Legislative Audit and Fiscal Review Committee
October 2, 2014
Industrial Commission
Comments on Informal Audit Findings
Presented by Lynn D. Helms, Director of Department of Mineral Resources

Management of the Industrial Commission agrees with these recommendations; however comments on some of the recommendations should be noted as follows:

REVENUE

Informal Recommendation 13-1: We recommend the Industrial Commission reconcile the total revenue received from the federal government to the total revenue recorded in the state's accounting system.

Condition: The Department of Mineral Resources is not reconciling the total revenue received from the federal government to the total revenue reported on PeopleSoft.

Comment:
The Federal grant system, ASAP, does not have the capability to create a report that lists the total amount of federal dollars drawn down. In order to compare totals of federal revenue with a PeopleSoft query, a spreadsheet would need to be created listing all federal draw downs. However, the Industrial Commission feels this would be a shadow system which agencies are recommended to not use.

The Industrial Commission currently prints out a report each time we draw down from the ASAP. This report is used to initiate the wire deposit once the funds have been received at the Treasurer's Office. A separate individual can run the PeopleSoft trial balance report and review to verify receipt of deposits. In order to meet this requirement in the future the Industrial Commission will be requesting an Accounting\Budget Specialist (10% FTE) to assist with the reconciliation of reports.

Informal Recommendation 13-2: We recommend the Industrial Commission reconcile permits issued in the Risk Based Data Management System to permit revenue recorded in the state's accounting system.

Condition: There is no reconciliation of permits issued in the Risk Based Data Management System (RBDMS) to PeopleSoft deposits.
RBDMS showed $20 less for Geothermal permits, $300 more for Geophysical Permits, and $70,503.22 less for Well Drilling Permits than PeopleSoft deposits.

Comment:
An RBDMS report can be run monthly showing the amount of permits and licenses issued. This report can be reconciled with a query of revenue reported in PeopleSoft. Due to the already high demands on current fiscal personnel, this recommendation will add to the need for an additional FTE. The additional Accounting/Budget Specialist the Industrial Commission will be requesting will assist with reconciling RBDMS reports with revenue received (25% FTE).

ACCOUNTS PAYABLE/EXPENDITURES

Informal Recommendation 13-3: We recommend the Industrial Commission code expenditures to the proper appropriation class.

Condition: The Industrial Commission coded expenditures to the wrong class, account, and fund. Payroll expenditures were coded to Class 40530: Operating Expenses instead of Class 40510: Salaries and Benefits. The Industrial Commission coded $37,815 to the wrong class.

Expenditures for coffee at public meeting are charged to Account 611005 - Conference Expenses. They should be instead charged to Account 533025 - Food Supplies. The Industrial Commission coded $70 to the fund Carbon Dioxide Facility Administration.

NDCC 38-22-14(2) limits the expenditures to carbon dioxide facility permitting and regulation; staff training is not allowable. The Industrial Commission coded $3,764 to the wrong account.

Comment:
The Industrial Commission found a speed chart had been incorrectly set up which caused circumstances of wrong class codes being used. The speed chart has been updated. The additional Accounting/Budget Specialist the Industrial Commission will be requesting will assist with the preparation of monthly reports to avoid miscoding errors in the future (15% time allocation)

PAYROLL

Informal Recommendation 13-4: We recommend the Industrial Commission update their policy for recruitment and retention bonuses to properly reflect the positions that receive these bonuses.

Condition: Recruitment and Retention Bonuses were given to positions that were not listed in the agency's policy as approved by HRMS.
There were a total of 43 positions given a recruitment or retention bonus; of these there were 16 that did not correlate to a position on the approved policy. There were 27 employees that had positions not included in the policy of the total 68 employees that received a recruitment and retention bonus. However, it was noted that a majority of the positions (i.e. field inspectors) appear to be positions that do require unique skills and are potentially difficult to fill.

Comment:
The current policy identifies all positions eligible for bonuses which includes both classified and non-classified employees. However, functional titles (e.g. Dickinson District Coordinator) were used in the audit for comparison to the policy rather than actual position titles (e.g. Petroleum Engineer). In all cases noted, except for the Public Information Specialist and Storekeeper classifications, the positions identified are Petroleum Engineers or Geologists and are fully eligible to receive bonuses. The current policy has been reviewed and modified as recommended in order to more easily identify the positions eligible for bonuses. Due to the high demands on current human resource personnel, the recommendation results in a budget request for a Human Resource Specialist (1 FTE) to assist with these types of requirements.

LEGISLATIVE INTENT

Informal Recommendation 13-5: We recommend the Industrial Commission follow OMB policies for honorariums and taxable meals.

