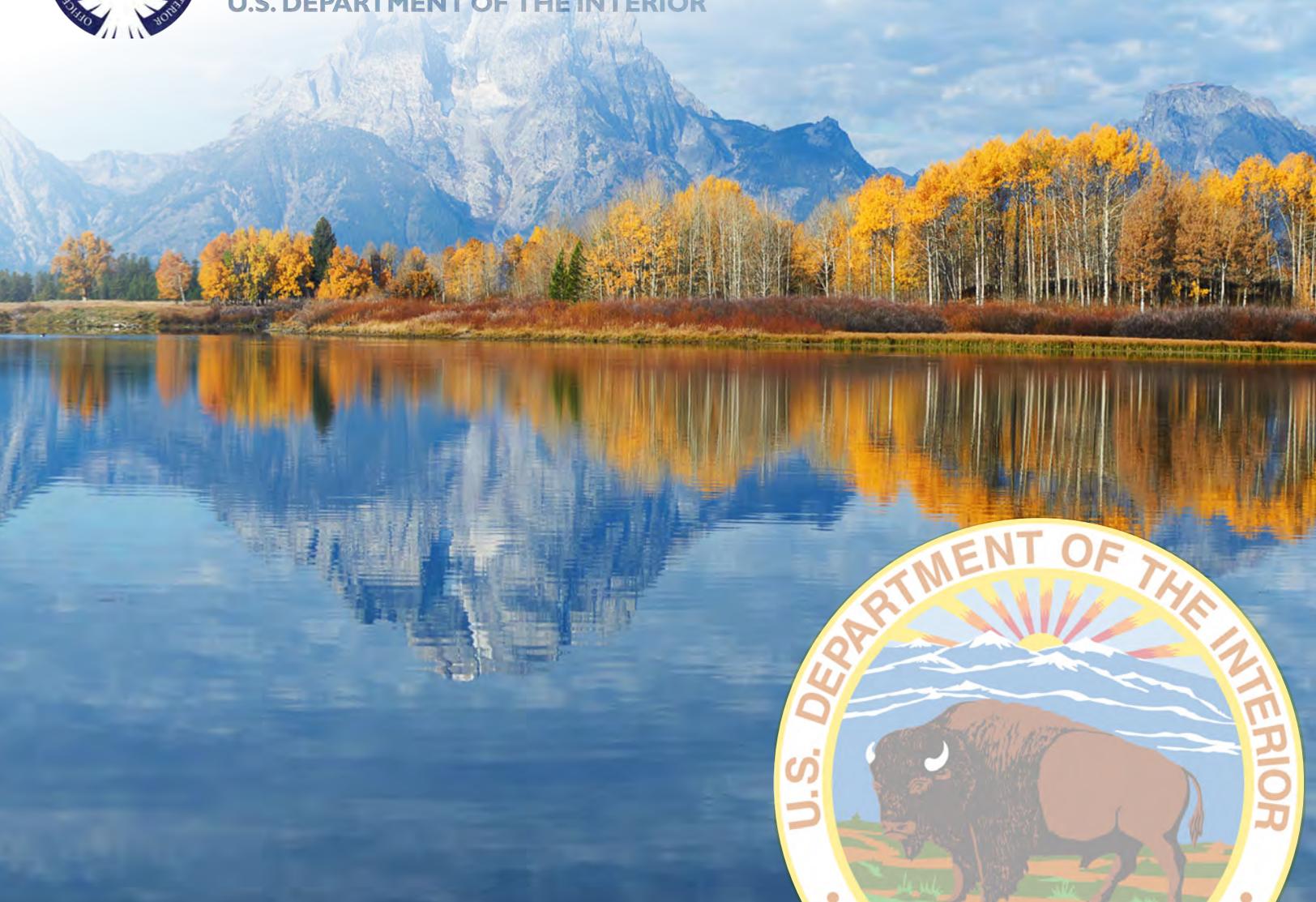




OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR



Audit



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U.S. DEPARTMENT OF THE INTERIOR

MAR 20 2026

Memorandum

To: Lanny Erdos
Director, Office of Surface Mining Reclamation and Enforcement

From: Nicki Miller *Nicki Miller*
Assistant Inspector General for Audits, Inspections, and Evaluations

Subject: Final Audit Report – *Improvements Needed in OSMRE’s Oversight of Kentucky’s Reporting and Expenditure of IIJA Abandoned Mine Land Funds*
Report No. 2024-CR-004

This memorandum transmits our audit report on the Office of Surface Mining Reclamation and Enforcement’s Infrastructure Investment and Jobs Act abandoned mine land funding provided to the Commonwealth of Kentucky.

We will track open recommendations for resolution and implementation. We will notify Congress of 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 contact me at aie_reports@doioig.gov.

Audit**Improvements Needed in OSMRE's Oversight of Kentucky's Reporting and Expenditure of IJJA Abandoned Mine Land Funds****Objectives**

To determine whether Kentucky (1) expended funds and reported financial performance for Infrastructure Investment and Jobs Act (IIJA) abandoned mine land (AML) grant awards in accordance with award terms and conditions, the program budget, and Federal requirements and (2) fulfilled program goals and accurately reported programmatic performance in accordance with award agreements.

Recommendations

We make 14 recommendations that, if implemented, will help the Office of Surface Mining Reclamation and Enforcement (OSMRE) improve its administration of \$11.3 billion in IIJA AML grant funding over the next 12 years and help Kentucky track and expend grant funds appropriately to fulfill the program's goals. Ten recommendations are resolved, and four are unresolved. One recommendation is significant.

Monetary Impact

\$685,408 Questioned Costs

Risk Areas

Contract & Financial Assistance Oversight



Health & Safety



Environmental Impact

The IIJA provided \$11.3 billion in funding for the Abandoned Mine Reclamation Fund administered by OSMRE to address coal mining hazards, restore water supplies, respond to emergencies, and fund long-term reclamation efforts for issues like acid mine drainage, subsidence, and coal mine fires. From fiscal years (FYs) 2023 through 2024,¹ OSMRE distributed \$1.4 billion in funding to States for AML reclamation and remediation of the associated hazards, of which the Commonwealth of Kentucky received over \$222 million through multiple grants.

Findings

We determined that the Kentucky Division of Abandoned Mine Lands (KDAML), the State Government agency charged with administering AML grants, generally fulfilled the program goals of reclaiming AMLs and reported programmatic performance in accordance with award requirements. However, we found that KDAML did not always expend funds or report financial performance for IIJA AML grants in accordance with award terms and conditions and Federal requirements. Specifically, KDAML lacked effective internal controls for payroll and coal reclamation project expenditures, which resulted in over \$685,000 in unallowable costs. For example, KDAML charged \$165,000 in unreasonable project costs related to AML problems at a private residence; of note, over the course of the last decade, KDAML used or planned to use \$1.9 million to address AML issues at this property. According to publicly available information, the estimated property value as of March 2025 was \$224,000. KDAML also failed to appropriately report or track grant funds. For example, it used incorrect grant subaccounts to classify grant payroll costs in required reports and did not track individual project costs. We also found that Kentucky did not ensure coal reclamation projects complied with the Build America, Buy America Act. Additionally, we noted that, during State FYs 2023 and 2024, KDAML charged approximately \$3.2 million to IIJA-funded AML grants to pay for the State's unfunded pension liabilities, which represents approximately 63 percent of the payroll costs charged to the grant.

Impact

Since the distribution of IIJA funds began in 2023, Kentucky has received over \$222 million for AML projects—approximately \$74 million annually—which represents a substantial increase in funding for AML projects as compared to previous years. Between 2015 and 2022, it received an annual average of \$31.8 million in Surface Mining Control and Reclamation Act of 1977 Title IV fee-based funding and Abandoned Mine Land Economic Revitalization funding. Kentucky is expected to receive more than \$1.1 billion through FY 2036. Therefore, OSMRE should ensure that Kentucky has policies and procedures in place to track and expend AML funds in accordance with award terms and conditions and Federal requirements—now and in the future. By not properly tracking and using grant funds, KDAML's ability to effectively reduce the adverse effects of coal mining practices, restore land and water resources, and protect public health and safety from harmful effects of coal mining practices may be diminished.

¹ The first annual IIJA AML grant distribution was for FY 2022 and will continue for the next 14 years. Kentucky applied for and received its first grant award in State FY 2023 with a project and budget period from July 1, 2022, through June 30, 2027.

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Introduction

Objectives

The objectives of our audit were to determine whether the Commonwealth of Kentucky:

1. Expended funds and reported financial performance for Infrastructure Investment and Jobs Act (IIJA) abandoned mine land (AML) grant awards in accordance with award terms and conditions, the program budget, and Federal requirements.
2. Fulfilled program goals and accurately reported programmatic performance in accordance with award agreements.

See Appendix 1 for our audit scope and methodology.

Background

Coal has been mined in the United States for centuries. Coal mines are considered abandoned when no mining operations have occurred in the past five years or more and no reclamation bond or other financial assurance has been posted. Today, there are as many as 500,000 abandoned coal mines in the United States, and millions of Americans live less than one mile from an abandoned coal mine. According to the U.S. Environmental Protection Agency, abandoned mines can present serious threats to human health and the environment. Communities built above or near AMLs are at risk for property damage due to subsidence that may occur in the mines below them. Watersheds near AMLs are at risk for acidification and heavy metal contamination due to acid mine drainage. Water, air, and sediment pollution resulting from AMLs pose risks to both wildlife and human health.

Office of Surface Mining Reclamation and Enforcement

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) established Federal regulatory oversight of coal operators and the environmental effects of coal mining.² It established the Office of Surface Mining Reclamation and Enforcement (OSMRE), a bureau within the U.S. Department of the Interior, to administer programs for controlling the impacts of surface coal mining operations. OSMRE's primary objectives are to ensure that coal mines are operated in a manner that protects people and the environment during mining, that land is restored after mining, and that any negative effects from past mining are mitigated.

Abandoned mine lands are lands, waters, and surrounding watersheds where extraction and processing of ores and/or minerals have occurred. These lands are reclaimed when the land is restored to a postmining land use approved by the regulatory authority.

Acid mine drainage is the outflow of acidic water from coal mines that often includes dissolved metals like iron or aluminum.

Portal refers to the structure that surrounds the entrance to a mine.

An AML **problem** or **feature** is an individual aspect of an AML site that can be remediated (e.g., acid mine drainage). There can be more than one AML problem per AML site.

Reclamation is action taken to restore land and water that has been adversely affected by coal mining.

Subsidence is surface caving or sinking due to AML-related underground mine voids.

A **watershed** is a land area that channels rainfall and snowmelt to creeks, streams, and rivers—and eventually to outflow points such as reservoirs, bays, and the ocean.

² Pub L. No. 95-87, 30 U.S.C §§ 1201-1328, as amended by Pub. L. No. 117-58 (2021).

In accordance with SMCRA, OSMRE oversees implementation of State and Tribal AML programs and provides grants to States and Tribes (i.e., grant recipients) with approved AML programs through its AML Reclamation Program. Generally, recipient States and Tribes award the majority of grant funding received from OSMRE to subrecipients or contractors to complete AML reclamation activities. States and Tribes are expected to oversee the work of those subrecipients and contractors.

In addition to overseeing and providing funding for reclamation programs, OSMRE provides States and Tribes with technical assistance and training related to coal production and environmental protection. It also maintains AML inventory data—including locations of AMLs, reclamation work performed, and costs associated with reclamation—in the Enhanced Abandoned Mine Land Inventory System (e-AMLIS).³

Funding Sources for AML Reclamation

Historically, OSMRE's AML Reclamation Program has been funded by Title IV of SMCRA through a fee paid by active coal mining companies on each ton of coal produced. Those funds are used to reclaim land and water resources adversely affected by coal mines abandoned before August 3, 1977; after this date, SMCRA requires companies to purchase bonds to cover the cost of reclamation. OSMRE collects and deposits these fees into the Abandoned Mine Reclamation Fund and annually distributes grants to States and Tribes for reclamation activities. OSMRE calculates the amounts of the AML grants to be distributed to eligible States and Tribes based on the number of tons of coal historically produced in the States or on the applicable Indian lands before August 3, 1977.

