



Memorandum from the Office of the Inspector General

April 28, 2008

John J. Bradley, OCP 2A-NST

**FINAL REPORT – INSPECTION 2007-513I – REVIEW OF TRUST FUNDS
ADMINISTERED BY ECONOMIC DEVELOPMENT**

Attached is the subject final report for your review. Your written comments, which expressed agreement with our recommendation, have been included in the report. However, since you stated that to your knowledge TVA no longer establishes trust accounts, no further management action is needed, and this report is being issued for informational purposes only. Accordingly, no response is necessary.

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 Richard C. Underwood, Project Manager, at (423) 751-3108 or Gregory C. Jaynes, Deputy Assistant Inspector General, Inspections, at (423) 751-7821. We appreciate the courtesy and cooperation received from your staff during this review.

Robert E. Martin
Assistant Inspector General
(Audits and Inspections)
ET 3C-K

RCU:BKA
Attachment

cc (Attachment):

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OIG File No. 2007-513I



Tennessee Valley Authority
Office of the Inspector General

Inspection Report

REVIEW OF TRUST FUNDS ADMINISTERED BY ECONOMIC DEVELOPMENT

Inspection Team
Richard C. Underwood
Julie A. Lovingood

2007-513I
April 28, 2008

SYNOPSIS

Based on information obtained during Audit 2007-005F, Identification of TVA's Cash Accounts, we reviewed trust funds administered by Economic Development (ED). Documentation provided by the Chief Financial Officer (CFO) personnel showed that as of October 2006 ED was responsible for 18 trust funds. We excluded 2 of the 18 accounts identified as trusts from our review because loans from these accounts were reviewed in Inspection 2007-512I, Review of TVA's Economic Development Loan Program, dated August 16, 2007.

In summary, we found the majority of the trust funds were inactive. According to ED management, these trust funds had been established between 1983 and 1991 for a variety of purposes. ED has closed 16 of the identified trusts on its books and removed the balances from TVA's general ledger. However, documentation of the trust agreements was limited. TVA management could not provide documentation to show the recipients of fund balance distributions or the reallocation of the funds beyond 2006 closeout memoranda from TVA to the recipients that certified that the contract requirements had been met and that funds had been used as required by the contract.

In addition, TVA management could not provide us with account statements for 11 of the 16 trust accounts, bank account numbers for 6 of the 16 trusts, or the underlying agreements for half the trusts. Because of the limited documentation, we were unable to determine whether the trust funds are being administered in accordance with the terms of the agreements and applicable laws and regulations.

If TVA should establish trusts under ED in the future, we recommend that the Senior Vice President (SVP), ED, establish controls designed to provide reasonable assurance that all trust fund money is administered in accordance with the terms of the trust agreements and applicable laws and regulations. This would include requiring that documentation be maintained showing final distribution and/or reallocation of funds and requiring that trust agreements be maintained.

ED provided comments on a draft of this report and generally agreed with our recommendation. However, according to the SVP, ED, "TVA no longer establishes trust accounts, and it is not TVA's intent to do so in the future." As a result, this report is being issued for informational purposes only, and no further action is required at this time.

See the Appendix for ED's complete response.

BACKGROUND

During Audit 2007-005F, six bank accounts were identified that were associated with trust funds under the authority of ED. We used information provided by the Treasurer's office during that audit to attempt to identify all trust funds administered by ED. The Trust Activity Report provided by the Treasurer's office dated October 2006 identified 18 trust funds under ED's management. While 13 of these showed receipt and/or disbursement activity on Treasury statements from October 2005 through October 2006, only 4 had balances as of October 2006 reflected in the TVA general ledger. ED management indicated that the activity in 11 of the 13 accounts with receipts and/or disbursements was related to the closing of the accounts and disbursement or reallocation of any balances.

According to ED management, funds were distributed to the recipients when the project agreements were initiated between 1983 and 1991. ED management stated that the actions taken by ED and the CFO in 2006 were to remove/restate the trusts to zero on TVA's general ledger simply to reflect the fact that the funds had been disbursed at some point in the past and are not due back to TVA. ED management also stated that there were no funds disbursed by TVA in 2006, and all trust funds identified on the October 2006 Trust Activity spreadsheet were funded with appropriated dollars. Trust agreements provided by ED indicated that the trust funds had various purposes, for example:

- Extending a waterline to an industrial building.
- Implementing a project to promote economic and social development of the TVA region by providing financial and other assistance to small business concerns owned by socially or economically disadvantaged persons.
- Implementing an advanced telecommunications system and computerized learning network for a 5-county area.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our review was to determine whether the trust funds are being administered in accordance with the terms of the agreements and applicable laws and regulations. Due to the inability of TVA management to provide documentation of all trust agreements and account activity, we were unable to achieve this objective. However, we did perform the following steps in relation to trust funds administered by ED:

- Interviewed key personnel to identify any policies, procedures, laws, and regulations applicable to the creation and administration of trust funds.
- Obtained and reviewed available agreements for each trust fund to determine (1) the purpose of the trust; (2) fund provisions including specific laws and regulations that may apply to each fund; and (3) how the funds can be used.

