



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

# MANAGEMENT OF RIGHTS-OF-WAY IN THE U.S. DEPARTMENT OF THE INTERIOR






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

SEP 27 2012

Memorandum

To: David J. Hayes  
Deputy Secretary

From: Mary L. Kendall   
Deputy Inspector General

Subject: Final Audit Report – Management of Rights-of-Way in the U.S. Department of  
the Interior  
Report No. C-IN-MOA-0013-2010

This report presents the results of our audit of the U.S. Department of the Interior's (Department) management of rights-of-way (ROW). We found that the Department's bureaus have an opportunity to collect as much as \$100 million or more annually if they assess market value for rents.

We make 17 recommendations to take advantage of these opportunities. The recommendations target the Department and its bureaus performing ROW rent valuations based upon actual market values, revising and updating ROW rent schedules, and identifying unreported services and collecting back rents on ROW. We believe that fully implementing our recommendations will result in improved ROW management, as well as increased revenues that more than offset any costs incurred.

The Department generally concurred with all of our recommendations and provided general and technical comments in response to our draft report (see appendix 5). Based on these comments, we revised some sections of the report. We consider 13 recommendations to be resolved but not implemented (see appendix 4). We consider Recommendations 1, 3, and 11 to be unresolved, and are requesting clarification of the Department's plans for implementing these recommendations. Additionally, management concurred with Recommendation 16; we are requesting additional information before deeming this recommendation to be fully resolved. Upon consideration of our analysis in the "Conclusion and Recommendations Summary" section of this report, please provide us with your additional response to Recommendations 1, 3, 11, and 16 within 30 days. Please address your response to –

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

If you have any questions regarding this memorandum or the subject report, please do not hesitate to contact me at 202-208-5745.

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## Results in Brief

The U.S. Department of the Interior (Department) and its bureaus have the opportunity to collect additional rents of almost \$100 million or more annually for the tens of thousands of rights-of-way (ROW) that cross public and Indian lands. This potential revenue is not collected because rents are set below market value, rent discounts are not justified, and unauthorized uses of ROW are not identified and corrected. A majority of the Department's ROW and associated revenues are managed by the Bureau of Land Management (BLM), but other bureaus and offices also have important roles in ROW management.

Federal laws and regulations allow the Department to assess market value for ROW rents, but the Department has not established guidance to fully implement this authority. While the amount of undervalued ROW cannot be precisely determined, BLM and the National Park Service estimate that their collective, annual, uncollected rent is between \$94 million and \$132 million.

Recommendations we make include conducting rent valuations based upon actual market values, revising and updating rent schedules, identifying unreported services, and collecting back rents. Most of the recommendations will not require additional funding. Fully implementing the recommendations, however, should result in increased revenues, thereby offsetting any costs.

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# Introduction

The U.S. Department of the Interior (Department) and its bureaus manage more than 125,000 rights-of-way (ROW) on public and Indian lands, mostly in the American West, for purposes ranging from transmission of data and electricity to transportation of petroleum and natural gas.

## Objective

The objective of our audit was to review the Department's management of ROW and determine whether the Department was recovering market value for Federal land use. For details on our scope and methodology, see appendix 1. For a list of organizations visited or contacted, see appendix 2.

## Background

A ROW provides a grantee use of Federal or Indian lands for a specified period and purpose. Allowing ROW on public lands fosters development of domestic energy resources, expansions of communications infrastructure, and improvements to transportation networks. A grant can satisfy an individual's need for constructing an access road to a home, or can apply to extensive commercial facilities that deliver critical consumer services for entire regions of the United States. ROW we reviewed are classified as either linear for roadways, electric transmission lines, oil and gas pipelines, and fiber-optic cables; or as communications sites for cellular telephone, television, radio, and wireless Internet service.

The Department has more than 125,000 ROW. These include more than 100,000 ROW managed by the Bureau of Land Management (BLM), more than 20,000 managed by Bureau of Indian Affairs (BIA), and fewer than 5,000 each on lands managed by the other three land management agencies—National Park Service (NPS), Bureau of Reclamation (USBR), and the U.S. Fish and Wildlife Service (FWS). The Mineral Leasing Act of 1920, the Indian Right of Way Act of 1948, the Federal Land Policy and Management Act of 1976, and other legislation confer authority to the Department to grant ROW. These statutes and implementing regulations generally require charging market value rents for lands used under ROW grants, though about half are exempt from rent collection due to special authorities such as the Rural Electrification Act. For real estate transactions, the general definition of market value is the price paid and received by a reasonably knowledgeable and willing owner and buyer at the time of the transaction. The rent collected on some ROW can exceed \$1 million throughout the ROW's term.

The "Uniform Appraisal Standards for Federal Land Acquisition" promotes consistent appraisals of property for various Federal agencies. To estimate market value for determining ROW rents, these standards allow the Department and its bureaus to value ROW based upon the value of the right or use granted. The

Department's "Appraisal Policy Manual" issued in September 2006 by the Office of Valuation Services (then known as Appraisal Services Directorate) requires valuations to comply with the "Uniform Appraisal Standards." Bureaus then supplement appraisal policy with more detailed procedures for their real estate activities.

ROW rents are determined through a variety of methods, including individual ROW market valuations, use of predetermined amounts in rent schedules, negotiations, or through other methods. A practical way to determine individual market value is to identify and analyze rents paid on similar, or comparable, ROW. This information may be easy to obtain on Federal, State, and local public lands, but it is difficult to obtain on private ROW because landowners often sign nondisclosure agreements. Comparable ROW information is available from private companies, but often only for a fee.

To reduce the workload of performing individual valuations, BLM uses linear and communications rent schedules to establish rents. Neither schedule, however, reflects the current market value based on comparable rents for ROW. BLM bases its linear rent schedule on the amount of land used and particular values assigned to each county in the United States. BLM bases its communications site schedule on the population in the area served and an estimate of the value of the service to the grantee. This schedule was implemented in 1995, and has been adjusted annually for inflation.

BLM and the U.S. Forest Service, which is in the U.S. Department of Agriculture, share thousands of miles of boundaries and have contiguous ROW that cross their respective lands. To manage ROW consistently, they have similar regulations and identical rent schedules, and their personnel participate in similar training classes. Other land management agencies in the Department, however, may use different regulations and valuation methods.

When bureaus do not use BLM's rent schedules, they may conduct or contract out valuations, or refer them for action to one of two offices in the Department. The Office of Valuation Services serves the Department's land management agencies. The Office of Appraisal Services in the Office of the Special Trustee for American Indians serves BIA.

In 2010, the Secretary of the Interior reorganized Valuation Services, placing it under the Assistant Secretary for Policy, Management and Budget. This change clearly identified Valuation Services' oversight of all real estate valuation functions for the Department and its land management agencies.

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# Findings

The bureaus we reviewed do not receive market value for rents on ROW. The total value of additional rents that might be collected, could exceed \$100 million annually based on estimates provided by BLM and NPS.

This is due to several reasons:

- The Department and its bureaus do not set ROW rents based upon market value.
- The Department and its bureaus generally do not value ROW based upon comparable market data.
- The Department and its bureaus do not prioritize high-value ROW for individual valuation.
- Valuation Services and Appraisal Services' personnel lack training to conduct individual ROW valuations.
- Linear ROW schedules do not account for the value and volume of authorized products.
- ROW rent schedules for communications sites are out of date and fail to consider the volume of service authorized.
- Bureaus do not reevaluate rents on ROW for changes in market value.
- Added services on ROW go unreported and rents go unpaid.
- Back rents are not collected consistently.
- Rent discounts on added services are not justified.

Valuation Services' recent reorganization positions it to guide ROW management throughout the Department. Valuation Services and BLM personnel agreed that the size and complexity of BLM's programs, its congressional mandates, and its existing regulations make it advisable they work together on many of the recommendations in this report.

## Obtaining Market Value for ROW

### Defining Market Value

In establishing the market value of rent for a ROW, Federal standards allow consideration of the ROW's value to the grantee. The Department's "Appraisal Policy Manual," however, does not require consideration of this value. Bureaus usually do not consider this value, and as a result, they undervalue rents.

Market value is based on comparable rents, factors including the value and volume of the product or services authorized, and the location and size of the markets served. Proper application of these concepts is critical to obtaining market value, whether through individual valuations or in establishing rent schedules. A Valuation Services manager said that a top priority was to revise the "Appraisal Policy Manual" to address valuation and appraisal policies.



### **Comparable Market Data**

We found that neither Valuation Services nor Appraisal Services maintained the market data needed to perform comparable valuations. Valuations based upon comparable market data generally compare the proposed ROW with the rents and other terms in ROW grants from other publicly and privately held lands with similar market characteristics. Obtaining this data is central to identifying accurate market values.

We obtained comparable ROW information from Internet searches and from a company specializing in land valuation that performed contract work for NPS. Officials with this firm explained that they relied on a database of 25,000 ROW. They said they generally only share this information with companies in reciprocal relationships, or for a fee.

Although most ROW are valued based upon rent schedules, obtaining true market value requires individual valuations of proposed ROW. Data needed for valuing and prioritizing ROW could include the value and volume of a proposed service or product in addition to its location and land requirements. Currently, Valuation Services performs few individual valuations and does not base them upon market value to the grantee. Low staffing levels in Valuation Services, in contrast to the large number of ROW in the Department, require that it prioritize ROW for individual valuation to focus on higher-value opportunities.

### **Training for Personnel**

The complexity of doing ROW valuations requires specific guidance, training, or experience to do market valuations for ROW. Valuation Services' staff agreed that conducting complex valuations might initially require using qualified private firms experienced in this work, with Department staff to oversee it. They could then further develop staff to conduct future valuations.

## Recommendations

1. Following “Uniform Appraisal Standards,” Valuation Services should define market value of ROW to include the value of the right or use granted.
2. Valuation Services should create and maintain a database of comparable ROW information.
3. Valuation Services should establish criteria to prioritize ROW using market considerations including the value and volume of the service authorized.
4. Valuation Services should perform high-priority, individual valuations as allowed, given its resources.
5. Valuation Services should develop and implement guidance and training requirements for staff to conduct individual ROW valuations.

## Rental Rate Schedules

Most ROW in the Department are valued based on established rent schedules because the workload created to perform individual valuations would otherwise be prohibitive. These schedules do have an administrative benefit, but they do not reflect market value. Based on data that BLM provided and additional information gathered independently, BLM agreed it could potentially collect an additional \$77 million to \$115 million in ROW rents annually (see appendix 3).

### Linear Rent Schedule

BLM’s linear schedule does not set rental rates based on the market value and volume of products authorized. The schedule’s attributes include the county land values where a ROW is located and the number of acres authorized for use. When compared to linear rental rates for similar lands we identified, BLM’s schedule generated the lowest revenues. These lands included comparable State and local government, Indian, and private lands. We discussed BLM’s schedule with Valuation Services, Appraisal Services, and BLM staff. They all agreed that the schedule could be revised to more accurately value ROW that are not individually valued. We provided comparable rent data, and BLM acknowledged that it might not be recovering between \$44 million to \$82 million annually from undervalued linear ROW rents (see appendix 3).



Figure 1. Electrical power lines like these on a linear ROW cross U.S. Government lands to bring power to both rural and urban areas of the Nation. Source: Office of Inspector General (OIG) photo.

BLM charges the same ROW rents for the following authorized products in the same county regardless of product value and volume—

- pipelines that have different capacities and carry different products, including water, crude oil, and refined oil;
- electrical lines that are low voltage for a single home or high voltage to power entire cities (see figure 1 above); and
- fiber-optic cables that range from 108 low-capacity strands to 436 high-capacity strands.

The following examples illustrate that BLM is collecting less than market value rent for linear ROW:

- The Sacramento Regional Transit District charges \$13,200 per mile, per year, for mid-sized gas pipelines in counties where BLM's 2011 rate for the same service is \$388 per mile, per year.
- A large ranch in Southern California charges about \$9,200 per mile, per year, for linear ROW while the average rate charged in Southern California is about \$7,900 per mile, per year. BLM's 2011 linear rate in

three large counties, per mile, varies as follows: Kern \$291, San Bernardino \$388, and Riverside \$969.

