

GAO

United States General Accounting Office

Report to the Chairman, Committee on
Energy and Natural Resources, U.S. Senate

February 1992

ENERGY MANAGEMENT

Better Federal Oversight of Territories' Oil Overcharge Funds Needed



**RESTRICTED--Not to be released outside the
General Accounting Office unless specifically
approved by the Office of Congressional
Relations.**

RELEASED

GAO/RCED-92-24



United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-245279

February 21, 1992

The Honorable J. Bennett Johnston
Chairman, Committee on Energy
and Natural Resources
United States Senate

Dear Mr. Chairman:

In response to your request and subsequent discussions with your office, this report discusses the planned and actual uses of certain oil overcharge funds that have been provided to five U.S. insular areas, the data on the funds that the Department of Energy (DOE) provides to the Congress, and the oversight of the funds by DOE and the Department of Health and Human Services (HHS).

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 15 days from the date of this letter. At that time, we will send copies to the Secretaries of Energy and HHS and interested parties and will make copies available to others upon request.

This work was performed under the direction of Victor S. Rezendes, Director, Energy Issues, who may be reached at (202) 275-1441. Major contributors to this report are listed in appendix II.

Sincerely yours,



J. Dexter Peach
Assistant Comptroller General

Executive Summary

Purpose

About \$68 million was made available to five U.S. insular areas—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Virgin Islands—from two oil overcharge cases. (Throughout this report, these areas are referred to as territories.) Concerned about whether these funds are being spent appropriately, the Chairman, Senate Committee on Energy and Natural Resources, asked GAO to determine (1) the amount of funds the territories have spent and whether this amount has been accurately reported to the Congress and (2) whether the Departments of Energy (DOE) and Health and Human Services (HHS) have adequate monitoring procedures and have taken steps to ensure that the territories' uses of oil overcharge funds (including interest) are in accordance with legislative and judicial requirements.

Background

Responding to the Emergency Petroleum Allocation Act of 1973, DOE established pricing and allocation regulations, which were in effect between 1973 and 1981, for domestic oil companies. DOE also initiated legal actions to restitute consumers injured by oil companies that violated the regulations. Of the cases settled, the two largest—the Exxon decision and the Stripper Well settlement—involved about \$3.6 billion.

The federal courts authorized the distribution of Exxon and Stripper Well funds to states and territories for five energy conservation and energy assistance grant programs. DOE administers four of the grant programs, and HHS administers one. Program activities include promoting energy efficiency, helping eligible households meet home energy costs, and providing cost-effective energy conservation measures to low-income persons. Both agencies are to oversee the uses of oil overcharge funds in a manner similar to the manner that they oversee appropriated funds used for the programs. A federal court also authorized the use of Stripper Well funds for certain nongrant projects, such as highway and bridge repair projects.

Results in Brief

As of June 30, 1990, the territories had developed plans for spending about \$52 million of the \$68 million in Exxon and Stripper Well funds that had been made available to them. However, expenditures of the funds have been hampered by various administrative and procedural delays, such as reorganizations and internal approval delays. As a result, the territories had spent only about a third of the available funds as of June 30, 1990, even though most of the funds have been available to the territories since 1986.

Before April 1991 DOE provided quarterly reports to the Congress on the territories' planned and DOE's approved uses of oil overcharge funds, but these reports did not include information on the amounts actually spent. DOE did provide some expenditure data to the Congress in response to specific requests. However, the data did not always reflect the most up-to-date and complete information available to DOE. The expenditure information contained in DOE's April 1991 quarterly report was also incomplete.

Both DOE and HHS have established procedures to monitor territories' uses of funds to ensure that the funds are accounted for and spent for approved programs. However, as currently implemented, DOE's and HHS' monitoring activities provide limited assurance that the funds are adequately accounted for and that improper uses are identified. For example, DOE was not aware that a territory had used the funds for an ineligible energy conservation project that was already complete. Similarly, HHS had little information on how one territory had spent \$3.2 million of the funds under its grant program.

In 1990 the Office of Management and Budget (OMB) revised its guidance on the Single Audit Act of 1984 to specifically require that oil overcharge funds be included in the independent audits performed under the act. These revisions should help strengthen federal oversight of oil overcharge funds.

