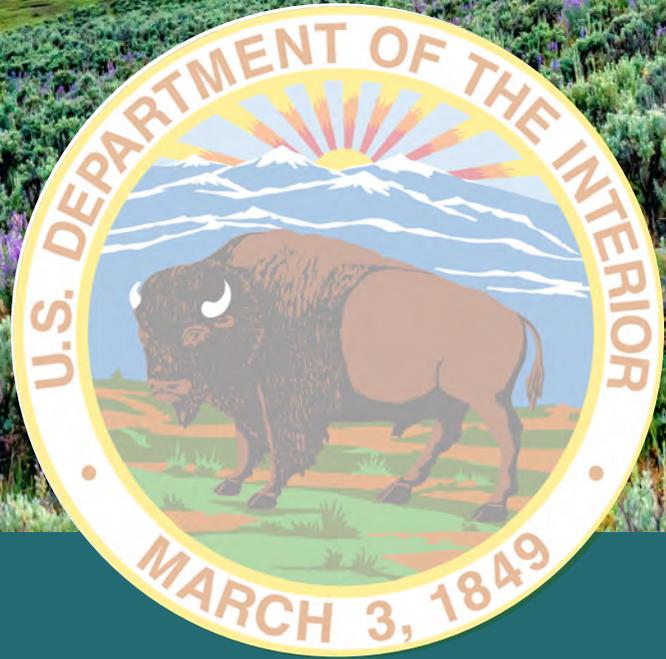




OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR



Evaluation



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INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

DEC 20 2024

Memorandum

To: Kimbra Davis
Director, Orphaned Wells Program Office

From: Mark Lee Greenblatt
Inspector General

A handwritten signature in black ink, appearing to read "Mark Lee Greenblatt".

Subject: Final Evaluation Report – *The Orphaned Wells Program Office Needs to Improve Its Oversight of the Infrastructure Investment and Jobs Act Funding to States*
Report No. 2023-INF-025

This memorandum transmits the results of our evaluation on the Orphaned Wells Program Office (OWPO) oversight of the orphaned well Infrastructure Investments and Jobs Act (IIJA) funds to States.

We will track open recommendations for resolution and implementation. We will notify Congress about our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

If you have any questions about this report, please call me or Nicki Miller, Acting Assistant Inspector General for Audits, Inspections, and Evaluations, at 202-208-5745.

Contents

| | |
|---|----|
| Results in Brief | 1 |
| Introduction..... | 3 |
| Objective..... | 3 |
| Background..... | 3 |
| Infrastructure Investment and Jobs Act | 4 |
| Orphaned Wells Program Office..... | 4 |
| IIJA Funding for State Orphaned Wells Programs | 4 |
| Grant Administration..... | 6 |
| Results of Evaluation | 7 |
| OWPO Could Improve Oversight to Ensure Recipients Accomplish Program Goals and Appropriately Spend Funds..... | 7 |
| OWPO Did Not Ensure IBC Conducted Comprehensive Risk Assessments of Grant Applicants | 8 |
| OWPO Did Not Ensure IBC Conducted Comprehensive Risk Assessments | 9 |
| Why Risks Were Not Properly Assessed..... | 11 |
| OWPO Site Visit Practices Were Insufficient..... | 12 |
| OWPO Can Improve Guidance to Grant Applicants | 13 |
| Grant Applicants Need More Information To Meet the Justice40 Initiative | 13 |
| Subrecipient and Contractor Monitoring | 14 |
| Measuring and Tracking of Groundwater Contamination..... | 14 |
| Use of Non-DOI Funding..... | 15 |
| Conclusion and Recommendations | 16 |
| Conclusion | 16 |
| Recommendations Summary | 16 |
| Appendix 1: Scope and Methodology | 20 |
| Scope..... | 20 |
| Methodology | 20 |
| Appendix 2: Risk Assessment Checklist | 21 |
| Appendix 3: Response to Draft Report | 25 |
| Appendix 4: Status of Recommendations | 30 |

Results in Brief

Orphaned wells¹ pose public health and safety and environmental risks. For example, orphaned wells can pollute residential and recreational areas and public spaces through methane emissions and groundwater contamination. The Infrastructure Investments and Jobs Act (IIJA)² sought to address this issue by providing \$4.7 billion in funding for fiscal years (FYs) 2022 through 2030 for the Department of the Interior (DOI) to plug, remediate, and reclaim orphaned wells on Federal, State, Tribal, and private lands. This evaluation examined funding that may be used to plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land. Most of this funding will be provided to States, approximately \$4.3 billion, or 91 percent of the total authorized funding. States may use the funds to (1) identify and characterize undocumented orphaned wells; (2) rank the priority of these wells; (3) publish information on a public website; (4) measure and track methane or other gas emissions; (5) measure and track groundwater or surface water contamination; (6) address disproportionate burdens to underserved communities; (7) remediate contaminated soil and restore native species habitat; and (8) remediate adjacent land or remove associated infrastructure. To implement the IIJA's investment in orphaned well plugging and remediation, the Secretary established the Orphaned Wells Program Office (OWPO) in January 2023.

Objective

Our objective³ was to determine whether DOI's OWPO was effectively overseeing IIJA grant funds provided to States.

Findings

We found areas in which OWPO can improve the oversight of the IIJA funds provided to States. Specifically, we found that OWPO did not ensure Financial Assistance Officer Representatives properly reviewed all required quarterly technical reports and OWPO did not properly oversee that Interior Business Center (IBC)⁴ financial assistance officers reviewed all required State quarterly financial reports to ensure recipients accomplished program goals and appropriately spent funds. In addition, we found that OWPO did not ensure that IBC conducted comprehensive risk assessments of grant recipients before making awards. Specifically, the risk assessments conducted did not identify and respond to relevant audit findings. Further, OWPO did not have an effective site visit policy to ensure grant recipients are meeting the grant terms and accurately reporting performance. Finally, OWPO provided guidance to the States; however, the guidance was not sufficient to provide applicants with all the information needed to understand all the requirements and how to implement them. More guidance is needed on prioritization of projects, monitoring expectations of subrecipients and/or contractors, groundwater contamination, and leveraging funds from non-DOI sources.

Impact

OWPO works with States to implement the IIJA's investment to plug and remediate orphaned wells. In accordance with the IIJA, OWPO provides grants to States to plug and remediate orphaned wells. States then award grant funding received from OWPO to subrecipients or contractors to complete orphaned wells plugging activities. The States are expected to oversee the work of those subrecipients and/or contractors. Accordingly,

¹ The definition of an orphaned well varies by State. For purposes of DOI's program, an orphaned well on State land is a well that a State describes as eligible for plugging, remediation, and reclamation by the State.

² Pub. L. No. 117-58, § 40601.

³ Our objective included activities performed (e.g., developing the initial grant guidance) by the Office of Environmental Policy and Compliance before OWPO took over all program activities.

⁴ The IBC is a Federal shared services provider that operates under a fee-for-service, full cost recovery business model, offering acquisition, financial management, and human resources systems and services to Federal organizations. OWPO entered into an interagency agreement with IBC to award and administer the grants to States.

OWPO must assess risk associated with grant recipients (here, the States) that may affect their ability to appropriately use these Federal funds. This assessment must occur at the time of each award as well as at the time of any modifications. To help ensure that funds are expended appropriately, OWPO must properly assess risk of the applicant and apply specific conditions as necessary to reduce the risk of fraud, waste, and abuse of IIJA funds. Without properly assessing risk, OWPO cannot appropriately adjust the conditions of its grants to mitigate risk and then subsequently develop an effective monitoring plan to ensure proper oversight of the IIJA funds. The IIJA will provide \$4.3 billion in funding to States, and it is essential that OWPO provide proper oversight and administration activities of IIJA grants.

Recommendations

We make nine recommendations that, if implemented, will help OWPO review quarterly State reports, analyze risk of grant applicants, provide effective oversight, and provide sufficient guidance to grant recipients.

Introduction

Objective

The objective of our evaluation was to determine whether the Orphaned Wells Program Office (OWPO) was effectively overseeing the Infrastructure Investments and Jobs Act (IIJA) grant funds provided to States. Specifically, we assessed:

- Whether OWPO developed policies and procedures to ensure there is appropriate oversight of IIJA awards, and that they are appropriately awarded.
- The extent to which OWPO is monitoring State grants.
- The extent to which OWPO has provided guidance to the States.

See Appendix 1 for our evaluation scope and methodology.

Background

The definition of an orphaned well varies by State. For purposes of the U.S. Department of the Interior's (DOI's) programs, an orphaned well on State land is a well that a State describes as eligible for plugging, remediation, and reclamation by the State. Orphaned wells pose public health and safety and environmental risks. According to DOI, millions of Americans live within one mile of an orphaned gas or oil well (see Figure 1).

Figure 1: Unplugged Orphaned Gas Well on Residential Property in Ohio



Source: OIG.

Orphaned wells can pollute residential and recreational areas and public spaces. As the infrastructure of an orphaned well deteriorates over time, gases can migrate from underground formations to the surface. According to OWPO's *Orphaned Wells Program Annual Report to Congress*,⁵ "these gases can include methane, which is the primary component of natural gas and a potent greenhouse gas that is a significant cause of climate change." As a result, orphaned wells have been a concern for residents, environmental groups, landowners, and State and Federal agencies for many years, and these stakeholders are directly affected by the outcome of the efforts to address orphaned wells, particularly through the process of plugging.