In 2021, the IIJA⁴ provided OSMRE with \$11.3 billion in new funding for its existing Abandoned Mine Reclamation Fund, of which \$10.9 billion is for grants to eligible States and Tribes. OSMRE started awarding this funding to States and Tribes on August 4, 2022, and plans to distribute approximately \$725 million per year over a 15-year period.

Of this amount, Kentucky will receive \$74.2 million annually for grant fiscal years (FYs) 2022 to 2036, which totals \$1.1 billion over the life of the program. Kentucky's AML Reclamation Program will receive the fourth largest percentage of IIJA AML funding—about 10 percent of total funding.

In addition to the IIJA funding, Kentucky will continue to receive annual disbursements of SMCRA fee-based (Title IV) and Abandoned Mine Land Economic Revitalization (AMLER)⁵ funding. Fee-based funding ranged from \$7.4 million to \$19 million annually over the last nine years, and AMLER funding ranged from \$30 million to \$58 million annually since 2016.

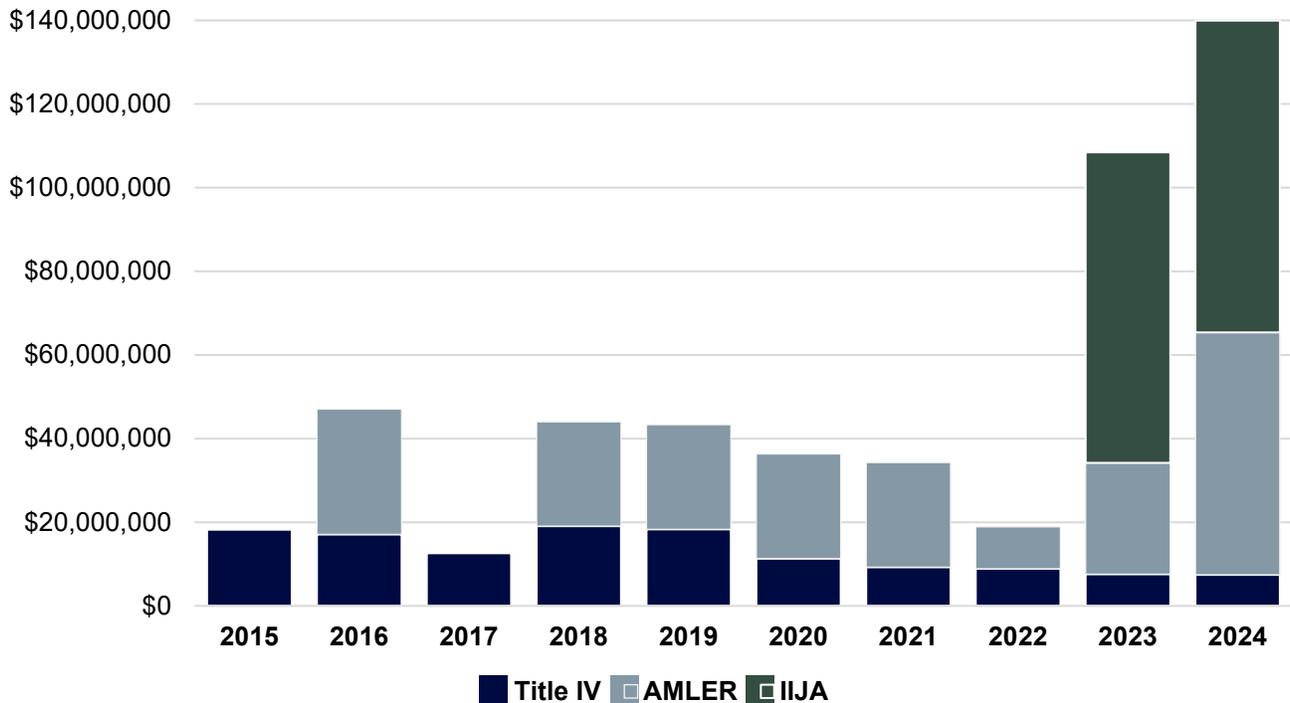
In 2023, each State also received a one-time distribution of \$296,000 in IIJA funding to enhance data collection processes and ensure the integrity, accuracy, and reliability of data in e-AMLIS. Figure 1 on the next page shows OSMRE AML grant distributions (Title IV, AMLER, and IIJA funding) to Kentucky from FYs 2015 through 2024.

³ e-AMLIS is the central electronic database that maintains the national inventory of AML hazards impacting public health, safety, and the environment, as well as reclaimed sites and their related reclamation costs.

⁴ Pub L. No. 117-58 (2021).

⁵ Congress has appropriated funding for the AMLER Program on an annual basis since FY 2016. AMLER funding is used to explore and implement strategies that return legacy coal mining sites to productive uses through economic and community development. The AMLER Program is intended to support local investment opportunities that provide for sustainable long-term rehabilitation of coalfield economies.

Figure 1: OSMRE AML Grant Distributions to Kentucky by Funding Source



Source: OIG analysis of OSMRE grant disbursement data.

OSMRE developed its *Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation* to provide State and Tribal AML programs with overarching information concerning the interpretation of the IIJA and project eligibility and priorities for the use of IIJA AML grant funds. The guidance also clarifies how IIJA AML grant funding differs from the traditional fee-based AML grant distributions authorized by SMCRA.

Kentucky Division of Abandoned Mine Lands

The Kentucky Division of Abandoned Mine Lands (KDAML) is an agency within the Kentucky Department of Natural Resources and part of the Kentucky Energy and Environment Cabinet. KDAML operates throughout Kentucky’s coal-producing counties to protect the public from health and safety problems caused by prior mining practices. KDAML seeks to restore abandoned mines to a safe and environmentally stable condition through reclamation projects. These projects may include, but are not limited to, slide repair, portal closures, retaining wall construction, excavation, drainage measures, demolition of mining structures, and coal residual fire suppression. The division is overseen by the KDAML Director and consists of several centralized branches—Program Development, Collaborative Projects, and Program Management. The Director’s Office is responsible for all facets of the AML program and oversees programmatic and division goals, objectives, policies, and procedures. KDAML also has five regional offices: the Central Office in Frankfort, the Western Branch in Madisonville, the Central Branches in London and Hazard, and the Eastern Branch in Prestonsburg.

KDAML prioritizes AML reclamation projects based on the degree of hazard and the annual grant amount of AML reclamation funding that it receives from OSMRE. It addresses coal reclamation projects by contracting with reclamation companies and awards grants to subrecipients for water supply projects. As of September 2024, KDAML had completed 27 projects with IIJA funds, had 14 projects in progress, and had identified 57 projects that were not yet started.

Results of Audit

We determined that KDAML generally fulfilled the program goals of reclaiming AMLs and reported programmatic performance in accordance with award requirements. However, we found that KDAML did not always expend funds or report financial performance for IIJA AML grant awards in accordance with award terms and conditions and Federal requirements. Specifically, it improperly charged unsupported personnel costs, unallowable leave payouts, and unreasonable coal reclamation project costs to IIJA grant funds. It also used incorrect grant subaccounts to classify IIJA AML grant payroll costs and did not track individual project costs. Additionally, Kentucky did not ensure coal reclamation projects complied with the Build America, Buy America Act (BABAA) provisions of the IIJA and the grant awards. We questioned \$685,408 of costs related to Kentucky's use of IIJA funds (see Appendix 2 for a statement of monetary impact). Finally, we noted that, during State FYs 2023 and 2024, KDAML charged approximately \$3.2 million to IIJA-funded AML grants to pay for the State's unfunded pension liabilities, which represents approximately 63 percent of the division's IIJA AML grant-funded payroll.

KDAML Expended \$519,645 in Unallowable Payroll Costs

We assessed the allowability of payroll charges to ensure compliance with Federal cost principles. Between November 2022 and January 2024, approximately half of KDAML's IIJA grant expenditures were related to State payroll costs (\$10 million of \$22 million). We conducted a detailed review of these costs to determine whether the charges were allowable under Federal regulations that require the costs to be reasonable, allocable, adequately supported, and necessary to the project and to comply with the funding statute and agency requirements. Of the \$10 million in total State payroll costs charged to the grants, we found that \$519,645 of State payroll charges were unallowable (see Figure 2)—primarily due to the use of estimated time allocations rather than actual time worked as well as leave payouts that were not supported by timesheet documentation.

Figure 2: Unallowable Payroll Costs Charged to IIJA-Funded Grants

Questioned Category	Questioned Amount
Unsupported Personnel Costs	\$493,822
Unallocable Leave Payout	\$25,823
Total	\$519,645

Source: OIG.

KDAML Lacked Supporting Documentation for Certain Personnel Expenditures

Maintaining accurate payroll records is necessary to comply with Federal laws, regulations, and award terms and conditions. Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed⁶ and must be supported by a system of internal control that provides reasonable assurance that the charges are accurate, allowable, and properly allocated.⁷ Budget estimates (estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards.⁸ Additionally, costs must be necessary and reasonable for the performance of the Federal award and be allocable to that Federal award.⁹ In order for costs to be allocable, they must be incurred specifically for the

⁶ 2 C.F.R. § 200.430(i)(1), as of June 2024.

⁷ 2 C.F.R. § 200.430(i)(1)(i), as of June 2024.

⁸ 2 C.F.R. § 200.430(i)(1)(viii), as of June 2024.

⁹ 2 C.F.R. § 200.403(a).

Federal award. If the cost benefits both the Federal award and other work of the non-Federal entity, it must be distributed in proportions that may be approximated using reasonable methods.¹⁰

KDAML staff are required to accurately record their work and leave hours using the electronic Kentucky Human Resource Information System (KHRIS) timesheet. We found, however, that, during the audit period, KDAML did not bill labor to the IIJA-funded grant based on actual hours worked and instead billed labor costs based on estimates. According to Kentucky Energy and Environment Cabinet policy, the Office of Administrative Services (OAS)¹¹ creates and assigns time codes to KDAML employees using job duty information from KDAML.¹² These time code assignments include a “default” time code and a fixed amount of time based on the typical percentages an employee might work on an activity for employees to use as a guide when recording time.

We reviewed a sample of 67 out of 2,800 employee timesheets with charges against KDAML’s IIJA-funded grants to determine compliance with Federal cost principles. Our initial review indicated that KDAML charged the IIJA grant a fixed percentage of administrative employees’ hours across each pay period rather than actual hours worked. Subsequently, we expanded our review to include all 2,800 employee timesheets. We found that 22 of the 134 KDAML employees who charged time to the IIJA grant had applied a fixed percentage of their hours for each pay period in their time code assignments during the audit period. This occurred because KDAML employees relied on default time allocations in their time code assignments instead of recording the actual time worked on Federal awards. As a result, we determined that KDAML charged \$493,822 of labor costs to IIJA-funded grants based on estimated hours rather than actual hours worked. This is impermissible under relevant Federal regulations that prohibit the use of estimates for these purposes.

Recommendations

We recommend that OSMRE:

1. Require the Kentucky Division of Abandoned Mine Lands to ensure the payroll expenses are properly supported by personnel activity reports reflecting actual time worked on Federal grant programs.
2. Resolve the unsupported labor costs totaling \$493,822.

