



Memorandum from the Inspector General, ET 4C-K

February 28, 2017

Those listed

REQUEST FOR FINAL ACTION – EVALUATION 2016-15376-01 – PROPOSED SALE OF BELLEFONTE NUCLEAR PLANT SITE

This is a follow-up to Evaluation 2016-15376, Proposed Sale of Bellefonte Nuclear Plant Site, July 11, 2016, which found the Tennessee Valley Authority (TVA) had taken reasonable actions to promote transparency of the sales process to date, evaluated alternative uses for the site, and considered significant risks associated with the sale of the Bellefonte Nuclear Plant site (Bellefonte). The scope of Evaluation 2016-15376 included TVA's activities leading up to the TVA Board of Directors' (Board) decision to declare the Bellefonte site as surplus and authorization of its sale. This follow-up evaluation addresses the remaining objective of Evaluation 2016-15376, to determine whether the sale of Bellefonte was conducted according to TVA's policies and procedures.

We found that the sale of the Bellefonte site complied with most of the steps in TVA's land disposal policies and procedures. However, the sale of Bellefonte was a unique transaction that resulted in some deviations from TVA's policies and procedures. Also, we noted some land disposal guidance was outdated. Specifically, TVA Standard Programs and Processes (SPP) 16.07, Land Disposal, has not been updated since 2011 and assigns responsibilities to organizations and positions no longer in existence. In addition, the Land Disposal Process flowchart is outdated and the process description references personnel who are no longer active employees. Realty Services' Land Auction Process guidance document was updated during the course of our evaluation.

We recommend the Vice President, Infrastructure, complete the update of all land disposal policies and guidance.

TVA management agreed with the findings and recommendation and stated they are currently in the process of updating/replacing specific land disposal guidance. Please see the Appendix for TVA management's complete response.

BACKGROUND

TVA began construction of Bellefonte on September 18, 1974. Since then, TVA has made the decision to start and stop construction three different times at a total cost of approximately \$4.8 billion. TVA's 2015 Integrated Resource Plan (IRP), which was intended to guide TVA in making decisions about the energy resources used to meet future demand for electricity through 2033, concluded there was no immediate need for new base-load plants after Watts Bar Unit 2 came online and uprates were completed at Browns Ferry Nuclear Plant. As such, the 2015 IRP did not include a recommendation to complete Bellefonte Units 1 or 2.

In September 2015, TVA informed our office they had received a proposal from a group that included commercial developer Franklin L. Haney who was interested in acquiring Bellefonte through a negotiated sale. The group's stated intention was to complete both nuclear units at Bellefonte. In recent years, there has been an attempt by Mr. Haney to privately finance the completion of Bellefonte. Media reports have described Mr. Haney's efforts to help finance Bellefonte's completion and his conclusion that Bellefonte Units 1 and 2 could be completed for \$10 billion, compared to TVA's estimate that a single unit would cost between \$7.5 and \$8.7 billion.

The combination of the 2015 IRP's conclusion that Bellefonte would not be needed prior to 2033, Mr. Haney's request to obtain it, and TVA's desire to allow an opportunity for economic development at the site prompted TVA to consider selling the plant. The Board declared Bellefonte to be surplus property and authorized its sale on May 5, 2016, after receiving input from public officials, customers, and local residents. In September 2016, Joe Ritch, former Board Chair, requested advice from the Office of the General Counsel because he is a shareholder in a law firm representing a potential buyer.¹ Mr. Ritch was advised not to participate in any Bellefonte matters.

TVA selected Concentric Energy Advisors, Inc., (Concentric Advisors)² to serve as an auction manager for the sale. TVA set the minimum auction price at \$36.4 million, the appraised value. According to TVA, Concentric Advisors marketed the property to more than 500 potential buyers with 11 expressing an interest and signing confidentiality agreements for further discussions. Letters of Intent to Bid were submitted by 3 prospective buyers. These letters included the buyer's financial qualifications and a plan for the intended use of the property. After evaluation, Concentric Advisors determined that two bidders were qualified and one was not. The two qualifying bidders, Nuclear Development, LLC (Nuclear Development), represented by Mr. Haney, and Jackson Holdings of Alabama LLC (Jackson Holdings), were invited to attend the auction.

