



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

# **The Bureau of Land Management Did Not Review the Federal Exclusions List Before Issuing Federal Mineral Leases**

**This is a revised version of the report prepared for public release.**



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

**JAN 20 2022**

Memorandum

To: Tracy Stone-Manning  
Director, Bureau of Land Management

From: Mark Lee Greenblatt  
Inspector General

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

Subject: Final Inspection Report – *The Bureau of Land Management Did Not Review the Federal Exclusions List Before Issuing Federal Mineral Leases*  
Report No. 2021-CR-007

This report presents the results of our inspection of the Bureau of Land Management’s (BLM’s) compliance with suspension and debarment regulations as they relate to its mineral leasing program. In particular, we conducted this inspection of the BLM’s Federal mineral leasing program to determine if leasing staff reviewed the Federal exclusions list before issuing Federal mineral leases.<sup>1</sup>

We found that the BLM did not review the Federal exclusions list to determine if mineral lease recipients were suspended or debarred. In addition, the BLM did not have policies or procedures in place to determine if a lessee was excluded from doing business with the Federal Government.

We make four recommendations to help the BLM comply with Federal regulations and reduce the risk of issuing Federal mineral leases to entities that are suspended or debarred.

## **Background**

### **The BLM’s Federal Mineral Resources**

The BLM is responsible for managing 245 million surface acres of public lands and 700 million subsurface acres of Federal minerals—approximately 33 percent of the Nation’s subsurface mineral resources. The BLM issues leases for energy and mineral exploration and production on Federal lands, including oil and gas, coal, helium, renewable energy, and other mineral resources. In 2020, royalties, rental payments, and bids on these leases led to \$5.2 billion in revenue.

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<sup>1</sup> In addition to issuing new Federal mineral leases, the BLM also approves lease transfers and lease assignments. According to 43 C.F.R. § 3100.0-5, a transfer is “any conveyance of an interest in a lease by assignment, sublease or otherwise.” The regulation defines an assignment as “a transfer of all or portion of the lessee’s record title interest in a lease.” In this report, we use the term “issuing” to include issuing new leases and approving the transfer or assignment of existing leases.

## Federal Suspension and Debarment Regulations

When Federal agencies deem entities or persons as not “presently responsible,” the agencies exclude those entities from receiving new awards from the U.S. Government through suspension and debarment.<sup>2</sup> Suspension refers to the temporary exclusion of a person or company for up to 18 months, typically while an investigation is pending and during ensuing legal proceedings. Debarment refers to a final decision to exclude a person or company for a fixed period, which generally does not exceed 3 years. Both suspension and debarment have Governmentwide effect; if an entity is suspended or debarred by one agency, that decision is effective as to all Federal agencies.

The suspension and debarment process is designed to assess whether an entity poses a potential business risk (e.g., has engaged in misconduct or has a history of poor performance or noncompliance) to Federal programs and, if so, to manage that risk long term. Executive departments and agencies, including the U.S. Department of the Interior (DOI), are accordingly required to determine if entities seeking to do business with the Federal Government are prohibited from participating in Federal programs before entering into any business relationship. Executive Order No. 12549, *Debarment and Suspension* (February 18, 1986), authorized the creation of a uniform suspension and debarment system for nonprocurement programs similar to the system established for procurement programs.<sup>3</sup> The order stated that agencies shall not, unless granted an exception, permit an entity to participate in covered programs if that entity has been debarred, suspended, or otherwise excluded from participation by any executive agency.

In 2007, the DOI published 2 C.F.R. part 1400, “Nonprocurement Debarment and Suspension,” which adopted the Office of Management and Budget’s “Guidance for Governmentwide Debarment and Suspension (Nonprocurement).”<sup>4</sup> Both the Office of Management and Budget guidance and DOI regulations recognize that the General Services Administration maintains the System for Awards Management (SAM), which includes the current Federal exclusions list of entities excluded or disqualified from covered transactions (found at SAM.gov).