- Wyoming charges \$96 per mile, per year, for a 30-foot-wide power line ROW in counties where BLM's 2011 rate for similar services is \$29 per mile, per year.
- Utah charges about \$202 per mile, per year, for mid-sized oil and gas pipeline ROW in counties where BLM's 2011 rate for similar services is \$77 per mile, per year.
- New Mexico charges about \$90 per mile, per year, for a 50-foot-wide power line ROW in counties where BLM's 2011 rate for similar services is \$48 per mile, per year.

### **Recommendations**

6. BLM should revise its linear rent schedule and include provisions to periodically update the schedule to reflect current market value.
7. Valuation Services should work with BLM to implement linear rent schedules for departmentwide use with provisions to periodically update the schedules.

### **Communications Site Rental Schedule**

BLM's communications site schedule also does not set rental rates based on the current market value and volume of service. The attributes used in the schedule are the estimated value of the service to the grantee calculated in 1992, and then adjusted for inflation and the population of the area served. BLM officials acknowledged that the increases for inflation in the schedule do not reflect the higher values for the services in the rapidly expanding, wireless communications industry. Valuation Services, Appraisal Services, and BLM staff all agreed that they could use the schedule, with market value revisions, to value all ROW not individually valued. We provided comparable rent data to BLM, and it estimated \$33 million annually in undervalued communications site ROW rents (see appendix 3).



Figure 2. Hundreds of communications sites like this one dot Federal lands. The Department grants companies ROW for their use. Source: BLM photo.

For communications sites such as the one in figure 2, BLM charges the same ROW rents for the following authorized services in the same area regardless of the volume—

- television services, whether the service is directed to a small market, such as educational TV, or a larger market such as professional football; and
- a radio station that reaches only a small percentage of a market area or one which has sufficient power to reach other large metropolitan markets.

The following examples illustrate that BLM is collecting less than market value rents for similar communications site ROW:

- In 2008, NPS hired a contractor specializing in communications site valuations. The contractor determined an annual rent of \$64,800 for a communications site in California's Whiskeytown National Recreation Area. By comparison, an annual rent based on BLM's schedule would have been only \$16,387.
- In 2009, NPS hired a contractor that determined an annual rent of \$12,000 for a communications site in California's Redwood National Park. By comparison, the California Department of Transportation's rent would have been about \$15,000 while BLM's rent would have been \$3,585.
- In 2009, BLM's rent for a cellular telephone communications site in rural areas of Arizona was about \$3,585 annually. By comparison, the Arizona

Department of Transportation would have charged about \$10,900 and the State of New Mexico would have charged about \$5,160.

### **Recommendations**

8. BLM should revise its communications site rent schedule and include provisions to periodically update the schedule to reflect current market value.
9. Valuation Services should work with BLM to implement communications rent schedules for departmentwide use with provisions to periodically update the schedules.

## **Periodic Rent Reevaluation**

To provide the grantee stability, ROW terms are typically about 30 years, and in some cases, perpetual. Obtaining market value over these long terms would require the Department and its bureaus to periodically review and adjust rents to reflect current market values. While some grants and BLM regulations provide for rent review, we could find no evidence of rent reviews performed. Neither we nor BLM was able to estimate the value of rents that could be collected if rent reevaluations were performed.

Prior to 2010, BLM's policy was to adjust linear rents only if a reevaluation found rents charged were below market value by 10 times for linear fees and 5 times for communications sites. BLM eliminated the linear adjustment rule in 2010, but not the communications site rule. BLM officials could not provide any justification for the adjustment level for communications sites and stated BLM should eliminate it. We note, however, that this may require a formal change to the Code of Federal Regulations to do so.

### **Recommendations**

10. Valuation Services should work with BLM to develop and implement procedures for departmentwide periodic reevaluations of ROW grants, with authority to update rental rates to reflect current market values.
11. BLM should reduce or eliminate the market value threshold required to adjust rents on ROW for communications sites.

## **Rent Collection for Unreported Services**

Grantees often do not report and pay rent on additional communications services not approved in the original ROW grant, or on those added to the ROW by colocators. Colocators are parties that install additional services to the ROW for a

fee paid to the grantee (see figure 3). BLM estimated it loses about \$7 million annually in rent on these unreported services. To reduce these losses, BLM spends about \$30,000 annually on site reviews. Over the 5-year period from 2006 through 2010, BLM recovered additional rent revenues exceeding \$525,000—more than three times the cost of the reviews.

For instance, in New Mexico in 2008, a BLM review found a tower company that allowed three cellular users and three Internet service providers to install services on its site without notifying and paying rent to BLM. The audit revealed unreported annual rent from these colocators at \$12,258. In Nevada in 2009, a review found an unauthorized television service that should have had its own separate ROW with BLM. The review revealed a loss of \$31,950 in annual rent.

BLM has Congressional authority to retain up to \$2 million annually from the rent collected from communications sites to fund program operations. To increase program funding for activities including additional site reviews, ROW staff proposed seeking authority from Congress to retain 50 percent of the total rents BLM collects. According to a BLM official, the Office of Management and Budget denied this request in 2012.



Figure 3. This communications site on Kelso Peak at the Mojave National Preserve has numerous colocators that may not be paying rent on their ROW. Source: OIG photo.



BLM is the only agency we identified doing communications site reviews to identify unreported services. BLM staff said that the issue is widespread because there are no effective penalties for nonreporting and nonpayment.

### Recommendations

12. The Department's Office of Budget should seek authority for BLM and other bureaus with ROW responsibilities to retain a percentage of the revenues recovered from reviews that identify unpaid rent from unreported services. Bureaus could use these additional revenues to fund additional reviews.
13. Valuation Services should work with bureaus with ROW responsibilities to implement penalties for grantees that do not report additional services and fail to pay rents.

## Collection of Back Rents

Unpaid ROW rents can go undetected for many years. Determining the amount to collect can be complex. ROW personnel do not have procedures for consistently calculating and collecting back rents. Discussions with ROW personnel indicated that they are using different approaches to determine charges for back rents. Variables include how far back to go in calculating back rents, and whether to charge interest or penalties. Neither we nor BLM was able to estimate the value of back rents that could be collected if back rents were consistently collected.

### Recommendation

14. Valuation Services should work with the bureaus to develop and implement departmentwide procedures for calculating and collecting unpaid back rents.

## BLM's Service Rent Discounts

BLM estimates it provides grantees more than \$5 million in annual rent reductions for additional ROW services on communications sites. It provides these discounts to communications site grantees with multiple uses on sites, or that sublease to colocators. BLM's policy is to charge the primary grantee the full rent of the highest value communications service on site, and then discount by 75 percent the originally scheduled rent for each additional service. BLM officials could not provide justification for colocators receiving this discount. They said that discounts should be eliminated, but to do so may require a change to the Code of Federal Regulations.



BLM identified the following examples:

- At a site in Grand Junction, CO, the current rent was \$16,337. There were, however, six companies using the site. If BLM charged all of the colocators full rent for the site, the total rent would have been \$52,561, a difference of \$36,224.
- At another site in Rifle, CO, the rent charged was \$10,228. There were 22 total services on that site. Had all colocators paid full rent for the site, rent would have been \$30,251, a difference of \$20,023.

#### **Recommendation**

15. BLM should reduce or eliminate the 75 percent discount for additional grantee and colocator ROW site services, or justify any discount provided.

## **National Park Service' ROW Management**

NPS estimated that it might not be collecting as much as \$5 million annually in ROW rents. At market values, uncollected rents could be even higher.

### **ROW Inventory**

Estimating NPS' uncollected revenues is difficult, in part because it does not have a comprehensive inventory of ROW. Though the number of ROW is unknown, staff members estimated it has fewer than 5,000. Though they may be few, many ROW in park units are high in value because they are located near or in major urban areas. For instance, NPS identified seven companies with ROW in San Francisco's Golden Gate National Recreation Area. NPS collects more than \$500,000 in annual rents from these companies.

On March 3, 2011, we issued NPS and BLM a "Notice of Potential Findings and Recommendations" (NPFR) addressing our concerns about their ROW management at the Death Valley and Joshua Tree National Parks, and the Mojave National Preserve. We noted in the NPFR that ROW were not being adequately managed and monitored to ensure that rent collections were made and site protection and reclamation occurred. This was because adequate plans and processes were not in place to ensure necessary communications and joint management were taking place for ROW transferred from BLM to NPS due to the California Desert Protection Act. In the NPFR, we recommended that the two bureaus each identify a point of contact and ensure that BLM transfers all necessary ROW information to NPS. Both bureaus agreed to implement the recommendations.

## **Funding Qualified Personnel**

Managing ROW is complex, requiring realty personnel with land management knowledge. In general, NPS does not effectively manage ROW because resource protection personnel, such as park rangers, do not have the technical qualifications to manage them effectively, and they consider ROW a low priority.

NPS generally funded realty specialists through the Land and Water Conservation Fund. Due to the restrictions placed on using these funds, realty specialists could only work on land acquisitions. In 2012, NPS reallocated funds for additional realty specialists to assist with ROW and other land management issues.

## **Promising Practice**

NPS' Pacific West Region was the only office we identified in the Department that used a contractor specializing in valuing communications site ROW to estimate market value rents. The NPS employee who used the contractor was a licensed appraiser. We met with officials from the contractor who explained that they relied on identifying comparable rates in similar areas and that, critical to its work, they maintained an inventory of 25,000 appraisals to identify comparable properties. Because these valuations considered comparable ROW rents, they resulted in ROW rents far exceeding those from Department valuations and BLM's rent schedule.

## **Recommendation**

16. NPS should continue to implement a ROW management program that includes completing an inventory of its ROW and assigning qualified realty staff.

## **Appraisal Services and Indian Affairs**

Appraisal Services conducts or oversees an estimated 2,000 to 3,000 annual ROW valuations. These valuations do not include an assessment of market value. BIA and Appraisal Services' officials stated that tribes can generally get far higher rents for ROW when they negotiate rather than when using Appraisal Services' rates. Neither we nor Appraisal Services were able to estimate the value of additional rents that could be collected if Appraisal Services performed market value appraisals.

We identified Appraisal Services' valuations that were millions of dollars below what tribes actually received:

- In 2006, a tribe in New Mexico received about \$2 million for a 20-year, 7-mile, ROW for a natural gas pipeline. The tribe negotiated a value of about \$14,300 per mile, per year, versus about \$95 per mile, per year, as valued by Appraisal Services.

- In 2008, a tribe in New Mexico received about \$3 million for a 20-year, 12.8-mile, natural gas pipeline ROW. The tribe negotiated a value of about \$11,700 per mile, per year, versus about \$800 per mile, per year, as valued by Appraisal Services.

### **Recommendation**

17. Appraisal Services should consult with the Office of the Solicitor to determine which recommendations in this report are applicable to Indian Affairs.

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# Conclusion and Recommendations Summary

## Conclusion

The Department and its bureaus are missing opportunities to collect as much as \$100 million or more each year. Current ROW rents are not based on market value, and in some instances, rents are discounted. Unauthorized uses of ROW do not generate any rents unless these uses are identified by the responsible bureau and corrective action is taken. In this report, we provide 17 recommendations that, if fully implemented, will result in substantial additional revenues. By revising and updating rent schedules and performing market-based valuations of selected ROW, the Department and its bureaus could better meet mandates to secure a fair return for the use of public lands.

Most of our recommendations can be implemented without additional costs. Others may require some investment in staff development or improvements in ROW information. Together, these improvements will enable the Department to generate rents that will far exceed the expected costs. ROW allow for the delivery of important services to the American public; they should also yield market value.

## Recommendations Summary

The Department responded to our draft report by providing an action plan and identifying a responsible official for each of our recommendations. We key our analysis, below, to the office or bureau identified in the Department's response.

1. Following “Uniform Appraisal Standards,” Valuation Services should define market value of ROW to include the value of the right or use granted.

