



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

**THE BUREAU OF LAND
MANAGEMENT'S WILD HORSE AND
BURRO PROGRAM IS NOT
MAXIMIZING EFFICIENCIES OR
COMPLYING WITH FEDERAL
REGULATIONS**



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OCT 17 2016

Memorandum

To: Neil Kornze
Director, Bureau of Land Management

From: Mary L. Kendall
Deputy Inspector General

A handwritten signature in black ink, appearing to read "Mary L. Kendall".

Subject: Management Advisory – The Bureau of Land Management’s Wild Horse and Burro Program Is Not Maximizing Efficiencies or Complying With Federal Regulations
Report No. 2016-WR-027

The Office of Inspector General (OIG) recently conducted a review to determine whether the Bureau of Land Management’s (BLM) cooperative agreements and contracts for wild horse and burro off-range holding facilities are cost effective and comply with applicable Federal laws and regulations. We found that BLM does not maximize the cost-effectiveness of its off-range holding facilities. Specifically, BLM’s contracts do not ensure best value for services, BLM does not maximize the use of its pastures, and BLM has no strategic plan to manage wild horse and burro populations. We also found that some of BLM’s cooperative agreements with correctional institutions do not comply with Federal laws and regulations.

Background

BLM protects and manages wild horses and burros under the authority of the Wild Free-Roaming Horses and Burros Act of 1971, as amended. The need for off-range holding facilities is constantly increasing due to BLM’s inability to control on-range populations.

In a 2010 OIG inspection report (Report No. C-IS-BLM-0018-2010), BLM recognized that populations and costs for holding facilities were continuing to increase and stated: “the current path is not sustainable for the animals, the environment, or the tax payer.” The Wild Horse and Burro Program budget has increased from \$15 million in fiscal year 1998 to nearly \$80 million in fiscal year 2015 (see Figure 1), with over 65 percent of the current program budget used for off-range holding facilities costs. The on-range wild horse and burro population currently grows at a rate of 18 to 20 percent annually; BLM gathers or removes animals from the range each year to maintain the ecological health of the rangelands. BLM has drastically decreased gathers in recent years as it cannot afford to pay for additional off-range holding. As a result, the current wild horse and burro population is double that of the appropriate management level (AML), which is the number of wild horses and burros that can thrive in balance with other public land resources and uses.

Off-range holding facilities generally consist of short-term corral and long-term pasture facilities. Short-term corrals incur additional costs (such as hay costs, veterinary services, and farrier services) that make these facilities significantly more expensive to operate. In addition to the contract cost, BLM has assigned salaried employees at some corral facilities. Long-term pasture facilities allow for horses and burros to live out their natural lives, and do not require many of the additional services and expenses associated with corrals.

In addition to corrals and pastures, there are a few training and adoption facilities that do not focus on holding. BLM has cooperative agreements with correctional institutions for some short-term corral facilities and for horse training programs in which inmates learn to train horses and prepare them for adoption.