KDAML Allocated Compensatory Time and Fringe Benefits Improperly

Federal regulations state that costs associated with a Federal award must be necessary, reasonable, allowable, and allocable to the award’s performance.¹³ Furthermore, for costs to be allocable, they must benefit the Federal award to which they are being applied; if the work benefits both the Federal award and other work of the recipient, these costs can be distributed using reasonable methods.¹⁴ Federal regulations also allow the cost of fringe benefits, such as leave, provided they are equitably allocated across all related activities, including Federal awards.¹⁵

We found that KDAML did not properly allocate compensatory time and fringe benefits in accordance with Federal regulations. During an interview, a KDAML employee told us that leave earned on non-IIJA-funded activities could be charged against the IIJA-funded AML grant. Specifically, some KDAML employees split their

¹⁰ 2 C.F.R. § 200.405(a)(2).

¹¹ The OAS is responsible for a wide range of financial functions, including budget and accounting support, grant management, procurement and contracting, and managing the financial activities of the Energy and Environment Cabinet and its local agencies.

¹² Kentucky Energy and Environment Cabinet, Division of Abandoned Mine Lands, Standard Operating Procedure No. 04-01, “DAML Time Codes & Splits,” Revision 1, dated Aug. 2024.

¹³ 2 C.F.R. § 200.403(a).

¹⁴ 2 C.F.R. § 200.405(a)(2).

¹⁵ 2 C.F.R. § 200.431.

working hours between IIJA-funded activities and non-IIJA activities. Employees accrue compensatory time when they work more than 40 hours per week. This compensatory time is “banked” for later use and not charged to the activity on which the compensatory time was earned. When the compensatory time is earned, that time is then allocated across all activities conducted during that pay period, whether or not the original activities were IIJA-funded.

In May 2023, KDAML improperly charged \$25,823 to its IIJA grant to pay an employee for accrued sick leave upon the employee’s retirement. This sick leave had accrued over the course of the employee’s career, including time working on AML activities not funded through IIJA grants. KDAML staff stated that at the time the charge was posted, the employee was working exclusively on IIJA-funded AML projects; therefore, all employee time was coded to the IIJA AML grant by default. As a result, when the employee retired, all accrued leave was paid out and automatically charged to the default IIJA AML time code. However, because the leave was earned over the employee’s career—not exclusively from work performed on the IIJA-funded AML grant—we concluded that the leave payout was not fully allocable to the IIJA grant based on the amount of time the employee worked on IIJA-funded activities. Due to inadequate leave documentation and cost allocation controls, we could not determine the amount of sick leave the employee earned on IIJA-funded activities; therefore, we are questioning the full \$25,823 paid to the employee upon their retirement as an unallocable cost.¹⁶

These issues occurred because KDAML did not have policies or procedures for allocating compensatory time or leave earned to the appropriate activities when employees’ working hours are split between multiple activities or include Federal and non-Federal grant-funded projects. As a result, KDAML may have incurred compensatory and fringe benefit costs that did not represent the actual number of hours employees worked on IIJA-funded activities.

Recommendations

We recommend that OSMRE:

3. Resolve the unallocable payout of accrued employee sick leave totaling \$25,823.
4. Implement policies and procedures to ensure that leave paid to employees is properly allocated to the Federal grant on which it was earned and does not exceed the value of benefits earned on that grant.

KDAML Charged Unreasonable Coal Reclamation Project Costs to IIJA AML Grants

When determining the reasonableness of a cost, Federal regulations require consideration of whether the non-Federal entity deviated from its established practices and policies regarding cost incurrence.¹⁷ Such deviations may unjustifiably increase the cost of a Federal award. Additionally, KDAML mandates that change orders for AML projects must be approved by the KDAML Director’s Office before execution.¹⁸ Approval is required under two conditions: (1) if the change order exceeds \$100,000 or 10 percent of the total contract bid (or revised total, if applicable) or (2) if it involves a significant change in project scope. In such cases, the KDAML Branch Manager must submit a formal request to the KDAML Director and Assistant Director via email and include the change order and supporting documentation. The Director’s Office will then review the request and issue a response.

¹⁶ We reviewed all leave and compensatory time payouts and identified only one payout charged to the IIJA grant.

¹⁷ 2 C.F.R. § 200.404(e).

¹⁸ KDAML Internal Policies and Procedures No. 23-002.

KDAML guidance also requires approval for project estimates and cost overruns. Specifically, the KDAML Pre-Construction Conference Agenda Checklist specifies that the quantities listed in the bid schedule are estimates used to establish unit prices for project items, and contractors are responsible for ensuring these quantities are not exceeded without prior written approval from the KDAML Branch Manager. Any quantity overruns lacking prior approval will not be reimbursed. Similarly, any project changes must be documented by the field office and submitted to the KDAML Branch Manager for signed approval before implementation. To confirm adherence to these requirements, the checklist includes signature lines for the contractor and appropriate KDAML officials.¹⁹

We reviewed Project No. CT-128-2300000577, the goal of which was to construct a house foundation at an alternate site and move the house onto the new foundation due to subsidence from an abandoned mine. The project was part of a multiphase plan to address the adverse effects of past coal mine activities to a private residence.²⁰ From 2010 to 2022, KDAML completed reclamation projects totaling \$474,764 at this same property. The period of performance for the contract under review was from June 8, 2023, to October 6, 2023, and was later extended to February 25, 2024. KDAML has also planned a subsequent reclamation project for an estimated \$300,000 to fix issues that were not accounted for under the current project. Figure 3 provides a summary of the multiphase project.

Figure 3: AML Projects Related to CT-128-2300000577

Project Name	Purpose	Funding	Amount	Construction Start Date	Construction End Date
Prior Project 1	Wall and auger closures	Title IV	\$387,505	04/10/2010	12/09/2010
Prior Project 2	Concrete pad under house and cribbing	Title IV	\$13,990	12/09/2019	01/02/2020
Prior Project 3	Drilling and grouting	Title IV	\$39,726	02/25/2021	06/04/2021
Prior Project 4	Exploratory drilling for house stabilization	Title IV	\$17,418	07/19/2021	07/23/2021
Prior Project 5	Cribbing the house to level it	Title IV	\$7,500	10/18/2021	02/11/2022
Prior Project 6	Level house	Title IV	\$8,625	11/05/2022	06/06/2023
<i>Subtotal 1</i>			<i>\$474,764</i>		
Current Project 7 (CT-128-2300000577)	Stabilize foundation by moving house to solid ground	IIJA	\$1,183,234	06/26/2023	02/25/2024
<i>Subtotal 2</i>			<i>\$1,657,997</i>		
Future Project 8	Concrete for driveway, patio, sidewalks, ramp, block walls for the ramp, fill material and grade work, any remaining utilities or repairs from Current Project 7	IIJA	\$300,000	TBD	TBD
Total			\$1,957,997		

Source: OIG figure based on information obtained from KDAML project data.

We found that KDAML charged \$165,763 in unreasonable project costs to the IIJA AML grant for changes to the project scope. We considered these costs unreasonable because KDAML incurred these costs without either receiving or approving the change order in advance, as required by its own policies, or following its own procedures for purchases that are made without a change order. In addition, it is unreasonable because KDAML later disposed of the unnecessary steel that had been purchased.

¹⁹ The KDAML Program Description and Workflow requires that each change order be prepared by an environmental scientist and signed by the contractor. Following this, the change order must be reviewed by the Environmental Control Supervisor and signed again by the contractor. Once these steps are completed, the change order is submitted to the Branch Manager for approval and then to the Director for final approval.

²⁰ Project No. CT-128-2300000577 was determined eligible for Title IV and IIJA funding based on subsidence damages to the home. In 2008, Kentucky's Office of Legal Services determined project eligibility under Title IV of Pub. L. No. 95-87.

The initial \$749,000 contract included a line item for \$120,000 of reinforcing steel rebar (8,000 pounds at \$15/pound). KDAML’s initial approved design for the project did not include either foundation caissons²¹ or the material and labor required to construct them. KDAML staff stated that during construction, the contractor determined that a design change was necessary due to poor soil conditions. The contractor purchased an additional \$30,000 of rebar on July 18, 2023, for the caissons without written approval. On July 26, 2023, the contractor submitted a proposal for the change that included an increase in drill depth for the foundation caissons. That same day, KDAML rejected the proposed change order because the revised depth needed for the caissons exceeded the planned depth and specifically instructed the contractor not to install caissons.²²

From September 17, 2023, to December 9, 2023, the contractor used the initial \$120,000 of reinforcing steel and the additional \$30,000 of material to construct the new foundation floor and walls. On April 29, 2024, months after construction was completed and the period of performance had ended, a new change order was submitted for the unnecessary caissons and additional reinforcing steel that went into the new foundation. This change order was approved by KDAML on May 2, 2024, and the contractor was paid \$135,763. KDAML told us that it waited to approve the change order because of lengthy negotiations with the contractor on the caisson costs and finalization of other actual cost items.

In addition to being unnecessary and not properly approved, the expenditures were not supported by delivery documentation or contractor invoices. Therefore, we questioned the \$30,000 of additional rebar used for the new foundation and \$135,763 for foundation stabilization, which included labor, equipment, and caisson material costs.

On October 20, 2024, Kentucky auctioned the surplus steel cages for caissons for just \$662 (see Figure 4).²³ The expenditure of IJJA AML grant funds on the unused caisson rebar reflects wasteful spending due to KDAML’s inadequate project oversight and mismanagement.

Although KDAML determined the project was eligible for IJJA AML funding, the bidding for this project raised concern. The contractor submitted an initial bid of \$1.1 million that KDAML rejected because the bid exceeded funds available. The contractor submitted another bid for \$749,000, which KDAML accepted. However, the change orders added \$434,234 to the contract price, bringing the total to \$1.2 million, which is more than the initial rejected bid.

This significant cost increase can be attributed, in part, to KDAML’s failure to adequately review and verify the scope of work needed to mitigate the adverse effects of past coal mining activities on the reclamation project. Had KDAML performed a more thorough review or independent verification of the project, the resulting change orders might have been avoided, as the additional steel was not needed and was ultimately sold for scrap. As described above, these issues are particularly significant in light of the bidding chronology—specifically, the rejection of an initial figure, the submission of a subsequently lower figure, and the unauthorized procurement of steel that ultimately resulted in total costs being more than the original bid amount.

Figure 4: 9,000 Pounds of Reinforcing Steel Sold for \$662



Source: OIG.

²¹ Caissons are concrete piers used to support homes that are built on soils that are not able to bear the load of the structure. These concrete piers are placed beneath the soil and transfer the load of the home to the bedrock underneath the soil.

²² According to the KDAML Environmental Engineering Branch Manager, the revised caisson depth exceeded prior discussions, and the contractor was verbally instructed to abandon the caissons. An email documenting the issuance of a revised foundation design to the contractor was provided.

²³ According to the KDAML Environmental Engineering Branch Manager, the \$135,763 foundation stabilization purchase order included \$16,740 in steel designated for caissons. The caissons were not used, and the steel was subsequently sold at auction for \$662.

In addition, this occurred because KDAML did not adhere to its own internal policies and procedures requiring approval of change orders over \$100,000 before costs are incurred. The contractor proceeded with the work before obtaining prior written approval for the change, and KDAML failed to properly review and approve the scope change before work began. When the issue was discovered, the OAS Director instructed KDAML to develop an agency corrective action plan. KDAML submitted the plan to the OAS, and it was approved on May 8, 2024.²⁴ The plan documents the contractor's noncompliance and includes steps for training and monitoring. KDAML's corrective action plan includes biweekly training sessions for its personnel to reinforce the importance of adhering to contract and change order procedures. These sessions are designed to help branch managers, supervisors, and inspectors understand how to properly execute contracts in alignment with KDAML policies. Additionally, the OAS committed to periodic monitoring of AML projects, including discussions with key personnel, to verify that change orders are being obtained before initiating any work.

