



Memorandum from the Office of the Inspector General

August 7, 2008

Anda A. Ray, WT 11A-K

FINAL REPORT – INSPECTION 2007-11428-04 – REVIEW OF BUCHANAN RESORT AND MARINA LICENSE AGREEMENT

At the request of the Chief Financial Officer's (CFO) office, we initiated a review of selected marina and campground contracts to determine whether (1) payments to TVA were accurate and timely and (2) key provisions of the license agreement were complied with. This report presents the results of our work regarding Buchanan Resort and Marina's Big Eagle Campground (Buchanan).¹ The Vice President (VP) of Environmental Stewardship and Policy (ES&P) specifically requested Buchanan be included as one of the marinas/campgrounds reviewed. Under the terms of the license agreement, Buchanan was permitted use of the TVA land and adjoining shore land for commercial recreation purposes and the benefit and enjoyment of the general public. TVA was to be paid a fee for the use of the property based on a percentage of gross revenue. TVA refers to these contracts as "percentage of gross" contracts.

In summary, we found payments were generally received in a timely manner and appear to be calculated in accordance with payment terms. However, payments were not accompanied by required supporting documentation. In addition, while TVA accounting practices² provide guidance on the invoicing and receiving of lease and license payments, they contain no documented guidance on the management of the "percentage of gross" contracts (i.e., licenses and leases) including the verification of the accuracy of Licensee and Lessee payments. While not reflected in license and lease agreements for campgrounds and marinas, ES&P has implemented new payment control activities requiring supporting documentation for revenues. We also found nothing to indicate Buchanan was not in compliance with other key provisions of the license agreement with the exception of unapproved additions made to campsites at the campground. It was also noted that seasonal guests are given preference to return to their site each year and are allowed to leave camping vehicles and equipment on site while the campground is closed for the winter months.

¹ TVA entered into a license agreement for the operation of Big Eagle Campground by Buchanan Resort and Marina. The Licensee will be referred to throughout this report as Buchanan.

² The applicable TVA accounting practices were External Billing (Standard Principles and Practices [SPP] 13.7) and Accounts Receivable (SPP 13.15).

BACKGROUND

On April 30, 1996, TVA entered into License Agreement RLR-171676 with Buchanan for the use of TVA-owned land, Tract No. XGIR-93PT. The agreement is open-ended with either TVA or the Licensee having the right to terminate the agreement at any time with 30 days' prior written notice. The Licensee is permitted use of the land and adjoining shoreline for commercial recreational purposes and the benefit and enjoyment of the general public. Located on the licensed premises is a campground facility known as Big Eagle Campground. The campground has approximately 40 campsites.

Per the agreement, Buchanan is required to:

- Pay TVA an annual license fee of three percent of gross receipts no later than January 20th for the previous operating year ending December 31st.
- Transmit annually to TVA by January 20th a report of gross income for the previous annual period which contains, at a minimum, a breakdown of revenue for campsite rental, day use fees, launching fees, and miscellaneous income.
- Operate and maintain, at a minimum, (1) the campground and day use area from May 1st through September 30th and (2) the boat ramp year-round.
- Obtain advanced written approval from TVA for making improvements, erecting structures, and installing equipment on the premises. The Licensee was not to install or permit the installation of porches, equipment storage sheds, appliances, or similar structures. In addition, Buchanan could not use or permit the use of mobile homes or campers for residences. However, upon TVA's advanced written approval, one residence could be established for a resident manager along with appropriate equipment storage facilities.
- Maintain commercial general liability insurance.
- Regulate the use of the shoreline between the elevation of 375 mean sea level and the waters adjacent to the licensed premises so as to preserve public access to Kentucky Reservoir.
- Make the premises and any public facilities constructed thereon available at all times for use by all members of the general public without distinction or discrimination.