### Valuation Services’ Response

Valuation Services concurred with this recommendation. It did take issue, however, with the term “market value,” preferring the term “market rent.” It noted: “Market rent is consistent with the use of market value, but recognizes the nature of a ROW versus the conveyance of an easement. The OVS [Valuation Services] will implement the recommendation by issuing a guide note to the OVS appraisal staff based on the following definition”:

The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the specified lease agreement including term, rental adjustment and revaluation, permitted uses, use restrictions, and expense obligations; the lessee and lessor each acting prudently and knowledgeably, and assuming consummation of the lease contract as of a specified date. . .

### **OIG Analysis of Valuation Services' Response**

We consider this recommendation unresolved and not implemented. Valuation Services concurred with the recommendation and provided a definition of market rent. The definition, however, is not specific to ROW. Instead, it speaks to “probable rent that a property should bring.” Our recommendation seeks a definition specific to ROW grants. The definition of market value of ROW should clearly include the value of the right or use granted. Rent determinations should not be based solely on property value, but the value of ROW to the grantee. The intent is that high-value services should result in higher valuation and, thus, higher ROW rent. We request Valuation Services reconsider its definition of market value of ROW. When resolved, the recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

2. Valuation Services should create and maintain a database of comparable ROW information.

### **Valuation Services' Response**

Valuation Services concurred with this recommendation. It noted that Appraisal Services has a ROW database it uses for work with BIA and tribal nations. Valuation Services will consult with Appraisal Services to create a consistent data format and, subject to approval of funding, develop a database parallel to the Appraisal Services' database. Valuation Services will also work with BLM to identify ROW data needs for ROW grants issued under existing authorities, and to coordinate future data requirements that result from any regulatory changes.

### **OIG Analysis of Valuation Services' Response**

We consider this recommendation resolved but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

3. Valuation Services should establish criteria to prioritize ROW using market considerations, including the value and volume of the service authorized.

### **Valuation Services' Response**

Valuation Services concurred with this recommendation. Valuation Services acknowledged that it “has expertise in gathering and evaluating market consideration including the value and volume of the service authorized.” It stated that it has completed appraisals when requested by client bureaus, noting that it has “operated effectively within current regulatory authorities.” Valuation Services said it will develop “a criteria document in coordination with BLM, consistent with applicable legal authority, specifying when valuations are advisable rather than use of the fee schedule.”

### **OIG Analysis of Valuation Services' Response**

We consider this recommendation unresolved and not implemented. We are unable to reconcile a discrepancy between the narrative response and the corrective action plan. The former indicates a long-term effort (to December 2014) while the latter indicates prompt action (by December 2012). It could be that both are valid, but we need more information to understand Valuation Service's position. When resolved, the recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

4. Valuation Services should perform high-priority, individual valuations as allowed, given its resources.

### **Valuation Services' Response**

Valuation Services concurred with this recommendation. Valuation Services stated that it has "the staff capacity to complete a limited number of individual valuations," but that it is currently restricted by its primary source of funding, which allows it to work on land acquisitions and by current regulations over BLM ROW valuation.

Valuation Services noted that should funding sources and legal authorities change, it "will establish a discipline-specific team to handle the high value ROW."

### **OIG Analysis of Valuation Services' Response**

We consider this recommendation resolved but not implemented. We are uncertain that the regulatory constraints on BLM are as restrictive as portrayed in the response. Specifically, the Code of Federal Regulations (43 C.F.R. § 2806.50) allows other means to value ROW, including "a process based on comparable practices, appraisals, competitive bid, or other reasonable methods." Thus, BLM can conduct high-value valuations. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

5. Valuation Services should develop and implement guidance and training requirements for staff to conduct individual ROW valuations.

### **Valuation Services' Response**

Valuation Services concurred with this recommendation. It acknowledged that it "can capitalize on skills already present within its ranks" and will "focus on further education." Experienced staff can "assist with internal guidance and establishing training requirements." Valuation Services "will coordinate with client bureaus to assess current needs, as well as future needs, based on potential regulatory changes as appropriate."

### **OIG Analysis of Valuation Services' Response**

We consider this recommendation resolved but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

6. BLM should revise its linear rent schedule and include provisions to periodically update the schedule to reflect current market value.

### **BLM's Response**

BLM concurred with this recommendation. BLM said it would meet with Valuation Services and the U.S. Forest Service "to clarify the scope of appropriate changes." It said it would also consult with the Solicitor's Office "to review appropriate statutes, regulations, and policies" regarding revising the schedules.

### **OIG Analysis of BLM's Response**

We consider this recommendation resolved but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

7. Valuation Services should work with BLM to implement linear rent schedules for departmentwide use with provisions to periodically update the schedules.

### **Valuation Services' Response**

Valuation Services concurred with this recommendation. It will work with BLM and other bureaus to "implement linear rent schedules consistently across the DOI [Department]" and "establish a time period for completing periodic market analyses to ensure that rents appropriately reflect market conditions." Such work will need to be "consistent with existing legal authorities . . . as well as any potential regulatory changes."

### **OIG Analysis of Valuation Services' Response**

We consider this recommendation resolved but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

8. BLM should revise its communications site rent schedule and include provisions to periodically update the schedule to reflect current market value.

### **BLM's Response**

BLM concurred with this recommendation. It noted that it "has updated the current schedule annually based on changes in" inflation, but acknowledged that "the underlying market values are based upon stale valuation." It outlined a process for potential regulatory changes, beginning with consultation with the Office of the Solicitor. Further, BLM indicated that the proposed changes "will include a process for periodic updates."

### **OIG Analysis of BLM's Response**

We consider this recommendation resolved but not implemented. Absent strong legal justification, BLM must swiftly update its communications site schedule to avoid continuing revenue underrecovery. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

9. Valuation Services should work with BLM to implement communications rent schedules for departmentwide use with provisions to periodically update the schedules.

### **Valuation Services' Response**

Valuation Services concurred with this recommendation: "OVS will work with BLM and the Department to implement communications rent schedules and establish time periods for completing periodic market analyses to ensure that rents are in step with market conditions, consistent with applicable law."

### **OIG Analysis of Valuation Services' Response**

We consider this recommendation resolved but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

10. Valuation Services should work with BLM to develop and implement procedures for departmentwide periodic reevaluations of ROW grants, with authority to update rental rates to reflect current market values.

### **Valuation Services' Response**

Valuation Services concurred with this recommendation. Valuation Services will assist BLM and the Department "by conducting periodic audits of ROW grants to determine whether rental rates are still representative of market value after their initial implementation."

Valuation Services responded that, because of the different authorities underlying ROW grants in various bureaus, there "may be conflict that will have to be resolved through rule-making or other administrative procedures."

### **OIG Analysis of Valuation Services' Response**

We consider this recommendation resolved but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.



11. BLM should reduce or eliminate the market value threshold required to adjust rents on ROW for communications sites.

**BLM's Response**

BLM concurred with this recommendation. BLM will work with Valuation Services and the Forest Service “to reassess whether the existing 5 percent threshold should be reduced or eliminated based on current market conditions and other relevant factors.” BLM also noted that it will consult with the Solicitor’s Office to review appropriate statutes, and that if appropriate, BLM will publish an “Advanced Notice of Proposed Rulemaking” in order to “gather public and stakeholder feedback to inform the appropriate policy direction for publishing a final rule.”

**OIG Analysis of BLM's Response**

We consider this recommendation unresolved and not implemented. BLM cited the 5 percent threshold (which we understand to be a reference to 43 C.F.R. 2806.30, par. a, line 3). We were referring to the 5-times threshold (43 C.F.R. 2806.30, par. c, line 5). The existing threshold allows too large a gap between BLM’s valuation and market value before revaluation is mandated. When resolved, the recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

12. The Department’s Office of Budget should seek authority for BLM and other bureaus with ROW responsibilities to retain a percentage of the revenues recovered from reviews that identify unpaid rent from unreported services. Bureaus could use these additional revenues to fund additional reviews.

**Department's Response**

The Department concurred with this recommendation. The Department stated: “The Office of Budget will work with the Solicitor, the Office of Congressional and Legislative Affairs, and the Office of Management and Budget to explore seeking authority to retain a percentage of the rents identified during the on-site review process to fund additional reviews and training.”

**OIG Analysis of the Department's Response**

We consider this recommendation resolved but not implemented. We reworded the recommendation slightly to reflect the Office of Budget’s expected role in implementation. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

13. Valuation Services should work with bureaus with ROW responsibilities to implement penalties for grantees that do not report additional services and fail to pay rents.

**Department’s Response**

The Department concurred with this recommendation, but noted that there is “substantial research to be completed prior to the implementation of the penalty programs to ensure that appropriate authorities are in place, and that these programs can be designed and implemented for each bureau.” Valuation Services will convene a working group to address the recommendation. It will use a four-point program:

- Identify authorities that may permit penalties.
- Review current penalty programs in bureaus, if any.
- Develop recommendations for the implementation of penalties.
- Implement penalty programs.

**OIG Analysis of the Department’s Response**

We consider this recommendation resolved but not implemented. We reworded the recommendation slightly to reflect Valuations Services’ expected role in implementation. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

14. Valuation Services should work with the bureaus to develop and implement departmentwide procedures for calculating and collecting unpaid back rents.

**Department’s Response**

The Department concurred with this recommendation. Valuation Services will convene a working group to address the recommendation. It will use a four-point program:

- Identify authorities that may permit collection of back rents.
- Review current rent collections programs in bureaus, if any.
- Develop recommendations for the implementation of back rent collection programs.
- Implement programs in each bureau.

**OIG Analysis of the Department’s Response**

We consider this recommendation resolved but not implemented. We reworded the recommendation slightly to reflect Valuations Services’ expected role in implementation. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

15. BLM should reduce or eliminate the 75 percent discount for additional grantee and collocator ROW site services, or justify any discount provided.

#### **BLM's Response**

BLM concurred with this recommendation. It noted that under present policy, primary grantees are charged “100 percent of the use that generates the highest rent on the schedule” while other users “are charged 25 percent each of their appropriate rent from the schedule.” This approach “was implemented to avoid the BLM having to keep track of rents received [by primary grantees] from tenants in each facility” and “responded to specific comments received during the rulemaking process that it was not a widespread practice at that time to charge a percentage of gross rent from tenants.” It wrote: “The BLM agrees to re-evaluate the current practice of charging additional tenants 25 percent of the regular schedule rent based on current market conditions and other relevant factors.”

#### **OIG Analysis of BLM's Response**

We consider this recommendation resolved but not implemented. We maintain, however, that BLM could charge full schedule rents based on reported uses, for all users. This approach would not require tracking how much rent is exchanged between the primary grantee and other users, as would be the case for a percentage-of-gross-receipts approach. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

16. NPS should continue to implement a ROW management program that includes completing an inventory of its ROW and assigning qualified realty staff.

#### **NPS' Response**

NPS generally concurred with this recommendation. It is “convening a nationwide work group to identify and initiate priority tasks.” It recognized the need for an inventory of ROW, calling an inventory “invaluable.”

#### **OIG Analysis of NPS' Response**

We consider this recommendation partially resolved and not implemented. We would like more information about the “priority tasks” as they are identified, and a better understanding of NPS' target dates. In addition, NPS does not address the issue of “assigning qualified realty staff” in its response. When fully resolved, the recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

17. Appraisal Services should consult with the Office of the Solicitor to determine which recommendations in this report are applicable to Indian Affairs.

### **Appraisal Services' Response**

Appraisal Services concurred with this recommendation. Appraisal Services will collaborate with the Office of Solicitor, and BIA as needed, to evaluate our recommendations for their applicability to Indian Affairs and its specific realty requirements.

### **OIG Analysis of Appraisal Services' Response**

We consider this recommendation resolved but not implemented. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking its implementation.

## **OIG Analysis of General and Technical Comments**

We appreciate the Department's comments and requests for clarification in its response to our draft report.

### **OIG Analysis of the Department's General Comments**

The Department expressed concerns with how the estimates for additional rents were determined. First, we were aware that about half of BLM's linear ROW are exempt from rent collection. We, and BLM, considered this when estimating additional rent revenue opportunities. We have edited the "Methodology" subsection in appendix 1 of the report to reflect this.