On the morning of the auction, November 14, 2016, TVA informed the Office of the Inspector General (OIG) there would be only one bidder: Nuclear Development. It was uncertain whether Jackson Holdings could obtain the funds needed for the 20 percent down payment (of the winning bid amount) due within 4 hours of the auction close. The uncertainty surrounding Jackson Holdings was due to a combination of a banking crisis in India³ the previous week and a U.S. federal holiday the last business day before the auction. Prior to the auction, Jackson Holdings communicated to Concentric Advisors they could have the funds for the down payment within 48 hours. Concentric Advisors discussed with TVA the idea to extend the 4-hour time frame for wiring the 20 percent down payment to 48 hours (which was the original time frame communicated in the

¹ Joe Ritch is an attorney and shareholder at the law firm Sirote & Permutt, P.C., which represented Jackson Holdings for the sale of Bellefonte.

² Concentric Advisors is a management consulting and financial advisory firm focused on the North American energy industry. Headquartered in Marlborough, Massachusetts, Concentric Advisors specializes in transaction-related financial advisory services, energy market analysis, litigation support, and utility ratemaking services. Concentric Advisors has managed all four of the nuclear plant auctions that have occurred since 2004.

³ Jackson Holdings funding was provided from public companies listed on the Bombay Stock Exchange and National Stock Exchange of India.

offering memorandum sent to potential buyers). During this discussion, a decision was made to extend the time frame for the 20 percent down payment to 48 hours and allow Jackson Holdings to participate in the auction.

Prior to commencement of the auction, the OIG was informed by TVA that they had extended the time frame to wire 20 percent of the winning bid and that there would be two bidders. Shortly after the decision to extend the down payment time frame to 48 hours, and prior to the auction, representatives from Nuclear Development expressed their displeasure with TVA's decision to change the time frame right before the start of the auction to the OIG personnel at the auction. Nuclear Development expressed concern that the other bidder was not suitable to participate in the auction but were being allowed to bid and subsequently drive up the winning price.

Nuclear Development won the auction for the Bellefonte site for the purchase price of \$111 million. Nuclear Development has up to 2 years to close on the property. As part of the sale, TVA requires Nuclear Development to make a \$25 million minimum investment in the Bellefonte property during the five-year period following the closing.

This is a follow-up to Evaluation 2016-15376, Proposed Sale of Bellefonte Nuclear Plant, which found TVA had taken reasonable actions to promote transparency of the sales process to date, evaluated alternative uses for the site, and considered significant risks associated with the sale of the Bellefonte site. The scope of Evaluation 2016-15376 included TVA's activities leading up to the Board's decision to declare the Bellefonte site as surplus and authorization of its sale. This follow-up evaluation addresses the remaining objective of Evaluation 2016-15376 to determine whether the sale of Bellefonte was conducted according to TVA's policies and procedures.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this evaluation was to determine whether the sale of Bellefonte was conducted according to TVA's policies and procedures. In addition to these policies and procedures, our scope included the TVA Act that gives TVA the authority to dispose of surplus property. To achieve our objective, we:

- Conducted interviews of TVA personnel to determine relevant policies and procedures.
- Participated in weekly Bellefonte Auction Team Meetings to stay informed of auction activities.
- Reviewed the TVA Act and relevant policies and procedures to determine steps to be taken in the sale of surplus property.
- Compared TVA actions related to selling the Bellefonte site to steps in the applicable policies and procedures.

This evaluation was performed in accordance with the Council of the Inspectors General for Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

FINDINGS

We found the sale of Bellefonte complied with most of the steps in TVA’s land disposal policies and procedures. However, as discussed further below, the sale of Bellefonte was a unique transaction that resulted in some deviations from TVA’s policies and procedures. Also, we noted some land disposal guidance was outdated and needed revisions.

TVA COMPLIED WITH MOST LAND DISPOSAL STEPS INCLUDED IN POLICIES AND PROCEDURES

We determined that TVA complied with most of the land disposal steps included in policies and procedures during the sale of Bellefonte. Table 1 below outlines key land disposal steps included in the TVA Act and relevant policies and procedures.

Land Disposal Guidance	Land Disposal Steps ^a
TVA Act	States the disposal of property deemed surplus by the Board, after due advertisement, should be sold by private sale or at a public auction with the property awarded to the highest bidder.
TVA-SPP-16.07, Land Disposal	Provides key steps to be completed for land disposal including: <ul style="list-style-type: none"> • Environmental reviews. • Title report. • Appraisal. • Board/Chief Executive Officer (CEO) approval.
2004 Land Disposal Process and Flow Chart	Describes the review process of land use applications for sale of TVA land. Key steps include: <ul style="list-style-type: none"> • Board approval. • Public notice. • Environmental review.
Realty Services Land Auction Process	Provides guidance for conducting land auctions. Key steps include: <ul style="list-style-type: none"> • Title report. • Appraisal. • Survey. • Board/CEO approval. • Notice of public auction. • Bidder qualifications review.
^a Key steps included in the table were identified by the OIG.	