⁵ OWPO, *Orphaned Wells Program Annual Report To Congress*, issued November 2023, <https://www.doi.gov/sites/doi.gov/files/fy-2023-orphaned-wells-congressional-report.pdf>.

Proper plugging is essential to prevent migration of oil, gas, or saltwater that can damage freshwater resources, soils, and other underground and surface resources. The cost of plugging a well can be affected by various factors such as depth, condition, location, and accessibility of a well.

Well operators are responsible for plugging wells. If the well operator ceases to exist or becomes insolvent before a well is plugged, the responsibility for monitoring and plugging the well generally falls on the State. States require well operators to post financial assurance, often in the form of a bond, to provide money for plugging and restoration if the operator cannot; however, this financial assurance may be insufficient to cover the cost to plug the well and to reclaim and remediate the land. Most States also have established funds with proceeds from production taxes, fees, or other assessments on the oil and gas industry designated specifically to support the plugging of orphaned wells. Other States have authority to spend money from operating funds or other sources to address orphaned wells.

Infrastructure Investment and Jobs Act

The President signed the IIJA (which amends the Energy Policy Act of 2005 § 349) into law on November 15, 2021.⁶ The IIJA provided new Federal funding for infrastructure projects, including to develop programs to plug, remediate, and reclaim orphaned wells on Federal, State, Tribal, and private lands. The IIJA authorized \$4.7 billion in appropriations for fiscal years 2022 through 2030 for DOI to administer its Federal, State, and Tribal orphaned wells programs. With additional IIJA funding, States can establish orphaned wells programs or accelerate the work they are doing to plug orphaned wells; restore well sites and adjacent lands; and decommission associated pipelines, facilities and infrastructure. In addition, IIJA funding will also enable States to further identify and assess currently undocumented orphaned wells.

Orphaned Wells Program Office

DOI's Office of Environmental Policy and Compliance was initially responsible for IIJA-funded oversight and administration activities. On January 10, 2023, the Secretary issued an order establishing OWPO under the Office of the Assistant Secretary of Policy, Management, and Budget.⁷ The Secretary tasked OWPO to ensure effective, accountable, and efficient implementation of the IIJA's investment in orphaned well plugging and remediation. OWPO management and staff are responsible for oversight and administration of DOI's Federal, Tribal, and State orphaned wells programs. As of July 2024, OWPO had 23 full time employees; when fully staffed, the office will have approximately 33 full time employees.

The Federal Orphaned Wells Program is a multiagency effort led by OWPO. The IIJA provided \$250 million to Federal land managers at DOI and the U.S. Department of Agriculture to inventory, assess, plug, and restore orphaned well sites. Eligible bureaus are the Bureau of Land Management, National Park Service, U.S. Fish and Wildlife Service, Bureau of Safety and Environmental Enforcement, and the U.S. Forest Service.

The IIJA also provided \$150 million for Tribal well plugging, remediation, and reclamation. Tribes may seek IIJA grant funding to undertake the well plugging or may request that OWPO administer and carry out the well plugging on behalf of the Tribe.

Lastly, OWPO is responsible for managing distribution of funds to States for orphaned wells programs. The plugging of orphaned wells is not new to most State grant applicants. However, DOI funding to the States had not been provided in the past.

IIJA Funding for State Orphaned Wells Programs

Of the total \$4.7 billion in IIJA-authorized appropriations for orphaned wells, funding to the States totaled \$4.3 billion (91 percent of the total authorized funding), which OWPO distributes through initial, formula, and performance grants (see Figure 2).

⁶ 42 U.S.C. § 15907 as amended by Pub. L. No. 117-58.

⁷ Secretary's Order No. 3409, *Establishment of the Orphaned Wells Program*, <https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3409.pdf>.

Figure 2: IIJA Authorized Funds to States To Address Orphaned Wells

| Purpose | Amount |
|--------------------|------------------------|
| Initial Grants | \$775,000,000 |
| Formula Grants | \$2,000,000,000 |
| Performance Grants | \$1,500,000,000 |
| Total | \$4,275,000,000 |

The IIJA permits⁸ States to use the funds provided through these three types of grants for:

- Identifying and prioritizing undocumented orphaned wells.
- Remediating and reclaiming orphaned wells.
- Tracking methane emissions and groundwater contamination leaking from unplugged wells.
- Remediating soil and restoring native species and adjacent land.
- Providing information on a public website about the use of the funds.
- Identifying and addressing disproportionate burdens to underserved communities to help with the prioritization of orphaned wells.

In fiscal year (FY) 2022, DOI distributed \$560 million through 24 initial grants to State orphaned wells programs. Out of the 24 States, 22 States each received \$25 million and 2 States each received \$5 million in initial grants. The initial grants both bolster longstanding well plugging programs already in operation in some States and help other States establish new programs to conduct plugging activities. Based on OWPO's *Orphaned Wells Program Annual Report to Congress*, the \$560 million distributed in initial grants funded the plugging and reclaiming of nearly 10,000 high-priority⁹ wells on State and private lands.

States may also apply for formula grants, which are grants that DOI plans to distribute based on an eligibility formula. OWPO anticipates awarding formula grants in six phases during FYs 2023 through 2028. During each phase, a State may apply for a grant of up to \$25 million or 25 percent of the State's total formula eligibility under the IIJA, whichever of the two is greater. A State may receive this amount in each phase until it has received all formula grant funds it is eligible to receive.

On July 10, 2023, OWPO issued *Phase 1 State Formula Grant Guidance*,¹⁰ which set out the application process for States with a deadline of December 31, 2023. The formula considers the following factors to calculate the amount States are eligible to receive:

- Job losses in the oil and gas industry beginning March 1, 2020, and ending November 15, 2021.
- Number of documented orphaned wells in the State.

⁸ Pub. L. No. 117-58, § 40601(c).

⁹ Prioritization of orphaned wells is based on each State's policies and procedures. The initial grant guidance requested each State provide a description of its prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities.

¹⁰ OWPO, *Phase 1 State Formula Grant Guidance*, issued July 2023, <https://www.doi.gov/sites/doi.gov/files/state-formula-grant-guidance-07.07.2023.pdf>.

- Projected costs to plug the wells, reclaim adjacent land, and decommission or remove associated infrastructure.

After formula grants are awarded, DOI plans to issue performance grants in the form of a regulatory improvement grant and a matching grant to increase State spending on orphaned wells programs, improve their regulation of oil and gas wells, and decrease unemployment and improve conditions in economically distressed areas.

Within 180 days of a State's performance grant application, DOI plans to provide it a regulatory improvement grant (with a maximum value of \$20 million) if the State can demonstrate that, in the 10 years prior to its application date, it has met one of the following criteria:

- Strengthened plugging standards and procedures designed to ensure wells in the State are plugged effectively to protect groundwater, natural resources, public health and safety, and the environment.
- Improved State programs to reduce future orphaned well financial burdens.

DOI also intends to provide matching grants to States that certify to the Secretary of the Interior that they will expend increased funds to address orphaned wells in the fiscal year in which the grant is received. The matching amount equals the amount the State certifies it will spend minus the average amount the State spent annually on similar efforts during fiscal years 2010 through 2019. DOI may not issue more than one matching grant per State per fiscal year, and the total may not exceed \$30 million during fiscal years 2022 through 2031.

Grant Administration

The OWPO State Program Division Chief is responsible for overseeing the State program, which includes grant administration. Specifically, the Chief assigns a Financial Assistance Officer Representative (FAOR) who oversees all the programmatic aspects of State grant awards. The FAOR is responsible for conducting the technical evaluation of all grant applications, conducting a thorough application review, and developing a monitoring plan and oversight recommendations for OWPO management approval. In addition, OWPO has State grant management specialists who are responsible for reviewing and approving all funding opportunities and grant awards for compliance with Federal statutes, regulations, and internal control procedures prior to OWPO management approval.

In October 2023, OWPO entered into an interagency agreement with the Interior Business Center (IBC)¹¹ to award, administer, and close out the grants to States. This interagency agreement details that OWPO's FAOR and grant management specialists will focus on monitoring the technical/programmatic activities, while IBC financial assistance officers, also known as grant management specialists, will focus on financial monitoring. Specifically, the IBC financial assistance officers are responsible for pre-award and post award financial assistance administration, and IBC coordinates these efforts with OWPO. During the pre-award phase, IBC activities include conducting initial compliance reviews, risk assessments, financial capabilities analysis, issuing the notice of award, assisting in developing monitoring plans, and maintaining the official grant file. Further, in the post-award phase, IBC is responsible for conducting reviews of quarterly financial reports containing cost information submitted by States.

¹¹ The IBC is a Federal shared services provider that operates under a fee-for-service, full cost recovery business model, offering acquisition, financial management, and human resources systems and services to Federal organizations. Currently, IBC serves more than 150 different Federal organizations, including DOI.