Another concern addressed the methods in estimating comparable values for both linear ROW and communications sites. For linear ROW, we used the BLM schedule data from the same counties as the locations of ROW identified. For communications sites, we compared BLM's rates on specific ROW with other government and private rates for similarly located properties and services (wireless telephone, television, or radio). We believe that the examples cited in our report are reasonably comparable, given the data available from BLM, NPS, and a private company. We acknowledge, however, that taking these examples and attempting to project to a nationwide total is necessarily imprecise. We worked closely with Valuation Services, BLM, and NPS in our attempts to quantify potential revenue enhancement, and have edited the "Methodology" subsection to provide more information.

The Department also expressed concerns that our revenue estimates were the sole basis for our conclusions. We based our conclusions and recommendations upon the bulleted items listed on page 4. These items are extensively discussed throughout the "Findings" section.

The Department said the report did not suitably address regulatory constraints, in particular constraints stemming from the Energy Policy Act of 2005

(EPAAct). The OIG discussed the ROW provisions of the EPAAct with BLM. We understand that the EPAAct required updating of the existing linear ROW schedule based upon National Agricultural Statistics Service (NASS) data. We do not believe, however, that the EPAAct provisions preclude enhancing the schedule by using value and volume attributes in conjunction with the existing NASS basis. We note that the EPAAct provisions apply only to linear ROW and not to communications sites.

### **OIG Analysis of the Department's Technical Comments**

The Department provided technical comments, keyed to the pages of our draft report.

#### ***Page 1***

The Department said: "It is not clear whether 'market value' and similar terms throughout the draft report are intended to be synonymous, or consistent with, the term 'fair market value' in FLPMA [Federal Land Policy Management Act] and the MLA [Mineral Leasing Act]."

***OIG Analysis.*** Different statutes use different terms for market value. We used these terms synonymously in our report, but they are used in phrases that emphasize issues pertinent to the specific finding under discussion such as considering the type and volume of service authorized, or using comparable data in determining market value.

#### ***Page 2***

The Department noted that our list of legal authorities for ROW was not comprehensive.

***OIG Analysis.*** We edited the text of the report on page 2, noting that other statutes also confer authority to the Department to manage ROW.

#### ***Pages 4, 5***

The Department expressed concerns with the method for comparing Federal ROW with nearby State, local, or private ROW.

***OIG Analysis.*** See the "Methodology" subsection in appendix 1, as well as "OIG Analysis of the Department's General Comments," second paragraph, above.

#### ***Page 6***

The Department provided background information on the development of, and revisions to, BLM's rent schedule for linear ROW and its use of NASS data. It also pointed out that approximately half of linear ROW are exempt from rent collection for a variety of reasons.

**OIG Analysis.** We found the background information to be consistent with our understanding of BLM’s rent schedule for linear ROW and its application. See also “OIG Analysis of the Department’s General Comments,” first and second paragraphs, above.

**Page 8**

The Department provided background information on the development of, and revisions to, BLM’s rent schedule for communications sites.

**OIG Analysis.** We found the background information to be consistent with our understanding of BLM’s rent schedule for communications sites and its application.

**Page 12**

The Department noted that the report was “unclear on the specifics of back rental collections.”

**OIG Analysis.** Our audit objectives did not include specific testing for, or quantification of, uncollected back rents. Our finding pertains only to a concern that field personnel do not have guidance on how to calculate, or when and how to collect, back rents and related interest.

**Page 13**

The Department provided information on the collection of rents for colocators.

**OIG Analysis.** See our analysis of BLM’s response to Recommendation 15.

**Page 14**

The Department noted that our draft report indicated that “NPS received additional funding” for ROW management, and informed us that, instead, “NPS has reallocated funds from other sources.”

**OIG Analysis.** We appreciate the clarification, and have edited our report accordingly.

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# Appendix I: Scope and Methodology

## Scope

The scope of our audit covered the administration and valuation of linear and communications sites rights-of-way (ROW). We conducted fieldwork from February 2010 through April 2011.

The audit survey included the Department of the Interior's Office of Valuation Services, Office of Appraisal Services for the Office of the Special Trustee for American Indians, Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA), U.S. Fish and Wildlife Service (FWS), National Park Service (NPS), and Bureau of Reclamation (USBR). Because FWS and USBR had a limited number of ROW, we eliminated them from our audit fieldwork. We focused on ROW activities for fiscal years 2009 and 2010 but expanded our review to include other fiscal years as necessary.

## Methodology

To accomplish the audit's objective, we—

- gathered general, administrative, and background information to provide a working knowledge of the linear and communications ROW programs at the Department and bureau levels;
- identified and reviewed policies and procedures related to linear and communications site ROW;
- conducted site visits to interview lands and realty personnel about their work on linear and communications site ROW;
- reviewed a small number of linear and communications ROW at BLM and BIA to gain an understanding of ROW management practices in the field;
- contacted other government and non-government organizations to identify their methods for determining linear and communications site ROW;
- obtained comparable ROW rent information from various government and non-government entities; and
- compared ROW rates obtained from private and other governments with BLM's rates on similar ROW to estimate revenue opportunities. We provided these examples and comparable rates to BLM for its review.

We conducted this audit in accordance with generally accepted U.S. 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's objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **Limitations**

- We did not evaluate controls over day-to-day ROW management activities such as application processing, administrative cost recovery, bonding, rent collection and accounting, or inspections.
- We did not review data reliability of information systems such as BLM's Legacy Rehost 2000 System or BIA's Trust Asset and Accounting Management System. In addition, because FWS, NPS, and USBR do not have centralized ROW information systems, we relied on their estimates of the number of ROW managed.
- We did not audit third-party ROW market data used in comparing rents, but did work with appropriate bureau personnel to validate that selected comparisons were reasonable.



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## Appendix 2: Organizations Visited or Contacted

### U.S. Department of the Interior

Office of Valuation Services Lakewood, CO

Office of the Assistant Secretary—Indian Affairs  
(Indian Energy and Economic Development) Washington, DC

### Office of the Special Trustee for American Indians

Office of Appraisal Services Albuquerque, NM

### Bureau of Land Management

Washington Office Washington, DC  
Colorado State Office Lakewood, CO  
Farmington Field Office Farmington, NM  
Needles Field Office\* Needles, CA  
Phoenix District Office Phoenix, AZ

### Bureau of Indian Affairs

Washington Office Washington, DC  
Pima Agency Sacaton, AZ  
Rocky Mountain Regional Office\* Billings, MT  
Blackfeet Agency\* Browning, MT  
Southwest Regional Office Albuquerque, NM  
Southern Pueblos Agency Albuquerque, NM  
Southern Ute Agency Ignacio, CO

### Bureau of Reclamation

Denver Office\* Lakewood, CO  
Upper Colorado Region\* Salt Lake City, UT  
Mid-Pacific Region\* Sacramento, CA

### U.S. Fish and Wildlife Service

Washington Office Arlington, VA  
Alaska Region\* Anchorage, AK  
Mountain-Prairie Region Lakewood, CO

### National Park Service

Washington Office\* Washington, DC  
Intermountain Region\* Lakewood, CO  
Mojave National Preserve Barstow, CA  
National Capital Region Washington, DC  
Pacific West Region\* Oakland, CA  
Yellowstone National Park\* Wyoming

**U.S. Department of Agriculture**

U.S. Forest Service\*

Washington, DC

**U.S. Department of Justice**

Washington, DC

**States and Counties**

California State Lands Commission\*

Sacramento, CA

Colorado State Board of Land Commissioners\*

Denver, CO

New Mexico State Land Office\*

Santa Fe, NM

Oregon Department of State Lands\*

Salem, OR

Utah Trust Lands\*

Salt Lake City, UT

Wyoming Office of State Lands & Investments\*

Cheyenne, WY

Jefferson County Transportation & Engineering

Division\*

Golden, CO

Sweetwater County Engineering Department\*

Green River, WY

**Additional Organizational Contacts**

International Right of Way Association\*

Gardena, CA

The Heath Group

San Diego, CA

H.C. Peck & Associates, Inc.\*

Denver, CO

Sacramento Regional Transit District\*

Sacramento, CA

\*Offices were contacted only; we did not visit them.

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## Appendix 3: Potential Additional Revenues

Issue	Estimated Additional Annual Revenue
BLM Linear ROW	\$44 million to \$82 million
BLM Communications Site ROW	\$33 million
BLM Unreported and Collected Communication Site Rents	\$7 million
BLM Service Rent Discounts	\$5 million
NPS Uncollected ROW Rents	\$5 million
TOTAL	\$94 million to \$132 million

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## **Appendix 4: Department's Response**

The Department's response to the draft report follows on page 33.




THE DEPUTY SECRETARY OF THE INTERIOR  
WASHINGTON

JUL 18 2012

Memorandum

To: Assistant Inspector General for Audits, Inspections, and Evaluations

From: Deputy Secretary 

Subject: Office of the Inspector General Evaluation Draft Report, Management of Rights-of-Way in the U.S. Department of the Interior (Report No. C-IN-MOA-0013-2010)

Thank you for the opportunity to review and comment on the Office of Inspector General (OIG's) draft report, "Management of Rights-of-Way in the U.S. Department of the Interior" (Report No. C-IN-MOA-0013-2010). The Department of the Interior (DOI) appreciates the continued interest of the OIG in rights-of-way (ROWs) issued for the use of public lands, and the potential for increasing revenues.

We appreciate the opportunity to meet informally and facilitate an information exchange between senior leadership and the OIG's office on this important subject. Attached are comments that our bureaus prepared to assist in your development of a final report on this matter.

Attachment 1 provides general comments and requests for clarification. Attachment 2 provides specific responses to each of the recommendations, including a summary of the actions taken or planned by the BLM, NPS, and the OVS to implement the recommendations. Attachment 3 provides the technical comments on the report, and Attachment 4 provides the corrective action plans in a table format.

If you have any questions about this response, please contact LaVanna Stevenson, BLM Audit Liaison Officer, at (202) 912-7077; Vera Washington, NPS Audit Liaison Officer, at (202) 354-1960; or Alexandra Lampros, Office of the Secretary Desk Officer, at (202) 208-4427.

Attachments

## **Department of the Interior General Comments and Requests for Clarification**

As the draft report notes, the vast majority of the ROWs granted on the public lands are administered by the Bureau of Land Management (BLM). Other ROWs are administered by the National Park Service (NPS), the Bureau of Indian Affairs (BIA), the U.S. Fish & Wildlife Service (FWS), and the Bureau of Reclamation (BOR). The draft report contains 17 recommendations for improving the management of ROWs, and we concur with many of the OIG's findings and recommendations. However, we believe certain aspects of the draft report merit further attention.

We respectfully note that the draft report lacks precision in some areas as to the methodologies and assumptions underlying valuation estimates, which may affect the cost effectiveness and feasibility of some of the recommendations. In 2011, BLM administered approximately 103,800 ROWs. Of these, nearly 100,000 were linear ROWs. Approximately 3,600 were communications sites ROWs, and the remainder were for other miscellaneous types. Of the approximately 100,000 linear ROWs administered by the BLM, about half are exempt by statute or regulation from the obligation to pay rent. It is unclear whether this fact is accounted for in the valuation estimates in the draft report. The draft report is also not clear as to the methodologies and assumptions used to derive the estimated values of the DOI ROWs and foregone revenues. For example, the draft report provides examples of areas where DOI rental fees are lower than those charged by other entities, but the draft report does not clearly identify how those entities set their rates or whether or how the circumstances surrounding them are comparable or applicable to the DOI ROWs. The draft report also does not clearly establish that the cited comparables represent the broad range of ROWs under consideration. It is further unclear whether the estimates cited in the draft report form the sole basis for the draft report's conclusions, or whether the draft report relied upon additional assumptions.

Moreover, the report does not address existing regulatory constraints. In particular, Section 367 of the Energy Policy Act of 2005 (EPAct) directed the Secretary of the Interior to update the rent schedule as found in the BLM's regulations at 43 CFR 2806.20, and to revise the per acre rental fee zone schedule by state, county, and type of linear ROW to reflect current values of land in each zone. In 2008, the BLM published a final rule amending its regulations as required by EPAct. In order to establish current land values, the BLM used National Agricultural Statistics Service (NASS) data to determine land values for every county. The NASS Census of Agriculture data is published every 5 years and includes average per acre land and building values by county for each state. The BLM's 2008 regulations did not provide for individual valuation. The report does not acknowledge these regulatory constraints. The DOI, however, agrees with the findings in the draft report that there may be circumstances in which it may be appropriate to use other means of assessing ROW rent values, including incorporating market value into the rent schedules, or using individual appraisal mechanisms. The BLM will examine the feasibility of changing its regulations to address these issues for linear ROWs on the public lands, consistent with other policy objectives advanced by the existing regulations, such as consistency, predictability, transparency, and cost-effective program administration.