Additionally, Buchanan may allow seasonal campsite rentals with durations up to eight months. However:

- Seasonal campsite rentals could not occupy more than 75 percent of the campsites.
- TVA's advanced written approval of detailed operational guidelines was required.
- The remaining 25 percent of the campsites could not be rented for more than 21 consecutive days.
- Campsites below the maximum shoreline contour (elevation 375 mean sea level) may not be rented between November 1st and March 31st for more than 14 consecutive days.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to determine whether (1) payments to TVA were accurate and timely and (2) key provisions of the license agreement were complied with. To achieve our objectives, we:

- Identified and documented key agreement provisions by (1) reviewing the license and (2) interviewing key TVA personnel.
- Interviewed applicable TVA ES&P employees to (1) determine whether payments have been made to TVA under the license agreement; (2) determine whether TVA granted written approval for any improvements, new structures, or equipment on the premises; (3) identify key control activities; (4) ascertain whether any opportunities exist to improve contract language and controls; and (5) identify any other potential issues pertaining to the license.
- Obtained supporting documentation for license payments to determine whether license payments have been made in accordance with the contract provisions.
- Obtained and reviewed documentation to ensure commercial general liability insurance was maintained as required by the agreement.
- Performed a site visit and walkdown of the property to (1) document Buchanan operations, (2) review documentation applicable to the key contract provisions, and (3) visually observe structures and equipment.

The scope of the inspection included payments to TVA from the Licensee and other license provisions from January 1, 2005, through December 31, 2007. This inspection was conducted in accordance with the "Quality Standards for Inspections."

FINDINGS

Our review found nothing to indicate that Buchanan was not in compliance with the payment terms of the contract with one exception. While payments appear to be calculated in accordance with license terms and were generally received by TVA in a timely manner, they were not accompanied by required supporting documentation. Our review of TVA policies and procedures found TVA accounting practices External Billing (SPP 13.7) and Accounts Receivable (SPP 13.15) provide guidance on the invoicing and receiving of lease and license payments. However, we found no documented guidance on the management of the "percentage of gross" licenses and leases including the verification of the accuracy of Licensee and Lessee payments. We also found nothing to indicate Buchanan was not in compliance with key provisions of the license agreement pertaining to (1) permanent residences, (2) installation of buildings or structures on the premises, and (3) commercial general liability insurance. However, we did find that (1) unapproved additions were made to campsites at the campground, and (2) seasonal guests are given preference to return to their site each year and are allowed to leave camping vehicles and equipment on site while the campground is closed for the winter months.

ACCURACY AND TIMELINESS OF PAYMENTS

We reviewed Buchanan revenue and payment documentation for the 2005, 2006, and 2007 operating seasons. ES&P personnel provided invoices, payment records, and revenue reports submitted by Buchanan to TVA to calculate the payment amount. During our walkdown of the facilities, we reviewed Buchanan's receipts and revenue records.

Buchanan was to submit supporting documentation along with the license payment by January 20th for the previous operating season. During our review, it was noted that payments were generally received in a timely manner. However, they were not accompanied by supporting documentation in accordance with the agreement. Specifically, supporting documentation for revenues submitted to TVA did not contain a breakdown of revenue for campsite rental, day use fees, launching fees, and miscellaneous income as required by the license agreement. Payment for the 2005 operating season was received by TVA prior to January 20, 2006, and payment for the 2006 operating season was received by TVA on February 6, 2007.³

Our review found the 2005 revenue reported to TVA agreed with the summary revenue records of Buchanan. However, Buchanan's 2005 receipts could not be located at the time of our site visit. For 2006, the total from the receipts and the total from the summary revenue records did not agree. According to Buchanan management, the differences were due to a small discrepancy regarding the accounting for ice sales and night camping at the campground and have been corrected. The higher of the two totals was reported to TVA in order to be more conservative.