Principal Findings

Territories Have Spent About One-Third of Their Funds

As of June 30, 1990, the territories had spent about \$23 million (34 percent) of the \$68 million they had available. The actual expenditures of funds received ranged from about 6.8 percent (Virgin Islands) to 58 percent (American Samoa). About \$20 million, or 86 percent of the amount spent by the territories, was for activities related to the HHS Low-Income Home Energy Assistance Program (LIHEAP). The remaining \$3 million was spent for activities related to DOE's energy conservation programs. The territories have also identified the way they plan to spend an additional \$29 million of the available Exxon and Stripper Well funds. However, the expenditure of funds has been hindered somewhat by the territories' legislative, organizational, and administrative problems. For example, Guam's legislature debated how to spend the funds for several years, thus delaying the actual expenditure of the funds.

DOE Provides Incomplete Information to the Congress

The Congress expected DOE to report to it quarterly on the oversight of states' and territories' use of Exxon and Stripper Well funds and the status of the funds. Until recently, the quarterly reports DOE provided to the Congress did not include expenditure data. DOE officials told GAO that they did not include expenditure data because they were not specifically required to report on expenditures. However, in April 1991, following discussions with GAO on this issue, DOE began including expenditure data in the quarterly reports.

Before April 1991 DOE had provided some expenditure data to the Congress in response to specific requests for such information. However, some of the data provided were incomplete and not up to date. For example, requested expenditure data that DOE provided the Congress in February 1991 omitted about \$20 million spent by Puerto Rico, even though Puerto Rico had reported this information to DOE. DOE's April 1991 quarterly report to the Congress also excluded these expenditures.

DOE And HHS Monitoring Is Not Sufficient to Detect Inappropriate Uses of and Accounting for Funds

DOE and HHS have established procedures to monitor the territories' uses of Exxon and Stripper Well funds. However, as implemented, the procedures do not provide assurance that improper uses of funds will be identified. For example, (1) DOE field offices do not always follow the monitoring guidance issued by DOE headquarters, (2) DOE does not plan to monitor funds that the territories intend to use for nongrant projects, and (3) HHS performs limited reviews of expenditures for LIHEAP.

GAO found instances in which DOE and HHS monitoring did not detect actual or potential misuses of oil overcharge funds. These included about \$250,000 of funds that were spent on ineligible activities. Also, Puerto Rico could not account for about \$3.2 million of the funds reportedly spent to weatherize homes. As a result, the HHS Office of Inspector General investigated the use of the funds and is now preparing a report on its findings.

Independent Audits May Improve Oversight

The Single Audit Act of 1984 requires territorial and state governments that receive \$100,000 or more in federal assistance funds to annually obtain an independent audit of the funds. On the basis of a recommendation by the DOE Office of Inspector General, OMB in 1990 revised its guidance on the Single Audit Act to require that oil overcharge funds as well as appropriated funds be included in Single Audit Act audits. The Inspector General made the recommendation because some states and territories were not including oil overcharge funds in the audits. The

revised guidance sets forth the requirements contained in various oil overcharge cases and suggests steps for auditors to follow to determine whether funds have been properly used. These revisions should help improve federal oversight of oil overcharge funds.

Recommendations

GAO recommends that the Secretary of Energy require the Assistant Secretary for Conservation and Renewable Energy to use the most complete, accurate, and up-to-date information available in preparing DOE's reports to the Congress on territories' and states' uses of oil overcharge funds.

GAO also recommends that the Secretary of Energy improve DOE's monitoring of oil overcharge funds by (1) reviewing the territories' submission of audit reports mandated by the Single Audit Act of 1984 to determine to what extent they ensure compliance with requirements governing the use of oil overcharge funds and (2) requiring agency staff to review the territories' accounting and uses of oil overcharge funds as needed to supplement Single Audit Act audits.

Agency Comments

Because DOE's and HHS' written comments were received late, their comments were not reprinted in this report. However, their views have been incorporated in the report where appropriate.

DOE agreed with GAO's recommendation that reports to the Congress should include the most up-to-date information available. DOE and HHS differed, however, on whether oil overcharge funds should be included in Single Audit Act audits. DOE believes that there is no clear basis for including oil overcharge funds in Single Audit Act audits, while HHS noted that it requires that funds used for LIHEAP be included in the audits. In GAO's view, including oil overcharge funds in Single Audit Act audits can help ensure that the funds are properly used. It should also allow DOE and HHS to make more efficient use of their own limited monitoring resources.