The BLM regulations governing communications ROWs were revised in 1995 in order to establish a fair and consistent rent schedule for use by both the BLM and the U.S. Forest Service (FS). The rent schedule considers two primary factors when establishing communication site rent: (1) the types of uses and (2) the population of the community served by the ROW. Adoption of the schedule was

anticipated to reduce agency costs, delays, and variability associated with obtaining individual appraisals as well as reducing the number of disputes regarding rent values. The schedule also allows for ROW holders to anticipate and budget for changes in rent amounts. We agree with the report, however, that the inflation-based rent increases do not reflect the higher value for services in the rapidly expanding wireless communications industry. The BLM will work with the FS to implement regulatory changes to address this issue.

For all communications site ROWs authorized under the Federal Land Policy and Management Act, the ROW holder is required to submit an annual statement identifying the tenants and customers in each facility and their types of uses. In order to ensure customer-provided annual statements are accurate, the BLM uses a National Project Manager program to conduct compliance examinations of high priority facilities. As correctly noted on page 11 of the draft report, the BLM annually expends approximately \$30,000 to conduct these reviews. Over this 5-year period, for a cost of approximately \$150,000, the BLM has identified and pursued collection of over \$500,000 in rents that were either incorrectly reported or not reported at all. This return illustrates the importance of conducting regular on-site reviews of authorizations to ensure uses and corresponding rents are identified and assessed appropriately. The BLM will continue this practice.

The DOI agrees with the recommendations that the Office of Valuation Services (OVS) should work with the bureaus toward the goal of establishing Department-wide consistency for ROW rent valuation based upon actual market values, rent schedules, and the assessment of penalties, where legally and technically feasible. It is important to keep in mind that the role of OVS is to provide guidance and support for updating fee schedules to reflect market rent, and to provide direct valuations in those rare instances where the schedule may not be appropriate. The roles of BLM and other bureaus in granting and approving ROWs are separate and distinct functions, and are authorized under separate statutory and regulatory authorities. The OVS supports development of the schedules and provides valuations to assist the bureaus in the negotiation of fees, under applicable legal authority.

**Department of the Interior**  
**Response to the Recommendations included in the Office of the Inspector General Draft Audit**  
**Report, Management of Rights-of-Way in the U.S. Department of the Interior**  
**(C-IN-MOA-0013-2010)**

**Recommendation 1:** Following “Uniform Appraisal Standards,” Valuation Services should define market value of ROW to include the value of the right or use granted.

**Response:** The *Uniform Appraisal Standards for Federal Land Acquisitions* (UASFLA) addresses the conveyance of easements from the Government but is silent on the transfer of rights-of-way (ROW) from the Government. However, consistent with the intent of the UASFLA and the Uniform Standards of Professional Appraisal Practice (USPAP), which are the standards governing valuation services, the Office of Valuation Services (OVS) believes the more appropriate definition for the valuation of the rights granted under a ROW is “market rent” as defined by the *Dictionary of Real Estate Appraisal*, Fourth Edition. Market rent is consistent with the use of market value, but recognizes the nature of a ROW versus a conveyance of an easement. The OVS will implement the recommendation by issuing a guide note to the OVS appraisal staff based on the following definition:

“The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the specified lease agreement including term, rental adjustment and revaluation, permitted uses, use restrictions, and expense obligations; the lessee and lessor each acting prudently and knowledgeably, and assuming consummation of the lease contract as of a specified date...”

While OVS believes this is a more appropriate definition of “market value,” there is substantial research to be completed prior to making changes to the regulations of BLM and other DOI agencies. The Department will examine the feasibility of changing existing regulatory and other authorities to incorporate market value in its ROW regulations, in light of BLM’s current authorities calling for fair market value under the Federal Land Policy and Management Act (FLPMA) and fair market rental value under the Mineral Leasing Act (MLA).

**Target Date:** December 31, 2012.

**Responsible Official:** Tanya Henderson, Deputy Director/Chief Appraiser, Office of Valuation Services.

**Recommendation 2:** Valuation Services and Appraisal Services should create and maintain a database of comparable ROW information.

**Response:** The Office of Appraisal Services (OAS) presently maintains a database of ROW information from work performed under contract to the Bureau of Indian Affairs and tribal nations. The OVS will consult with the Office of Appraisal Services (OAS) to establish a consistent database format for the data.



The OVS will also work with the BLM to identify and address any existing data needs for current BLM ROW grants under existing authorities. The OVS will develop a database parallel to the OAS database pending development of cost estimates and the approval of funding. The OVS will also coordinate with the BLM regarding regulatory changes BLM makes applicable to ROWs to address future data requirements for comparable information, subject to available funding. These projects may take an extended period of time to develop given the variety of data sources, staff resources, and funding needed to conduct this work.

**Target Date:** December 31, 2014.

**Responsible Official:** John W. Ross, Director, Office of Valuation Services.

**Recommendation 3:** Valuation Services should establish criteria to prioritize ROW using market considerations including the value and volume of the service authorized.

**Response:** While BLM has operated effectively within current regulatory authorities, the recommendations in this draft report suggest consideration of changes that would amend existing regulations and authorities of the BLM and other bureaus. Should the bureau regulations be changed to prioritize ROWs using market considerations including the value and volume of the service authorized, OVS has expertise in gathering and evaluating market consideration and will assist the Client Bureaus in identifying high priority ROWs due to high market values in a given area or volume of service. In some cases in the past, OVS completed appraisals on ROWs that did not conform to the existing schedules due to the unique nature of the ROW, the high value area that the ROW crosses, or a combination of factors that led to the Client Bureau requesting a site-specific appraisal. Through the consultation process that is incorporated into the Interior Valuation Information System, the Client Bureaus can currently request this type of assistance from OVS in most of the Western states where these ROWs are located.

**Target Date:** December 31, 2014.

**Responsible Official:** Tanya Henderson, Deputy Director/Chief Appraiser, Office of Valuation Services.

**Recommendation 4:** Valuation Services should perform high priority, individual valuations as allowed, given their resources.

**Response:** At present, OVS has the staff capacity to complete a limited number of individual valuations for use by Client Bureaus in negotiating ROW transactions. However, developing and maintaining the data necessary to carry out market valuations for ROW rents has not been a priority for the OVS due to the primary funding source for OVS being the Land and Water Conservation Fund, which provides funding for land acquisitions. In addition, the BLM, which has the largest number of ROWs in the DOI, does not have regulatory authority at this time to conduct individual

appraisals on high value ROWs. Therefore OVS has not requested or been provided funding for these purposes.

With authority for the OVS Chief Appraiser to establish valuation policy across the DOI, and the move from a regional to client team structure, OVS can effectively support the Client Bureaus, within the Client Bureau's legal authorities, in ROW valuation. If funding becomes available through legislative authority for retention of a portion of the rental fees, cost recovery from the applicant, or by direct appropriation, OVS will establish a discipline-specific team to handle the high value ROWs as well as oversee the development and the maintenance of a comparable database. The discipline-specific team would be responsible for providing the Contracting Officer's Technical Representative and conducting the technical valuation review for all ROW valuations.

**Target Date:** June 30, 2015.

**Responsible Official:** Tanya Henderson, Deputy Director/Chief Appraiser, Office of Valuation Services.

**Recommendation 5:** Valuation Services should develop and implement guidance and training requirements for staff to conduct individual ROW valuations.

**Response:** We agree that this is an area on which OVS can capitalize through the expertise of its current staff and the recruitment of additional staff at the journeyman level. Additional staff training is available through the International Right of Way Association as well as other professional appraisal organizations such as the American Society of Farm Managers and Rural Appraisers and the Appraisal Institute. A large portion of the OVS staff has experience in the appraisal of ROWs and can assist with internal guidance and establishing training requirements for OVS appraisers, as necessary. The OVS will coordinate with Client Bureaus to assess current needs, as well as future needs based on potential regulatory changes as appropriate.

**Target Date:** June 30, 2015.

**Responsible Official:** Tanya Henderson, Deputy Director/Chief Appraiser, Office of Valuation Services.

**Recommendation 6:** The BLM should revise its linear rent schedule and include provisions to periodically update the schedule to reflect current market value.

**Response:** The BLM will consult with the Solicitor's Office to review appropriate statutes, regulations and policies. The BLM will meet with the OVS and U.S. Forest Service (FS) to clarify the scope of appropriate changes. If appropriate, the BLM will publish a draft Advance Notice of Proposed Rulemaking (ANPR). The ANPR will be used to gather public and stakeholder feedback to inform the appropriate policy direction for publishing a final rule. The BLM will determine the most effective and efficient process to modify the schedule to capture additional rents for high-valued

ROWs such as large diameter pipelines, high-voltage transmission lines, and large-capacity fiber optic telecommunication lines. The modifications would include a process for periodic updates.

Section 367 of the EPAct of 2005 directed the Secretary of the Interior to update the per acre rent schedule found in 43 CFR 2806.20 and revise the per acre rental fee zone value schedule by state, county, and type of linear ROW use to reflect current land values in each zone.

In 2008, the BLM published a final rule amending its regulations to update the rent schedule for ROWs issued under FLPMA and Mineral Leasing Act (MLA), but the regulations did not allow for individual valuation even if the market rental value was potentially higher than the schedule value. The BLM will consider the scope of existing regulations and policy objectives as well as the overall efficiency of this undertaking on cost-effective program administration.

The U.S. Forest Service (FS) has adopted the BLM's linear rent schedule; therefore, the BLM will coordinate this process with the DOI as well as the FS. The BLM would provide public and stakeholder engagement opportunities as part of the rulemaking process.

**Target Date:** The BLM will meet with OVS and FS by November 30, 2012. If appropriate, the BLM will publish an Advanced Notice of Proposed Rulemaking in the *Federal Register* by March 31, 2013. If appropriate, the BLM will publish a final rule in the *Federal Register* by December 15, 2014.

**Responsible Official:** Michael D. Nedd, Assistant Director, Minerals and Realty Management.

**Recommendation 7:** Valuation Services should work with BLM to implement linear rent schedules for Department-wide use with provisions to periodically update the schedules.

**Response:** The OVS looks forward to working with the BLM and other bureaus to evaluate and, consistent with legal authorities, implement linear rent schedules consistently across the DOI, and to establish a time period for completing periodic market analyses to ensure that rents appropriately reflect market conditions. The OVS is prepared to provide assistance to determine the most appropriate methodology for establishing schedules, consistent with the existing legal authorities of Client Bureaus, as well as any potential regulatory changes. The variables may include location, type of use (pipeline vs. fiber optic vs. power line), and throughput of commodity for the line. The schedules may need to be based on a countywide, statewide, regional, or national basis depending on the type of ROW. As current regulatory and/or statutory authorities may not authorize application of all of these variables in administering ROWs on public lands, OVS will work with the BLM and the DOI to help determine appropriate criteria for assessing market area for a given ROW.

**Target Date:** December 31, 2014.

**Responsible Official:** Tanya Henderson, Deputy Director/Chief Appraiser, Office of Valuation Services.

**Recommendation 8:** The BLM should revise its communications site rent schedule and include provisions to periodically update the schedule to reflect current market value.

**Response:** The BLM will consult with the Solicitor's Office to review appropriate statutes, regulations and policies. The BLM will meet with the OVS and FS to clarify the scope of appropriate changes. If appropriate, the BLM will publish an Advance Notice of Proposed Rulemaking (ANPR). The ANPR will be used to gather public and stakeholder feedback to inform the appropriate policy direction for publishing a final rule.

The BLM has updated the current schedule annually based on changes in the Consumer Price Index, Urban Consumer (CPI-U). However, the BLM recognizes that the underlying market values are based upon stale valuation.