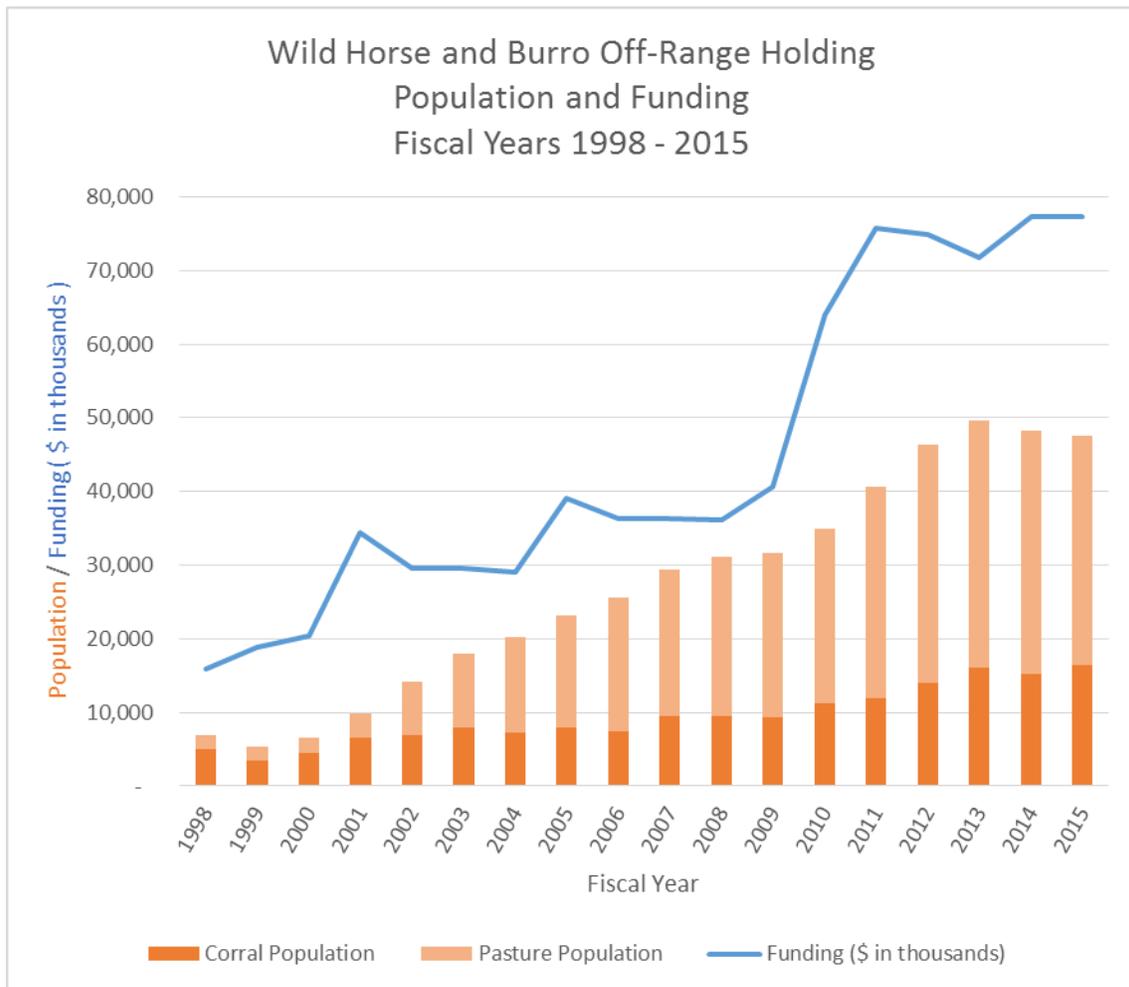


Figure 1. Funding for the Wild Horse and Burro Program has increased by nearly \$65 million (from \$15 million to nearly \$80 million) between fiscal years 1998 and 2015.

BLM uses cooperative agreements and contracts to obtain off-range holding facilities. BLM’s Washington, DC procurement office and State offices provide oversight for these agreements and contracts. The DC office oversees contracts for all long-term pasture and short-term corral holding facilities under contract, except for a few adoption and training programs that

are managed by State offices. The State offices also manage all cooperative agreements and any Wild Horse and Burro Program contracts not managed by the DC office.

Findings

BLM does not ensure best value for off-range holding facilities.

BLM rate adjustment and cost estimation processes for contracts do not ensure best value for services.

BLM cannot ensure the rate adjustment procedures that are applied to contracts obtain the best value for the services it needs. In 2013, Wild Horse and Burro Program off-range holding contracts transitioned from the BLM National Operations Center in Denver, CO, to the DC office. These contracts included existing 5-year contracts established in 2009 that expired in 2014. When the DC office assumed responsibility for these contracts, some existing off-range holding facilities under contract were struggling financially due to the rising costs of hay feed and the increase in pasture rates. In response, contracting officers negotiated a one-time, across-the-board 3.5 percent rate increase for existing contracts in 2014, which was the first rate adjustment since the contracts were established in 2009. In 2015, BLM began establishing contracts for off-range holding facilities with rate increases included for option years. Contracting officers generally accepted the rate adjustments if they were considered “realistic” and were about 3.5 percent over the prior year costs. BLM, however, could not demonstrate that the rate adjustments were appropriate or were based on industry indexes or standards.