The total funding KDAML used or planned to use to address the AML issues at this property is estimated to be \$1.9 million. According to publicly available information, the estimated property value as of March 2025 was \$224,000.

While these corrective measures are a positive step, independent verification will be necessary to ensure that KDAML follows through with the commitments outlined in the corrective action plan and prevents similar issues from recurring in future projects.

Recommendations

We recommend that OSMRE:

5. Resolve the Federal share of questioned costs related to unreasonable costs totaling \$165,763.
6. Assess the Kentucky Division of Abandoned Mine Lands' implementation of the Office of Administrative Services' approved training plan to ensure branch managers, supervisors, and inspectors understand the importance of executing contracts and change orders in accordance with the division's policies.
7. Assess the Kentucky Division of Abandoned Mine Lands' implementation of the Office of Administrative Services' approved monitoring plan to conduct quarterly reviews of abandoned mine land projects and speak with branch managers, inspectors, and supervisors to ensure they are obtaining change orders before the work is initiated.

KDAML Improperly Reported Payroll and Project Costs

Federal regulations require that non-Federal entities receiving Federal funds maintain robust financial management systems to ensure compliance with Federal statutes, regulations, and specific award terms. These systems must support the preparation of required reports and enable the tracing of funds to expenditure levels that demonstrate adherence to Federal requirements.²⁵ This ensures transparency and accountability in the management of Federal resources.

OSMRE provides its policies and procedures for managing all grant agreements in its *Federal Assistance Manual (FAM)*, which specifies that AML subaccounts must be tracked separately.²⁶ Additionally, the May 2023 *Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation* outlines the appropriate use of subaccounts for allocating funds in IJA grant applications and for processing

²⁴ According to the OAS Director, the deficiency was identified on May 3, 2024; an agency corrective action plan was initiated the same day and was subsequently approved by the Director on May 8, 2024.

²⁵ 2 C.F.R. § 200.302(a).

²⁶ *FAM*, Chapter 4-200-10.B, updated Aug. 4, 2021, states, "The AML budget or cost categories which are combined into this single grant are called subaccounts. AML subaccounts are costs which you must track separately, such as administrative costs and project costs for non-emergency coal reclamation."

expenditures.²⁷ Therefore, KDAML must maintain sufficient documentation to trace AML program costs to specific subaccounts.

While Federal regulations do not require KDAML to track costs to individual reclamation projects, payroll must nonetheless be documented in a manner that clearly reflects actual work activities. Moreover, charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed.²⁸ Payroll records must be supported by employee time and attendance data, must accurately reflect the work conducted, and must support the proper allocation of an employee’s compensation across specific activities or subaccounts. This includes instances where an employee works on multiple Federal awards, both Federal and non-Federal awards, direct and indirect cost activities, multiple indirect activities with different allocation bases, or a mix of allowable and unallowable activities.²⁹

The *FAM* further provides that personnel compensation includes all salaries, wages, and other payments for services, whether paid currently or accrued. These services must be necessary for the program and allocable to the assistance agreement, and the costs must be reasonable and consistent with compensation policies applied to other funding sources. If employees work on more than one program or project, the related personnel costs should be supported by records clearly showing how time was distributed across those projects.³⁰

KDAML Charged Payroll to Incorrect IIJA AML Grant Subaccounts

KDAML is required to track AML subaccounts separately, such as administrative costs and project costs for nonemergency coal reclamation. We found that KDAML allocated \$295,573 of payroll costs³¹ to incorrect subaccounts (i.e., cost categories) when submitting IIJA AML project costs to OSMRE after work was completed (see Figure 5). For example, an employee who conducted IIJA AML engineering and design activities recorded their work hours to the subaccount “Coal Project Costs” instead of “Coal Projects Engineering & Design Costs.” Another employee who conducted IIJA AML activities related to water supply projects also recorded their work hours to “Coal Project Costs” instead of “Water Supply Project Costs.” Yet another employee who oversaw day-to-day operations of IIJA-funded AML water supply projects recorded their work hours to a different grant’s “AML Economic Revitalization Program” instead of IIJA AML “Water Supply Project Costs.”

Figure 5: Identified Misallocated Costs in Subaccounts

Grant Number	Subaccount	Cost Category	Misallocated Costs³² Overstated/(Understated)
S23AF0000100001-2203	03 Coal Project	Personnel & Fringe	\$211,415
S23AF0000100003-2204	04 Water Supply Project	Personnel & Fringe	(\$127,257)
S23AF0000100004-2219	19 Engineering & Design	Personnel & Fringe	(\$84,158)

Source: OIG.

²⁷ This guidance clarifies the available “BIL AML Financial Assistance” subaccounts for allocating monies when submitting an IIJA AML grant application and submitting invoices for processing through the U.S. Department of the Interior’s or OSMRE’s financial system.

²⁸ 2 C.F.R. § 200.430(i)(1), as of June 2024.

²⁹ 2 C.F.R. § 200.430(i)(1)(vii), as of June 2024.

³⁰ *FAM*, Chapter 2-250-10.A, updated Aug. 4, 2021, further states, “You should document amounts charged for personnel with payrolls that have been recorded and approved in accordance with generally accepted accounting practices.”

³¹ This is the sum of payroll costs of employee A (\$168,316) and employee B (\$127,257) received from KHRIS. During our audit, we identified four employees who misallocated payroll costs in subaccounts. We were able to use payroll data to verify personnel and fringe costs for two of these employees. We identified additional employees with work that overlapped in subaccounts “03 Coal Project” and “19 Engineering & Design.” We did not expand our scope further to identify misallocated costs in subaccounts for the audit period.

³² Employee A performed overlapping duties in subaccounts 03 and 19 and could not provide the allocation of their time. We applied 50 percent of employee A’s payroll costs (\$84,158) to each subaccount (03 and 19) to present misallocated costs.

These errors occurred because KDAML did not review employees' work descriptions to determine the correct subaccounts as required under the *FAM*, OSMRE's *Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation*, and Kentucky's IJJA AML grant application. Additionally, KDAML did not have procedures to include correct subaccounts and track time and all costs allocable to a specific reclamation project (e.g., direct project costs, planning and design, construction monitoring and inspection, and administration). According to OSMRE staff, as part of its review process, OSMRE program personnel examine subaccounts and analyze trends to determine whether additional information is needed to support project expenditures. If anomalies exist in subaccounts, OSMRE contacts the States for further information.

However, these processes are not sufficient under the circumstances because OSMRE relies primarily on high-level trend analysis rather than detailed verification of individual expenditures. Without requiring documentation that directly links subaccount charges to specific project activities, OSMRE's ability to oversee and monitor grants and track project-specific costs is weakened. Although OSMRE conducts analysis and trend reviews of expenditures for these subaccounts to identify anomalies and ensure proper use of funds, inaccurate or misallocated payroll costs undermine the reliability of this analysis, limiting OSMRE's ability to detect potential inaccuracies.

It is important to maintain accurate records of how taxpayer funds are spent and to ensure that they are tracked and reported consistent with Federal regulations and program rules. KDAML's financial reporting of project costs could be improved by ensuring payroll expenses are properly attributed to the specific subaccounts where the work was performed.

OSMRE Did Not Require KDAML To Track Individual Project Costs

We also found that OSMRE did not require KDAML to track personnel costs to specific projects. Federal regulations require that all recipient and subrecipient financial management systems must be sufficient to permit preparing reports required by terms and conditions of the award and to track expenditures to ensure that funds are used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award.³³

Currently, KDAML tracks payroll costs to the grant and subaccount levels, which meets minimum *FAM* requirements. However, we could not determine the number of hours KDAML employees worked on individual IJJA-funded AML projects based on their records. KDAML employees record their time in KHRIS, but the system does not have a feature that allows KDAML to track employees' hours to individual projects. For example, if an employee were to work on several IJJA-funded AML projects during a pay period, that employee can record work hours to only a general fund code, rather than to individual projects. KHRIS includes a comment section where employees have the option to note the projects on which they worked. However, we found that the comment section was not a required field, and KDAML did not use it consistently.

These weaknesses occurred because OSMRE's *FAM* advises, but does not require, grant recipients to track costs at the project level. Specifically, when employees work on multiple programs or projects, the *FAM* states that personnel costs should be supported by records showing how time was distributed across projects.³⁴ The use of "should" indicates that this guidance is advisory, not mandatory, and therefore does not require recipients to allocate personnel costs to specific projects. To ensure the level of detail necessary for OSMRE oversight, this standard should be strengthened so that grant recipients document the distribution of employee time and payroll costs to specific reclamation projects.

OSMRE stated it conducts a cost analysis to help identify unusual or potentially improper spending patterns across States. This analysis is a critical part of OSMRE's oversight responsibilities, as it supports accountability and ensures that funds are used appropriately. Given the importance of this data, OSMRE should require recipients to track personnel costs to specific projects to ensure consistent and reliable reporting across all grant recipients.

³³ 2 C.F.R. § 200.302(a).

³⁴ *FAM*, Chapter 2-250-10.A, updated Aug. 4, 2021.

Without properly allocating payroll costs to specific AML projects, OSMRE cannot perform effective oversight. The lack of consistent, project-level payroll data reduces the accuracy and usefulness of subaccount information used in trend analysis—which enables detecting anomalies, monitoring spending patterns, and ensuring that funds are used in accordance with program goals. Without more detailed and standardized cost tracking guidance from OSMRE to the States, KDAML may have incorrectly reported Federal grant disbursements in its IJA AML Federal Financial Report to OSMRE, and OSMRE may face challenges in identifying irregularities or ensuring consistent accountability in the use of Federal grant funds. Accurate cost tracking within e-AMLIS is essential for ensuring compliance with Federal reporting obligations and maintaining transparency for Federal grant funds. Collectively, these frameworks ensure accountability and adherence to statutory and program requirements, enabling effective management for federally funded reclamation projects.

Recommendations

We recommend that OSMRE:

8. Require the Kentucky Division of Abandoned Mine Lands to review employees' work descriptions to determine the correct subaccounts to use according to OSMRE's *Federal Assistance Manual* and *Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation*, as well as Kentucky's Infrastructure Investment and Jobs Act abandoned mine land grant application.
9. Require the Kentucky Division of Abandoned Mine Lands to use the correct subaccount in its Kentucky Human Resource Information System according to OSMRE's *Federal Assistance Manual* and *Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation*.
10. Update the *Federal Assistance Manual* to require grant recipients to track time and all costs allocable to a specific reclamation project, such as direct project costs, planning and design, construction monitoring and inspection, and other necessary administrative expenses.
11. Require the Kentucky Division of Abandoned Mine Lands to train staff on updated procedures for allocating time to specific reclamation projects.

KDAML's Infrastructure Projects Did Not Comply With the IJA's Build America, Buy America Act Provisions

BABAA, included in Title IX of the IJA, states that taxpayers expect that their public works infrastructure will be produced in the United States by American workers and that public works projects should give a procurement preference for materials produced in the United States. BABAA defines the term "infrastructure" to include, at a minimum, the structures, facilities, and equipment for: roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property in the United States.³⁵ The IJA also defines the term "project" as the construction, alteration, maintenance, or repair of infrastructure in the United States, and it requires the Federal agency to determine whether the project is considered infrastructure and subject to BABAA.³⁶

In October 2023, the Office of Management and Budget issued a memorandum³⁷ with guidance on the interpretation of "infrastructure," referring to regulations that state Federal agencies should interpret the term broadly and consider whether the project will serve a public function, including whether the project is publicly

³⁵ Pub. L. No. 117-58, 135 Stat. 1297 (2021).