Contents

| | | |
|---|---|----|
| Executive Summary | | 2 |
| Chapter 1 | | 8 |
| Introduction | Background | 8 |
| | The Exxon and Stripper Well Cases | 9 |
| | Monitoring Requirements for Oil Overcharge Funds | 10 |
| | Objectives, Scope, and Methodology | 11 |
| Chapter 2 | | 13 |
| Status of Oil Overcharge Funds Received and Spent by the Territories | Territories' Expenditures of Oil Overcharge Funds | 13 |
| | DOE's Reports Lack Data on Territories' Expenditures | 17 |
| | Some Data That DOE Has Reported Have Been Incomplete | 18 |
| | Conclusions | 19 |
| | Recommendation to the Secretary of Energy | 19 |
| | Agency Comments | 19 |
| Chapter 3 | | 20 |
| DOE And HHS Lack Assurance That Territories Are Using Oil Overcharge Funds As Required | DOE And HHS Have Not Detected Improper Uses of Funds | 20 |
| | DOE And HHS Monitoring Practices Limit Their Ability to Detect Misuses of Funds | 23 |
| | Applying Requirements of the Single Audit Act to Oil Overcharge Funds May Improve Federal Oversight | 27 |
| | DOE And HHS Monitor States' and Territories' Use of Oil Overcharge Funds in Substantially the Same Manner | 29 |
| | Conclusions | 29 |
| | Recommendations to the Secretary of Energy | 30 |
| | Agency Comments | 30 |
| Appendixes | Appendix I: Exxon and Stripper Well Funds and Interest in the Territories, as of June 30, 1990 | 32 |
| | Appendix II: Major Contributors to This Report | 33 |
| Related GAO Products | | 36 |

| | | |
|----------------|---|----|
| Tables | Table 2.1: Amounts the Territories Spent by Program, as of June 30, 1990 | 16 |
| Figures | Figure 2.1: Territories' Designated Uses of Exxon and Stripper Well Funds, as of June 30, 1990 | 14 |
| | Figure 2.2: Total Exxon and Stripper Well Funds, Including Interest, Received and Spent in the Territories, as of June 30, 1990 | 15 |

Abbreviations

| | |
|----------|---|
| DOE | Department of Energy |
| EES | Energy Extension Service |
| GAO | General Accounting Office |
| HHS | Department of Health and Human Services |
| ICP | Institutional Conservation Program |
| LIHEAP | Low-Income Home Energy Assistance Program |
| OHA | Office of Hearings and Appeals |
| OIG | Office of Inspector General |
| OPEC | Organization of Petroleum Exporting Countries |
| OMB | Office of Management and Budget |
| OTFA | Office of Technical and Financial Assistance |
| PODRA | Petroleum Overcharge Distribution and Restitution Act of 1986 |
| SECP | State Energy Conservation Program |
| SECP/EES | State Energy Conservation Program/Energy Extension Service |

Introduction

The Department of Energy (DOE) has recovered about \$3.6 billion from the two largest oil overcharge cases settled with domestic oil companies that overcharged consumers for crude oil and petroleum products from 1973 to 1981. From March 1986 through April 1990, these funds were distributed to the states, the District of Columbia, and five U.S. insular areas—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Virgin Islands.¹ The territories received about \$55 million of the settlement funds. The territories had also earned about \$13 million in interest on these funds as of June 30, 1990. Federal courts and congressional mandates require the territories to use the funds to implement programs that compensate or provide restitution to overcharged consumers.²

Background

In response to the Organization of Petroleum Exporting Countries' (OPEC) embargo of crude oil exports to the United States in late 1973 and early 1974, the Congress passed the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751 *et seq.*) to minimize the effects of the embargo. The act was primarily intended to discourage domestic crude oil producers from overcharging their customers and to ensure that crude oil and refined petroleum products were distributed fairly.

DOE established allocation and pricing regulations to implement the act. Between 1973 and 1981, DOE's Economic Regulatory Administration identified oil companies that had violated the regulations and initiated several legal actions to recover payments for the violations. Although Executive Order 12287 almost entirely lifted the regulations in January 1981, DOE is still resolving oil overcharge cases. DOE's responsibilities include

- recovering funds from oil companies that violated the petroleum pricing and allocation regulations and
- providing restitution to customers injured by the violations.

We have issued a number of reports that discuss DOE's handling of oil overcharge cases and how oil overcharge funds have been used. (See related GAO products.)

¹Throughout this report, these areas are referred to as territories.

²Although this report focuses on the territories, the authorized uses of funds and the judicial and legislative requirements also apply to the states.