Table 1

To comply with the policies and procedures shown in Table 1, the following steps were completed for the sale of Bellefonte:

- Obtained CEO and Board approval.
- Provided notice of public auction.
- Completed title work, appraisals, and survey.
- Reviewed bidder qualifications.
- Auctioned off Bellefonte to highest bidder on November 14, 2016.

Since the sale of Bellefonte was a unique transaction, TVA deviated from some of its policies and procedures.

1. TVA did not complete its environmental review prior to the auction. According to TVA officials, the environmental review was purposefully scheduled to be completed after the auction so that TVA would know the likely use of the property and could better describe the potential impacts. TVA plans to complete the environmental review prior to the sales closing.
2. TVA's policies and procedures require the individual or group who submit an application for the sale of TVA land to pay the administrative costs associated with the sale. For the sale of Bellefonte, TVA required the winning bidder to pay a fixed amount at \$750,000 in "compensated costs," which included administrative costs associated with the sale.⁴
3. TVA did not have a committed bidder ahead of the auction. According to TVA, in some auctions, TVA has a commitment letter from the applicant prior to the auction stating that they will be there and bid the minimum bid.

While TVA deviated from some of its normal policies and procedures, the steps TVA took appeared reasonable due to the unique nature of the Bellefonte sale.

OUTDATED LAND DISPOSAL GUIDANCE

During our review of policies and procedures, we found that some land disposal documentation was outdated. Specifically TVA-SPP-16.07, Land Disposal, has not been updated since 2011. Section 2.0 of TVA-SPP-16.07, Land Disposal, states the SPP will be reviewed annually and the review documented in the SPP's revision log; however, the last documented changes were in 2011. The SPP assigns responsibilities to organizations and positions no longer in existence. In addition, the Land Disposal Process flowchart is dated September 2, 2004, and the process description references TVA personnel who are no longer active employees. Current documentation is important to help ensure clear direction and guidance for meeting company objectives and promoting operational efficiency. Realty Services' Land Auction Process guidance

⁴ Compensated costs include the cost of (1) appraisals, property surveys and realty services and (2) TVA staff and payments to Concentric Advisors for its services.

document was updated during the course of our evaluation. In addition, TVA informed the OIG that the land disposal SPP and flowchart are in the process of being updated.

RECOMMENDATION

We recommend the Vice President, Infrastructure, complete the update of all land disposal policies and guidance.

TVA Management's Comments – TVA management agreed with the findings and recommendation. Management stated they are in the process of updating/replacing specific land disposal guidance. Please see the Appendix for TVA management's complete response.

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This report is for your review and final action. Your written comments, which addressed your management decision and actions planned, have been included in the report. Please notify us when final action is complete. In accordance with the Inspector General Act of 1978, as amended, the Office of the Inspector General is required to report to Congress semiannually regarding evaluations that remain unresolved after 6 months from the date of report issuance.

If you have any questions or wish to discuss our findings, please contact me at (865) 633-7300 or David P. Wheeler, Assistant Inspector General, Audits and Evaluations, at (865) 633-7373. We appreciate the courtesy and cooperation received from TVA during the evaluation.



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Attachment
cc (Attachment):

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 - Janet J. Brewer, WT 7C-K
 - Robertson D. Dickens, WT 4D-K
 - William D. Johnson, WT 7B-K
 - Dwain K. Lanier, MR 6D-C
 - Justin C. Maierhofer, WT 7B-K
 - Sherry A. Quirk, WT 6A-K
 - Rebecca C. Tolene, WT 7B-K
 - Jacinda B. Woodward, BR 4A-C
- OIG File No. 2016-15376-01

February 24, 2017

Richard W. Moore, ET 4C-K

REQUEST FOR COMMENTS - DRAFT EVALUATION 2016-15376-01 - PROPOSED
SALE OF BELLEFONTE NUCLEAR PLANT SITE

TVA management has reviewed the report of the OIG's evaluation regarding the proposed sale of Bellefonte Nuclear Plant site and agrees with the findings. Management is in the process of updating/replacing specific land disposal guidance referenced in the evaluation as provided below.

Land Disposal Guidance to be Updated/Replaced	Action	Target Date for Completion
TVA-SPP-16.07, Land Disposal	Update/Replaced with TVA-SPP-37.002, Disposal and License of TVA Real Property	September 30, 2017
Land Disposal Process and Flow Chart	Review in progress	April 1, 2017

Please let me know if you have any questions.



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and Designated Agency Ethics Official
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OIG File No. 2016-15376-01