On May 25, 2010, the Office of the Solicitor’s Mineral Resources Division issued a memorandum concluding that initial awards of all mineral leases or subleases—which require DOI approval—are considered covered transactions subject to the Federal nonprocurement suspension and debarment regulations.

The DOI’s 2015 Acquisition, Assistance, and Asset Policy No. 39 (DOI-AAAP-0039), *Pre-award Eligibility Screening Requirements*, requires awarding officials to review the Federal exclusions list before issuing awards. Specifically, the policy requires bureaus and offices to develop policies and procedures for awarding officials to review the Federal exclusions list for

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<sup>2</sup> According to 48 C.F.R. part 9, entities or persons that are not “presently responsible” have unresolved or unexpired administrative actions against them.

<sup>3</sup> A uniform suspension and debarment system was already in place for procurement programs established under the Federal Acquisition Regulation. 48 C.F.R. subpart 9.4.

<sup>4</sup> 2 C.F.R. part 180.

both the entity receiving the award and the named individuals on the award before selecting a final award recipient. The policy also requires awarding officials to document this review.

## **What We Reviewed**

The objective of our inspection was to determine whether the BLM reviewed the Federal exclusions list before issuing Federal mineral leases. See Attachment 1 for the inspection’s scope and our methodology.

## **What We Found**

We found that the BLM did not review the Federal exclusions list to determine if mineral lease recipients were suspended or debarred from doing business with the Federal Government. This is inconsistent with Federal regulations and DOI policy requiring awarding officials—in this case, the BLM’s leasing staff—to review the Federal exclusions list before issuing mineral leases. Most of the BLM leasing staff we interviewed were unaware of the requirement to review the Federal exclusions list before issuing leases. In addition, the BLM did not have policies or procedures in place to determine if a lessee was excluded from doing business with the Federal Government.

### **BLM Leasing Staff Did Not Review the Federal Exclusions List for Federal Mineral Leases**

We found that BLM leasing staff did not review the Federal exclusions list before issuing leases. The BLM reported that it issued 5,168 Federal mineral leases covering more than 5.1 million acres from October 1, 2016, through September 30, 2020.

We interviewed BLM leasing staff from the five State offices that issued 87 percent of these Federal mineral leases.<sup>5</sup> Each State office employee interviewed stated that there was no process that required review of the Federal exclusions list, and none of the employees in fact reviewed this list before issuing leases. Further, only one BLM State office employee expressed awareness of the Federal exclusions list. The employee became aware of the Federal exclusions list when a Bureau of Indian Affairs staff member contacted the BLM to ask whether a specific company was on the exclusions list. At that time, the BLM State office employee was unaware of the Federal exclusions list and contacted BLM headquarters personnel for more information. The BLM leasing official stated that the headquarters contact was unaware of the list and did not provide guidance on how to resolve the question. The employee took no further action to follow up on the issue, per our interview.

We also reviewed the list of 5,168 leases the BLM issued to 762 lessees. We compared these lessees to the Federal exclusions list and identified six that potentially matched. These 6 accounted for 108 leases covering 166,218 acres of Federal land.<sup>6</sup> We attempted to determine if

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<sup>5</sup> The Montana-Dakotas, Nevada, New Mexico, Utah, and Wyoming State offices issued 4,516 of the BLM’s 5,168 total leases between October 1, 2016, and September 30, 2020.

<sup>6</sup> We were unable to determine the economic value for these 108 leases.

the potential matches from the BLM system were, in fact, those same entities included on the Federal exclusions list; we attempted to do so by using their addresses because not all entities on SAM.gov have identifying information as provided by DUNS numbers<sup>7</sup> or CAGE Codes.<sup>8</sup> The addresses did not match, but we could not definitively determine if the lessees we identified were the same as those entities found on the Federal exclusions list given the possibility that a business may have different addresses for different purposes.<sup>9</sup>

The Federal Government established the Federal exclusions list precisely to avoid doing business with excluded or disqualified entities. Without reviewing the Federal exclusions list before issuing leases, the BLM is at an increased risk of issuing leases to suspended or debarred entities.