Results of Evaluation

Since its inception in January 2023, OWPO has established written policies and procedures to manage the State orphaned wells program, including standard operating procedures for pre-award activities and site visits and an oversight surveillance plan that provides details for the methods to be used for oversight of each State grant award. We determined, however, that improvements are needed with regard to the award and oversight of the IJJA funds provided to States. Specifically, we found that OWPO:

- Did not ensure FAORs properly reviewed all required quarterly technical reports and OWPO did not properly oversee that IBC financial assistance officers reviewed all required State quarterly financial reports to ensure recipients accomplished program goals and appropriately spent funds.
- Did not ensure IBC conducted comprehensive risk assessments of grant applicants.
- Did not have an effective site visit policy to ensure grant recipients are meeting the grant terms and accurately reporting performance.
- Did not provide sufficient guidance on project prioritization for disadvantaged communities, subrecipient and/or contractor monitoring expectations, groundwater contamination measurement and tracking, and leveraging funding from non-DOI sources.

OWPO Could Improve Oversight to Ensure Recipients Accomplish Program Goals and Appropriately Spend Funds

Federal grant regulations require the Federal awarding agency to ensure that recipients' (here, the States) accomplishments help achieve the program's performance goals and objectives. The agency generally does this by monitoring financial data¹² and performance reports submitted by the recipients.¹³ In addition, DOI policy¹⁴ requires bureaus and offices to review financial reports for completeness and accuracy and compare information on the report against the award proposal to assess whether the financial activity to date appears consistent with the approved project schedule. OWPO required States to use Standard Form 425 to submit quarterly financial data,¹⁵ and to submit performance (i.e., technical) reports within 30 days of the close of each Federal fiscal quarter. Additionally, OWPO requested States include in the quarterly technical reports (1) an inventory of orphaned wells on State and private lands;¹⁶ (2) the number of jobs created or saved; (3) the number of orphaned wells plugged, remediated, and reclaimed; (4) plug witnessing documentation; (5) methane emissions reduced;¹⁷ (6) acres of habitat restored; and (7) other parameters describing how the State used the funds. While the IJJA does not expressly require States to report out on these attributes, such as measuring methane emissions,¹⁸ the Department has determined that these measurements will help it address the goals of the IJJA. In addition, the financial and technical reports are key monitoring tools, especially combined with site visits or when corroborating State records. As of October 2023, the 24 States that received

¹² 2 C.F.R. § 200.328.

¹³ 2 C.F.R. § 200.329.

¹⁴ DOI Acquisition, Assistance, and Asset Policy No. 58 (DOI-AAAP-0058), *Financial Assistance Federal Financial Reporting*, issued April 7, 2016.

¹⁵ Federal Financial Report, Standard Form 425, is available at <https://grants.gov/forms/forms-repository/post-award-reporting-forms>.

¹⁶ As part of the conditions of the grant award, OWPO requested the States include the latitude and longitude coordinates for each orphaned well in their inventory.

¹⁷ As part of the conditions of the grant award, OWPO requested the States include a description of the methodologies used when measuring methane emissions.

¹⁸ IJJA (Pub. L. No. 117-58 § 40601(f)(2)(A)) requires the Secretary of the Interior to submit an annual report to Congress that describes grants awarded to include "an estimate of the quantities of methane and other gases emitted from orphaned wells."

initial grants submitted 72 technical reports and 71 financial reports¹⁹ as of the first three quarters²⁰ of FY 2023. OWPO's and IBC's procedures required that a review form be completed for each report reviewed.

We found that neither OWPO nor IBC could provide completed review forms for all the required technical and financial reports submitted. Based on the lack of completed forms and confirmation from OWPO and IBC that staff had not reviewed the reports, we concluded that OWPO and IBC did not review all required State quarterly technical and financial reports to ensure States were appropriately providing technical information on the number of wells plugged; the measurement and tracking of any methane emissions; the measurement and tracking of any groundwater and surface water contamination; the number of jobs created and saved; the benefits provided to historically disadvantaged communities; and financial information, including the amount of Federal funds spent.

OWPO did make considerable progress in completing reviews during fiscal year 2023; however, as of October 2023, it had not reviewed 49 of the 72 technical reports (68 percent) submitted and IBC had not reviewed 48 of the 71 financial reports submitted (68 percent). For example, we found that both OWPO and IBC had not reviewed any of the financial or technical reports submitted by one State that had received \$10 million in funding.

Additionally, while IBC and OWPO have developed review forms and procedures to review performance and financial reports, we determined neither have a policy detailing processing timelines for the completion of these reviews.

Without proper financial and performance oversight, OWPO cannot ensure recipients are using the funds to accomplish the IJA's goals and are spending funds properly.

Recommendations

We recommend that the Orphaned Wells Program Office:

1. Develop and implement policy to require review of all quarterly reports in a timely manner and complete any outstanding reviews.
2. Develop a process to ensure all financial reports are reviewed in a timely manner.

OWPO Did Not Ensure IBC Conducted Comprehensive Risk Assessments of Grant Applicants

Federal grant regulations require that the awarding agency "have in place a framework for evaluating the risks posed by applicants before they receive Federal awards," and the agency may use a risk-based approach and consider factors such as financial stability, history of performance, and audit reports and findings²¹ when developing grant and cooperative agreement award conditions. In addition, DOI policy²² requires bureaus and offices to properly assess risk by completing a Departmental Financial Assistance Risk Assessment Checklist, included in Appendix 2, or an approved modified version prior to award. IBC was responsible for conducting

¹⁹ One State did not submit a financial report for the second quarter of FY 2023.

²⁰ The first quarter covered October, November, and December of 2022; the second quarter covered January, February, and March of 2023; and the third quarter covered April, May, and June of 2023.

²¹ 2 C.F.R. § 200.206(b).

²² DOI-AAAP-0068, *Financial Assistance Recipient Risk Assessment and Award Monitoring*, dated August 17, 2016. In this policy, DOI includes a checklist of six questions. Two questions are related to findings in the entity's external audit report (also referred to as a "single audit") of its financial statements and compliance with Federal award requirements. The checklist also includes questions on financial capability, past performance, and reporting compliance. The checklist is included in Appendix 2.

and completing the risk assessments pursuant to its interagency agreement with OWPO and IBC is required to follow DOI policy.

The departmental checklist requires grants staff to answer six questions that ultimately generates a numerical risk rating of high, medium, or low.²³ DOI policy states that if recipients are determined to be medium or high risk, IBC must consider incorporating one or more specific conditions, as relevant to the identified risk condition(s), into the award to help mitigate risk. These measures would be in addition to the required annual performance and financial reports.²⁴ If IBC determines that the risk level is low, there is no additional action required besides obtaining, at a minimum, the annual reports.

One item in the risk assessment checklist requires IBC's financial assistance officers to identify and review an applicant's single audit findings. A non-Federal entity that expends \$750,000 or more in Federal awards during the non-Federal entity's fiscal year must have a single audit conducted annually.²⁵ All States, including each State receiving IJJA funding, are subject to a single audit. A single audit includes an audit of both the entity's financial statements and compliance with Federal award requirements. A typical single audit report includes the following elements:

- **Financial statements:** An opinion (or disclaimer of opinion) on whether the financial statements of the auditee are presented fairly in all material respects in accordance with generally accepted accounting principles.
- **Internal Control:** A report on internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements.
- **Compliance.** A report on compliance for each major program²⁶ and on internal control over compliance.
- **Findings and questioned costs.** A summary of audit results that includes findings related to the financial statements and questioned costs for Federal awards.²⁷

The single audit report is a valuable source of information for Federal grant managers to assess risk of a potential awardee because it provides independent results of that entity's management of Federal awards, internal controls, and compliance with laws and regulations, financial capability, and past performance. In keeping with the importance of these findings, the DOI risk assessment checklist IBC used requires them to identify and review an applicant's single audit findings.

OWPO Did Not Ensure IBC Conducted Comprehensive Risk Assessments

We found that OWPO did not ensure that IBC conducted comprehensive risk assessments of grant recipients before making awards. The OWPO and IBC interagency agreement requires that IBC conduct the risk assessments and OWPO's policy requires them to get updates on progress and decisions on the IBC risk assessments for award decisions and in developing post award monitoring actions. Specifically, IBC did not

²³ One of the six questions in the Departmental Financial Assistance Risk Assessment Checklist combines risk related to the type of single audit opinion received, if the entity is a "going concern," the existence of significant deficiencies, material weaknesses, material noncompliance, and single audit findings.

²⁴ 2 C.F.R. §§ 200.328-329 allow Federal awarding agencies to choose specific intervals for financial and performance reporting. Intervals must be no less frequent than annually nor more frequent than quarterly, except in unusual circumstances. DOI policy states that the frequency of reports should be determined based upon risk assessments and program needs. As such, OWPO requires States to submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter.

²⁵ 2 C.F.R. § 200.501(a).

²⁶ 2 C.F.R. § 200.1 ("A major program is a Federal program the auditor determines to be a major program in accordance with § 200.518 or a program a Federal awarding agency or pass-through entity identifies as a major program in accordance with § 200.503(e). Auditors conducting single audits are required to use a risk-based approach to determine which Federal programs are major programs, which are subject to the single audit.").

²⁷ 2 C.F.R. § 200.515(a)-(d).

properly identify and analyze risk associated with single audit findings of grant recipients and did not develop appropriate mitigating measures when it identified risk indicators. The presence of relevant single audit findings and other indicators elevates risk, which the C.F.R. requires IBC to evaluate and then consider any mitigation measures.