- Reviewed trust fund information provided by CFO personnel to determine (1) the current number of trust funds; (2) the TVA amount approved for each trust fund; (3) the current balance of each trust fund; (4) activity in each trust fund since October 1, 2005; and (5) whether the trusts were funded with appropriated dollars.
- Obtained and reviewed available documentation indicating that the Special Opportunities Counties (SOC) funds were moved into the general fund.
- Used additional information supplied by ED management to contact banks to try and ascertain recipients of final disbursements, current owners of funds from these trust agreements, and/or current account balances.

Our review covered all accounts identified on the Trust Activity Report dated October 2006 as ED trust funds with two exceptions. Based on information obtained from ED management, two accounts on the Trust Activity Report were actually found to be regular bank accounts rather than trust funds:

- The ED general fund is a bank account utilized to disburse and receive funds associated with the SOC loan program.
- The Business Incubator fund is utilized as a revolving loan fund to assist businesses in meeting short-term needs for cash flow and operating capital.

SOC loans and loans from the Business Incubator program were addressed in Inspection 2007-512I, Review of TVA's Economic Development Loan Program, issued on August 16, 2007. Therefore, we excluded the ED general fund and the Business Incubator fund from this review.

Except as discussed in the following paragraph, this inspection was conducted in accordance with the "Quality Standards for Inspections." Those standards require that we review evidence to support our inspection findings, conclusions, and recommendations that is sufficient, competent, relevant, and that would lead a reasonable person to sustain the findings, conclusions, and recommendations of our inspection.

As noted in the body of our report, ED management was unable to provide trust agreements for all of those trust funds under review. For this reason we were unable to achieve our objective of determining whether the trust funds were administered in accordance with the terms of the agreements and applicable laws and regulations.

FINDINGS AND RECOMMENDATION

Our review of trust funds administered by ED found that ED has closed 16 of the identified trusts on its books and removed the balances from TVA's general ledger. ED advised that remaining fund balances were either provided to the

individual account holders to be used for economic development purposes or moved to the ED general fund. Specifically, ED:

- Informed us that 11 inactive trust account balances were removed/restated from TVA's general ledger.
- Told us that it had closed three of the individual SOC trust funds and moved the funding to the ED general fund. The funding moved to the ED general fund totaled about \$155,000. For the remaining SOC trust fund, the account was closed and the fund balance of \$1,331 was given to the county for which it was designated.
- Was unable to locate or provide trust agreements for 8 of the 16 trusts listed on the Trust Activity Report requiring a trust agreement.

In addition, based on information provided by ED, we were only able to obtain information from banking institutions for 4 of the 11 accounts.

INACTIVE TRUSTS

ED management informed us that prior to our inspection they had been made aware of the trust funds that were identified as being administered by ED and had reviewed these trusts. ED management said they found no activity in the majority of these trusts other than the SOC trust accounts. Therefore, ED had taken steps toward cleaning up the list of trust funds for which it was responsible. ED management stated they found limited documentation and information available pertaining to the trusts, particularly with regard to those predating the creation of the ED department in 1994.

According to ED management, they contacted the various banks where the trust funds were held to obtain information in order to determine if the inactive accounts should be closed. The only documentation ED management was able to provide concerning these contacts with the banks was (1) a printout of a previous employee's typed notes entitled "Status of Outstanding Trust Accounts as of 9/29/05" with handwritten follow-up notes in the margins and/or (2) the closeout letters they sent to the trust recipients. As a result of the information from the banks, ED had closed approximately 11 inactive trust funds as of July 27, 2007. Our review of documentation found that the 11 trusts held by the trustees were recorded at about \$781,000 on TVA's general ledger. According to ED management, since the trusts were established with appropriated funding between 1983 and 1991, the actions taken by ED and the CFO in 2006 were to remove/restate the trusts to zero simply to reflect the fact that the funds had been disbursed at some point in the past and are not due back to TVA. ED management indicated there were no funds disbursed by TVA in 2006.

Based on additional information provided by ED management related to the 11 inactive trust accounts that were removed from TVA's general ledger, we attempted to obtain information about any bank accounts holding funds that had

been in trust related to these agreements including recipients of disbursements, current owners of the monies, and/or current balances.