### **The BLM Did Not Have Policies or Procedures Related to the Federal Exclusions List for Federal Mineral Leases**

We found that the BLM did not have policies and procedures that required leasing staff to review the Federal exclusions list before issuing a lease per DOI-AAAP-0039. The BLM employees we interviewed reported that the BLM did not have processes that required these reviews to occur. Moreover, only 1 of the 29 employees we interviewed made any mention of these issues. In particular, a senior mineral leasing specialist told us that, during the national oil and gas monthly leasing call in April 2016, BLM headquarters provided oral guidance that required officials to check if lessees were suspended or debarred before issuing leases. The meeting minutes provided information about the DOI suspension and debarment program and website along with a link to SAM.gov; the minutes, however, did not include direction to review the Federal exclusions list or refer to any processes.<sup>10</sup> Other headquarters personnel responsible for oversight of the mineral leasing operations stated that they were unfamiliar with the regulatory requirement. We reviewed the BLM's leasing manuals and confirmed that the BLM did not have procedures in place for the leasing staff to review the Federal exclusions list before issuing leases.

## **What We Recommend**

We make four recommendations to help the BLM comply with Federal regulations and reduce the risk of issuing Federal mineral leases to entities that are suspended or debarred from doing business with the Federal Government. In response to our draft report, the BLM concurred with all our recommendations. Based on this response, we consider the recommendations to be

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<sup>7</sup> A DUNS number is a unique nine-character identification number for businesses that is issued by Dun & Bradstreet.

<sup>8</sup> A CAGE Code or Commercial and Government Entity Code is a unique five-character alphanumeric identifier assigned by the Federal Government.

<sup>9</sup> If an awarding official is uncertain about whether a potential awardee is the same as an entity listed at SAM.gov, the awarding official can check with the point of contact at the initial debarring agency to obtain this information.

<sup>10</sup> As noted previously, the general topic of suspension and debarment was addressed in the May 25, 2010 Solicitor's memorandum that concluded mineral leases were subject to the regulations. However, the DOI's overall policy was not established until 2015, and, as noted above, we found no evidence that the BLM itself had ever established its own processes to ensure that excluded parties were prevented from receiving leases.

resolved but not implemented. See Attachment 2 for the full text of the BLM's response and Attachment 3 for the status of all recommendations.

We recommend that the BLM:

1. Immediately require leasing staff to review the Federal exclusions list before issuing, transferring, or assigning leases and to document that review in the lease file

**BLM Response:** The BLM concurred with the recommendation and stated that it will notify its leasing staff of the requirement to review the Federal exclusions list before issuing, transferring, or assigning leases and to document that review in the lease file. The BLM provided a target implementation date of January 31, 2022.

**OIG Comment:** Based on the BLM's response, we consider Recommendation 1 resolved but not implemented.

2. Develop and implement an oversight mechanism that ensures that the leasing staff reviews the Federal exclusions list and documents the review

**BLM Response:** The BLM concurred with the recommendation and stated that it will update appropriate leasing adjudication checklists and add an action code to the system of record for reviewing the Federal exclusions list to ensure that this review is documented. The BLM also stated that it will run oversight reports from the system of record on leasing staff reviews. The BLM provided a target implementation date of March 29, 2024.

**OIG Comment:** The BLM's target implementation date for this recommendation is more than 2 years from this report's issuance date. This proposed timeframe is of concern to our office because monitoring of controls is essential to ensuring conformity with policies and regulations. The BLM should revise its target implementation date and provide the revised date to the Office of Policy, Management and Budget (PMB). If the revised date is more than 1 year from this report's issuance date, the BLM should establish mitigating measures until the recommendation is fully implemented. Based on the BLM's response, we consider Recommendation 2 resolved but not implemented.