³⁶ *Id.*

³⁷ Office of Management and Budget Memorandum M-24-02, *Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure*, issued Oct. 25, 2023.

owned and operated, privately operated on behalf of the public, or is a place of public accommodation, as opposed to a project that is privately owned and not open to the public.³⁸ The memorandum is directed to “Federal agencies,” and it places responsibility for determining whether a project meets the definition of “infrastructure” solely on the agency, without suggesting any role for States or contractors in making that determination. OSMRE required public infrastructure projects to comply with BABAA.

We found, however, that KDAML’s infrastructure projects did not comply with the IJJA’s BABAA requirements to use materials produced in the United States. Specifically, KDAML staff stated the division concluded that numerous reclamation projects occurred solely on private property and therefore did not constitute public infrastructure. During State FYs 2023 and 2024, KDAML conducted 30 IJJA AML grant-funded coal reclamation projects valued at \$24 million. KDAML unilaterally determined that none of these projects constituted public works infrastructure and therefore were not subject to BABAA requirements. Figure 6 provides a list of all projects KDAML conducted using IJJA funds during State FYs 2023 and 2024.

Figure 6: Kentucky Coal Reclamation Projects Funded With IJJA AML Grants

Project Document ID No.	Award/Vetted Date	Contract Amount
CT-128-2300000353	02/01/2023	\$313,975
CT-128-2300000461	04/17/2023	\$4,093,690
CT-128-2300000456	04/11/2023	\$412,650
CT-128-2300000417	03/01/2023	\$287,225
CT-128-2400000236	11/06/2023	\$527,534
CT-128-2400000093	10/05/2023	\$1,213,830
CT-128-2300000699	08/02/2023	\$2,939,329
CT-128-2400000074	09/27/2023	\$1,146,515
CT-128-2400000399	01/19/2024	\$986,375
CT-128-2300000443	03/27/2023	\$442,562
CT-128-2300000612	05/31/2023	\$52,987
CT-128-2300000643	06/28/2023	\$225,417
CT-128-2400000191	10/24/2023	\$533,400
CT-128-2300000445	03/29/2023	\$361,760
CT-128-2400000252	11/14/2023	\$1,850,359
CT-128-2300000577	06/08/2023	\$764,000
CT-128-2400000050	08/24/2023	\$2,743,480
CT-128-2300000611	05/31/2023	\$116,986
CT-128-2400000344	01/02/2024	\$1,128,580
CT-128-2400000096	09/28/2023	\$1,239,920
CT-128-2400000063	08/24/2023	\$50,106

³⁸ 2 C.F.R. §§ 184.4(c)-184.4(d).

Project Document ID No.	Award/Vetted Date	Contract Amount
CT-128-2300000644	07/05/2023	\$679,250
CT-128-2400000209	10/20/2023	\$201,520
CT-128-2400000190	10/20/2023	\$140,692
CT-128-2400000097	09/13/2023	\$43,781
CT-128-2400000352	01/05/2024	\$210,280
CT-128-2400000366	12/21/2023	\$64,240
CT-128-2400000316	12/18/2023	\$266,988
CT-128-2400000365	01/05/2024	\$1,059,860
CT-128-2400000386	01/19/2024	\$326,155
Total		\$24,423,444

Source: OIG analysis of IJJA-funded AML contracts.

We found that some of these projects, such as Project Nos. CT-128-2300000461 and CT-128-2300000699, clearly constituted public infrastructure and should have been subject to BABAA requirements.³⁹

Project No. CT-128-2300000461—a high priority AML reclamation project in Perry County, Kentucky—included constructing four retaining walls, three of which were to abate a large deep-seated landslide. The fourth wall was designed to prevent a public road from becoming unstable during reclamation activities and to provide long-term access to the community once reclamation is complete. BABAA’s definition of infrastructure explicitly includes “the structures, facilities, and equipment for roads.”⁴⁰ We determined that the retaining walls serve a public function, and the project accordingly likely meets the BABAA definition of infrastructure (see Figure 7).

Figure 7: Project No. CT-128-2300000461 in Perry County



Left: Wall “D” supporting entrance area to a public road. Right: Wall “B” supporting hill to the left of the public road and concrete drainage ditch.

Source: OIG.

³⁹ We did not assess whether all the projects listed in Figure 6 constituted public infrastructure; we conducted two site visits during audit fieldwork and determined that both projects we reviewed were public infrastructure.

⁴⁰ 2 C.F.R. § 184.4(c).

Project No. CT-128-2300000699—a high-priority AML reclamation project in Johnson County, Kentucky—consisted of drainage control and mine portal closures to control flooding around 17 residences. The project included constructing concrete ditches behind the homes, storm drainpipes crossing the neighborhood road and through yards, and 14 concrete catch basins along the road in front of houses (see Figure 8). These replaced and enhanced existing drainage structures that were undersized or inadequate. Three abandoned coal mine portals were also closed during the reclamation. We determined that the project likely met the definition of infrastructure because drainpipes installed underneath the public road are “structures, facilities, and equipment for roads,”⁴¹ and the drainage system and catch basins serve a public purpose.

Figure 8: Project No. CT-128-2300000699 in Johnson County



Left: Neighborhood road with Johnson County Building. Right: Drainage pipe crossings on neighborhood road.

Source: Google Maps.

These errors occurred because OSMRE did not make the required determination of whether IJJA-funded projects were considered infrastructure and therefore subject to BABAA. Although OSMRE is responsible for determining whether a project constitutes “infrastructure,” it allowed the State to make this determination. In response to our potential finding, OSMRE stated that reviewing every IJJA project from each State and Tribe would be overly burdensome and that it provided the States with OSMRE points of contact to help States make the decision whether projects meet the BABAA infrastructure requirements. OSMRE also stated that it provided direction to States in the August 2022 BIL Notice of Funding Opportunity⁴² and the May 2023 *Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation* on how the States should determine what constitutes “infrastructure.” We note, however, that the underlying legislation requires OSMRE—not the States or any other entity—to make the determination in question, and OSMRE’s policies and procedures did not require its staff to provide States with OSMRE’s determination of BABAA applicability prior to project approval. While we agree that OSMRE may not have the resources to review every project for BABAA applicability, the legislation does not identify the manner in which OSMRE must make this determination; OSMRE may wish to consider, for example, focusing its review only on projects that States have determined are not related to “infrastructure” as defined in BABAA. Other procedures may also provide OSMRE assurance that projects comply with BABAA requirements.

Without proper policies and procedures to ensure compliance with BABAA requirements for IJJA-funded AML projects, OSMRE cannot be certain that infrastructure projects use American-made materials and products or that IJJA AML grant funds are spent in accordance with IJJA requirements. BABAA aims to ensure that, as the Federal Government makes substantial infrastructure investments through the IJJA, these investments support domestic production and deliver economic benefits to the United States. Failing to ensure compliance with BABAA undermines the intended domestic benefits of these funds.

⁴¹ *Id.*

⁴² The IJJA is also known as the Bipartisan Infrastructure Law or BIL.

Recommendations

We recommend that OSMRE:

12. Update policies and procedures to require States and Tribes to obtain OSMRE determination of Build America, Buy America Act applicability on Infrastructure Investment and Jobs Act-funded abandoned mine land projects that the State or Tribe believes are not subject to this provision of the Act.
13. Require States and Tribes to submit those Infrastructure Investment and Jobs Act-funded abandoned mine land projects that the State or Tribe does not consider to be infrastructure (and therefore are not subject to Build America, Buy America Act requirements) to OSMRE for final applicability determination.
14. Provide direction to the Kentucky Division of Abandoned Mine Lands to properly classify projects and apply Build America, Buy America Act requirements to any ongoing and finished projects, as necessary.

Other Matters

Unfunded Pension Liabilities

In July 2023, we issued a management advisory to the U.S. Fish and Wildlife Service regarding unfunded pension liabilities that States were allocating to Wildlife and Sport Fish Restoration grants to help pay down the State's unfunded liabilities, which we concluded could potentially reduce the efficiency and effectiveness of the Federal grant in accomplishing its agreed-upon objectives.⁴³ States' unfunded liabilities assessed in that report were accrued outside the grants' period of performance and raised concerns of reasonableness.

During our current audit of Kentucky, we found that during State FYs 2023 and 2024, KDAML charged approximately \$3,218,142 to IIJA-funded AML grants to pay for the State's unfunded pension liabilities, which represents approximately 63 percent of the division's IIJA AML grant-funded payroll. We note the potential effect of these unfunded pension liabilities on the AML program, but we did not make additional recommendations in this report.

⁴³ *Unfunded Liabilities for Wildlife and Sport Fish Restoration Program Grants* (Report No. 2020-ER-058-A), issued July 2023.

Conclusion and Recommendations

Conclusion

We found that KDAML generally fulfilled program goals and reported programmatic performance in accordance with the award requirements. However, KDAML did not expend funds in accordance with award terms and conditions and Federal requirements. Specifically, it charged unsupported personnel costs, unallowable leave payouts, and unreasonable coal reclamation project costs to IJJA-funded grants. KDAML also did not accurately track and report financial performance by charging payroll costs to incorrect funding subaccounts and failing to track individual project costs. Additionally, we found that KDAML's public infrastructure projects did not comply with BABAA. We questioned \$685,406 of costs related to Kentucky's use of IJJA funds.

We make 14 recommendations that, if implemented, would help OSMRE improve its administration of \$11.3 billion in IJJA AML grant funding over the next 12 years and help Kentucky track and expend grant funds appropriately to fulfill the program's goals.

Recommendations Summary

We provided a draft of this report to OSMRE for review. OSMRE concurred with eight recommendations, partially concurred with two recommendations, and did not concur with four recommendations. We consider 10 recommendations resolved and 4 recommendations unresolved. We determined that Recommendation 12 is significant, and we will report it as such in our semiannual report to Congress in accordance with the Inspector General Act.⁴⁴ Below we summarize OSMRE's response to our recommendations, as well as our comments on its response. In particular, if OSMRE did not concur, we provided additional explanation of the importance of addressing the identified issues. See Appendix 3 for the full text of OSMRE's response.

We recommend that OSMRE:

1. Require the Kentucky Division of Abandoned Mine Lands to ensure the payroll expenses are properly supported by personnel activity reports reflecting actual time worked on Federal grant programs.

OSMRE Response: OSMRE concurred with the recommendation and stated that "Kentucky resolved this recommendation while the OIG review was underway." OSMRE said that Kentucky "made a key change in September 2024 requiring budget staff to review employee timesheets and payroll charges monthly and quarterly with management to ensure accuracy." OSMRE further stated that it "will validate the implementation of this process to confirm resolution as part of the Evaluation Year (EY) 2027 Performance Agreement," with results documented in the EY 2027 Kentucky Annual Evaluation Report.⁴⁵

In subsequent correspondence, OSMRE provided a June 30, 2027 target implementation date.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-01.⁴⁶

OIG Comment: Although OSMRE's target implementation date for this recommendation is more than one year from this report's issuance date, its response and Kentucky's stated actions address the intent of our recommendation. This recommendation will be implemented when OSMRE provides evidence demonstrating that (1) payroll expenses charged to Federal grant programs are properly supported by

⁴⁴ 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 shall include an identification of each "significant recommendation" described in previous semiannual reports on which corrective action has not been completed.

⁴⁵ OSMRE's EY begins on July 1 each year. Therefore, its EY 2027 Kentucky Annual Evaluation Report documents Kentucky's program effectiveness for the period of July 1, 2026, through June 30, 2027.

⁴⁶ The numbering convention we use to track recommendations is the report number followed by sequential recommendation digits.

personnel activity reports reflecting actual time worked, in accordance with Federal cost principles; (2) Kentucky implemented controls requiring monthly and quarterly reviews of timesheets and payroll charges; and (3) OSMRE validated Kentucky's implementation of these controls through its oversight activities.