Condition: Industrial Commission did not follow OMB policies.

1. Industrial Commission did not have the contracts between Industrial Commission and the state employee performing a technical review as required by OMB for honorariums.

2. Industrial Commission provided lunches to the employees and did not report taxable meals on the employees' W-2 form.

Comment:
The Industrial Commission does follow OMB policies requiring written contracts for honorariums; however one of the contracts requested by the auditors had been misfiled during a move and could not be located. The Industrial Commission will continue to be sure there is a contract in place for each honorarium.
The Industrial Commission provided lunch for attendees of an advisory board meeting. Some other meeting attendees were state employees who should have then reported the lunch as taxable. State employees would be required to pay for their lunch and then submit an expense voucher to their agency for reimbursement.

Informal Recommendation 13-6: We recommend the Industrial Commission perform a fraud risk assessment at least every biennium in accordance with OMB Policy.

Condition: The Industrial Commission did not perform a fraud risk assessment since 2012.

Comment:
A fraud risk assessment was performed during the audit period biennium. However, due to the high demands on current fiscal personnel, a fraud risk assessment has not yet been performed during the current biennium. In order to meet this requirement in the future the Industrial Commission will be requesting an Accounting\Budget Specialist (25% time allocation) to assist with fraud risk assessment.

OPERATIONAL

Informal Recommendation 13-7: We recommend the Industrial Commission review and approve the prior meeting's minutes.

Condition: The minutes of the Industrial Commission meetings are not being reviewed and approved by commission members at the following meeting.

Comment:
The Industrial Commission has added time to each meeting agenda for review and approval of previous meeting minutes. In order to meet this requirement in the future the Industrial Commission will be filling a vacant Administrative Assistant position (1 FTE).

Informal Recommendation 13-8: We recommend the Division of Oil and Gas:

- Ensure field inspections of well sites are completed timely and within the timeframe goals established by the agency
- Document supervisory review of field inspection results to ensure documentation is adequate, conclusions are appropriate, and any violations are followed-up on in a timely manner.
- Document management analysis of violations found to determine if any changes to operations at the agency, North Dakota Century Code, or North Dakota Administrative Code need to be made or proposed.

Condition: Inspections are not being completed within the timeframe guidelines established by the Oil and Gas Division.
There is no supervisory review of inspections completed being documented in the Risk Based Database Management System.
The division of Oil and Gas does not have a proper enforcement process in place. There are no documented enforcement policies and procedures or a documented supervisory review to ensure that violations are dealt with correctly

Comment:
Recent public reports authored by non-governmental organizations show that the Division of Oil and Gas leads the nation in oil & gas regulatory inspection compliance. Queries performed by the division Field Supervisor and Assistant Director for the audit period indicate that over 95% of the rigs were inspected weekly, over 75% of the UIC wells were inspected monthly, and 90% of the producing wells were inspected quarterly.
The last two Legislative Sessions have authorized increases in division staff in order to maintain our high inspection and compliance rates. To meet this requirement it is our intent to request authorization for 16 additional FTEs. This will allow us to maintain our goals of inspecting producing wells quarterly, injection wells monthly, and rigs weekly while keeping our inspection and compliance measures among the best in the nation.
District Coordinators and the Field Supervisor routinely run queries in RBDMS to monitor field inspections. Performance graphs can be constructed in the future in order to more fully document these results.
Division management meets monthly to discuss violation and complaint status. This meeting is documented by the Assistant Director. The Field Supervisor shares this information with the District Supervisors during their weekly conference calls. The Industrial Commission feels that this top to bottom collaborative enforcement review process results in correct and fair treatment of the regulated community on a statewide level while providing the necessary management analysis to determine if any changes to operations at the agency, North Dakota Century Code, or North Dakota Administrative Code need to be made or proposed.

Informal Recommendation 13-9: We recommend the Division of Oil and Gas have an independent review and approval of all permits issued.

Condition: The Division of Oil and Gas does not have a proper review process in place for issuing permits. The manager of the permitting department is able to issue permits without a secondary review or approval done by a person who does not issue permits.

Comment:
The NDIC-DMR-OGD has a very detailed and rigorous permitting process that typically involves two or more employees reviewing each permit prior to approval. On rare occasions, an expedited permit request has resulted in the Permit Manager performing all stages of the process. The DMR will continue the current permit review process with a directive that a secondary review be accomplished whenever possible. Due to the high demands on current permitting personnel, to meet this requirement in the future the Industrial Commission will be requesting 3 FTE Engineering Technician positions.