Of the 24 risk assessments for grant applicants we reviewed, 4 had a rating of “low,” even though significant individual risk factors were present, as described below. In addition, 11 of the 24 risk assessments did not document mitigating measures for risk indicators in single audits for States assessed at “medium” risk.

Of the 24 risk assessments reviewed, we identified 4 (16.7 percent) in which IBC did not properly identify single audit findings for risk consideration, leading to a risk rating of “low.” The checklist asks the reviewer to document what type of single audit opinion the applicant received; whether the entity is a going concern;²⁸ and whether significant audit deficiencies,²⁹ material weaknesses,³⁰ material noncompliance(s), or any other single audit findings existed. Because of its connection to the specific risk factors that may be relevant to an orphaned well grant, this question should prompt the reviewer to thoroughly review the single audit report to identify any findings indicating elevated risk that may need mitigation. In all 4 instances, however, the IBC financial assistance officers did not identify the relevant findings in the single audit reports to evaluate the impact on the award before determining the level of risk.

For example, we found no evidence that the IBC financial assistance officers who were completing the checklist considered the following single audit findings:

- **Lack of internal controls over subrecipient monitoring, cash management, and reporting.** Effective internal controls provide reasonable assurance that an entity is managing the award in compliance with regulations and the terms and conditions of the award. As a result, weaknesses in internal controls over Federal programs indicate higher risk.
- **Unresolved prior audit findings on subrecipient monitoring and unallowable disbursement of Government funds.** “Unresolved findings” means that the entity either has not developed a corrective action plan or has not implemented a corrective action. As a result, prior unresolved audit findings indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected.

The risk factors present for the instances identified above would have raised the overall numerical risk rating to “medium” and should have prompted the IBC financial assistance officer to address those risks.

The risk assessments were also not comprehensive because IBC did not properly address elevated risk with specific mitigation measures related to the findings identified. For example, to mitigate a risk associated with a State’s subrecipient monitoring, OWPO could add conditions into the grant requiring the State to obtain approval from OWPO before making any subawards or to submit periodic subrecipient performance information.

In the risk assessments, we found that IBC financial assistance officers correctly classified 11 of the 24 State applicants at the medium risk level because of the identification of single audit findings; however, the financial assistance officers did not implement mitigating measures to address the risks associated with those findings. Single audit findings in other Federal programs relevant to the orphaned wells program included:

²⁸ The “going concern” principle is the assumption that an entity will remain in business for the foreseeable future.

²⁹ A significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness yet important enough to merit attention by those responsible for oversight of the company’s financial reporting.

³⁰ A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the company’s annual or interim financial statements will not be prevented or detected on a timely basis.

- **Subrecipient monitoring issues.** States must monitor the activities of the subrecipient to ensure that the subaward is used for the authorized purpose and in compliance with regulations and terms and conditions of the subaward and achieving the performance goals.
- **Questioned costs related to cost allocation to Federal programs.** If costs do not get correctly assigned to a program or account, it overstates total costs in one place and understates the balance in another which can impact funding decisions.
- **Lack of internal controls related to retaining documentation.** Without controls to keep documents, a recipient and the Government may lose vital evidence to combat fraud, waste, and abuse.
- **Lack of verification if vendors were suspended or debarred.** Recipients are required to check for and not do business with parties that are ineligible to receive Federal awards. This helps to protect funding from fraud or increased costs from terminating an improper contract award.

Why Risks Were Not Properly Assessed

The above issues occurred for several reasons. For the four assessments that did not consider single audit findings, IBC stated that a low-risk rating was warranted because the States involved had already been operating orphaned wells programs. Also, IBC stated that the findings in the single audit reports were associated with COVID-19, Medicaid, Student Financial Aid, and/or unemployment compensation programs, and they did not consider the findings from these types of entitlement programs as an indication of risk to programs addressing environmental protection and natural resources (i.e., orphaned wells). We disagree with this justification and contend that it is appropriate to review all findings to determine if a risk may impact an award. For example, any single audit deficiency caused by a lack of internal control or an oversight failure may require an elevated risk determination with conditions placed into a grant. A control that failed using the same policies and procedures on an entitlement program could be the same or similar control used for the State's orphaned well program.

For the 11 assessments that did not identify mitigation measures, IBC financial assistance officers stated they consider the required quarterly reports enough to cover the risk associated with the single audit findings. However, requiring only the quarterly reports may not mitigate all risks. For example, State verification of whether vendors are suspended or debarred would not be included in the quarterly reports. Additional measures, specifically targeting that particular risk, should be implemented.

In addition, IBC did not properly assess risk in part because the checklist was not sufficient for assessing single audit findings. The checklist steers IBC to rely on the bottom-line rating instead of identifying and evaluating risk areas before an overall determination is made. Specifically, it does not prompt the specialist to document relevant single audit findings and why they did or did not require adjustment to award conditions. Instead, all numerical scores are simply averaged, and, if the risk rating is overall "low," the grants management specialist is not required to take action to mitigate the specific indicators that are present.

Promising Practice: U.S. Fish and Wildlife Service has developed a more detailed risk assessment that includes documenting additional risks such as evaluating staffing, past performance experience, and project implementation issues. Adopting already established best practices from other DOI bureaus and offices could help OWPO enhance its checklist to provide a more comprehensive assessment of risk.

A comprehensive, thoroughly documented risk assessment, including individual risks along with IBC's response to those risks—such as whether OWPO will accept the risk or require mitigating measures—is important to ensure proper program administration and reduce the risk of fraud, waste, or abuse as grant recipients execute orphaned well activities.

Recommendation

We recommend that the Orphaned Wells Program Office:

3. Require the Interior Business Center to design and implement an updated risk assessment policy or checklist that requires financial assistance officers to document consideration of all applicable risk factors and document mitigating measures for each risk factor identified before awarding Orphaned Wells Programs Office grants.

OWPO Site Visit Practices Were Insufficient

Federal grant regulations recognize the value of site visits when administering a grant program.³¹ OWPO developed the State Site Visit Standard Operating Procedure (SOP), dated August 2023, which requires, to the extent practical, that at least one site visit be conducted within the period of each grant's performance. Specifically, the SOP states that site visit prioritization will be based on programmatic and/or performance risk. A site visit would include activities such as (1) observing and documenting current site conditions and monitoring well locations and related buildings and structures; (2) confirming previous and/or ongoing work performed at the site; (3) conducting on-site meetings with a site owner, operator, contractor, or subcontractor to discuss the fieldwork and concerns the parties may have; and (4) reviewing the plugging plan for a specific site to ensure that the contractor has a plan in place that has been agreed upon by the State representative.

In FY 2022, DOI distributed \$560 million through 24 initial grants to State orphaned wells programs—and OWPO conducted only 4 site visits as of September 2023. While OWPO conducted these site visits, it did not fully comply with its policy. OWPO was limited in the number of staff members trained to perform site visits and could not prioritize site visits using their risk-based approach. Further, given the nature and level of the program funding, four site visits were not sufficient to provide an appropriate level of oversight for such a significant program.

Multiple States have plugged thousands of wells during FYs 2022 and 2023. The established frequency of one site visit per each grant, which has a period of performance of more than one year and could involve the plugging of hundreds of wells, is not adequate to effectively monitor those grants. OWPO's current practice relies heavily on the States self-reporting through their financial and technical reports. However, periodic inspections by OWPO using physical observation during which evidence can be obtained, coupled with corroborating supporting documentation, are an effective oversight tool and provide assurance of the States' assertions contained in their quarterly reports. Overall, site visits permit more effective monitoring of grant funds because it provides OWPO staff with critical information that it could not otherwise receive through quarterly reporting.

OWPO officials stated that they are not fully staffed; however, until OWPO is fully staffed or contracts for support staff, a risk-based approach to determine both the frequency and location of site visits should be implemented. By not implementing an effective site visit policy, OWPO cannot ensure grant recipients meet grant terms, comply with relevant standards and regulations, and accurately report performance.

³¹ 2 C.F.R. § 200.329(f).

Recommendations

We recommend that the Orphaned Wells Program Office:

4. Implement a risk-based approach to determine both the frequency and location of site visits, as required in its Site Visit Standard Operating Procedure to ensure effective grant monitoring.
5. Develop a mechanism to track the number and location of site visits to assist with a risk-based approach.

OWPO Can Improve Guidance to Grant Applicants

The U.S. Government Accountability Office's (GAO's) *Standards for Internal Control in the Federal Government* (the "Green Book") sets the standards for an effective internal control system for Federal agencies. A key principle³² of internal control requires that management externally communicate the necessary quality information to achieve the entity's objectives. As such, management should communicate quality information so that external parties can help the entity achieve its objective and address related risk.

We found that OWPO provided considerable guidance to the States through its grant application guidance, website,³³ and conference calls with State officials.³⁴ However, based on survey responses we received from the States and from our analysis of OWPO guidance, we determined that it was not sufficient to ensure that applicants fully understand all program requirements and how to implement them. We found four areas in which OWPO can improve its guidance: (1) documenting benefits to disadvantaged communities (the Justice40 Initiative); (2) subrecipient and/or contractor monitoring; (3) groundwater water contamination measurement and tracking expectations; and (4) leveraging of funds.