2. Resolve the unsupported labor costs totaling \$493,822.

OSMRE Response: OSMRE did not concur with the recommendation and stated that the questioned labor costs were allowable because the "payroll system uses an average time allocation system to charge the grant program." OSMRE said, "This practice complies with 2 CFR 200.405(a) on allocable costs and 2 CFR 200.430(g)(1)(vii), which permits allocations if adjustments are made and final charges are reasonable." OSMRE further stated that Kentucky managers review and update allocations quarterly and that this process was codified in Kentucky's *OAS Time Code Establishment and Review* policy, revised on June 1, 2025. OSMRE concluded that it "does not concur with the finding that \$493,822 in labor costs using an allocation method is unsupported or impermissible."

Status: Unresolved. We will follow up with OSMRE regarding resolution of the unsupported labor costs totaling \$493,822 under Recommendation No. 2024-CR-004-02.

OIG Comment: OSMRE's response did not address the intent of our recommendation. Kentucky's *OAS Time Allocation Review Procedures*⁴⁷ (revised June 1, 2025, after our audit period) describes a quarterly payroll review process, which, if applied effectively, addresses the intent of our recommendation going forward. This payroll review process, however, was not established in policy during our audit period, and therefore the changes do not apply to the issues identified in this recommendation. We also agree that regulations at 2 C.F.R. § 200.430(g)(1)(vii) allow for charges to Federal awards for salaries and wages based on budget estimates that are determined before the services are performed. However, these estimates must be reasonable and may be used only for interim accounting purposes. Kentucky must also perform after-the-fact reviews of interim charges to the Federal award and make necessary adjustments to reconcile.

OSMRE's response does not address previous payroll cost allocations based on estimated effort. The \$493,822 in labor costs was charged to IJJA AML grants using fixed percentage allocations rather than actual time worked. Kentucky did not provide documentation demonstrating that previous labor charges were adjusted with a "true-up" to reflect actual hours worked on the grants or that Kentucky had compared estimated and actual effort and had certified that work was performed as charged. Without evidence such as documented quarterly reviews, corrected timesheets, or accounting adjustments, the costs remain unsupported under Federal cost principles. It is important that OSMRE and Kentucky scrutinize all payroll costs that are based on estimates and ensure payroll charges align with actual duties performed on the grant.

This recommendation will be resolved when OSMRE adequately describes how it plans to resolve the questioned labor costs, such as by performing reviews of interim labor charges to the Federal award. It will be implemented when OSMRE provides documentation demonstrating that either (1) the \$493,822 in labor costs was reallocated or corrected in the accounting system or (2) labor charges reflect the actual time employees performed worked on IJJA-funded activities, supported by certifications, updated timesheets, or accounting adjustments to comply with Federal cost principles.

3. Resolve the unallocable payout of accrued employee sick leave totaling \$25,823.

OSMRE Response: OSMRE did not concur with the recommendation. Instead, OSMRE stated that "2 CFR 200.431(b)(3)(i) permits payment for unused leave when an employee retires or terminates employment" and that the "employee in question worked exclusively on the IJJA program." OSMRE also stated that "Kentucky paid the accrued leave from the same program that funded the salary." OSMRE restated that Kentucky codified its process in the *OAS Time Code Establishment and Review* policy.

⁴⁷ We note that the title of the referenced document provided by OSMRE does not align with the policy described in OSMRE's response to our draft report. For purposes of determining the status of this recommendation, we evaluated Kentucky's *OAS Time Allocation Review Procedures*.

Status: Unresolved. We will follow up with OSMRE regarding resolution of the questioned costs totaling \$25,823 under Recommendation No. 2024-CR-004-03.

OIG Comment: OSMRE’s response did not address the intent of our recommendation. Kentucky’s policy focuses on time coding and payroll cost allocation and does not include guidance on leave accrual or payout. Further, Kentucky’s employee handbook only allows for annual and compensatory leave payouts, not sick leave. While Federal regulations permit payment of unused leave upon retirement, 2 C.F.R. § 200.431(b)(3)(i) goes further to say the payment “should be allocated as a general administrative expense *to all activities* or included in the fringe benefit rate [emphasis added].”⁴⁸ The regulation specifies that payments for unused leave are “allowable in the year of payment.” However, this refers to timing (when the cost is booked), not allocation (which grant or activity pays for it).

OSMRE’s assertion that the employee was working exclusively on the IIJA program at the time of the leave payout does not establish allocability under the Uniform Guidance. Cost allocation is governed by 2 C.F.R. § 200.405(a) and (c), which require costs to be charged in proportion to the relative benefits received and prohibit shifting costs to a Federal award for convenience or due to funding availability. Costs must be “equitably allocated to all related activities” to the Federal award based on when the leave was earned. For example, if an employee earned leave over 10 years across five different projects, charging the entire payout to the final project that spanned one year is not “equitable.” The final project receives no benefit from the work performed during the first nine years.

We found that the subject employee did not begin charging time to the IIJA AML grant until December 16, 2022, yet the May 2023 payout reflected approximately 19 months of accrued leave. OSMRE and Kentucky failed to demonstrate how the full amount of accrued leave charged to the IIJA award was allocable to IIJA-funded activities or supported by an equitable allocation methodology. Accordingly, accrued leave earned prior to the employee’s assignment to the IIJA-funded project may not be charged in full to the IIJA award based solely on the employee’s funding source at the time of payment.

The Uniform Guidance provides OSMRE and Kentucky options as to how to address this issue. Rather than directly charging the IIJA grant or performing a prorated direct allocation analysis, Kentucky may move these costs into an indirect cost pool (general administrative expense) or a fringe benefit rate, and the cost would be spread across all of the organization’s activities proportionally.

This recommendation will be resolved when OSMRE describes how it plans to resolve the unallocable leave costs, such as allocating the costs across all appropriate activities. It will be implemented when OSMRE provides documentation demonstrating that either the accrued leave was earned through IIJA-funded activities based on when the leave was accrued or any portion of the payout not attributable to IIJA-funded activities has been reallocated in accordance with Federal cost principles.

4. Implement policies and procedures to ensure that leave paid to employees is properly allocated to the Federal grant on which it was earned and does not exceed the value of benefits earned on that grant.

OSMRE Response: OSMRE did not concur with the recommendation and stated, “2 CFR 200.431(b)(3)(i) permits payment for unused leave when an employee retires or terminates employment.” OSMRE also stated that, at retirement, “the employee worked exclusively on the IIJA program, so Kentucky paid the accrued leave from IIJA funds.” OSMRE further said, “the state maintains adequate policies and procedures” and that “there was no overpayment,” relying on Federal regulations and the *OAS Time Code Establishment and Review* policy.

Status: Unresolved. We will follow up with OSMRE regarding resolution of Recommendation No. 2024-CR-004-04.

⁴⁸ This regulation was updated effective Oct. 1, 2024, superseding 2 C.F.R. § 200.431(b)(3)(i) dated June 28, 2024, which was in effect during the audit period.

OIG Comment: We reviewed Kentucky’s updated policy and determined it did not sufficiently address the intent of our recommendation. Kentucky’s policy addresses time coding and payroll cost allocation but neither includes procedures for how leave—such as sick leave—is accrued, tracked, or paid out, nor how leave costs are attributed to the Federal grant on which the leave was earned. As a result, the policy does not provide sufficient information to assess whether leave paid to employees is properly allocated to the applicable Federal grant or limited to benefits earned under that grant. As discussed in our comments to OSMRE’s response to Recommendation 3, 2 C.F.R. § 200.431(b)(3)(i) permits the payment of unused accrued leave upon an employee’s retirement or termination of employment, but it expressly requires that such costs be allocated appropriately. Accrued leave earned prior to the employee’s assignment to the IIJA-funded project may not be charged in full to the IIJA award based solely on the employee’s funding source at the time of payment. OSMRE did not provide documentation demonstrating that leave costs were allocated based on when the leave was earned and in proportion to the relative grant benefits received. Without evidence that policies ensure allocability of leave costs to the appropriate Federal award, OSMRE has not demonstrated that it has addressed the recommendation.

This recommendation will be resolved when OSMRE describes how Kentucky plans to update its leave allocation policy and procedures to provide its staff with guidance on leave accrual and charging. It will be implemented when OSMRE provides documentation demonstrating that Kentucky implemented policies and procedures requiring leave costs to be allocated based on when leave is earned and the benefits earned on the applicable Federal grant.

5. Resolve the Federal share of questioned costs related to unreasonable costs totaling \$165,763.

OSMRE Response: OSMRE concurred with the recommendation and stated that “Kentucky resolved concerns about noncompliance with internal policy and properly accounted for the questioned costs in September 2024.” OSMRE explained that the costs resulted from unforeseen conditions requiring plan modifications and acknowledged that Kentucky “did not follow its internal policies for processing and approving change orders.” OSMRE stated that Kentucky developed a corrective action plan and provided training on contract and change-order management and that OSMRE “requested documentation to validate resolution, which it received and reviewed on January 8, 2026.”

In further correspondence, OSMRE provided Kentucky’s corrective action plan, including the State’s training and monitoring plans as evidence of recommendation closure.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-05.

OIG Comment: Although Kentucky’s corrective action plan discusses ongoing training and monitoring of its change order process, the documentation provided does not show how OSMRE or Kentucky accounted for the questioned costs. In the absence of evidence to close the recommendation, we will need an updated target implementation date. This recommendation will be implemented when OSMRE provides evidence demonstrating that the \$165,763 in questioned costs was recovered or properly adjusted in future AML grant funding or Kentucky’s accounting records.

6. Assess the Kentucky Division of Abandoned Mine Lands’ implementation of the Office of Administrative Services’ approved training plan to ensure branch managers, supervisors, and inspectors understand the importance of executing contracts and change orders in accordance with the division’s policies.

OSMRE Response: OSMRE concurred with the recommendation and stated that “Kentucky addressed this recommendation in September 2024.” OSMRE stated that Kentucky “developed a corrective action plan requiring prior approvals for [certain] change orders” and “conducted training to help managers, supervisors, and inspectors.” OSMRE also stated that it “will verify implementation through Kentucky’s EY 2027 Performance Agreement.”

In subsequent correspondence, OSMRE provided a June 30, 2027 target implementation date.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-06.

OIG Comment: Although OSMRE’s target implementation date for this recommendation is more than one year from this report’s issuance date, its response and Kentucky’s stated actions address the intent of the recommendation. This recommendation will be implemented when OSMRE provides evidence demonstrating that it assessed Kentucky’s implementation of the approved training plan and documentation showing that branch managers, supervisors, and inspectors completed training on properly managing and documenting construction contracts and change orders.

7. Assess the Kentucky Division of Abandoned Mine Lands’ implementation of the Office of Administrative Services’ approved monitoring plan to conduct quarterly reviews of abandoned mine land projects and speak with branch managers, inspectors, and supervisors to ensure they are obtaining change orders before the work is initiated.

OSMRE Response: OSMRE concurred with the recommendation and stated that “Kentucky addressed this recommendation in September 2024.” OSMRE stated that Kentucky implemented approval thresholds for change orders; trained managers, supervisors, and inspectors; and continues to monitor projects. OSMRE added that it “will verify implementation through Kentucky’s EY 2027 Performance Agreement.”

In subsequent correspondence, OSMRE provided a June 30, 2027 target implementation date.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-07.

OIG Comment: Although OSMRE’s target implementation date for this recommendation is more than one year from this report’s issuance date, its response and Kentucky’s stated actions address the intent of the recommendation. This recommendation will be implemented when OSMRE provides evidence demonstrating that it has assessed Kentucky’s implementation of the approved monitoring plan, confirmed that Kentucky requires prior approval for change orders exceeding established thresholds, and verified that Kentucky is conducting and documenting quarterly project reviews.