Information supplied by ED management ranged from closeout letters sent to trust fund recipients with no responses to other documentation showing bank account numbers believed to be associated with the trust agreements.¹

For four trust accounts where we were provided with valid bank account numbers, our contact with the local branches of the associated banks found that:

- Monies for 3 of the 11 trust accounts were held at a financial institution under the name of the partner/recipient and had approximate current balances of \$130,000. The purpose of the original trust agreements was to provide assistance to small business concerns owned or controlled by socially and economically disadvantaged persons. There has been no disbursement activity associated with these accounts since late 2006.
- Monies for the same recipient/partner associated with a fourth trust agreement were held in an account at another financial institution with approximate current balances of \$90,000. Again, there had been no disbursement activity in the account since late 2006.

For the remaining seven trusts where we could not obtain any additional information from the banks, information provided by ED management for each one was as follows:

- A workplan and approval for the final disbursement of funds related to a fifth trust agreement dated January 17, 2001.
- Documentation showing the final release of funds to partner/recipients related to three other trusts from 1998 and 2004.
- Closeout letters signed by the partner/recipient noting that all contractual liabilities had been met and the trust account funds had been used for the intended purposes for two other trust accounts.
- A copy of the closeout letter sent to the partner/recipient for the final account, however, ED management did not receive a signed notification back from the partner/recipient.

SOC LOANS

ED management stated that actions were also taken to move the individual SOC trust funds into the ED general fund that was being used for SOC loans. Per ED

¹Information provided by ED management included bank account information for 9 of the 11 trusts. We visited the local branches of the banks, and bank personnel informed us that account numbers provided for four of the trusts traced to current accounts (these are addressed in the body of the report). Account numbers for another four trusts could not be located in the banks' information systems, and for one trust fund the bank would not release any information without documentation indicating we had rights to the account.

management, as of July 27, 2007, ED had moved the four SOC trust funds into the ED general fund. ED provided copies of three closeout letters to support trust fund closure. We were also able to trace the three disbursements from the trust funds accounts to the ED general fund bank statements. Two of the SOC trust funds were closed prior to October 2006, and one was recently closed.

ED management was unable to provide documentation showing that the other SOC trust fund was moved into the ED general fund. Per information provided by CFO's personnel, the \$1,331.47 fund balance was given to the respective county for economic development purposes and was not deposited in the ED general fund.

TRUST AGREEMENTS

When we requested trust agreements for our review purposes, ED was unable to locate or provide trust agreements for 8 of the 16 trusts listed on the Trust Activity report. Based on discussions with ED, it is our belief that trust agreements were required for these trusts.

RECOMMENDATION

If TVA should establish trusts under ED in the future, we recommend that the SVP, ED:

- Establish controls designed to provide reasonable assurance that all trust fund money is administered in accordance with the terms of the trust agreements and applicable laws and regulations. This would include requiring that documentation be maintained showing final distribution and/or reallocation of funds and requiring that trust agreements be maintained.

Management's Response – The SVP, ED, provided comments on a draft of this report. He agreed that in the event TVA should establish trusts in the future, "controls should be designed to provide reasonable assurances that all trust fund dollars are administered properly and that extensive documentation be maintained regarding the accounts."

See the Appendix for the complete text of the SVP's comments.

Auditor's Comments – Based on the statement of the SVP, ED, that TVA no longer establishes trust accounts and it is not TVA's intent to do so in the future, no further management action is necessary at this time.

April 16, 2008

Robert E. Martin, ET 3C-K

ED RESPONSE – FINAL REPORT – INSPECTION 2007-5131 – REVIEW OF TRUST FUNDS
ADMINISTERED BY ECONOMIC DEVELOPMENT

TVA staff has reviewed the subject report and offers the following summary comments in response to the findings.

1. Between 1983 and 1991, TVA established trust accounts with various economic development entities throughout the Valley to implement projects that promoted economic and social development of the TVA region by providing financial and other assistance. These accounts were established and funded with appropriated dollars.
2. All of the trust accounts in question were dated prior to TVA's creation of a formal Economic Development organization in 1994. Funds were disbursed to the recipients when the project agreements were initiated. TVA maintained a general ledger to reflect the fact that funds had been disbursed.
3. In 2006, TVA took a proactive approach to reviewing these accounts and determined the status of each account. Historical knowledge of the trusts was limited due to personnel and organizational changes, but our findings for the trust accounts in question were that the contract requirements had been met and that funds had been used as required by the contract.
4. By working with the Office of General Counsel and Financial Services, the trust agreements were terminated and the general ledger balances were restated to zero so that the administration of these accounts could be formally concluded.
5. TVA concurs with the Office of Inspector General's only recommendation that in the event TVA should establish trusts in the future, adequate controls should be designed to provide reasonable assurances that all trust fund dollars are administered properly and that extensive documentation be maintained regarding the accounts. To our knowledge, TVA no longer establishes trust accounts, and it is not TVA's intent to do so in the future.

If you have any questions, please contact me or Philip McMullan, Senior Project Manager, at 615-232-6227. We appreciate the opportunity to work with your staff and the ability to offer comments related to this review.



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