Grant Applicants Need More Information To Meet the Justice40 Initiative

Executive Order No. 14008 created the Justice40 Initiative as a whole-of-government effort to ensure that Federal agencies work with States and local communities to advance environmental justice and spur economic opportunity with the goal of delivering at least 40 percent of the benefits from certain Federal investments to disadvantaged communities. The Office of Management and Budget (OMB) issued interim guidance in July 2021³⁵ requiring Federal agencies to identify programs that fall within the scope of Justice40; DOI identified the orphaned wells program as a covered program. This requires OWPO to identify Justice40 benefits, determine how the program distributes Justice40 benefits, and calculate and report on overall Justice40 benefits of investments to disadvantaged communities. To assist with the implementation of Executive Order No. 14008, the White House Council on Environmental Quality developed the Climate and Economic Justice Screening Tool (CEJST).³⁶

OWPO has not provided guidance for how to calculate and report the benefits associated with implementing Justice40 or how States will apply Justice40 requirements when prioritizing projects. OWPO issued guidance for initial grants that only encouraged, but did not require, applicants to include plans in grant applications for providing overall program benefits to disadvantaged communities. The guidance also did not mention Justice40 specifically and makes no reference to Justice40's key 40-percent target. As a result, States lack clarity on the applicability of Justice40 requirements in its project planning and of the 40-percent target to their programs. Consequently, States are not reporting on progress made in implementing Justice40. Although

³² Green Book, "Principle 15 - Communicate Externally," September 2014.

³³ In addition to grant guidance, OWPO's website via <https://www.doi.gov/state-orphaned-wells-program> also provides guidance on methane.

³⁴ Conference calls with State officials helped OWPO to establish open lines of communication, answer questions, and clarify guidance.

³⁵ OMB Memorandum M-21-28, *Interim Implementation Guidance for the Justice40 Initiative*, dated July 20, 2021.

³⁶ The CEJST tool can be accessed here: <https://screeningtool.geoplatform.gov/en/about#3/33.47/-97.5>.

OWPO did direct States to include in their quarterly technical reports data on the proximity of wells plugged using IIJA funding to disadvantaged communities, States are not reporting this information either.

OWPO required States to prioritize well plugging in disadvantaged communities in their projects for the next phase of grant funding (formula grants). Therefore, it is important that sufficient guidance be provided for the States now to ensure that in the future that OWPO can report on its progress in complying with the Justice40 requirement that at least 40 percent of the overall benefits from this program are delivered to disadvantaged communities that are marginalized, underserved, and overburdened by pollution.

Subrecipient and Contractor Monitoring

Federal regulations require that grant recipients monitor the cost and performance of all subrecipients and contractors that perform work on their awards to ensure that the award is managed and administered in accordance with the regulations.³⁷ Because regulations are written in a broad manner for applicability to an array of grant programs, it is a best practice for agencies to provide program-specific guidance so that award recipients have a complete understanding of monitoring expectations. Monitoring subrecipients and contractors serves to identify and correct poor performance, ensure delivery of quality services, and reduce the risk of paying the subrecipient/contractor more than the value of the service performed.

OWPO's initial grant guidance required that States ensure contractors and subrecipients meet State plugging standards and pay employees prevailing wages.³⁸ However, the guidance did not provide examples of how to monitor accountability, compliance, and achievement of performance goals outside of these two general requirements. The majority of States told us that neither OWPO nor its predecessor had provided expectations for monitoring subrecipients and contractors. For example, additional guidance could be provided on evaluation of direct and indirect costs for allowability when reviewing requests for payment to protect against improper payments, as well as on performance related milestones, periodic inspections, and timing of feedback.

We found that 20 of the States receiving IIJA funds had single audit deficiencies related to the subrecipient monitoring compliance requirement within other Federal programs. For example, one recipient failed to follow established program subrecipient monitoring procedures and another recipient did not maintain documentation regarding the subrecipient risk assessment. Failure to properly manage subrecipients and contractors can result in fraud or waste, and, accordingly, it is incumbent on OWPO to provide the information to help promote appropriate oversight.

Measuring and Tracking of Groundwater Contamination

Orphaned wells pose hazards to surrounding groundwater supplies, risking harm to local ecosystems and public health. The IIJA stated that States can use grant funds to measure and track contamination of groundwater water associated with orphaned wells.

OWPO's initial grant guidance only recommended that States track and measure groundwater contamination, while the formula grant guidance makes this a requirement. Specifically, OWPO's formula grant requires recipients to conduct post-plugging inspections within 12 months of completion of the well plugging activity to verify the lack of water contamination. In addition, the formula grant guidance includes information on what groundwater and surface water contamination information is to be included with grant applications and reported in quarterly reports. The guidance requires that States must report whether contamination was found, what the indicators of contamination were, whether remediation was performed, what type of remediation was performed, and the date on which remediation was completed.

³⁷ 2 C.F.R. §§ 200.317-346.

³⁸ 40 U.S.C. § 3142(b) states "the minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there."

However, OWPO provided limited technical guidance to States on methodologies to perform screening for groundwater contamination or measure and track the contamination. As a result, States lack clarity on screening methodologies and indicators to measure and track. For example, we found that OWPO's written guidance does not include a list of indicators that may signify contamination, including pH, salinity, or total dissolved solids.

Some States we surveyed reported a lack of experience with groundwater remediation. In that same survey, other States noted using varying methodologies to identify and measure groundwater contamination. No States voluntarily reported on groundwater contamination in their quarterly technical reports. If States are not measuring, tracking, and reporting on groundwater contamination consistently, then OWPO is not able to accurately report on the effects of groundwater or surface water contamination associated with orphaned wells.

Use of Non-DOI Funding

In accordance with Federal regulations, States must maintain records that adequately identify the source and application of funds for federally funded activities, and have effective control over, and accountability for, all funds.³⁹ States have access to other sources of funding outside of DOI to address orphaned wells, such as taxes, fees, or other assessments on the oil and gas industry. Leveraging funds from these multiple sources can be a useful tool to ensure the maximum number of orphaned wells are being plugged.

We found that OWPO did not issue guidance to States on identifying and appropriately segregating IIJA funds when they were leveraged with other funding sources. OWPO asked States to identify only whether IIJA funds would be leveraged and did not provide guidance on its expectations for grants. Most States indicated that they do intend to leverage IIJA funds with other funding from outside of DOI. Without this guidance States risk inappropriately co-mingling funds, resulting in lost transparency, questioned costs, and noncompliance with terms and conditions (e.g., wage requirements, small business usage goals, specific training required) of a specific funding source.

Recommendations

We recommend that the Orphaned Wells Program Office:

6. Develop and provide to grant applicants guidance on prioritization of projects and how to calculate and report the benefits associated with implementing the Justice40 Initiative.
7. Develop and provide to grant applicants guidance on expectations of subrecipient and contractor monitoring.
8. Develop and provide to grant applicants guidance on measuring and tracking groundwater contamination.
9. Develop and provide to grant applicants guidance on appropriately segregating and reporting different funding sources used by the States to plug and remediate orphaned wells.

³⁹ 2 C.F.R. § 200.302(b)(3) and (4).

Conclusion and Recommendations

Conclusion

As OWPO continues to award grants to address the serious threats posed by orphaned wells to human health and the environment, it should improve its ability to administer IJA grants. We found that OWPO did not review all required State quarterly financial and technical reports, did not ensure that IBC properly assessed risk of grant recipients, did not have an effective site visit policy, and did not provide enough guidance to grant applicants. We make nine recommendations that, if implemented, will help OWPO properly review quarterly reports and analyze risk of grant applicants; conduct adequate site visits; and provide sufficient guidance to grant recipients.

Recommendations Summary

We provided a draft of this report to OWPO for review. OWPO concurred with eight recommendations and partially concurred with one recommendation. We consider Recommendations 1, 2, 4 through 7, and 9 resolved and Recommendations 3 and 8 unresolved. We determined that Recommendation 3 is significant and will be reported as such in our semiannual report to Congress in accordance with the Inspector General Act.⁴⁰ Below we summarize OWPO's response to our recommendations, as well as our comments on its response. See Appendix 3 for the full text of the OWPO response; Appendix 4 lists the status of each recommendation.

We recommend that OWPO:

1. Develop and implement policy to require review of all quarterly technical reports in a timely manner and complete any outstanding reviews.

OWPO Response: OWPO concurred with this recommendation and stated the State Program Division has reviewed all initial grant quarterly technical reports and there are no outstanding reports. OWPO stated it will finalize and implement an SOP for “technical reporting monitoring and adhere to prescribed deadlines to ensure the timely review of all technical reports.”

OWPO provided a March 2025 target implementation date.

OIG Comment: Based on OWPO's response, we consider this recommendation resolved. We will consider this recommendation implemented when OWPO provides the SOP for technical report monitoring and demonstrates it completed the outstanding quarterly technical report reviews. While OWPO stated there are no outstanding reports, we have reviewed the grant file and the first and second quarter reports of fiscal year 2023 did not have a review form completed for us to confirm implementation.