The BLM will consider modifying the schedule to capture additional rents based on current market value. The modifications will include a process for periodic updates.

The BLM will consider updating the schedule in coordination with the DOI's OVS as well as the FS and will include public and stakeholder engagement opportunities.

The FS has adopted the BLM's communication uses rent schedule; therefore updates of this schedule will affect the FS and applicants for ROWs on the National Forest System.

**Target Date:** The BLM will consult with the Solicitor's Office by September 30, 2012. The BLM will meet with OVS and FS by November 30, 2012. If appropriate, the BLM will publish an Advanced Notice of Proposed Rulemaking in the *Federal Register* by March 31, 2013. If appropriate, the BLM will publish a final rule in the *Federal Register* by December 15, 2014.

**Responsible Official:** Michael D. Nedd, Assistant Director, Minerals and Realty Management.

**Recommendation 9:** Valuation Services should work with BLM to implement communications rent schedules for Department-wide use with provisions to periodically update the schedules.

**Response:** As with the linear rent schedules as discussed in response to Recommendation 7, OVS will work with the BLM and other bureaus to evaluate and, consistent with legal authorities, implement communications rent schedules consistently across DOI, and to establish a time period for completing periodic market analyses to ensure that rents are in step with market conditions. The communications site rent schedules would likely be impacted by similar factors as the linear rent schedules regarding location, type of use, etc., and OVS will work with the BLM and other bureaus to identify these variables and determine the proper market area for application of the schedule, consistent with legal authorities of Client Bureaus.

As previously mentioned, the schedules may need to be based on a countywide, statewide, regional, or national basis depending on the type of communication use. The OVS will work with the BLM and

the DOI to determine the market area for the communications sites, consistent with applicable legal authority.

**Target Date:** December 31, 2014.

**Responsible Official:** Tanya Henderson, Deputy Director/Chief Appraiser, Office of Valuation Services.

**Recommendation 10:** Valuation Services should work with BLM to develop and implement procedures for Department-wide periodic reevaluations of ROW grants, with authority to update rental rates to reflect current market values.

**Response:** By assisting the BLM and the DOI with developing methodologies for periodic reevaluations and updates of the linear and communications rent schedules, OVS will be able to assist in the development of a Department-wide re-evaluation procedure, consistent with applicable legal authorities. The OVS will also assist through its Quality Assurance Division by conducting periodic audits of ROW grants to determine whether rental rates are still representative of market value after their initial implementation.

Due to the different authorities that authorize the ROW grants in the various bureaus, there may be conflict that will have to be resolved through rule making or other administrative procedures. The OVS currently provides valuation support to four bureaus within Interior (BLM, BOR, FWS, and NPS) and is uniquely positioned to assist the DOI in the development and the implementation of the periodic re-evaluation of these grants.

**Target Date:** January 1, 2015.

**Responsible Official:** Tanya Henderson, Deputy Director/Chief Appraiser, Office of Valuation Services.

**Recommendation 11:** The BLM should reduce or eliminate the market value threshold required to adjust rents on ROW for communications sites.

**Response:** The BLM will consult with the Solicitor's Office to review appropriate statutes, regulations and policies. The BLM will meet with the OVS and Forest Service to clarify the scope of appropriate changes. If appropriate, the BLM will publish a draft ANPR. The ANPR will be used to gather public and stakeholder feedback to inform the appropriate policy direction for publishing a final rule.

The BLM will work with the OVS and the FS to reassess whether the existing 5 percent threshold should be reduced or eliminated based on current market conditions and other relevant factors.

**Target Date:** The BLM will consult with the Solicitor's Office by September 30, 2012. The BLM will meet with OVS and FS by November 30, 2012. If appropriate, the BLM will publish an ANPR



in the *Federal Register* by March 31, 2013. If appropriate, the BLM will publish a final rule in the *Federal Register* by December 15, 2014.

**Responsible Official:** Michael D. Nedd, Assistant Director, Minerals and Realty Management.

**Recommendation 12:** The BLM and other bureaus with ROW responsibilities should explore seeking authority to retain a percentage of the revenues recovered from reviews that identify unpaid rent from unreported services. Bureaus could use these additional revenues to fund additional reviews.

**Response:** The Office of Budget will work with the Solicitor, the Office of Congressional and Legislative Affairs, and the Office of Management and Budget to explore seeking authority to retain a percentage of the rents identified during the on-site review process to fund additional reviews and training.

**Target Date:** September 30, 2013.

**Responsible Official:** Denise Flanagan, Office of Budget.

**Recommendation 13:** The Office of Policy, Management and Budget should work with bureaus with ROW responsibilities to implement penalties for grantees that do not report additional services and fail to pay rents.

**Response:** There is substantial research to be completed prior to the implementation of the penalty programs to ensure that appropriate authorities are in place, and that these programs can be designed and implemented for each bureau. As an adjunct to the working group identified in Recommendations 7, 9, and 10, OVS will coordinate and convene a corollary working group to address this recommendation. This working group will identify authorities that may permit penalties and review current penalty programs in bureaus, if any. Once those steps are completed, the working group will develop recommendations for the implementation of penalties at each bureau, and the bureaus will be charged to implement the penalty programs and prepare a report of their conclusions.

**Target Date:** June 30, 2015.

**Responsible Official:** John W. Ross, Director, Office of Valuation Services.

**Recommendation 14:** The Office of Policy, Management and Budget should work with BLM to develop and implement Department-wide procedures for calculating and collecting unpaid back rents.

**Response:** Similar to the response to Recommendation 13, there is foundational research to be completed prior to crafting Department-wide procedures for the calculation and the collection of unpaid back rents. However, this work could be completed by a corollary working group by identifying authorities that may permit collection of back rents and reviewing current rent collections

programs in bureaus, if any. Ultimately, the working group will develop recommendations for the implementation of back rent collection program and the bureaus will be charged to implement procedures in each of their bureaus.

**Target Date:** June 30, 2015.

**Responsible Official:** John W. Ross, Director, Office of Valuation Services.

**Recommendation 15:** The BLM should reduce or eliminate the 75 percent discount for additional grantee and co-locator ROW site services, or justify any discount provided.

**Response:** The BLM will consult with the Solicitor's Office to review appropriate statutes, regulations, and policies. The BLM will meet with the OVS and FS to clarify the scope of appropriate changes. If appropriate, the BLM will publish an ANPR. The ANPR will be used to gather public and stakeholder feedback to inform the appropriate policy direction for publishing a final rule.

Under existing regulations, the BLM uses the schedule to determine the primary use of each facility and assesses an additional amount for other users subject to rent (tenants). The base rent consists of 100 percent of the use that generates the highest rent on the schedule of all uses in the facility, excluding those uses that would qualify for rent exemptions or waivers. Additional tenants are charged 25 percent each of their appropriate rent from the schedule. This approach results in the perceived "75 percent discount" as indicated in the report.

The existing approach was implemented to avoid the BLM having to keep track of rents received from tenants in each facility. The approach responded to specific comments received during the rulemaking process that it was not a widespread practice at that time for landowners to charge a percentage of gross rent from tenants. The final rule also provided the BLM authorized officer ample discretion to use other methods to set rental payments.

The BLM agrees to re-evaluate the current practice of charging additional tenants 25 percent of the regular schedule rent based on current market conditions and other relevant factors.

**Target Date:** The BLM will consult with the Solicitor's Office by September 30, 2012. The BLM will meet with OVS and FS by November 30, 2012. If appropriate, the BLM will publish an ANPR in the *Federal Register* by March 31, 2013. If appropriate, the BLM will publish a final rule in the *Federal Register* by December 15, 2014.

**Responsible Official:** Michael D. Nedd, Assistant Director, Minerals and Realty Management.

**Recommendation 16:** The NPS should continue to implement a ROW management program that includes completing an inventory of its ROW and assigning qualified realty staff.

**Response:** The NPS appreciates the comments from the OIG report and will study the recommendations as they pertain to the NPS ROW program. We are moving forward to use reallocated funds to strengthen our ROW management program. We are convening a nationwide work group to identify and initiate priority tasks.

The NPS recognizes the need for an inventory of ROW permits on park lands and agrees that an inventory would be invaluable. As noted in the report, NPS does not currently maintain a centralized database with information on current ROW permits. The Agency has just begun to evaluate the scope of the project. As the scale of the project becomes clearer and the scope of the project is defined, the target dates may need to be revised. The NPS has meetings planned for Summer 2012 to begin studying the development of a system to inventory right-of-way permits.

**Target Date:** March 29, 2013 for data input;  
October 31, 2014 for 50 percent of parks entered into database; and  
October 31, 2015 for 100 percent parks entered into database.

**Responsible Official:** Victor Knox, Associate Director, Park Planning, Facilities and Lands.

**Recommendation 17:** Appraisal Services should consult with the Office of the Solicitor to determine which recommendations in this report are applicable to Indian Affairs.

**Response:** The scope of work will include a collaborative effort with the Office of Solicitor to evaluate and determine which recommendations in this report are applicable to Indian Affairs. Consultation with the BIA Division of Real Estate Services may also be necessary to determine the applicability of realty requirements identified as a recommendation in the report.

**Target Date:** December 31, 2013.

**Responsible Official:** Eldred Lesansee, Director, Office of Appraisal Services.



**Technical Comments:**

**Page 1:** Within the DOI, each bureau has differing authorities with respect to the authorization and administration of ROWs. The regulations and policies for each bureau use different terminologies to refer to actions within the right-of-way process. Terminology in the report and some assumptions apparently based on that terminology are imprecise, which has the potential to impact the substance and some findings in this report. For example, the BLM has developed rent schedules to collect “fair market value” rent as required by FLPMA and the MLA. On page 3, second full paragraph, the report refers to “current market value based on comparable rents.” On page 4, second full paragraph, the report refers to “market value.” On page 8, first full paragraph, the report refers to “current market value and volume of service.” It is not clear whether “market value” and similar terms throughout the draft report are intended to be synonymous, or consistent with, the term “fair market value” in FLPMA and the MLA.

**Page 2,** fourth full paragraph: The legal authorities used by the NPS to authorize ROW, 16 USC 5 & 79 are not included. We do not feel that the citation needs to be specifically mentioned, but suggest that the list should be edited to show that it is not all inclusive.

**Page 4,** first full paragraph: The draft report provides an estimate of \$100 million in additional rents that could be collected annually by BLM and NPS. The report is unclear as to the methodologies and assumptions used to arrive at this number. The draft report suggests that it considered information obtained through internet searches and from a company specializing in land valuation (p.5); from state and local government, Indian and private lands (p.6) and possibly other sources (see, e.g. pp. 7 – 8, 9, 13 and 15). The report does not always clearly identify the entity issuing the comparable ROW, nor does it articulate how values were obtained for those ROWs. The draft report also does not clearly establish that the cited comparables are representative of the broad range of Federal ROWs under consideration. This makes it difficult to ascertain fully the extent to which they are in fact comparable to Federal ROWs. This question would apply to estimates throughout the draft report of additional rents that might be achieved on Federal ROWs (see, e.g. p. 6, first and second full paragraphs; and p. 8, first full paragraph).

**Page 5,** second full paragraph: As discussed above, the draft report states comparable market data was obtained from internet searches and from a company specializing in land valuation. It is unclear if the private market data includes authorizations that are similar in scope, location, and terms and conditions to authorizations issued by DOI agencies. For example, BLM issues ROW that are nonexclusive and allow a specific use for a specified period of time. The BLM ROWs also include a variety of terms and conditions based on agency guidance and local land use plans. Private easements can convey greater rights such as an exclusive use, perpetual term or they may allow upgrades without additional approval.

**Page 6,** second full paragraph: The BLM acknowledges the linear rent schedule does not set rates based on the market value and volume of products authorized. Title V of FLPMA and Section 28 of

the MLA require the holder of a ROW grant to pay annually in advance the fair market value to occupy, use, or traverse public lands for facilities such as power lines, pipelines, roads and wireless telecommunication uses.

The BLM initially developed a regulatory schedule in 1987 to establish the fair market value of rents for linear ROW. The rent schedule covered most but not all linear ROW granted under FLPMA and MLA. The schedule was established to minimize the need for individual real estate appraisals for each ROW as well as to avoid the costs, delays, and unpredictability of the appraisal process. Use of a schedule was a highly efficient method for administering a high volume of authorizations and provided certainty for grant holders so that they could budget in advance for future rents.

