

# Annual Agreement Review Report

State of North Dakota  
Office of the State Auditor  
Royalty Audit Section

Cooperative Agreement Number  
D22AC00131

For the Period  
October 1, 2022, through September 30, 2023  
Federal Fiscal Year 2023

Performed By: Office of Natural Resources Revenue  
Outreach, Audit Services, and Indian State Support  
STRAC Audit Assistance  
Miriam Banach, Auditor

Report Date: September 3, 2024

## INTRODUCTION

The Office of Natural Resources Revenue (ONRR or we), Outreach, Audit Services, and Indian State Support (OASISS) conducted an Annual Agreement Review (Review) of the Section 205 Cooperative Agreement D22AC00131 (Agreement) and any Modifications for the State of North Dakota, Office of the State Auditor, Royalty Audit Section (North Dakota/State/You/Your), for the review period Federal Fiscal Year (FY) 2023. ONRR's authority to perform a Review originates from Section 7.7 of the Agreement and Federal regulations at 30 CFR § 1227.800. This review did not include a site visit to the State's offices.

## OBJECTIVES, SCOPE, & METHODOLOGY

The objectives of this Review were to review the following:

1. **Agreement Costs** – We reviewed a sampling of expenditures to determine that the costs incurred are allowable and directly related to the performance objectives of the Agreement.
2. **Agreement Performance** – We reviewed your performance of the Work Plan under the Agreement.
3. **Equipment** – We reviewed your equipment inventory, compared to your inventory list, for all equipment purchased under the Agreement.
4. **Safeguarding of Records** – We reviewed your storage of federal records related to the Agreement to ensure that they are safeguarded, and that you are archiving records in a timely manner.
5. **Compliance Reviews (CRs)** – We reviewed a sample CR to ensure that the State is in compliance with the ONRR CR Manual

We focused on work performed under the terms of the Agreement between ONRR and the State associated with FY 2023. We based the methodology on the objectives and review steps outlined in our Planning Memorandum.

We took the following actions in the performance of this Review:

- Provided the State with a Data Request dated January 29, 2024, informing the State of this Review.
- Performed a fiscal examination of Agreement costs.
- Documented associated conclusions and findings on workpapers.
- Debriefed the AO and AOR on July 10, 2024.
- Provided a Draft Report to the State on July 22, 2024, for comments.
- We will provide a final report to the Agreement Officer (AO), the Agreement Officer Representative (AOR), and the State, after the State has had an opportunity to comment on the Draft Report

## **RESULTS**

Based on our review of State Agreement Costs, and agreement performance/workplan progress the following is a summary of items found during our review of sampled documentation for FY 2023, which are described in further detail in this report:

1. The State had a variance from budgeted salaries to actual salaries claimed for reimbursement.
2. The titles for the State's budgeted Fringe Benefit categories are different from those on the payroll documentation.
3. The State received a refund from NDIT for an overcharge in a different fiscal period.
4. The State used airplane vouchers purchased from flights scheduled in FY23 in FY24.
5. Indirect costs were overstated due to reimbursement of non-refundable travel costs for a trip that was changed to virtual.
6. The State did not submit a Workplan Modification for the changes to their audits.

## **AGREEMENT COSTS**

We reviewed your Agreement Costs for FY 2023 and selected the fourth quarter (sample period) for testing. We requested and reviewed supporting documentation for sampled costs reimbursed from the selected voucher.

See the detailed results of the sampled costs tested below.

### **Direct Labor Costs**

We examined summary schedules, time reports, and leave records for a Senior Auditor for the sample period. We determined all documents support the salary costs for this employee for the sample period.

The State's budget for all payroll was higher than the amount expended for all the State employees. This variance was due to the change of Program Manager mid-budget cycle, who received a lower salary than the previous manager, and the timing of the onboarding of new hires.

### **Fringe Benefit Costs**

During the review of the sample period of the Senior Auditor's payroll documents we discovered that the titles for some of the Fringe Benefit categories in the Budget differ from those on the payroll documentation. There are six categories in the Budget, however, there are seven categories on the payroll documents. Despite the category names being different, only six of the fringe categories comprised the costs for the sample employee and time period.

None of the categories are duplicates nor are they included in other cost categories. The State anticipated an increase to Fringe Benefit costs due to upcoming legislation and included that increase in the Budget.