2. Develop a process to ensure all financial reports are reviewed in a timely manner.

OWPO Response: OWPO concurred with this recommendation and stated IBC is responsible for reviewing the financial reports in accordance with the Shared Services Agreement for Financial Assistance. OWPO stated that IBC has completed review of all initial grant quarterly financial reports. OWPO also stated that timely reviews of the financial reports are dependent upon it “finalizing technical report reviews and providing timely and quality feedback to IBC.” As stated in OWPO's response to Recommendation 1, it will finalize and implement an SOP for technical reporting monitoring. OWPO stated it anticipates that in addition to hiring more people to meet the demand of the increasing number of reports being submitted, “adherence to prescribed deadlines will allow adequate time for the IBC's

⁴⁰ The Inspector General Act of 1978, 5 U.S.C. § 405(b), requires inspectors general to prepare semiannual reports summarizing OIG activities during the immediately preceding six-month periods ending March 31 and September 30. It also states that these semiannual reports should include an identification of each “significant recommendation” described in previous semiannual reports on which corrective action has not been completed.

established process to take place and result in the timely review of all financial reports in accordance with the Shared Services agreement.”

OWPO provided a March 2025 target implementation date.

OIG Comment: Based on OWPO's response, we consider this recommendation resolved. We will consider this recommendation implemented when OWPO provides the SOP for technical report monitoring and provides documentation on the OWPO process for providing quality and timely feedback to IBC to facilitate its' review and how OWPO will oversee that IBC completes its established process for timely review of all financial reports.

3. Require the Interior Business Center to design and implement an updated risk assessment policy or checklist that requires financial assistance officers to document consideration of all applicable risk factors and document mitigating measures for each risk factor identified before awarding Orphaned Wells Programs Office grants.

OWPO Response: OWPO partially concurred with this recommendation and stated it has a strong and collaborative partnership with IBC and that OWPO shared the recommendation with IBC for consideration. OWPO stated IBC “implemented all measures to evaluate risk in accordance with 2 CFR 200 and DOI Policy DOI-AAAP-0068 for the initial state grants awarded in FY 2022.” OWPO stated that the risk assessment results were considered when developing the award terms and conditions. OWPO stated that IBC has adopted the DOI Office of Grants Management’s (PGM) new risk assessment policy (DOI-PGM-POL-0016) that includes a pre-award risk assessment checklist. OWPO stated that the implementation of the revised PGM policy and pre-award risk assessment checklist has been completed.

OWPO provided a March 2025 target implementation date.

OIG Comment: Based on OWPO’s response, we consider this recommendation unresolved. As stated in our report, we found that for initial State grants awarded in FY 2022, IBC did not document or evaluate certain risk factors, such as single audit findings, to inform whether award terms and conditions should be revised. We obtained and reviewed the new PGM risk assessment policy (DOI-PGM-POL-0016) and found that the updates do not address our concerns. Specifically, the policy does not prompt the specialist to document relevant single audit findings and or document mitigating measures for risks identified. Further, the updated policy still steers IBC to rely on the bottom-line rating instead of identifying and evaluating risk areas before making an overall determination. We will consider this recommendation implemented when OWPO provides documentation demonstrating that it has implemented a robust pre-award risk assessment checklist that incorporates and is considering each risk factor identified before awarding grants.

4. Implement a risk-based approach to determine both the frequency and location of site visits, as required in its Site Visit SOP to ensure effective grant monitoring.

OWPO Response: OWPO concurred with this recommendation and stated it will “develop and implement risk-based criteria to determine both the frequency and location of site visits as part of a comprehensive approach to risk-based grant management.” OWPO will update the Site Visit SOP accordingly.

OWPO provided a March 2025 target implementation date.

OIG Comment: Based on OWPO's response, we consider this recommendation resolved. We will consider this recommendation implemented when OWPO updates the SOP and demonstrates it applied risk-based measures to determine frequency and location of site visits.

5. Develop a mechanism to track the number and location of site visits to assist with a risk-based approach.

OWPO Response: OWPO concurred with this recommendation and stated it “developed a methodology to track the number and location of site visits as part of a program-specific grant monitoring tracker.” OWPO stated this has been completed and OWPO will submit documentation to the OIG for closure. In a followup email with OWPO to clarify the response, we were told that the business process to track the number and location of site visits has been developed, but the process has not been fully implemented and is currently being reviewed.

OWPO provided a March 2025 target implementation date.

OIG Comment: Based on OWPO's response, we consider this recommendation resolved. We will consider this recommendation implemented when OWPO provides documentation of its mechanism for tracking the location and number of site visits conducted.

6. Develop and provide to grant applicants guidance on prioritization of projects and how to calculate and report the benefits associated with implementing the Justice40 Initiative.

OWPO Response: OWPO concurred with this recommendation and stated that States prioritize orphaned wells for plugging in accordance with their policies and laws, which is consistent with § 40601 of the Infrastructure Investment and Jobs Act. OWPO stated that in August 2024, it issued Phase 2 Formula Grant guidance, which provided “significantly more direction to states on prioritizing plugging wells located in or near disadvantaged communities.” OWPO stated this guidance makes “it clear that the Phase 2 Formula grants are subject to the Justice40 Initiative and provide[s] direction on how to identify disadvantaged communities using the Climate and Economic Justice Screening Tool.” OWPO said that States “must report the location of the wells that they plugged using awarded funds, and OWPO uses that data to calculate and report the benefits associated with orphaned wells plugging on CEJST identified disadvantaged communities.” OWPO provided a copy of the Phase 2 Formula Grant guidance issued in August 2024.

OWPO provided a March 2025 target implementation date.

OIG Comment: Based on OWPO's response, we consider this recommendation resolved. We confirmed that the August 2024 guidance provides grant applicants direction on prioritization of projects and how to report the location of the wells that they plugged using awarded funds. OWPO stated that it will calculate and report the benefits associated with implementing the Justice40 initiative, which takes the onus off the States. OWPO’s corrective action addresses reporting the benefits associated with implementing the Justice40 initiative. We will consider this recommendation implemented when OWPO provides documentation showing how it used the information provided by States to calculate and report the benefits associated with implementing the Justice40 Initiative.

7. Develop and provide to grant applicants guidance on expectations of subrecipient and contractor monitoring.

OWPO Response: OWPO concurred with this recommendation and stated, “it will coordinate with federal partners, such as IBC, PGM, and the Office of the Solicitor to develop and provide grant recipients with program-specific guidance on the expectations of subrecipient and contractor monitoring.”

OWPO provided a June 2025 target implementation date.

OIG Comment: Based on OWPO's response, we consider this recommendation resolved. We will consider this recommendation implemented when OWPO provides documentation that it has developed and provided grant recipients with program-specific guidance on the expectations of subrecipient and contractor monitoring.

8. Develop and provide to grant applicants guidance on measuring and tracking groundwater contamination.

OWPO Response: OWPO concurred with this recommendation and said that States “use their own procedures for measuring and tracking groundwater resources impacted by orphaned wells located on state or private lands.” OWPO stated that in July 2023, it issued Phase 1 Formula Grant guidance and accompanying Frequently Asked Questions to better articulate OWPO’s expectations and provide additional guidance on groundwater monitoring.

OIG Comment: While OWPO considered this recommendation implemented, we consider this recommendation unresolved. As stated in the report, OWPO provided limited technical guidance to States related to methodologies for screening, measuring and tracking groundwater contamination. Further, orphaned wells formula grants will require States to measure and track groundwater contamination and the lack of clarity regarding screening methodologies hinder collection of the data. OWPO’s written guidance should include a list of indicators that may signify contamination, such as dead vegetation and local water complaints, or suggest tests such as sampling of nearby water wells (e.g., pH level, salinity, or total dissolved solids). We will consider this recommendation implemented when OWPO provides documentation that it has developed and provided grant applicants with additional guidance on screening methodologies and indicators to measure and track groundwater contamination. We request OWPO provide a target implementation date.

9. Develop and provide to grant applicants guidance on appropriately segregating and reporting different funding sources used by the States to plug and remediate orphaned wells.

OWPO Response: OWPO concurred with this recommendation and stated it will coordinate with Federal partners, such as IBC, PGM, and the Office of the Solicitor, “to develop guidance for applicants regarding their responsibility to appropriately segregate and report, where appropriate, on different funding sources to ensure that funds are used solely for authorized purposes.” OWPO stated it will provide grant recipients with this additional guidance.

OWPO provided a June 2025 target implementation date.

OIG Comment: Based on OWPO’s response, we consider this recommendation resolved. We will consider this recommendation implemented when OWPO provides documentation that it developed and provided guidance to grant applicants regarding their responsibility to appropriately segregate and report, where appropriate, on different funding sources to ensure that funds are used solely for authorized purposes.

Appendix 1: Scope and Methodology

Scope

Our evaluation focused on the Orphaned Wells Program Office (OWPO) oversight of the orphaned well Infrastructure Investments and Jobs Act (IIJA) funds to States. We evaluated OWPO's oversight of quarterly reports as of October 2023; Interior Business Center (IBC)- prepared risk assessments, as of October 2023, for IIJA fiscal year (FY) 2022 funding; and the OWPO guidance⁴¹ provided to the applicants from November 2021 through October 2023.