The BLM revised its linear rent schedule in a final rule which became effective on December 1, 2008. These revisions were required by Section 367 of the EPAct which directed the Secretary of the Interior to update the schedule in effect on the date of enactment of the EPAct, and to revise the per acre rental fee zone value schedule by state, county, and type of linear right-of-way use to reflect current values of land in each zone. The pre-2008 regulations allowed the BLM to use an alternate to the schedule to calculate rent, if the rent determined by a comparable commercial practice or an appraisal would be 10 or more times the rent from the schedule. The regulations promulgated in 2008 did not allow individual valuations based on land values or volume of products.

In accordance with the EPAct, the regulations did update the land values that are the basis for the rent calculation based in part on land values determined in the Department of Agriculture's National Agricultural Statistics Service (NASS) census. The NASS census estimates the value of agricultural land and buildings in each county of the United States. Use of this published information eliminates the need to value land in each location. The NASS census was conducted in 2002 and 2007. The BLM's rent schedule was based on the 2002 NASS census for the years 2009 through 2015. The BLM used the 2007 NASS census data to reassign counties to appropriate zones for the years 2011 through 2015.

The regulations also provide for periodic updates of the land value. The BLM expects the 2012 NASS census data to be available in early 2014, and at that time, BLM would anticipate adjusting the per acre rent values for each zone, revise the number of zones and the per acre zone values, and reassign counties among zones, if appropriate based on the census information.

The OIG report does not specifically acknowledge these regulatory requirements.

The FS has adopted the BLM's linear rent schedule; therefore, updates of this schedule will affect the FS and applicants for ROWs on the National Forest System.

In FY 2007, the BLM administered approximately 96,000 ROW and collected approximately \$20.6 million in rent. By contrast, in FY 2011 the BLM administered approximately 103,800 ROW and collected approximately \$52.5 million in rent. This represents an increase in rent collections of almost

\$32 million in 2011, compared to the amount collected in FY 2007, the last year to use the prior rent schedules.

Approximately half of all active linear ROWs, are exempted from the obligation to pay rent. Some electric or telephone facilities are exempted from rent payments by statute. In addition, a Federal, state, or local government, or its agent, is exempted from rent payments by regulations (except in certain circumstances). The ROWs are also exempted from rent payments if they are issued under the authority of a statute that does not allow the BLM to charge rent. The report does not indicate if this fact was taken into account when estimating the amount of additional rent the BLM could collect.

**Page 8**, first full paragraph: Under existing regulations 43 CFR 2806.30, the BLM schedule for communication site ROWs is based on nine population strata, as depicted in the most recent version of the Ranally Metro Area (RMA) Population Ranking, and the type of communication use or uses for which the BLM normally grants communication site ROW. The BLM annually updates the schedule based on two sources: the U.S. Department of Labor Consumer Price Index for all Urban Consumers, U.S. City Average (CPI-U) as of July of each year and the RMA population ranking. Adoption of the schedule was anticipated to reduce Agency costs, delays, and variability associated with obtaining individual appraisals as well as reducing the number of disputes regarding rent values.

In 1992, Congress directed the BLM and the FS to jointly establish a broad-based advisory group composed of representatives from the broadcast industry and the two Agencies to review recommendations on acceptable criteria for determining fair market value. The committee recommended the use of a schedule instead of individual appraisals for determining rental fees. The BLM final rule for rental schedule for communication site uses was published on November 13, 1995. These revisions establish a consistent approach for determining rental payments for various communication uses, based on the population of the community nearest the site and reflected fair market value as required by Title V of FLPMA. The final rule encourages tenants in a communication facility to consolidate their separate authorizations under one authorization, reducing billing costs and minimizing Agency involvement in managing use and occupancy of the facility. The schedule adopted in 1995 represented BLM's interpretation of fair market value rent at that time. Users are encouraged to co-locate within facilities to minimize the number of individual facilities at each site or mountain top. The BLM began using communication use leases which included provisions for sub-leasing space to other users within the same facility.

For all communications site ROWs authorized under FLPMA, the ROW holder is required to submit an annual statement identifying the tenants and customers in each facility and their types of uses. In order to ensure customer-provided annual statements are accurate, the BLM uses a National Project Manager program to conduct compliance examinations of high priority facilities. As correctly noted on page 11 of the draft report, the BLM annually expends approximately \$30,000 to conduct these reviews but has identified and pursued collection of over \$500,000 in rents over this 5 year period, which were either incorrectly reported or not reported at all.

**Page 12**, full paragraph: The report discusses collection of back rent, in reference to unpaid ROW rents and how to calculate the back rental amount. However, the draft report is unclear on the specifics of back rental collections.

**Page 13**, first full paragraph: Under existing regulations for communications sites ROWs, the BLM uses the schedule to determine the appropriate base rent for the primary use of each facility. The BLM then assesses an additional amount for all other co-users (tenants) subject to rent. The base rent consists of 100 percent of the use that generates the highest rent on the schedule of all uses in the facility, excluding those uses that would qualify for rent exemptions or waivers. Additional tenants are charged 25 percent each of their appropriate rent from the schedule. This approach results in the perceived “75 percent discount” as indicated in the draft report.

The existing approach was done to avoid the BLM having to keep track of rents received from tenants in each facility. The approach responded to specific comments received during the rulemaking process that it was not a widespread practice at that time for landowners to charge a percentage of gross rent from tenants. The final rule also provided the BLM authorized officer ample discretion to use other methods to set rental payments.

**Page 14**, fifth paragraph, third sentence: We are requesting for the following sentence to be clarified: “In 2012 NPS received additional funding to pay for realty specialist under the Park Protection budget subactivity....” While it is correct that the NPS requested funds to pay for additional realty specialist to assistance with right-of-way application processing and other land management issues, such as encroachment and unauthorized uses, the money was not appropriated. The NPS has reallocated funds from other sources to pay for the positions.

**Management of Rights-of-Way in the U.S. DOI (Report No. C-IN-MOA-0013-2010)**

**Corrective Action Plan**

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
<p>1. Following “Uniform Appraisal Standards,” Valuation Services should define market value of ROW to include the value of the right or use granted.</p>	<p>Implement the following definition, pursuant to 602 DM 1, through a guide note to OVS appraisal staff:            “The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the specified lease agreement including term, rental adjustment and revaluation, permitted uses, use restrictions, and expense obligations; the lessee and lessor each acting prudently and knowledgeably, and assuming consummation of the lease contract as of a specified date...”</p> <ul style="list-style-type: none"> <li>• Draft guide note, circulate for review.</li> <li>• Finalize guide note and issue to staff.</li> </ul>	<p>12/31/2012</p>	<ul style="list-style-type: none"> <li>• 10/01/2012</li> <li>• 12/31/2012</li> </ul>	<ul style="list-style-type: none"> <li>• Ed Stehouwer</li> <li>• Tanya Henderson</li> </ul>	<p>Under 602 DM 1, the OVS Chief Appraiser is empowered to issue guidance to OVS and Department staff involved in the appraisal process regarding appraisal policy for DOI.</p>
<p>2. Valuation Services and Appraisal Services should create and maintain a database of comparable ROW information.</p>	<p>This project may take an extended period of time to develop given data sources, staff resources and funding.</p> <ul style="list-style-type: none"> <li>• Consultation with OAS on database format</li> <li>• Consultation with BLM on existing data</li> <li>• Development of requirements document and alternatives for building the database (buy data, grow organically, etc.).</li> <li>• Request for funding and staffing</li> <li>• Implementation.</li> </ul>	<p>12/31/2014</p>	<ul style="list-style-type: none"> <li>• 10/01/2012</li> <li>• 10/01/2012</li> <li>• 03/31/2012</li> <li>• 06/01/2013</li> <li>• 12/31/2014</li> </ul>	<ul style="list-style-type: none"> <li>• John Ross</li> <li>• John Ross</li> <li>• John Ross/Tanya Henderson</li> <li>• John Ross</li> <li>• Tanya Henderson</li> </ul>	<p>The Office of Appraisal Services presently maintains a database of ROW information from work performed under contract to BIA and tribal nations. OVS will consult with OAS to establish a consistent form and format for data, work with BLM and other Client Bureaus to</p>

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
					identify any existing data for current ROW leases, and will develop a database parallel to the OAS database pending cost and approval of funding.
<p>3. Valuation Services should establish criteria to prioritize ROW using market considerations including the value and the volume of service authorized.</p>	<p>The ROW assignments may be high priority either due to high market values in a given area or volume of service. Through the consultation process that is incorporated into the Interior Valuation Information System (IVIS), Client Bureaus can currently request this type of assistance from OVS. The OVS has expertise in gathering and evaluating this type of data.</p> <ul style="list-style-type: none"> <li>• Develop a criteria document in coordination with BLM, consistent with applicable legal authority, specifying when valuations are advisable rather than use of the fee schedule.</li> <li>• Other infrastructure for handling ROW valuations is already in place (IVIS).</li> </ul>	12/31/2012	<ul style="list-style-type: none"> <li>• 12/31/2012</li> </ul>	<ul style="list-style-type: none"> <li>• Tim Hansen, BLM Client Service Manager</li> </ul>	<p>The OVS is available to assist BLM and other Client Bureaus in identifying high priority ROWs consistent with applicable law and subject to funding and staff resources. In some cases in the past, OVS has completed appraisals on ROWs that did not conform to the existing schedules due to the unique nature of the ROW, the high value area that the ROW crosses, or a combination of factors that led to the Client Bureau requesting a site specific appraisal.</p>



Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
<p>4. Valuation Services should perform high priority, individual valuations as allowed, given their resources.</p>	<p>With additional resources, OVS would establish a discipline-specific team, in coordination with Client Bureaus, to handle the high value ROW's as well as oversee development and maintenance of a comparable database. This team would be responsible for COTR and technical valuation review for all ROW valuations. Funding could be provided by legislative authority for cost recovery of a portion of fees or direct appropriation.</p> <ul style="list-style-type: none"> <li>• Department decision to fund, via appropriation or cost recovery.</li> <li>• If the budget is approved, develop discipline specific team for ROW assignments, including an ROW database.</li> </ul>	<p>06/30/2015</p>	<p>2014 budget</p> <ul style="list-style-type: none"> <li>• by 10/30/2014</li> </ul>	<ul style="list-style-type: none"> <li>• AS/PMB</li> <li>• Tanya Henderson</li> </ul>	<p>At present, OVS has the staff capacity to complete a limited number of individual valuations. With authority for the OVS Chief Appraiser to establish valuation policy across the Department, and the move from a regional to client team structure, OVS can effectively support the Bureaus in ROW valuation if so requested. Developing and maintaining the data necessary to carry out market valuations for ROW rents has not been a priority for the OVS due to the primary funding source for OVS being the L&amp;WCF, which provides funding for land acquisitions, and because Client Bureaus do not generally conduct individual valuations under existing authorities.</p>

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
<p>5. Valuation Services should develop and implement guidance and training requirements for staff to conduct individual ROW valuations.</p>	<p>Given expertise within current staff and new hires, focus on further education for staff and hiring for a discipline-specific team (see Recommendation 4.)</p> <ul style="list-style-type: none"> <li>• Identify current staff for whom training is appropriate.</li> <li>• Provide training as indicated by Client Service Managers for current staff.</li> <li>• Plan for establishing ROW-specific team, subject to funding under 4.</li> </ul>	<p>06/30/215</p>	<ul style="list-style-type: none"> <li>• 06/31/2013</li> <li>• by 09/30/201</li> <li>• See recommendation 4</li> </ul>	<ul style="list-style-type: none"> <li>• Tanya Henderson</li> <li>• Tanya Henderson</li> <li>• Tanya Henderson</li> </ul>	<p>The OVS can capitalize on skills already present within its ranks and is moving toward hiring some additional staff at the journey level that would be able to complete these assignments in house. Additional staff training is available through the International Right of Way Association as well as other professional appraisal organizations such as the American Society of Farm Managers and Rural Appraisers and the Appraisal Institute. A large portion of our staff has experience in the appraisal of ROWs and can assist with internal guidance and establishing training requirements for OVS appraisers.</p>



Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
6. BLM should revise its linear rent schedule and include provisions to periodically update the schedule to reflect current market value.	1) Consult with Solicitor's Office to review statutes, regulations and policies 2) Meeting with OVS and Forest Service to clarify scope of proposed changes 3) If appropriate publish Advance Notice of Proposed Rule 4) If appropriate publish a final rule	TBD	<ul style="list-style-type: none"> <li>• 09/30/2012</li> <li>• 11/30/2012</li> <li>• 03/31/2013</li> <li>• 12/15/2014</li> </ul>	<ul style="list-style-type: none"> <li>• Lucas Lucero</li> <li>• Lucas Lucero</li> <li>• Mike Nedd</li> <li>• Mike Nedd</li> </ul>	BLM's linear rent schedule was revised in response to Section 367 of the Energy Policy Act of 2005 which directs the Secretary of the Interior to revise the per acre rental fee zone value schedule by state, county, and type of linear right-of-way use to reflect current values of land. The BLM will consult with our Solicitor's Office regarding the extent of BLM's ability to revise the schedule

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
<p>7. Valuation Services should work with BLM to implement linear rent schedules for Department-wide use with provisions to periodically update the schedules.</p>	<p>The OVS looks forward to working with BLM and the Department to implement linear rent schedules and to establish a time period for completing periodic market analyses to ensure that rents are in step with market conditions.</p> <ul style="list-style-type: none"> <li>• Establish a working group with BLM and the Department to address issues of methodology, schedule for updates, and relevant market area and information requirements for ROW applicants, consistent with applicable law. Issue a report on methodology and relevant factors for Departmental Review.</li> <li>• Develop and maintain a database to support the fee schedule.</li> <li>• Implement methodology and database.</li> </ul>	<p>06/30/2014</p>	<ul style="list-style-type: none"> <li>• 10/01/2012</li> <li>• 06/30/2013, see Rec. 2.</li> <li>• 10/01/2014</li> </ul>	<ul style="list-style-type: none"> <li>• John Ross</li> <li>• Tanya Henderson</li> <li>• John Ross</li> <li>• Tanya Henderson</li> </ul>	<p>Variables may include location, type of use (pipeline vs. fiber optic vs. power line) and throughput of commodity through the line. Schedules may need to be based on a countrywide, statewide, regional, or national basis depending on the type of ROW. The OVS will work with BLM to help determine the market area for the given ROW. With additional funding, OVS will develop and maintain a database to support regular updates to the fee schedules through the gathering of data from private firms and direct market studies. This will be undertaken as appropriate based on existing or future legal authorities of Client Bureaus.</p>

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
<p>8. The BLM should revise its communications site rent schedule and include provisions to periodically update the schedule to reflect current market value.</p>	<p>1) Consult with Solicitor's Office to review statutes, regulations and policies            2) Meeting with OVS and Forest Service to clarify scope of proposed changes            3) If appropriate publish Advance Notice of Proposed Rule            4) If appropriate publish Final Rule</p>	<p>TBD</p>	<ul style="list-style-type: none"> <li>• 09/30/2012</li> <li>• 11/30/2012</li> <li>• 03/31/2013</li> <li>• 12/15/2014</li> </ul>	<ul style="list-style-type: none"> <li>• Lucas Lucero</li> <li>• Lucas Lucero</li> <li>• Mike Nedd</li> <li>• Mike Nedd</li> </ul>	
<p>9. Valuation Services should work with BLM to implement communications rent schedules for Department-wide use with provisions to periodically update the schedules.</p>	<p>Similar to 7. above:</p> <ul style="list-style-type: none"> <li>• Establish a working group with BLM and the Department to address issues of methodology, schedule for updates, and relevant market area and information requirements for ROW applicants, consistent with applicable law. Issue a report on methodology and relevant factors for Departmental Review.</li> <li>• Develop and maintain a database to support the fee schedule.</li> <li>• Implement methodology and database.</li> </ul>	<p>06/30/2014</p>	<ul style="list-style-type: none"> <li>• 10/01/2012</li> <li>• 06/30/2013</li> <li>• see Rec. 2.</li> <li>• 10/01/2014</li> </ul>	<ul style="list-style-type: none"> <li>• John Ross</li> <li>• Tanya Henderson</li> <li>• John Ross</li> <li>• Tanya Henderson</li> </ul>	<p>As with the linear rent schedules discussed above, OVS will work with BLM and the Department to implement communications rent schedules and establish time periods for completing periodic market analyses to ensure that rents are in step with market conditions, consistent with applicable law.</p>

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
					<p>These schedules will likely be impacted by similar factors to the linear rent schedules regarding location, type of use, etc. and OVS will work with BLM and the Department to identify these variables and determine the proper market area for application of the schedule. As previously mentioned, the schedules may need to be based on a countrywide, statewide, regional, or national basis depending on the type of communication use. The OVS will work with BLM to help determine the market area for the communications sites.</p>

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
<p>10. Valuation Services should work with BLM to develop and implement procedures for Department-wide periodic reevaluations of ROW grants, with authority to update rental rates to reflect current market values.</p>	<p>Similar to 7. and 9. above: Following the report on methodology and relevant factors and completion of the Departmental Review --</p> <ul style="list-style-type: none"> <li>• Develop a Departmental-wide policy for reevaluations of ROW grants.</li> <li>• Develop a Quality Assurance program to manage reviews of grant programs.</li> <li>• Implement policy as appropriate to the authorities supporting the grants.</li> </ul>	<p>01/31/2015</p>	<ul style="list-style-type: none"> <li>• 06/30/2014</li> <li>• 09/30/2014</li> <li>• 01/1/2015</li> </ul>	<ul style="list-style-type: none"> <li>• Tanya Henderson</li> <li>• OVS QA Officer Ken Daw</li> <li>• Tanya Henderson and Ken Daw</li> </ul>	<p>By assisting BLM and the Department with developing methodologies for periodic reevaluations and updates of the linear and communications rent schedules OVS will be able to assist in the development of a Department-wide reevaluation procedure consistent with applicable law. The OVS can also assist through its Quality Assurance Division which may be able to conduct periodic audits of ROW grants to determine whether or not rental rates are still representative of market value after their initial implementation. Because of the different authorities that authorize the grants ROW in the various bureaus within the Department there</p>

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
					<p>may be conflict that will have to be resolved through rule making or other administrative procedures. The OVS currently provides valuation support to four bureaus within DOI (BLM, BOR, FWS, and NPS) and is uniquely positioned to assist the Department in development and implementation of periodic Department-wide reevaluation of these grants.</p>
<p>11. The BLM should reduce or eliminate the market value threshold required to adjust rents on ROW for communications sites.</p>	<p>1) Consult with Solicitor's Office to review statutes, regulations and policies                  2) Meeting with OVS and Forest Service to clarify scope of proposed changes                  3) If appropriate publish Advance Notice of Proposed Rule                  4) If appropriate publish Final Rule</p>	<p>TBD</p>	<ul style="list-style-type: none"> <li>• 09/30/2012</li> <li>• 11/30/2012</li> <li>• 03/31/2013</li> <li>• 12/15/2014</li> </ul>	<ul style="list-style-type: none"> <li>• Lucas Lucero</li> <li>• Lucas Lucero</li> <li>• Mike Nedd</li> <li>• Mike Nedd</li> </ul>	

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
<p>12. The BLM and other bureaus with ROW responsibilities should explore seeking authority to retain a percentage of the revenues recovered from reviews that identify unpaid rent from unreported services. Bureaus could use these additional revenues to fund additional reviews.</p>	<p>The Office of Budget will work with the Solicitor, the Office of Congressional and Legislative Affairs, and the Office of Management and Budget to seek authority to retain a percentage of the rents identified during the on-site review process to fund additional reviews and training.</p>	<p>09/30/2013</p>	<p>09/30/2013</p>	<p>Denise Flanagan</p>	
<p>13. The Office of Policy, Management and Budget should work with bureaus with ROW responsibilities to implement penalties for grantees that do not report additional services and fail to pay rents.</p>	<p>As an adjunct to the working group identified in 7, 9, and 10. above, convene a corollary working group to address this recommendation:</p> <ul style="list-style-type: none"> <li>• Identify authorities that may permit penalties.</li> <li>• Review current penalty programs in Bureaus, if any.</li> <li>• Develop recommendations for the implementation of penalties.</li> <li>• Implement penalty programs.</li> </ul>	<p>06/30/2015</p>	<ul style="list-style-type: none"> <li>• 06/30/2013</li> <li>• 06/30/2013</li> <li>• 12/31/2013</li> <li>• 10/01/2014</li> </ul>	<p>OVS and Bureaus</p>	
<p>14. The Office of Policy, Management and Budget should work with BLM to develop and implement Department-wide procedures for calculating and collecting unpaid back rents.</p>	<p>In conjunction with 13, and as an adjunct to the working group identified in 7, 9, and 10. above, convene a corollary working group to address this recommendation:</p> <ul style="list-style-type: none"> <li>• Identify authorities that may permit collection of back rents.</li> <li>• Review current rent collections programs in Bureaus, if any.</li> <li>• Develop recommendations for the implementation of back rent collection program.</li> <li>• Implement programs in each Bureau.</li> </ul>	<p>06/30/2015</p>	<ul style="list-style-type: none"> <li>• 06/30/2013</li> <li>• 06/30/2013</li> <li>• 12/31/2013</li> <li>• 10/01/2014</li> </ul>	<p>OVS and Bureaus</p>	

Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
<p>15. The BLM should reduce or eliminate the 75 percent discount for additional grantee and colocator ROW site services, or justify any discount provided.</p>	<p>1) Consult with Solicitor's Office to review statutes, regulations and policies            2) Meeting with OVS and Forest Service to clarify scope of proposed changes            3) If appropriate publish Advance Notice of Proposed Rule            4) If appropriate publish Final Rule</p>	<p>TBD</p>	<ul style="list-style-type: none"> <li>• 09/30/2012</li> <li>• 11/30/2012</li> <li>• 03/31/2013</li> <li>• 12/15/2014</li> </ul>	<ul style="list-style-type: none"> <li>• Lucas Lucero</li> <li>• Lucas Lucero</li> <li>• Mike Nedd</li> <li>• Mike Nedd</li> </ul>	
<p>16. The NPS should continue to implement a ROW management program that includes completing an inventory of its ROW and assigning qualified realty staff.</p>	<p>1) Convene a nationwide work group to identify and initiate priority tasks.            2) Conduct meetings to study the development of a system to inventory ROW permits.</p>	<p>10/31/2015</p>	<ul style="list-style-type: none"> <li>• 03/29/2013</li> <li>• 10/31/2014</li> <li>• 10/31/2015</li> </ul>	<p>Victor Knox, Associate Director, Park Planning, Facilities and Lands</p>	



Recommendation	Corrective Action	Overall Target Date	Milestone Target Date(s)	Responsible Official	Comments
<p>17. Appraisal Services should consult with the Office of the Solicitor to determine which recommendations in this report are applicable to Indian Affairs.</p>	<p>1) Consultation with the Office of Solicitor to evaluate and determine which recommendations in this report are applicable to Indian Affairs.</p> <p>2) Consultation with the BIA Division of Real Estate Services may also be necessary to determine the applicability of realty requirements identified as a recommendation in the report.</p>	<p>12/31/2013</p>		<p>Eldred Lesansee, Director, Office of Appraisal Services</p>	

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## Appendix 5: Status of Recommendations

In response to our draft report, the Department generally concurred with all 17 of our recommendations and agreed to implement them. The response included corrective action plans and an action official for each recommendation (see appendix 5). We consider 13 recommendations resolved and not implemented, and four recommendations unresolved or not fully resolved.

<b>Recommendations</b>	<b>Status</b>	<b>Action Required</b>
1, 3, and 11	Unresolved	Please provide clarification within 30 days.
2, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, and 17	Resolved, not implemented	The recommendations will be referred to the Assistant Secretary, Policy, Management and Budget for tracking of implementation.
16	Management concurs; additional information needed	Please provide additional information within 30 days.

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