3. Develop and implement policies in compliance with DOI-AAAP-0039 requiring leasing staff to document the review of the Federal exclusions list before issuing, transferring, or assigning leases

**BLM Response:** The BLM concurred with the recommendation and stated that it will issue policy consistent with DOI-AAAP-0039 requiring leasing staff to document the review of the Federal exclusions list before issuing, transferring, or assigning leases. The BLM provided a target implementation date of August 1, 2023.

**OIG Comment:** The BLM’s target implementation date for this recommendation is 19 months from this report’s issuance date, which is a concern to our office. The BLM should revise its target implementation date and provide the revised date to the PMB. If the revised date is more than 1 year from this report’s issuance date, the BLM should establish mitigating measures until the recommendation is fully implemented. Based on the BLM’s response, we consider Recommendation 3 resolved but not implemented.

4. Update applicable manuals to detail the processes for documenting the review of the Federal exclusions list for all leasing actions

**BLM Response:** The BLM concurred with the recommendation. The BLM indicated that it is undergoing the rulemaking process to address requirements within Executive Order No. 14008, *Tackling the Climate Crisis at Home and Abroad* (January 27, 2021), as part of the DOI’s Spring 2021 Unified Agenda. The BLM stated that, after this rulemaking effort, it will update leasing manuals and handbooks as appropriate to address the review of the Federal exclusions list for issuing, transferring, or assigning leases. The BLM provided a target implementation date of March 29, 2024.

**OIG Comment:** Based on the BLM’s response, we consider Recommendation 4 resolved but not implemented. While the target date is more than 2 years from this report’s issuance date, we acknowledge that the rulemaking process must occur before this recommendation can be implemented. Moreover, we believe that the risk will be mitigated with the immediate implementation of Recommendation 1 and with the mitigation measures suggested with respect to Recommendation 2, given its longer timeframe.

We will refer Recommendations 1 – 4 to the PMB for implementation tracking and to report to us on their status. In addition, we will notify Congress about our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

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

Attachments (3)

# Attachment 1: Scope and Methodology

## Scope

The scope of our inspection included Federal mineral leases the Bureau of Land Management (BLM) issued from October 1, 2016, through September 30, 2020, and the related processes for issuing the leases.

## Methodology

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

To accomplish our objective, we:

- Gathered and reviewed general, administrative, and background information to provide a working knowledge of the BLM's mineral leasing program
- Obtained and reviewed relevant audit reports as well as applicable laws and regulations
- Identified and reviewed policies and procedures related to the issuance of Federal mineral leases
- Interviewed the U.S. Department of the Interior's (DOI's) suspending and debarment official to gain an understanding of the DOI's requirements for bureaus to review the Federal exclusions list
- Interviewed BLM headquarters and State office staff (Montana-Dakotas, Nevada, New Mexico, Utah, and Wyoming) about applicable regulations, policies, and procedures for Federal mineral leases
- Obtained the universe of 5,168 Federal mineral leases issued from October 1, 2016, through September 30, 2020, covering more than 5.1 million acres
- Reviewed System for Award Management website (SAM.gov) to determine if the entities receiving Federal mineral leases from the BLM were included on the Federal exclusions list in SAM.gov

Our initial inspection objective was to determine if the BLM reviewed the Federal Government's suspension and debarment list; however, we updated the objective to more accurately reflect the Federal exclusions list found by accessing SAM Exclusions on the SAM.gov website, which includes suspended or debarred entities as well as other types of excluded entities.

## **Attachment 2: Response to Draft Report**

The Bureau of Land Management's response to our draft report follows on page 9.