Methodology

We conducted our evaluation in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

To accomplish our objective, we:

- Reviewed Public Law No. 117-58, § 40601, "Orphaned Well Site Plugging, Remediation, and Restoration," and gained a detailed understanding of funding amounts, period of availability, and use of funds.
- Reviewed Federal Regulations and DOI Acquisition, Assistance, and Asset Policy No. 0068, *Financial Assistance Recipient Risk Assessment and Award Monitoring*, dated August 17, 2016, to determine risk evaluation steps and procedures.
- Documented our understanding of the guidance provided to grant applicants.
- Evaluated 24 risk assessments covering grant applications submitted in FY 2022 to determine whether the risk assessments were properly completed. Examined associated grant applicants' single audits for findings related to DOI programs and other Federal program findings.
- Interviewed officials, including OWPO and IBC management and staff.
- Performed site visits to the States of Ohio and West Virginia with OWPO staff to observe OWPO's site visit process.
- Evaluated 72 technical reports and 71 financial reports covering the first three quarters of FY 2023 to determine whether the technical and financial reports were reviewed.
- Obtained testimonial evidence via questionnaires from IIJA grant recipients about the requirements with the IIJA and guidance provided by OWPO.

⁴¹ As part of our evaluation, the Office of Environmental Policy and Compliance developed the guidance for the initial grants before the OWPO was established. OWPO then assumed responsibility for this guidance and implementation.

Appendix 2: Risk Assessment Checklist

The Interior Business Center (IBC) used the Financial Assistance Risk Assessment Checklist provided in U.S. Department of the Interior (DOI) Acquisition, Assistance, and Asset Policy No. 68 (DOI AAAP-0068), Financial Assistance Recipient Risk Assessment and Award Monitoring, issued August 17, 2016, to assess risk before awarding the grants (attached on page 22).

DOI's checklist includes only one question related to the single audit, grouping together the type of audit opinion received, if the entity presents a "going concern," the existence of significant deficiencies, material weaknesses, instances of material noncompliance, and other single audit findings. After checklist completion, IBC considers the risk assessment results when developing grant and cooperative agreement award conditions and incorporate specific conditions at the time of award based on the risk level and the conditions that caused the risk.

**Department of the Interior
Office of Acquisition and Property Management
Financial Assistance Risk Assessment Checklist**

Per DOI-AAAP-0068, Financial Assistance (FA) Recipient Risk Assessment and Award Monitoring: Complete the FA Risk Assessment Checklist prior to award of the first discretionary or mandatory grant or cooperative agreement to the recipient in the Fiscal Year (FY).

The completed form must be filed in either the official award file or a centralized subject-matter file, which may be more efficient for recipients who receive multiple awards in the FY.

Refer to DOI-AAAP-0068 for conditions to incorporate into awards for recipients.

| | |
|-------------------------------------|--------------|
| Recipient Name: | |
| DUNS Number: | |
| Recipient Type: | |
| Completed by (Full Name and Title): | |
| Date this form was completed: | [MM/DD/YYYY] |

1. Single Audit Compliance. If a Single Audit is available for the recipient, complete step 1 and skip steps 2 and 3. If not, skip step 1 and proceed to step 2.

LOW - The recipient's Single Audit did not contain any of the following: Qualified Opinion, a "going concern" emphasis-of-matter paragraph, significant deficiency, material weakness, material noncompliance, or any Standard Form Single Audit Compliance (SF-SAC) types of compliance findings. 1

MEDIUM - The recipient's Single Audit contained any of the following: Qualified Opinion, a "going concern" emphasis-of-matter paragraph, significant deficiency, material weakness, 3

HIGH - The recipient's Single Audit contained any of the following: adverse opinion, disclaimer of opinion, a "going concern" emphasis-of-matter paragraph, any SF-SAC types of compliance 5

DOCUMENTATION - File a printed copy of the report with this completed Financial Assistance Risk Assessment Checklist or provide the following information if Single Audit is posted on the Federal Audit Clearinghouse (FAC):

| | |
|---|--|
| Auditee Employer Identification Number (EIN): | |
| Report FY End Date: | |

2. Independent Audit. If an independent audit is available for the recipient, complete step 2 and skip step 3. If no, skip step 2 and proceed to step 3.

LOW - The recipient received an unqualified opinion on their independent audit. 1

MEDIUM - The recipient received a qualified, adverse, or disclaimer of opinion on their independent audit but program can mitigate risk by adding conditions to the award. 3

HIGH - The recipient received a qualified, adverse, or disclaimer of opinion on their independent audit and program cannot mitigate risk by adding conditions to the award. 5

Assistance Risk Assessment Checklist.

3. Other Tool. The recipient completed a Financial Capability Questionnaire (Department's or bureau's) or bureau conducted an agreed upon procedures review. Review of this tool indicates that:

LOW - The recipient has policies and procedures in place that meet the financial management standards in 2 CFR §200.302. 1

MEDIUM - The recipient lack policies and procedures that meet the financial management standards in 2 CFR §200.302 but program can mitigate risk by adding conditions to the award. 3

HIGH - The recipient lack policies and procedures that meet the financial management standards in 2 CFR §200.302 but program can mitigate risk by adding conditions to the award. 5

DOCUMENTATION - File completed Financial Capability form or agreed upon procedures review report with this completed Financial Assistance Risk Assessment Checklist.

4. Federal Awardee Performance and Integrity Information System (FAPIS) check indicates that:

LOW - The recipient has no FAPIS record. 1

MEDIUM - The recipient has negative performance information in FAPIS but program has positive prior experience with recipient. 3

HIGH - The recipient has negative performance information in FAPIS but bureau/office can mitigate risk by adding conditions to the award. 5

5. Performance Track Record

LOW - Recipient has met all objectives in previous award(s); on schedule to meet all objectives in current award(s) or Recipient met most objectives in previous award(s) and the reason(s) for delay or non-performance was(were) unavoidable or recipient has no past or current award with the bureau. 1

MEDIUM - Recipient has no previous awards or recipient may have had issues with meeting objectives in current or past award(s) but was responsive to bureau communications or request for information or action related to the issue(s). Issue(s) was(were) 3

HIGH - Recipient failed to deliver proposed outcomes/outputs on previous award(s); significantly behind schedule or failing to meet maintenance of effort required on current award(s) due to failures within recipient's control to correct. Recipient significantly failed to comply with award terms and conditions. Recipient was not responsive to communications or requests for information or action related to the issues. Issues were never resolved.

5

6. Reporting Compliance

LOW - Recipient has a history of submitting timely performance and financial reports.

1

MEDIUM - Recipient has no previous reporting requirement; or Recipient has asked for reporting extensions for performance and financial reports or has been periodically late in submitting these reports.

3

HIGH - Recipient has been consistently late in submitting performance and financial reports.

5

Calculate the preliminary risk rating by adding the risk scores and dividing by 4.

LOW: Average = 1 through 2.4
MEDIUM: Average = 2.5 through 3.4
HIGH: Average = 3.5 through 5

Are there any other factors that impact, either by raising or lowering, the recipient's

Enter final risk rating here. Consider the preliminary risk rating and any factors that

Refer to DOI-AAAP-0068 for follow-up actions.

Describe follow-up actions here:

Appendix 3: Response to Draft Report

The Orphaned Wells Program Office's response to our draft report follows on page 26.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240
October 7, 2024

OWPO-2025-DIR-002

Memorandum

To: Mark Lee Greenblatt
Inspector General **KIMBRA**
From: Kimbra Davis **DAVIS**
Director, Orphaned Wells Program Office

Digitally signed by
KIMBRA DAVIS
Date: 2024.10.07
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Subject: Response to the OIG's Draft Inspection Report – *The Orphaned Wells Program Office Needs to Improve Its Oversight of the Infrastructure Investment and Jobs Act Funding to States* (Report No. 2023-INF-025)

Thank you for the opportunity to review and comment on the OIG's inspection report titled *The Orphaned Wells Program Office Needs to Improve Its Oversight of the Infrastructure Investment and Jobs Act Funding to States* (draft report). In the draft report, the OIG identified nine recommendations to assist the Orphaned Wells Program Office (OWPO) with providing effective oversight of and sufficient guidance to state grant recipients.

The Secretary of the Interior established OWPO in January 2023 to manage and oversee the \$4.677 billion in funding the Infrastructure Investment and Jobs Act (IIJA) provided for orphaned well plugging and site remediation and restoration activities on federal, Tribal, state, and private lands. As a relatively new office, we appreciate the OIG's oversight, review, and recommendations for improvement.

The OWPO generally concurs with the nine recommendations. Attached are our responses to each recommendation, which includes planned actions, target completion dates, and a responsible official. The OWPO is committed to continuous improvement and welcomes future reviews and recommendations for how we can enhance our operations and oversight of the IIJA's orphaned wells programs.

If you have any questions about this response, please contact me or Jennifer Goldblatt, OWPO Deputy Director at (202) 255-2932.

Attachment

Agency Response to the Office of the Inspector General’s Draft Report, The Orphaned Wells Program Office Needs to Improve Its Oversight of the Infrastructure Investment and Jobs Act Funding to States, Report No. 2023–INF–025

Recommendation 1: *Develop and implement policy to require review of all quarterly technical reports in a timely manner and complete any outstanding reviews.*

OWPO Response: Concur

The OWPO’s State Program Division completed review of all initial grant quarterly technical reports. Currently there are no outstanding reports. OWPO will finalize and implement a Standard Operating Procedure (SOP) for technical report monitoring and adhere to prescribed deadlines to ensure the timely review of all technical reports.