### **Travel Costs**

The State's September 2023 scheduled out of state meeting was changed from in person to virtual. The State had booked non-refundable airfare and therefore could not receive a refund for those costs. The State received a voucher with the airline equivalent to the airfare cost to be used within a year and the State planned to use it for a trip scheduled in March 2024. Because they received a voucher instead of a refund, the State incurred a cost and claimed it for reimbursement in FY 2023. The auditor verified that the travel costs for the March 2024 trip were reduced by the correct amount on the State's second quarter voucher for FY 2024. No further action is required.

### **Other Direct Costs**

The State claimed reimbursement for an overcharge for computer support services and indicated they will adjust the cost when the credit is received in 2024. The auditor verified that this overcharged cost was corrected on the State's second quarter voucher for FY 2024. No further action is required.

The other costs shown on the sample voucher were determined to be ordinary, necessary, and directly related to the performance of the Cooperative Agreement.

### **Indirect Cost:**

The State uses Travel as one of the costs to calculate Indirect Costs; because of the inclusion of the non-refundable airfare, the Indirect Costs for FY 2023 were overstated. The auditor verified that this overstatement was corrected on the State's second quarter voucher for FY 2024. No further action is required.

## **AGREEMENT PERFORMANCE/WORKPLAN PROGRESS**

We reviewed your Agreement performance, equipment inventory, and safeguarding of federal records for FY 2023 for testing. We requested and reviewed supporting documentation by sampling items from your documentation.

See the detailed results below.

### **Performance of the FY 2023 Work Plan**

The State's FY 2023 Work plan submitted with their FY 2023 Budget estimated that 6200 hours would be dedicated to audit and compliance investigations. The actual

number of hours expended during FY 2023 totaled 5020 hours, or 81% of budgeted hours.

The original breakdown of the type of compliance work the State intended to complete was drastically altered by unexpected changes in personnel resulting in significantly less hours spent on Audit and more on Compliance Reviews and other 205 work.

The State had four new audits planned and one audit carried over in their workplan submitted with their FY 2023 Budget. They submitted a revised FY 2023 workplan on October 27, 2022, showing three new audits and two carried over audits. The State's first Progress Report for FY 2023 shows the State actually had three carried over audit cases of which two were closed in FY 2023. All the new audit cases were suspended and were not worked in FY 2023.

The changes to audits on the Workplan were not done through Workplan Modifications. The State replied when questioned that they have an approved variance for the Workplan Modification process which allows for them to submit revised workplans instead of official Modification requests. However, the variance, approved on December 6, 2010, covers compliance reviews only.

Despite the above issues, the State still showed acceptable progress and achievement associated with its compliance related activities consistent with the statutory objectives and intent of FOGRMA, as amended.

**Table 1: FY 2023 Work Performance Analysis**

	Audits	CRs
Total Open Cases in CIM/OMT:	7	61
Total Cases Closed FY 2023:	2	35
Carryovers to next fiscal year:	5	26

### **Equipment Inventory**

The State is found in compliance with equipment inventory by properly tracking equipment by keeping their inventory list up to date with tag, serial number, user and status of equipment use.

### **Safeguarding of Federal Records**

The State is found in compliance with safeguarding of federal records. Completed records that are eligible for archives are stored in an off-site locked storage facility that lacks the capacity to deter fire and water damage to federal records.

## **Compliance Reviews**

We selected OMT Light Case Number 10133242 as the sample case for this desk review. Based on our review, we determined that the State is in general compliance with ONRR's Compliance Review Manual, Release 2.2.

## **RECOMMENDATIONS**

We are proposing the following recommendations and/or actions:

1. **Fringe Benefits** – We encourage the State to adjust the titles of the fringe benefit categories in the Budget requests to match those in their accounting system.
2. **Workplan Modifications** – We recommend that the State submit a Workplan Modification Request for changes to their Audit work or submit a change to their variance to include Audits as well as Compliance Reviews. In accordance with 30 CFR §1227.200(g), the Workplan should accurately state the entire scope of the activities that the State will perform under its 205 Agreement.

## **STATE RESPONSE**

The State responded to the Draft Report as follows:

Via teleconference and emails, the State disputed the findings in Result 1. They provided additional documentation to eliminate one of the findings and to clarify the other. They requested that the Final Report be changed to reflect the this.

Additionally, the State requested that the Final Report use titles rather than names.

Finally, the State provided the comments below:

Result 2/ Fringe Benefit Costs - We agree with the result.

