



Memorandum from the Office of the Inspector General

August 7, 2008

Anda A. Ray, WT 11A-K

FINAL REPORT – INSPECTION 2007-11428-09 – REVIEW OF TERRACE VIEW MARINA LICENSE AGREEMENT

At the request of the Chief Financial Officer's (CFO) office, we initiated reviews 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 Terrace View Marina (TVM). The Vice President (VP) of Environmental Stewardship and Policy (ES&P) specifically requested TVM be included as one of the marinas/campgrounds reviewed. Under the terms of the license agreement, TVM was permitted use of the premises for commercial recreation. TVA was to be paid a fixed fee for the use of the property.

In summary, our review found the TVM 2005, 2006, and 2007 license payments were timely and in accordance with the license agreement. In addition, we found nothing to indicate that TVM was not in general compliance with other key provisions of the license agreement pertaining to (1) erection of structures and installation of equipment, (2) improvement and maintenance of the premises, and (3) maintaining commercial general liability insurance. However, we did find that TVM did complete a modification to the marina which had been denied. We also noted two potential control improvement opportunities. Specifically, we found (1) no audit clause in the contract and (2) no documented guidance on the handling of noncompliance issues.

BACKGROUND

On October 24, 2002, TVA entered into Contract No. 119994 licensing the use of TVM. The contract is an open-ended agreement with either TVA or the Licensee having the right to terminate the agreement with a 30-day notice. The licensed premises located on Watts Bar Reservoir is owned by TVA, Tract No. XWBR-136. The Licensee is permitted use of the premises for commercial recreation use.

Per the agreement, the TVM Licensee:

- Is to pay TVA \$1,200 per year for use of the property. This payment is due in advance annually on October 24th. The annual license rate for the occupancy and use of the premises is subject to change by TVA. The Licensee shall be notified 30 days in advance of changes to the annual license rate.

- Is to maintain commercial general liability insurance.
- Has the right upon receipt of TVA's written approval to (1) dig, excavate, install pipe, wire, and poles; and (2) cut, trim, and clear trees and brush and destroy or otherwise dispose of such trees and brush and other obstructions, but only to the extent reasonably necessary to the occupancy and the use of the premises for the purpose for which the license is granted.
- Has the right to make improvements, erect structures, and install equipment on the premises upon receipt of advanced written approval from TVA. The Licensee shall not reconstruct, relocate, or structurally alter any structure or fixed improvement upon the premises unless such reconstruction, relocation, or structural alteration is made with the prior written approval of TVA.

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 modifications to the property, (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 TVM operations, (2) review documentation applicable to the key contract provisions, and (3) visually observe structures and equipment. An ES&P employee escorted us on our walkdown of TVM.

The scope of the inspection included payments to TVA from TVM 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 TVM license payments were timely and accurate for the period reviewed. In addition, we found nothing to indicate that TVM was not in general compliance with the other key provisions of the license agreement. However, we did find that TVM completed a modification to the marina which had been denied by TVA. We also noted the lack of (1) an audit clause in the contract and (2) written guidance on handling noncompliance issues.

ACCURACY AND TIMELINESS OF PAYMENTS

Our review found that TVM payments to TVA were timely and accurate. We reviewed TVM invoices and payment documentation for the 2005, 2006, and 2007 operating seasons. TVM consistently paid the \$1,200 fee required by the contract. Furthermore, the payments were received within 30 days from the date of the invoice and before the October 24th due date identified in the contract.

COMPLIANCE WITH KEY CONTRACT PROVISIONS

We performed a walkdown of TVM and found that (1) the marina appeared well maintained and clean as shown in the pictures below, (2) written requests had been made for all modifications to the premises, and (3) commercial general liability insurance was in effect. However, one requested modification which had been denied was still completed by TVM. Per ES&P personnel, there have been no other problems with the marina or contract.

TVM has submitted two separate requests to make improvements to the marina since the inception of the contract. These requests were submitted in advance to TVA, and TVA did approve all of the plans except for a request to extend the harbor limits by 300 feet. TVA approved an extension of 150 feet but felt that the 300 foot extension would unreasonably interfere with recreational navigation by nearby residential landowners and the boating public. Since the denial, the marina has been extended beyond the 150 feet addition, and TVA has requested that they move it within the limits. TVA has placed buoys as markers for the boundaries to show how far the marina needs to be moved in. This can be seen in the pictures below. According to ES&P personnel, as of March 14, 2008, TVM had sent a letter to TVA stating that they will comply with the request to move in the marina.



ADDITIONAL INFORMATION

The payments for this contract are fixed but are subject to change with a 30-day notice from TVA. We noted there is no audit clause in the contract to allow TVA auditors to review books and records of TVM. We believe including an audit clause may assist TVA in determining the need for fee adjustments and provide support for proposed fee increases.

In other reviews of marina and campground contracts, we have recommended that ES&P consider implementing written guidance, as deemed necessary, regarding the management of recreational facilities' contracts. Because of the issue related to modification of the premises, management may want to consider implementing written guidance regarding the handling of noncompliance.

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Based on the results of our review, this report does not include any recommendations and is to be used 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 which 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. We appreciate the courtesy and cooperation received from your staff during this review.



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

JAL:BKA

cc: Bridgette K. Ellis, WT 11A-K
Peyton T. Hairston, Jr., WT 7B-C
Tom D. Kilgore, WT 7B-K
John E. Long, Jr., WT 7B-K
Richard W. Moore, ET 4C-K
Emily J. Reynolds, OCP 1L-NST
Stephen B. Summers, WT 4B-K
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