify several process improvements in Section 26a cost-recovery actions.

If you have any questions or require clarification on our proposal, please contact me at 865-632-8511 or Bruce Schofield at 423-751-2466.



Anda A. Ray
Senior Vice President
Environment and Technology
WT 11A-K

BSS:ABS:CLW
Attachment
cc (Attachment):

Steve Byone, WT 4B-K
Frank B. Edmondson, WTR 1A-GRT
Michael B. Fussell, WT 9B-K
Peyton T. Hairston, WT 7B-K
Tom Kilgore, WT 7B-K
Myra G. Richardson, WT 3C-K
Bruce S. Schofield, LP 5U-C
Angela B. Sims, PSC 1E-C
Hugh E. Standridge, WT 11A-K
John M. Thomas III, MR 6D-C
Robert B. Wells, WT 9B-K

Attachment

Proposed Actions in Response to Draft Inspection Report 2010-13407 Section 26a Process Review				
Recommendation	RESPONSIBLE ORGANIZATION	PROPOSED ACTIONS/RESPONSE	DRAFT PROPOSED TARGET DATE	
1	Establish a process for (1) reconciling application classifications between the RSLR and Oracle, (2) ensuring costs for fee-waived, cost-recoverable applications are being invoiced, and (3) identifying and closing short codes for closed applications.	Business Services(BS) Land & Shoreline Management (L&SM)	(1) L&SM and BS will work with IT to enhance RSLR to send automated communications to BS when short codes are automatically updated based on project changes. Additionally, RSLR will be updated to allow only BS to enter manual changes to short codes. This will fully inform BS of short code changes and enable reconciliation of classifications between RSLR and Oracle. Semi-annual reports of all open actions will be provided to BS; BS will reconcile RSLR and Oracle short codes to ensure no corrections are missed. (2) RSLR will be updated to require fee-waived, cost recoverable actions to obtain individual short codes. Guidance will be updated and staff informed of the process change. This will enable tracking of administrative costs on 'partial waiver' actions and facilitate the establishment of standard fees that recover all TVA costs. (3) L&SM and BS have previously implemented process controls (June 2010) that require BS closes a short code when the final invoice is approved and released and permits are not issued until BS notifies L&SM that all invoices are collected. All 2008 actions have been reviewed and completed short codes closed by BS - this represented the large majority of 'legacy' issues. BS ran report for all active 2009 - 2011 26A actions. L&SM posted on their SharePoint site for PM's to update completion status. BS continues cleanup-closure for remaining 'legacy' issues. All legacy issues are on track to be completed by end of the calendar year. Monthly reports of all projects closed in RLSR will be issued to BS; BS will review to ensure all projects on the list have been closed in Oracle.	1/30/12

Attachment

2	Revise the (1) current guidance to include the specific costs to be recovered and how those costs are to be calculated and (2) TVA invoice detail to ensure compliance with TVA's Information Management Policy.	BS L&SM	(1) L&SM and BS will work jointly to identify the specific costs to be recovered (vehicle use, travel expenses, etc.). L&SM will update Stewardship Guideline 4.3.18 <i>Administrative Cost Recovery for 26a Actions</i> to include these instructions. BS participates in L&SM monthly Land Use Teleconferences and will review charging guidelines with attendees semi-annually. (2) BS will work with IT to develop a report that retains hours and not dollars for TVA labor-related activities. In the interim, to comply with Information Management Policy, BS will manually delete labor dollars and insert hours prior to issuing the invoice to L&SM for review and approval.	3/1/12
3	Institute a formal process to periodically review and update standards for fees, cost ranges, and cycle time.	BS L&SM	L&SM & BS will establish a process for periodic review of the reasonableness of the application fee (\$1,000), estimated cost ranges, and cycle time. Revision of Stewardship Guideline 4.3.18 to include the specific costs to be recovered will result in more accurate tracking of full cost-recovery 26a actions (Recommendation 1 and 2). After implementation of the guidance and a period of tracking, L&SM in cooperation with BS will review the administrative costs of full cost-recoverable 26a actions to determine if the initial application fee exceeds the standard administrative charge (\$1,000).	6/30/12
4	Implement a formal process for assessing survey results and utilizing suggested process improvements.	L&SM	Currently, survey results are summarized and provided to E&T management and used as input for operational indicators. At that time, process improvements based on customer comments are considered and incorporated into organizational initiatives, where appropriate and as resources are available. For example, previous customer comments have included the recommendation to develop the capability for online 26a permit applications. These customer recommendations were consistent with TVA's objectives to streamline the 26a permitting process. In 2009, TVA provided the option for stakeholders to submit their applications online and in 2010 the online application process was enhanced and expanded to include the capability to submit inquiries online. The current process for assessing survey results will be expanded to include forwarding the survey and summary to the L&SM Process Specialists for consideration and recommendations for process improvements.	Complete

Attachment

5	Implement and/or strengthen controls to mitigate the risk of not retaining appropriate documentation for all fee waivers.	BS L&SM	L&SM has previously implemented system controls (March 2009) in RSLR that mitigate the risk of not retaining appropriate documentation for all fee waivers. L&SM will update Stewardship Guidelines 4.3.18 <i>Administrative Cost Recovery for 26a Actions</i> and 4.2.10 <i>Fee Waivers</i> to emphasize these requirements and implement staff training to reinforce procedures and required approvals for fee waivers. BS currently reviews all documentation used to support Oracle short code set up for cost-recovery applications which will be expanded to cover all partial waivers per Recommendation 1. Additionally, periodic random sample review of pre-approved waivers will be completed by L&SM & BS to ensure adequate documentation of fee waived projects not assigned an individual short code.	1/30/12
6	Implement controls addressing the lack of segregation of duties in the process for receiving and refunding monies to reduce the risk of fraud.	BS L&SM	L&SM follows TVA's Treasury Management cash collection and convenience check accounts procedures (TVA-SPP 13.31 Collection Procedures and TVA-SPP 13.9 Convenience Check Accounts). L&SM will review current office procedures and work with BS to identify potential issues or gaps in procedures and document current control procedures utilized in the Regional Offices. L&SM will implement Valley wide controls and procedures where gaps are identified.	3/30/12