The Exxon and Stripper Well Cases

In 1983 the U.S. District Court for the District of Columbia found that Exxon had overcharged its customers. The court's decision resulted in the Exxon Corporation's paying about \$2.1 billion for its overcharge practices. Under the Exxon decision the states and territories are allowed to use the funds in any of five energy conservation and energy assistance grant programs. DOE administers the first four programs identified below, and the Department of Health and Human Services (HHS) administers the last program.

- The State Energy Conservation Program (SECP) promotes energy efficiency and reduction in the growth of energy demands.
- The Energy Extension Service (EES) is an energy outreach program for small businesses and individual users.
- The Institutional Conservation Program (ICP) helps schools and hospitals reduce energy consumption and costs.
- The Weatherization Assistance Program helps low-income people, particularly the elderly and handicapped, by installing cost-effective energy conservation measures in their homes.
- The Low-Income Home Energy Assistance Program (LIHEAP) helps eligible households meet home energy costs and assists low-income persons in weatherizing their homes.

In addition, the court directed that interest earned on the funds be used for the same programs. The Exxon decision precluded the use of these funds for administrative expenses. Also, to ensure that states and territories did not substitute oil overcharge funds for their funding of the energy grant programs, the decision incorporated restrictions from section 155 of P.L. 97-377, Dec. 21, 1982 (the Warner Amendment), that funds be used to supplement, but not supplant, funds otherwise available for the programs.

The U.S. District Court for the District of Kansas approved the Stripper Well settlement, which resulted in the distribution of \$1.4 billion paid by crude oil producers for improperly certifying federally controlled crude oil from 1973 to 1981 to avoid price restrictions. The settlement agreement allowed the territories to use the funds, including earned interest, for the same five grant programs as the Exxon funds. The agreement also allowed the territories to use the funds for nongrant projects approved by DOE's Office of Hearings and Appeals (OHA), and for programs referred to in the 1981 settlement with Standard Oil Company of California (Chevron), and for other restitutionary programs that may be approved by the U.S. District Court for the District of Kansas that approved the Stripper Well settlement. Examples of such projects are alternative transportation fuel programs,

vehicle fleet maintenance programs, and highway and bridge maintenance and repair programs.

The territories also may spend Stripper Well funds for administrative expenses up to the amount permitted by federal legislation or regulations governing federally funded programs, and up to 5 percent of the available funds for programs where there is no such federal legislation or regulations. Like the Exxon decision, the settlement agreement requires that the funds supplement, but not supplant, funds otherwise available for the programs.

Monitoring Requirements for Oil Overcharge Funds

DOE has primary responsibility for reviewing the states' and territories' planned and actual uses of oil overcharge funds to ensure that funds are spent for approved programs and that restitution is provided to victims of overcharges. This responsibility is primarily carried out by DOE's Office of Technical and Financial Assistance (OTFA), under the Office of Conservation and Renewable Energy. DOE performs its review and oversight responsibility for the grant programs primarily by (1) providing monitoring guidance to the territories, (2) reviewing and approving the territories' annual plans for spending oil overcharge funds, (3) making field visits to the territories, (4) performing desk reviews of financial and programmatic status reports on the uses of funds, and (5) providing technical assistance and training to the territories.

The Energy Assistance Division in HHS' Administration for Children and Families is responsible for monitoring the LIHEAP grant program. HHS provides oversight primarily through desk reviews of LIHEAP plans and through in-depth compliance reviews, which could include periodic visits to the territories to review LIHEAP activities.

Both DOE and HHS largely rely on the territories to monitor oil overcharge funds used for their grant programs. The territories, as grantees, are responsible for planning and spending the funds within the parameters established by the federal courts, monitoring fund expenditures, and reporting to DOE and the courts on how the funds are spent.

Objectives, Scope, and Methodology

The Chairman, Senate Committee on Energy and Natural Resources, asked us to review DOE and HHS monitoring of oil overcharge funds distributed to the territories and to determine whether funds were used for intended purposes. The assignment objectives were to determine

- how much of the oil overcharge funds territories have spent and whether expenditure information is accurately reported to the Congress and
- whether DOE and HHS have adequate monitoring procedures and have taken steps to ensure that the territories' uses of oil overcharge funds (including interest) are in accordance with legislative and judicial requirements.

As agreed with the Chairman's office, our review primarily concentrated on the territories' uses of Exxon and Stripper Well funds. We focused our work on oil overcharge funds that the Virgin Islands and Puerto Rico received and spent, which represented about 89 percent of the total funds distributed to the territories. We also agreed with the Chairman's office to examine whether DOE's monitoring of the states' and territories' usage of funds are similar.