Target Date: March 2025

Responsible Official: Kimbra Davis, Director, Orphaned Wells Program Office

Recommendation 2: *Develop a process to ensure all financial reports are reviewed in a timely manner.*

OWPO Response: Concur

Financial report reviews are performed by the Interior Business Center (IBC), in accordance with our Shared Services agreement for Financial Assistance. OWPO has shared this recommendation with IBC for consideration. IBC completed review of all initial grant quarterly financial reports. Timely review of financial reports is dependent upon OWPO finalizing technical report reviews and providing timely, quality feedback to IBC. As stated in the response to Recommendation 1, OWPO will finalize and implement an SOP for technical report monitoring and adhere to prescribed deadlines to ensure the timely review of all technical reports. OWPO anticipates that in addition to hiring more people to meet the demand of the increasing number of reports being submitted, adherence to prescribed deadlines will allow adequate time for the IBC’s established process to take place and result in the timely review of all financial reports in accordance with the Shared Services agreement.

Target Date: March 2025

Responsible Official: Kimbra Davis, Director, Orphaned Wells Program Office

Recommendation 3: *Require the Interior Business Center to design and implement an updated risk assessment policy or checklist that requires financial assistance officers to document consideration of all applicable risk factors and document mitigating measures for each risk factor identified before awarding Orphaned Wells Programs Office grants.*

OWPO Response: Partially Concur

OWPO and IBC have a strong and collaborative partnership and OWPO shared this recommendation with IBC for consideration. IBC implemented all measures to evaluate risk in accordance with 2 CFR 200 and DOI policy DOI-AAAP-0068 for the initial state grants awarded in FY 2022, and the risk assessment results were considered when developing the award terms and conditions. In July 2024, the Department’s Office of Grants Management (PGM) rescinded DOI-AAAP-0068 and established a new risk assessment policy (DOI-PGM-POL-0016) that includes a pre-award risk assessment checklist. IBC has adopted the new PGM policy and the pre-award risk assessment

checklist. Implementation of the revised PGM policy and pre-award risk assessment checklist has been completed. OWPO will submit documentation to the OIG for closure.

Target Date: March 2025

Responsible Official: Kimbra Davis, Director, Orphaned Wells Program Office

Recommendation 4: *Implement a risk-based approach to determine both the frequency and location of site visits, as required in its Site Visit Standard Operating Procedure to ensure effective grant monitoring.*

OWPO Response: Concur

OWPO will develop and implement risk-based criteria to determine both the frequency and location of site visits as part of a comprehensive approach to risk-based grant management.

OWPO will update the Site Visit SOP accordingly.

Target Date: May 2025

Responsible Official: Kimbra Davis, Director, Orphaned Wells Program Office

Recommendation 5: *Develop a mechanism to track the number and location of site visits to assist with a risk-based approach.*

OWPO Response: Concur

OWPO developed a methodology to track the number and location of site visits as part of a program-specific grant monitoring tracker. This has been completed and OWPO will submit documentation to the OIG for closure.

Target Date: March 2025

Responsible Official: Kimbra Davis, Director, Orphaned Wells Program Office

Recommendation 6: *Develop and provide to grant applicants guidance on prioritization of projects and how to calculate and report the benefits associated with implementing the Justice40 Initiative.*

OWPO Response: Concur

Consistent with Section 40601 of the Infrastructure Investment and Jobs Act, states prioritize orphaned wells for plugging in accordance with their policies and laws. In August 2024, OWPO issued Phase 2 Formula Grant guidance, which provided significantly more direction to states on prioritizing plugging wells located in or near disadvantaged communities. This includes making it clear that grants are subject to the Justice40 Initiative and providing direction on how to identify disadvantaged communities using the Climate and Economic Justice Screening Tool (CEJST), which was developed by the White House Counsel on Environmental Quality to “identify disadvantaged communities that will benefit from programs included in the Justice40 Initiative.” States must report to OWPO the location of the wells that they plugged using awarded funds, and OWPO uses that data to calculate and report the benefits associated with orphaned wells plugging on CEJST-identified disadvantaged communities. This has been completed and OWPO will submit documentation to the OIG for closure.

Target Date: March 2025

Responsible Official: Kimbra Davis, Director, Orphaned Wells Program Office

Recommendation 7: *Develop and provide to grant applicants guidance on expectations of subrecipient and contractor monitoring.*

OWPO Response: Concur

There were no subrecipients on the initial state grant awards; however, states did award contracts that required contractor monitoring by the state recipients. Subrecipient and contractor monitoring are distinctly different. A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. A contract is for the purpose of obtaining goods and services for the non-federal entity's own use and creates a procurement relationship with the contractor. To enhance the guidance in 2 CFR 200.317-200.333, OWPO will coordinate with federal partners, such as IBC, PGM, and the Office of the Solicitor to develop and provide grant recipients with program-specific guidance on the expectations of subrecipient and contractor monitoring.

Target Date: June 2025

Responsible Official: Kimbra Davis, Director, Orphaned Wells Program Office

Recommendation 8: *Develop and provide to grant applicants guidance on measuring and tracking groundwater contamination.*

OWPO Response: Concur

In the same way that states prioritize wells in accordance with their policies and laws, states use their own procedures for measuring and tracking groundwater resources impacted by orphaned wells located on state or private lands. In July 2023, OWPO issued Phase 1 Formula Grant guidance and accompanying Frequently Asked Questions to better articulate OWPO's expectations and provide additional guidance on groundwater monitoring. This has been completed and OWPO will submit documentation to the OIG for closure.

Target Date: March 2025

Responsible Official: Kimbra Davis, Director, Orphaned Wells Program Office

Recommendation 9: *Develop and provide to grant applicants guidance on appropriately segregating and reporting different funding sources used by the States to plug and remediate orphaned wells.*

OWPO Response: Concur

Requirements at 2 CFR 200.302(b)(3) oblige non-federal entities to provide records that adequately identify the source and application of funds for federally-funded activities, and 2 CFR 200.302(b)(4) requires the non-federal entity to have effective control over, and accountability for, all funds, property, and other assets. The accounting systems of all recipients and subrecipients must ensure funds are not commingled with funds from other federal, state, or private agencies as each recipient must account for each award separately. Funds specifically budgeted and/or received for one project may not be used to support another. To enhance the guidance in 2 CFR 200.302, OWPO will coordinate with federal partners, such as IBC, PGM, and the Office of the Solicitor, to develop guidance for applicants regarding their responsibility to appropriately segregate and report, where appropriate, on different funding sources to ensure that funds are used solely for authorized purposes. OWPO will provide grant recipients with this additional guidance.

Target Date: June 2025

Responsible Official: Kimbra Davis, Director, Orphaned Wells Program Office

Appendix 4: Status of Recommendations

| Recommendation | Status | Action Required |
|---|--|---|
| 2023-INF-025-01 We recommend that the Orphaned Wells Program Office develop and implement policy to require review of all quarterly technical reports in a timely manner and complete any outstanding reviews. | Resolved | We will track implementation. |
| 2023-INF-025-02 We recommend that the Orphaned Wells Program Office develop a process to ensure all financial reports are reviewed in a timely manner. | | |
| 2023-INF-025-03 We recommend that the Orphaned Wells Program Office require the Interior Business Center to design and implement an update risk assessment policy or checklist that requires financial assistance officers to document consideration of all applicable risk factors and document mitigating measures for each risk factor identified before awarding Orphaned Wells Programs Office grants. | Unresolved: pending additional information. | We will meet with the Orphaned Wells Program Office to further discuss resolution of this recommendation. |
| 2023-INF-025-04 We recommend that the Orphaned Wells Program Office implement a risk-based approach to determine both the frequency and location of site visits, as required in its Site Visit Standard Operating Procedure to ensure effective grant monitoring. | Resolved | We will track implementation. |
| 2023-INF-025-05 We recommend that the Orphaned Wells Program Office develop a mechanism to track the number and location of site visits to assist with a risk-based approach. | | |
| 2023-INF-025-06 We recommend that the Orphaned Wells Program Office develop and provide to grant applicants guidance on prioritization of projects and how to calculate and report the benefits associated with implementing the Justice40 Initiative. | Resolved | We will track implementation. |

| Recommendation | Status | Action Required |
|---|---|--|
| <p>2023-INF-025-07 We recommend that the Orphaned Wells Program Office develop and provide to grant applicants guidance on expectations of subrecipient and contractor monitoring.</p> | | |
| <p>2023-INF-025-08 We recommend that the Orphaned Wells Program Office develop and provide to grant applicants guidance on measuring and tracking groundwater contamination.</p> | <p>Unresolved: pending additional information.</p> | <p>We will meet with the Orphaned Wells Program Office to further discuss resolution of this recommendation.</p> |
| <p>2023-INF-025-09 We recommend that the Orphaned Wells Program Office develop and provide to grant applicants guidance on appropriately segregating and reporting different funding sources used by the States to plug and remediate orphaned wells.</p> | <p>Resolved</p> | <p>We will track implementation.</p> |



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