Result 3/ Other Direct Cost – The issue was first identified by the State Auditor's Office and shared with the ONRR Contract Review Team. In August 2023, it was discovered that the Mineral Royalty Group had been overcharged by NDIT for desktop services for July 2023. The standard rate of \$99.75 was billed for a computer instead of the exception rate of \$50.00. Correspondence with NDIT billing department on August 18, 2023, confirmed that a credit of \$248.75 would be issued the following month, but the agency failed to credit us until a follow-up was sent on February 12, 2024, which prompted the issuance of the credit in the amount of \$248.75.

Result 4 / Travel Costs – 13 days before a scheduled out-of-state meeting that required air travel, we were notified that the in-person meeting on September 13-14th in Oklahoma City had been canceled and would be conducted virtually. As a result, we were unable to use the nonrefundable flights. Nevertheless, we were able to obtain travel vouchers that could be used within a year. These vouchers were subsequently used for the March 2024 STRAC meeting held in Denver. We understand that, according to guidelines, the flight was only permissible once the voucher was utilized. However, it would have been beneficial if ONRR had provided better guidance during the virtual September STRAC meeting regarding this matter. Furthermore, when we submitted the reimbursement request, which included a comprehensive travel cost schedule, ONRR should have denied it since it was not a valid reimbursement.

Result 5 / Indirect Costs – Result 4 had a direct impact on this situation, as ONRR had canceled the in-person meeting, resulting in the cancellation of nonrefundable flights. The expense incurred for these flights was included in the calculation of indirect costs.

Result 6 / Workplan Modification – We were operating under the guidance provided by ONRR to the new Principal Investigator (PI) who was onboarded in October 2022. During this onboarding, the PI had meetings with the Agreements Officer's Representative and the Audit Manager of STRAC Audit Services at ONRR. Based on their direction, it was our understanding that North Dakota would submit a new revised Workplan each quarter with their progress report, and this would be done in lieu of submitting the Workplan Modification form. We followed this process since then, believing that we were following the cooperative agreement. It was not until we received the draft report that we became aware that this was an issue.

Recommendation 1/ Fringe Benefit – After receiving the draft audit report on July 22, 2024, we became aware of this issue and promptly updated our Fringe Budget detail with the Interior Business Center (IBC) to reflect the correct titles in the payroll system on July 23, 2024, before the IBC officially issued our Federal Fiscal year budget for FY24.

Recommendation 2/ Workplan Modifications – Moving forward, we will ensure to complete the Workplan Modification request for any audit changes and continue following the process established for changes to compliance reviews based on the guidance provided in this audit report.

## **ONRR RESPONSE**

We agree with the State's request to not use employee names and the Report was changed to use their titles instead.

Regarding Result 1, we determined that the documentation provided to us after the draft report was sent for comment cleared the disputed finding. We agreed with their requested changes and the Report language for the Direct Labor Cost finding was changed.

Result 3 / Other Direct Cost – We acknowledge the State’s comments for this issue. The language in the Report was changed to identify the cost as an overcharge rather than a duplicate charge.

Result 4 / Travel Costs - We acknowledge the State’s comments for this issue. The language in the Report for the Travel Cost finding was changed to reflect that the meeting was not cancelled but rather changed to virtual. While we are not making a formal recommendation, we suggest that the State consider purchasing refundable tickets for travel due to the still uncertain nature of in-person meetings.

Result 5 / Indirect Costs – We acknowledge the State’s comments for this issue. No change was made to the Report.

Result 6 / Workplan Modification – The State does not have an approved variance for workplan modifications for audits. The State did not provide any documentation to dispute this finding. No change was made to the Report.

We agree with the State’s response to the Recommendations.

## **DISTRIBUTION**

Due to the sensitive information, the use of this report is restricted to specified parties who either participated in this Review or have a direct interest in the results. It is intended solely for the use of ONRR and the State, including the AO and the AOR, as they have an interest in the objectives of the Review.

## **ACKNOWLEDGEMENT**

ONRR values the contributions from the State in achieving our common goals and objectives, and we look forward to our continued collaboration. Additionally, we want to thank you for the assistance and cooperation that your delegation provided in completing this Review.

If further information is needed regarding this report, please contact Christina Klimczak, at (303) 231- 3725.

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Bruce Rumburg, Agreements Officer’s Representative

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Date