We conducted our review at DOE and HHS headquarters in Washington, D.C.; DOE's operations offices in Chicago and San Francisco; and DOE's support office in Atlanta. The three DOE offices reviewed have oversight responsibility for the territories' oil overcharge funds. We also conducted our review at HHS' Office of Inspector General (OIG), San Juan, Puerto Rico; Puerto Rico's Department of Consumer Affairs, Department of the Treasury, and Department of Social Services; and the Virgin Islands' Energy Office, Department of Finance, and Department of Human Services. Financial data for American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam were obtained through questionnaires. Information was collected on the territories' uses of funds as of June 30, 1990, unless otherwise specified.

To determine how much of the oil overcharge funds the territories had spent and for what purposes, we

- obtained records showing the amounts of funds distributed to the territories;
- reviewed expenditure plans, reports, and correspondence that the territories, DOE, and HHS submitted on the planned and actual uses of funds; and

- discussed the uses of funds with DOE and HHS headquarters officials, DOE field office officials, HHS OIG officials, and territorial officials in Puerto Rico and the Virgin Islands.

To determine whether DOE had taken steps to ensure that funds were spent as intended, we

- reviewed and evaluated pertinent legislation and settlement agreements, DOE and HHS monitoring policies and procedures, and reports and regulations;
- discussed the territories' spending activities and the applicable program requirements with DOE headquarters and field offices, HHS headquarters, and territorial officials;
- reviewed financial and programmatic records and reports in Puerto Rico and the Virgin Islands that showed the amount of funds received, interest earned on the funds, the amount allocated to allowable programs, and the amount spent;
- reviewed expenditure invoices, supporting ledgers, and the payment vouchers for judgmentally selected transactions that occurred in fiscal year 1990; and
- assessed completed projects and documents required to support ICP recipients' and grantees' compliance with program reporting and use requirements.

To determine whether DOE used different monitoring procedures for states and territories, we discussed monitoring practices for states with officials at DOE's Atlanta Support Office and San Francisco Operations Office. We also reviewed previous GAO reports and DOE OIG reports to identify issues and problems previously reported regarding the uses of oil overcharge funds. However, as agreed with the Chairman's office, we did not carry out audit work in any states as part of this review.

We did not test the accuracy of DOE's, HHS', and the territories' information systems used to provide data on oil overcharge funds. However, in the territories visited, we reviewed and compared a selected number of the territories' expenditure transactions with the applicable invoices and payment vouchers. Our review was conducted from June 1990 to August 1991 in accordance with generally accepted government auditing standards.

Because DOE's and HHS' written comments were received late, their comments were not reprinted in this report. However, their views have been incorporated in the report where appropriate.

Status of Oil Overcharge Funds Received and Spent by the Territories

As of June 30, 1990, the territories had spent about one-third of the \$68 million available (which includes \$55 million from the settlements and \$13 million in earned interest) from the Exxon and Stripper Well cases. The territories have developed plans for spending an additional \$29 million, but spending has been delayed because of administrative, legislative, and procedural delays.

Although DOE provides information to the Congress on states' and territories' use of oil overcharge funds, the information has generally not included the amounts actually spent. Also, some of the information reported has been incomplete. For example, information DOE provided to the Congress in February 1991 omitted \$20 million spent by the territories and about \$3 million of earned interest that the territories had reported.

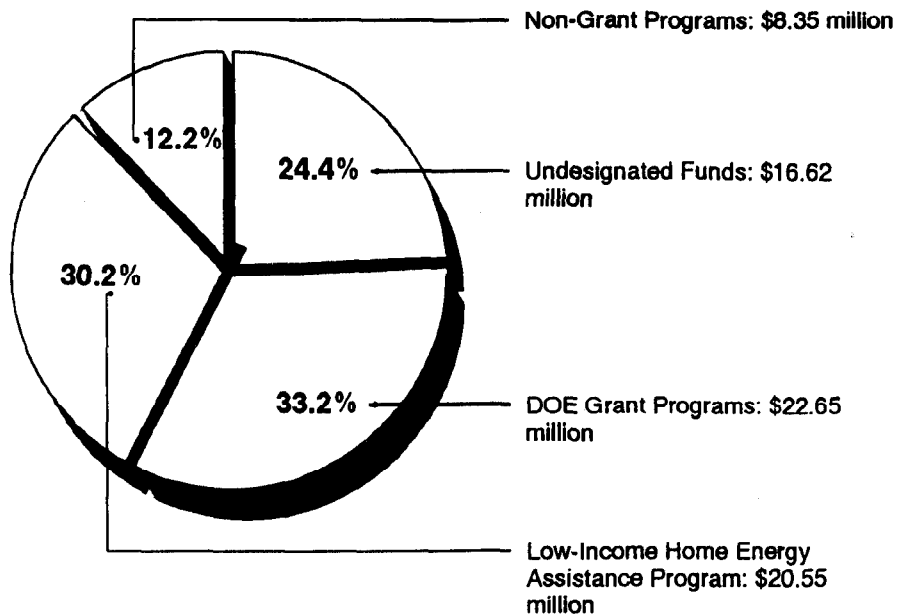
Territories' Expenditures of Oil Overcharge Funds