8. Require the Kentucky Division of Abandoned Mine Lands to review employees’ work descriptions to determine the correct subaccounts to use according to OSMRE’s *Federal Assistance Manual and Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation*, as well as Kentucky’s Infrastructure Investment and Jobs Act abandoned mine land grant application.

OSMRE Response: OSMRE concurred with the recommendation and stated that “Kentucky established proper policies and structures to accurately code work time to the correct subaccount.” OSMRE also stated that a “revised policy to ensure review and validation was implemented by the State in September 2024,” that subaccount errors were corrected during the audit, and that OSMRE “will verify implementation through Kentucky’s EY 2027 Performance Agreement.”

In subsequent correspondence, OSMRE provided a June 30, 2027 target implementation date.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-08.

OIG Comment: Although OSMRE’s target implementation date for this recommendation is more than one year from this report’s issuance date, its response and Kentucky’s stated actions address the intent of the recommendation. This recommendation will be implemented when OSMRE provides evidence demonstrating that it verified Kentucky’s implementation of revised time code and validation procedures to ensure alignment with appropriate subaccounts.

9. Require the Kentucky Division of Abandoned Mine Lands to use the correct subaccount in its Kentucky Human Resource Information System according to OSMRE’s *Federal Assistance Manual and Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation*.

OSMRE Response: OSMRE concurred with the recommendation and stated that “Kentucky established proper policies and structures to accurately code work time to the correct subaccount.” OSMRE also stated that Kentucky corrected charging errors and revised its time code policy. OSMRE

further said that it “will verify implementation through Kentucky’s EY 2027 Performance Agreement” and document results in the EY 2027 Kentucky Annual Evaluation Report.

In subsequent correspondence, OSMRE provided a June 30, 2027 target implementation date.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-09.

OIG Comment: Although OSMRE’s target implementation date for this recommendation is more than one year from this report’s issuance date, its response and Kentucky’s stated actions address the intent of the recommendation. This recommendation will be implemented when OSMRE provides evidence demonstrating that it verified Kentucky’s use of correct subaccounts in the Kentucky Human Resource Information System.

10. Update the *Federal Assistance Manual* to require grant recipients to track time and all costs allocable to a specific reclamation project, such as direct project costs, planning and design, construction monitoring and inspection, and other necessary administration expenses.

OSMRE Response: OSMRE concurred with the recommendation and stated that Federal regulations and its *Federal Assistance Manual* already require project-level cost tracking. OSMRE explained that it “updated the Federal Financial Assistance Manual in October 2024” and “will continue to update” the manual to further reinforce these requirements by December 2026. OSMRE further stated, “This action clarifies expectations, strengthens compliance, and addresses the OIG recommendation.”

In subsequent correspondence, OSMRE provided a December 31, 2026 target implementation date.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-10.

OIG Comment: This recommendation will be implemented when OSMRE provides evidence demonstrating that the *Federal Assistance Manual* includes clear requirements directing grant recipients to track employee time and all project-related costs at the project level, consistent with 2 C.F.R. Part 200.

11. Require the Kentucky Division of Abandoned Mine Lands to train staff on updated procedures for allocating time to specific reclamation projects.

OSMRE Response: OSMRE concurred with the recommendation and stated that Kentucky took proper steps to train staff on accurate time allocation. OSMRE said that Kentucky implemented a new time code policy and trained Kentucky staff in September 2024. It further stated that OSMRE “will verify implementation through Kentucky’s EY 2027 Performance Agreement.”

In subsequent correspondence, OSMRE provided a June 30, 2027 target implementation date.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-11.

OIG Comment: Although OSMRE’s target implementation date for this recommendation is more than one year from this report’s issuance date, its response and Kentucky’s stated actions address the intent of the recommendation. This recommendation will be implemented when OSMRE provides evidence demonstrating that Kentucky staff received training on the updated procedures.

12. Update policies and procedures to require States and Tribes to obtain OSMRE determination of Build America, Buy America Act applicability on Infrastructure Investment and Jobs Act-funded abandoned mine land projects that the State or Tribe believes are not subject to this provision of the Act.

OSMRE Response: OSMRE partially concurred with the recommendation and stated that existing policies already allow States to make BABAA applicability determinations on a project-by-project basis. OSMRE explained that it “verifies, by reviewing and confirming state and tribal [BABAA] applicability

determinations . . . via the Authorization to Proceed (ATP) process.” OSMRE did not concur with requiring a separate determination process outside the ATP framework.

OSMRE stated that it will provide training by December 31, 2026.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-12.

OIG Comment: As noted in our report, the IIJA requires the Federal agency to determine whether the project is considered infrastructure and subject to BABAA. At the time of our review, BABAA applicability determinations were not incorporated into the ATP process; therefore, OSMRE’s verification step did not include confirming BABAA compliance. This recommendation will be implemented when OSMRE provides evidence demonstrating that policies and procedures require BABAA applicability determinations to be reviewed and confirmed through the ATP process for all projects, regardless of the State or Tribe’s initial determination. We determined this recommendation is significant and will report it as such in our semiannual report to Congress.

13. Require States and Tribes to submit those Infrastructure Investment and Jobs Act-funded abandoned mine land projects that the State or Tribe does not consider to be infrastructure (and therefore are not subject to Build America, Buy America Act requirements) to OSMRE for final applicability determination.

OSMRE Response: OSMRE partially concurred with the recommendation and stated that existing policies already require review of all State and Tribal BABAA applicability determinations through the ATP process. OSMRE said that it “reviews every project submitted through the ATP process, which is required before federal funds can be spent.”

OSMRE further stated that it will provide training to OSMRE and State and Tribal staff “to achieve both understanding and compliance” by December 31, 2026.

Status: Resolved. We will track implementation under Recommendation No. 2024-CR-004-13.

OIG Comment: OSMRE addressed this recommendation through actions described in Recommendation 12. This recommendation will be implemented when OSMRE provides evidence demonstrating that BABAA applicability determinations are reviewed and confirmed through the ATP process for all projects regardless of the State or Tribe’s initial determination.

14. Provide direction to the Kentucky Division of Abandoned Mine Lands to properly classify projects and apply Build America, Buy America Act requirements to any ongoing and finished projects, as necessary.

OSMRE Response: OSMRE did not concur with the recommendation and stated that it “provided [BABAA] direction in June 2025, to all States and Tribes, including Kentucky.” OSMRE cited that the guidance it provided included revised manuals, fact sheets, and training through the Made in America Office. OSMRE further stated that it “will continue to assess and ensure Kentucky’s compliance through the EY 2027 Performance Agreement.”

In subsequent correspondence, OSMRE provided a June 30, 2027 target implementation date.

Status: Unresolved. We will follow up with OSMRE regarding resolution of Recommendation No. 2024-CR-004-14.

OIG Comment: OSMRE’s response did not address the recommendation’s intent, which applies to ongoing and completed projects. Guidance and future oversight do not ensure compliance for projects that have already been initiated and/or completed. This recommendation will be resolved when OSMRE describes how it plans to review ongoing and completed IIJA-funded AML projects. It will be implemented when OSMRE provides documentation demonstrating that it reviewed ongoing and completed IIJA-funded AML projects in Kentucky and that BABAA requirements were applied, including corrective actions where noncompliance was identified, if applicable.

Appendix 1: Scope and Methodology

Scope

We audited KDAML's use of funding provided under OSMRE's IJA AML reclamation grants awarded for FYs 2023 and 2024. For FY 2023, KDAML received \$74.3 million for a project period from July 1, 2022, through June 30, 2027, and another \$74.2 million for FY 2024 with a project period from July 1, 2023, through June 30, 2028. We tested the \$21.8 million KDAML expended on contracts, subgrants, and administration from November 2022 through January 2024.

Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We assessed whether internal control was significant to the audit objectives. We determined that KDAML's control activities and the following related principles were significant to the audit objectives:

- Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.
- Management should demonstrate a commitment to recruit, develop, and retain competent individuals.
- Management should consider the potential for fraud when identifying, analyzing, and responding to risks.
- Management should design control activities to achieve objectives and respond to risks.
- Management should implement control activities through policies.
- Management should use quality information to achieve the entity's objectives.
- Management should externally communicate the necessary quality information to achieve the entity's objectives.

We developed tests for these seven significant internal control principles and found deficiencies in internal control activities that resulted in our findings of unsupported personnel costs and payroll charged to incorrect grant subaccounts. Our tests and procedures included:

- Selecting samples of KDAML IJA AML expenditures to determine compliance with 2 C.F.R. Part 200 cost principles and requirements for passthrough entities; BABAA; and the Davis-Bacon Act.
- Using judgmental sampling to select KDAML expenditures on contracts, subgrants, and administration and using statistical sampling to select KDAML timesheets to review and test based on risk analysis.
- Conducting site visits to interview State personnel, obtain documentation, and observe AML reclamation projects.
- Analyzing evidence to determine whether the State has met the grant award terms and conditions, program budget, and Federal requirements.

Our sample selections were generated using both judgmental and statistical sampling. In all, we judgmentally selected 91 percent or \$19.8 million out of \$21.8 million of IIJA AML funds the State expended on program administration wages, contracts and grants, fringe benefits, and indirect operational expenses. We tested these expenditures for compliance with 2 C.F.R. Part 200 cost principles, award terms and conditions, and agency requirements.

Specifically:

- We judgmentally selected 4 out of 30 AML reclamation contracts and 2 of 9 subgrants to test for compliance with 2 C.F.R Part 200 cost principles; the pass-through requirements in 2 C.F.R. § 200.332; BABAA; and the Davis-Bacon Act.
- We statistically sampled 67 of 2,800 IIJA AML payroll timesheets to test compliance with 2 C.F.R. Part 200 cost principles, applicable funding statutes, and agency requirements.
- We identified and analyzed 22 employees' timesheets that allocated time to IIJA grants using a fixed percentage.

We relied on computer-generated data that KDAML provided from its official payroll system (KHRIS) and web-based accounting system. We tested the validity of this data by reconciling the payroll costs from our sample of 67 timesheets between KHRIS and the accounting system and reconciling expenditures between the accounting system and the Federal Financial Report (SF-425) for July 1, 2022, through June 30, 2023. We found the data to be reliable for the purposes of our audit.

Appendix 2: Monetary Impact

Description	Questioned Costs (Unallowable)
Unsupported Personnel Costs	\$493,822
Unallocable Payout of Employee Sick Leave	\$25,823
Unreasonable Project Costs	\$165,763
Total	\$685,408

Source: OIG.

Appendix 3: Response to Draft Report

OSMRE's response to our draft report follows on page 28.



United States Department of the Interior

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Washington, D.C. 20240



January 15, 2026

Memorandum

To: Jason E. Alt
Deputy Director of Strategic Impact and Digital Operations for Audits,
Inspections, & Evaluations
Office of Inspector General

From: Thomas D. Shope
Acting Deputy Director *Thomas D. Shope* Digitally signed by
THOMAS SHOPE
Date: 2026.01.15
09:28:39 -05'00'

Subject: Response to Draft Audit Report – The Office of Surface Mining Reclamation and Enforcement Did Not Ensure the Commonwealth of Kentucky Properly Expended and Supported Infrastructure Investment and Jobs Act Funds for Abandoned Mine Lands, Report No. 2024-CR-004, Recommendations 1 - 14

The Office of Surface Mining Reclamation and Enforcement (OSM) reviewed the Office of Inspector General (OIG) Draft Audit Report No. 2024-CR-004, titled “Office of Surface Mining Reclamation and Enforcement Did Not Ensure the Commonwealth of Kentucky Properly Expended and Supported Infrastructure Investment and Jobs Act Funds for Abandoned Mine Lands”. Responses to recommendations 1- 14 are below.