At the time of our review, the 2007 license payment had not been made; however, receipts and revenue records were available for review at Buchanan. Our review found the total from the receipts and the total from the summary revenue records did not agree. A copy of the Gross Revenues Summary Sheet, which is to be provided to TVA, showed the higher of the two totals. Additionally, while the contract had not been modified and states that payments should be made by January 31st, during 2007 TVA Business Services requested all "percentage of gross" entities to send supporting documentation along with their revenue report. Business Services would then invoice based on that information. Therefore, the January 31st payment due date may no longer be applicable, and Business Services is working with Buchanan to implement the new control requirements.

Policies and Procedures

TVA accounting practices External Billing (SPP 13.7) and Accounts Receivable (SPP 13.15) provide guidance on the invoicing and receiving of lease and license payments. We found no documented guidance on the management of the "percentage of gross" licenses and leases including the verification of the accuracy of Licensee and Lessee payments. TVA Operations' Business Services personnel recently took over the invoicing and payment process for the "percentage of gross" licenses and leases from the individual watershed teams. According to Operations' Business Services personnel, key control activities relating to the payment process were implemented in 2007

³ While the payment for the 2006 operating season was actually late, we did not identify this as an exception.

including requiring Licensees and Lessees to provide gross revenue documentation prior to being invoiced by TVA. These new activities appear to address certain invoicing and payment controls. However, the licenses and leases have not been amended to reflect these changes.

COMPLIANCE WITH KEY CONTRACT PROVISIONS

We performed a walkdown of Buchanan and found (1) no permanent residences with the exception of a manager's residence allowable under the contract, (2) no buildings or structures on the premises that violate contract provisions, and (3) the campground appeared well maintained and clean. However, we also noted unapproved additions to campsites have been made such as patios, stairs, landscaping, and porches including some below the 375 mean sea level elevation. In addition, we found that camping vehicles and equipment were allowed to remain on the campsites while the campground was closed for the winter months. (See pictures on page 6 of this report.)

During the site visit, we reviewed and obtained copies of the required commercial general liability insurance policies. The insurance policies reviewed appear to be in compliance with the contract requirements.

The contract also requires that the seasonal rental be for a maximum duration of eight months and that only 75 percent of the sites may be rented for the full season. According to campground management, the campground and day use area are available for use from mid-March through October which indicates compliance with the minimum operating season requirement. In addition, the campground was closed during our site visit in March 2008, and no guests were present indicating compliance with the length-of-stay provisions. Campground management stated that they comply with the 75 percent maximum of seasonal camping. In discussions with ES&P personnel, they stated Buchanan may be fulfilling this requirement by utilizing primitive camping sites for the other 25 percent; therefore, allowing limited turnover of the more desirable campsites.

It was noted that camping vehicles and equipment were allowed to remain on the campsites while the campground is closed for the winter months and, according to campground management, returning seasonal guests are given preference for their previous campsite. Campground management stated they ask guests with camping vehicles below the required elevation to remove them while the campground is closed. The contract language states that the premises and any public facilities constructed thereon shall at all times be made available for use by all members of the general public without distinction or discrimination. TVA has developed a campground compliance committee with the objective of developing a consistent campground contract compliance process. According to TVA personnel, issues being discussed include a methodology of ensuring campsites at licensed/leased campgrounds are available for use to the general public.



RECOMMENDATIONS

We recommend the VP, ES&P:

- Implement written guidance, as deemed necessary, regarding the management of recreational facilities' "percentage of gross" contracts.
- Determine whether licenses and leases should be amended based on the implementation of payment control activities. ES&P personnel also plan to consider any opportunities for improvement identified by the campground compliance committee.

These recommendations also apply to the other six "percentage of gross" contracts in which separate reports were issued.

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This final report is for your review and final action. Please advise us of your planned actions (i.e., management decision) in response to our findings within 60 days of the date of this report.

Information contained in this report may be subject to public disclosure. Please advise us of any sensitive information in this report that you recommend be withheld.

If you have any questions, please contact Michael A. Driver, Project Manager, at (423) 751-8158 or Gregory C. Jaynes, Deputy Assistant Inspector General, Inspections, at (423) 751-7821.

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We appreciate the courtesy and cooperation received from your staff during this review.



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