The guiding principle of Federal Acquisition Regulation (FAR) § 1.102(a) says that the vision for the FAR is to deliver the best value to the taxpayer—a system that works better and costs less. The 3.5 percent increase adjustment applied to contracts in 2014 was negotiated with contractors for one specific year after the contracts had gone 4 years without a price adjustment. Currently, BLM’s rate adjustment processes are unsupported and do not ensure that the rates it pays for off-range holding are of the best value for the services.

The DC and State offices use different cost estimation processes for Wild Horse and Burro Program holding facilities. The DC office uses per-horse-per-day price estimate ranges provided by the contracting officer’s representative to determine reasonable proposals for long-term pasture contracts. For short-term corral contracts, the contracting officer’s representative and contracting officer determine fair rates for each solicitation during a conversation, none of which is documented or supported. In addition, the DC office has not shared or established specific procedures regarding cost estimations and rate determinations that State offices would be required to use. As a result, the State offices’ cost estimations and rate determinations procedures may vary from office to office. We visited three holding facilities under contract during our review. Two of these contracts are managed in the DC office, and one is managed in a State office. All three contracts differ in language and terms regarding price adjustments.

BLM does not maximize the cost effectiveness of pasture capacities.

Daily rates for holding horses and burros at short-term corrals are significantly more expensive than daily rates at long-term pastures, with a difference of about \$3.52 per-horse-per-day on average, but BLM does not maximize the use of its pastures. Corral holding requires more maintenance and labor services that are not often needed on pastures. Corral facilities also are intended for short-term holding—until the horses can be transitioned to pasture facilities or placed into a training program for adoption. A BLM official stated that the process to transition a horse from roaming on-range to being held in off-range pasture facilities should on average take about 120 days, but some horses have been in short-term corral holding facilities for up to 5 years. In addition, older horses are being held in short-term corral facilities, but statistics reflect that horses 7 or more years old have a very low chance of adoption.

BLM could save costs if it transports horses from higher priced short-term corral facilities to long-term pastures with vacancies. BLM's Wild Horse and Burro Program specialists told us that it is most cost effective to transport a full truckload (35 horses). Currently, 15 of 27 long-term pasture holding facilities have vacancies exceeding 35 horses. If truckload capacity were maximized, BLM could transition 2,905 horses from short-term corral holding to lower cost long-term pasture facilities. This action alone would result in an estimated \$3.7 million in funds that could be put to better use over the next year (see the attachment for a summary of monetary impact).

At this time, BLM has not established a policy to determine whether horses and burros go to corrals or to pastures, but the Wild Horse and Burro Program Off-Range Branch Chief told us that a review team has been formed to develop policy for this issue.

No strategic plan exists to manage wild horse and burro populations.

BLM does not have a strategic plan in place to manage the wild horse and burro populations. The consistent on-range population growth drives the constant need for additional off-range holding and increased spending. If no plan is in place to control the on-range population source, the off-range holding and financial need will continue in this unsustainable pattern.

In a May 11, 2016 response to a U.S. Senator's inquiry about the Wild Horse and Burro Program efforts to manage population growth and program costs, the BLM Director outlined attempted efforts, including transitioning horses from off-range short-term corrals to more cost-effective long-term pasture facilities. The Director's response included proposed scenarios to meet AML in 3, 5, or 10 years if actions were implemented beginning in fiscal year 2017. The Director's response also stated that additional tools and resources were needed and expressed BLM's commitment to work with Congress to make the program sustainable. No formal plan has been developed.

Some off-range holding facility cooperative agreements with correctional institutions do not comply with applicable Federal laws and regulations.