OSM requests that the OIG consider rephrasing the title of the draft audit to better reflect the overall findings. The report states that “KDAML generally fulfilled program goals” (pages 1 and 6), yet the draft audit title uses the phrase “[OSMRE] Did Not Ensure...” thus indicating a failure. OSM believes this does not accurately reflect the overall findings. OSM suggests using language consistent with other OIG audits, such as, “Improvements Needed in the Oversight of...”, or something similar.

Recommendation 2024-CR-004-01: Require the Kentucky Division of Abandoned Mine Lands to ensure the payroll expenses are properly supported by personnel activity reports reflecting actual time worked on Federal grant programs.

Concur - Kentucky resolved this recommendation while the OIG review was underway. The Kentucky Energy and Environment Cabinet (EEC) is comprised of two main departments and several offices. The Kentucky Office of Administrative Services (KYOAS) applies and accounts for federal grant funds allocated to the Departments and their Divisions within EEC. In particular, KYOAS services the Kentucky Department of Natural Resources (KYDNR) and its divisions, including the Kentucky Division of Abandoned Mine Lands (KYAML). As a result of discussion with the OIG, KYOAS made a key change in September 2024 requiring budget staff to review employee

timesheets and payroll charges monthly and quarterly with management to ensure accuracy. OSM will validate the implementation of this process to confirm resolution as part of the Evaluation Year (EY) 2027 Performance Agreement, with findings documented in the EY 2027 Kentucky Annual Evaluation Report. The Performance Agreement is a published document which describes oversight studies and efforts OSM expects to undertake during the EY. The results of these efforts are released in the State Annual Evaluation Report after the end of the EY.

Recommendation 2024-CR-004-02: Resolve the unsupported labor costs totaling \$493,822.

Non-Concur - The audit states that \$493,822 of the \$10 million spent on payroll was unallowable because Kentucky used estimated time allocations. For management and support personnel, KYOAS creates time codes for each grant award and subaccount. These time codes reflect the employee's contribution to each award/subaccount during the pay period. The payroll system uses an average time allocation system to charge the grant program. KYOAS and KYDAML managers review and update these allocations quarterly. In situations where an employee changes the programs or grants upon which they work, the supervisor is required to ensure the employee's timesheet reflects the proper coding prior to approval. This practice complies with 2 CFR 200.405(a) on allocable costs and 2 CFR 200.430(g)(1)(vii), which permits allocations if adjustments are made and final charges are reasonable. Both Kentucky and OSM recognize that when using this methodology, reviews must ensure accuracy. KYOAS codified this process in its policy, "*OAS Time Code Establishment and Review*," revised on June 1, 2025. Kentucky provided OSM documentation of its reviewed methodology, which falls under OSM oversight. Therefore, OSM does not concur with the finding that \$493,822 in labor costs using an allocation method is unsupported or impermissible. Kentucky relies on federal regulations (2 CFR 200.405) and KYOAS policy to justify this approach.

Recommendation 2024-CR-004-03: Resolve the unallowable payout of accrued employee sick leave totaling \$25,823.

Non-Concur - 2 CFR 200.431(b)(3)(i) permits payment for unused leave when an employee retires or terminates employment. The employee in question worked exclusively on the IJJA program. When the employee retired, Kentucky paid the accrued leave from the same program that funded the salary. Therefore, OSM does not concur with the finding that the \$25,823 sick leave payout was unallowable. KYOAS relies on federal regulations (2 CFR 200.405), and KYOAS codified its process in the policy "*OAS Time Code Establishment and Review*" revised on June 1, 2025.

Recommendation 2024-CR-004-04: Implement policies and procedures to ensure that leave paid to employees is properly allocated to the federal grant on which it was earned and does not exceed the value of benefits earned on that grant.

Non-Concur - 2 CFR 200.431(b)(3)(i) permits payment for unused leave when an employee retires or terminates employment. At retirement, the employee worked exclusively on the IJJA program, so Kentucky paid the accrued leave from IJJA funds. OSM does not concur with the finding because the state maintains adequate policies and procedures in its regulations and there was no overpayment. KYOAS relies on federal regulations (2 CFR 200.405) and codifies its process in the policy "*OAS Time Code*

Establishment and Review” revised on June 1, 2025.

Recommendation 2024-CR-004-05: Resolve the federal share of questioned costs related to unreasonable costs totaling \$165,763.

Concur - Kentucky resolved concerns about noncompliance with internal policy and properly accounted for the questioned costs in September 2024. Kentucky incurred \$165,763 to purchase steel rebar for a project that the original plans did not include. Unforeseen issues often arise after excavation begins, requiring change orders. In this case, KYDAML built a foundation to relocate a house away from an AML hazard and modified the plans after excavation started. KYDAML did not follow its internal policies for processing and approving change orders. KYDAML developed a corrective action plan to document and correct noncompliance in the change-order process. KYOAS trained managers, supervisors, and inspectors on properly managing and documenting construction contracts. KYOAS continues to monitor projects and provide training to KYDAML staff as needed. OSM requested documentation to validate resolution, which it received and reviewed on January 8, 2026.

Recommendation 2024-CR-004-06: Assess the Kentucky Division of Abandoned Mine Lands’ implementation of the Office of Administrative Services approved training plan to ensure branch managers, supervisors, and inspectors understand the importance of executing contracts and change orders in accordance with the division’s policies.

Concur - Kentucky addressed this recommendation in September 2024 and OSM will ensure compliance through oversight. KYDAML developed a corrective action plan requiring prior approvals for change orders exceeding \$100,000 or 10 percent of the total contract bid. KYOAS conducted training to help managers, supervisors, and inspectors properly manage and document construction contracts. After completing these training sessions, KYOAS continues to monitor projects and train KYDAML staff as needed. OSM will verify implementation through Kentucky’s EY 2027 Performance Agreement. The results of these efforts will be documented in the State Annual Evaluation Report shortly after the end of the EY.

Recommendation 2024-CR-004-07: Assess the Kentucky Division of Abandoned Mine Lands’ implementation of the Office of Administrative Services approved monitoring plan to conduct quarterly reviews of abandoned mine land projects and speak with branch managers, inspectors, and supervisors to ensure they are obtaining change orders before the work is initiated.

Concur - Kentucky addressed this recommendation in September 2024 and will ensure compliance through continued oversight. KYDAML created a corrective action plan requiring prior approvals for change orders exceeding \$100,000 or 10 percent of the total contract bid. KYOAS trained managers, supervisors, and inspectors to properly manage and document construction contracts. After completing these training sessions, KYOAS continues to monitor projects and train KYDAML staff as needed. OSM will verify implementation through Kentucky’s EY 2027 Performance Agreement.

Recommendation 2024-CR-004-08: Require the Kentucky Division of Abandoned Mine Lands to review employees’ work descriptions to determine the correct subaccounts to use according to OSM’s Federal Assistance Manual and Guidance on the Bipartisan Infrastructure Law

Abandoned Mine Land Grant Implementation, as well as Kentucky's Infrastructure Investment and Jobs Act abandoned mine land grant application.

Concur - Kentucky established proper policies and structures to accurately code work time to the correct subaccount. A revised policy to ensure review and validation was implemented by the State in September 2024. During the OIG audit, KYDAML corrected the subaccounts and revised its timecode policy to specify how timecodes correspond to the appropriate subaccount. OSM will verify implementation through Kentucky's EY 2027 Performance Agreement and be documented in the EY 2027 Kentucky Annual Evaluation Report.

Recommendation 2024-CR-004-09: Require the Kentucky Division of Abandoned Mine Lands to use the correct subaccount in its Kentucky Human Resource Information System according to OSMRE's Federal Assistance Manual and Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation.

Concur - Kentucky established proper policies and structures to accurately code work time to the correct subaccount in September 2024. During the OIG audit, KYDAML identified errors in charging the correct subaccounts, corrected the issue, and revised its timecode policy to specify how timecodes correspond to the appropriate subaccount. OSM will verify implementation through Kentucky's EY 2027 Performance Agreement and be released in the EY 2027 Kentucky Annual Evaluation Report.

Recommendation 2024-CR-004-10: Update Federal Assistance Manual to require grant recipients to track time and all costs allocable to a specific reclamation project, such as direct project costs, planning and design, construction monitoring and inspection, and other necessary administration expenses.

Concur - Federal regulations at 2 CFR Part 200 and the OSM Federal Financial Assistance Manual already require grant recipients to track employee time and all costs allocable to specific reclamation projects to ensure costs are necessary, reasonable, allocable, and adequately supported. These requirements mandate project-level financial management systems, time-and-effort documentation, and supporting records sufficient for audit and oversight purposes. OSM updated the Federal Financial Assistance Manual in October 2024 to reflect these requirements from a broad perspective. OSM will continue to update the Federal Financial Assistance Manual to further reference and reinforce these existing project-level cost-tracking requirements by December 2026. This action clarifies expectations, strengthens compliance, and addresses the OIG recommendation.

Recommendation 2024-CR-004-11: Require the Kentucky Division of Abandoned Mine Lands to train staff on updated procedures for allocating time to specific reclamation projects.

Concur - Kentucky took proper steps to train KYDAML staff on accurate time allocation. KY OAS implemented a new timecode policy and trained KY AML staff in September 2024. OSM will verify implementation through Kentucky's EY 2027 Performance Agreement and released in the EY 2027 Kentucky Annual Evaluation Report.

Recommendation 2024-CR-004-12: Update policies and procedures to require States to obtain OSM determination of Build America, Buy America Act applicability on Infrastructure Investment and Jobs Act-funded abandoned land projects that the State believes are not subject to this provision of the Act.

Concur in Part - OSM policies and procedures, currently in place, provide for states to make Build America, Buy America Act (BABA) applicability determinations on a project-by-project basis. To ensure BABA compliance, OSM verifies, by reviewing and confirming state and tribal BABA applicability determinations, regardless of the state/tribe initial determination, via the Authorization to Proceed (ATP) process. OSM reviews every project submitted through the ATP process, which is required before federal funds can be spent. OSM will provide training to OSM and State and Tribal staff to achieve both understanding and compliance by December 31, 2026.

Recommendation 2024-CR-004-13: Require States to submit those Infrastructure Investment and Jobs Act-funded abandoned mine land projects that States do not consider to be infrastructure (and therefore are not subject to Build America, Buy America Act requirements) to OSMRE for final applicability determination.

Concur in Part - OSM policies and procedures, currently in place, provide for states to make Build America, Buy America Act (BABA) applicability determinations on a project-by-project basis. To ensure BABA compliance, OSM verifies, by reviewing and confirming state and tribal BABA applicability determinations, regardless of the state/tribe initial determination, via the Authorization to Proceed (ATP) process. OSM reviews every project submitted through the ATP process, which is required before federal funds can be spent. OSM will provide training to OSM and State and Tribal staff to achieve both understanding and compliance by December 31, 2026.

Recommendation 2024-CR-004-14: Provide direction to the Kentucky Division of Abandoned Mine Lands to properly classify projects and apply Build America, Buy America Act requirements to any ongoing and finished projects, as necessary.

Non-Concur - OSM provided BABA direction in June 2025, to all States and Tribes, including Kentucky. This guidance includes 2 CFR, part 184 (Buy America Preferences for Infrastructure Projects) and 2 CFR 200.322, an OSM issued fact sheet titled “Build America, Buy America Preferences for Infrastructure Projects,” revised OSM Federal Assistance Manual, and training through the Made in America Office. OSM remains committed to working with KYDAML and all states and tribes to support BABA implementation. OSM will continue to assess and ensure Kentucky’s compliance through the EY 2027 Performance Agreement with results released in the Kentucky EY 2027 Annual Evaluation Report.



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

REPORT FRAUD, WASTE, ABUSE, AND MISMANAGEMENT

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