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
Grand Junction, Colorado 81506  
<https://www.blm.gov>



In Reply Refer To:  
1245/3000 (750/310/320)

Memorandum

To: Mark Lee Greenblatt  
Inspector General

From: Tracy Stone-Manning  
Director

TRACY STONE-  
MANNING

Digitally signed by TRACY  
STONE-MANNING  
Date: 2021.10.29 12:32:18  
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Subject: Office of Inspector General Draft Inspection Report – “The Bureau of Land Management Did Not Review the Federal Exclusions List Before Issuing Federal Mineral Leases” (2020-CR-007)

Thank you for the opportunity to comment on the Office of Inspector General (OIG) draft report titled “The Bureau of Land Management Did Not Review the Federal Exclusions List Before Issuing Federal Mineral Leases” (2020-CR-007). The report contains four recommendations to help the Bureau of Land Management (BLM) comply with Federal regulations and reduce the risk of issuing Federal mineral leases to entities that are suspended or debarred from doing business with the Federal Government.

The BLM generally agrees with the inspection findings and concurs with the recommendations.

Provided below is the BLM’s response to address each recommendation.

**Recommendation 1:** We recommend that the BLM immediately require leasing staff to review the Federal exclusions list before issuing, transferring, or assigning leases and to document that review in the lease file.

**Response:** Concur. The BLM will notify its leasing staff of the requirement to review the Federal exclusion list prior to issuing, transferring, or assigning leases and to document that review in the lease file.

**Target Date:** January 31, 2022

**Responsible Official:** Nicholas Douglas, Assistant Director, Energy, Minerals and Realty Management

**Recommendation 2:** We recommend that the BLM develop and implement an oversight mechanism that ensures that the leasing staff reviews the Federal exclusions list and documents the review.

**Response:** Concur. The BLM will update appropriate leasing adjudication checklists and add an action code to the system of record for reviewing the Federal exclusions list to ensure that this review is documented. The BLM will run oversight reports from the system of record on leasing staff reviews.

**Target Date:** March 29, 2024

**Responsible Official:** Nicholas Douglas, Assistant Director, Energy, Minerals and Realty Management

**Recommendation 3:** We recommend that the BLM develop and implement policies in compliance with DOI-AAAP-0039 requiring leasing staff to document the review of the Federal exclusions list before issuing, transferring, or assigning leases.

**Response:** Concur. The BLM will issue policy consistent with DOI-AAAP-0039 requiring leasing staff to document the review of the Federal exclusions list before issuing, transferring, or assigning leases.

**Target Date:** August 1, 2023

**Responsible Official:** Nicholas Douglas, Assistant Director, Energy, Minerals and Realty Management

**Recommendation 4:** We recommend that the BLM update applicable manuals to detail the processes for documenting the review of the Federal exclusions list for all leasing actions.

**Response:** Concur. In accordance with Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” the Department has approved the BLM’s request to add Revision of Existing Regulations Pertaining to Fossil Fuel Leases and Leasing Process 43 CFR Parts 3100 and 3400 to the Department’s Spring 2021 Unified Agenda. After this rulemaking effort, the BLM will update leasing manuals and handbooks as appropriate to address the review of the Federal exclusions list for issuing, transferring, or assigning leases.

**Target Date:** March 29, 2024

**Responsible Official:** Nicholas Douglas, Assistant Director, Energy, Minerals and Realty Management

If you have any questions about this response, please contact Amy Hay, Chief, Division of Business, Engineering, and Evaluations, at [REDACTED]; or LaVanna Stevenson, Audit Liaison Officer, at [REDACTED]

## Attachment 3: Status of Recommendations

In response to our draft report, the Bureau of Land Management (BLM) concurred with our four recommendations.

<b>Recommendation</b>	<b>Status</b>	<b>Action Required</b>
1 and 4	Resolved but not implemented	We will refer these recommendations to the Assistant Secretary for Policy, Management and Budget (PMB) to track implementation.
2 and 3	Resolved but not implemented	The BLM should revise its target implementation dates for these recommendations and provide the revised dates to the PMB. We will refer these recommendations to the Assistant Secretary for the PMB to track implementation.