BLM State offices have entered into cooperative agreements for horse training programs at correctional institutions, some of which do not comply with Federal law. According to Federal law, cooperative agreements should be used when the Federal agency will be substantially involved in an activity whose principal goal is to accomplish a public purpose of support or stimulation authorized by Federal law. These horse training programs were initiated under cooperative agreements for inmates to train horses and to provide holding only for those horses. We found, however, that some correctional institutions hold horses that are not currently being trained and have no training potential. These correctional institutions are therefore serving as short-term corral holding facilities in addition to training operations.

For the short-term corral holding function, the appropriate financial instrument would be a contract rather than a cooperative agreement. According to Federal law, a contract should be used to acquire property or services for the direct benefit or use of the Government—in this case, for the off-range holding of BLM wild horses and burros. Therefore, BLM is using cooperative agreements with correctional institutions that have a holding component inappropriately to obtain services and is not in compliance with Federal laws and regulations. BLM should have both off-range holding and training services under a contract or have a separate holding contract and cooperative agreement for training services.

Furthermore, cooperative agreements between governmental entities must be based on cost reimbursement of actual expenses incurred. In 2013, OIG issued an audit report on Utah Correctional Industries (Report No. WR-CA-BLM-0013-2013) in which we found that the cooperative agreement in place provided for reimbursement using a specified rate (per-horse-per-day), instead of providing for reimbursement of actual costs in accordance with 43 C.F.R. § 12.62. Similarly, in our visit to the correctional institution in Carson City, NV, we found that BLM pays a changing per-horse-per-day rate based on preset ranges for population and hay purchase price rather than actual costs, resulting in inaccurate or inflated claims for reimbursement and allowing for potential profits, which are not allowed under a cooperative agreement. This correctional institution also received a predetermined training fee for each horse that was adopted, creating another opportunity for profit under a cooperative agreement.

Since the OIG findings were issued, BLM procurement and grants and agreement officials for the Wild Horse and Burro Program have recognized the need to transition correctional institutions with holding facilities to contracts. BLM recently entered into a cooperative agreement with Rio Cosumnes Correctional Center in Elk Grove, CA, that is strictly cost reimbursable and does not allow for holding of horse populations beyond the horses in the training program. BLM is also in the process of transitioning one correctional program in Riverton, WY, from a cooperative agreement to a contract that includes both holding and training services. According to procurement and grant officials, the State offices are reluctant to conform to Federal laws and regulations, which will make it difficult to transition the remainder of the existing cooperative agreements for correctional institutions that provide holding services to contracts.

Conclusion and Recommendations

Off-range holding facilities for wild horses and burros play a vital role in BLM's ability to control on-range populations. The constant and continued growth of on-range populations will result in increased need for off-range holding facilities and resources to obtain these facilities. A long-term strategic plan is necessary to sustain land health, animal populations, and affordability. In the meantime, BLM must ensure that the Wild Horse and Burro Program's cost rates are supportable, facilities are used for maximum cost-effectiveness, and financial instruments comply with Federal laws and regulations.

To address the issues indicated, we recommend that the Director instruct BLM Wild Horse and Burro Program officials to implement the following corrective actions:

1. Develop and implement policy and procedures to ensure that the Washington, DC procurement office and BLM State offices document and use appropriate rate determinations and adjustments, and terms and conditions in contractual arrangements that comply with Federal laws and regulations;
2. Develop and implement a plan to maximize the transition of wild horses and burros from short-term corral facilities to long-term pasture facilities;
3. Develop and implement a strategic plan for sustainable on- and off-range wild horse and burro population management; and
4. Comply with existing Federal laws and regulations to ensure all correctional institution programs are functioning under appropriate financial instruments.

Please provide us with your written response to this management advisory within 30 days. The response should provide information on actions taken or planned to address the recommendations, as well as target dates and title(s) of the official(s) responsible for implementation. Please send your response to aie_reports@doioig.gov. If you have any questions regarding this management advisory, please contact me at 202-208-5745.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

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

Monetary Impact

Funding Source	Funds To Be Put To Better Use
Maximize the transition from short-term corrals facilities to long-term pastures	\$3.7 million