Oil overcharge funds provide the territories an opportunity to invest in energy conservation programs that could help reduce their dependence on imported oil. However, as of June 30, 1990, the territories had spent only about one-third of the Exxon and Stripper Well funds available to them. Most of these funds were spent on LIHEAP.

Status of Expenditures

Since 1986 the territories have received about \$55 million from the Exxon and Stripper Well cases. In addition, they had earned about \$13 million in interest on the funds as of June 30, 1990. (See app. I.) Of the \$68 million available, the five territories had planned or designated expenditures of about \$52 million, or about 76 percent of the available funds, for specific uses. (See fig. 2.1.) Of the \$52 million that the territories planned to spend, DOE and HHS had approved over \$46 million.

Figure 2.1: Territories' Designated Uses
of Exxon and Stripper Well Funds, as of
June 30, 1990

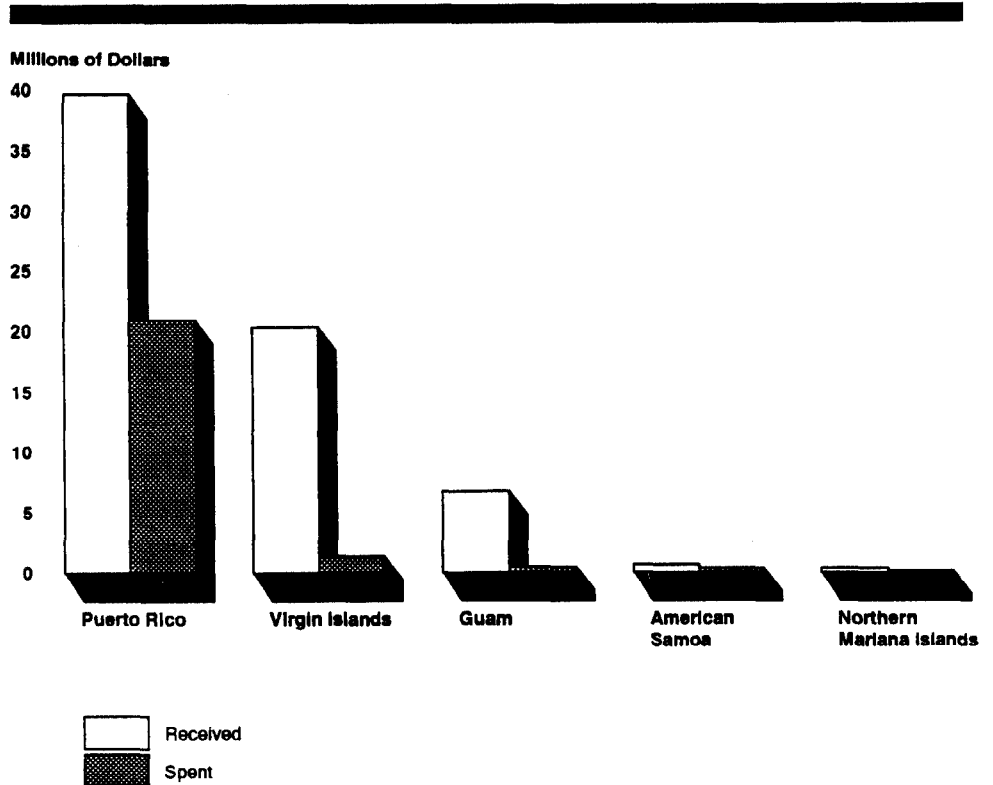


Note: The five territories received a total of \$68.17 million in Exxon and Stripper Well funds (including interest).

As of June 30, 1990, the territories had spent about \$23 million, or 34 percent, of the funds available. As shown in figure 2.2, the territories' expenditures ranged from 6.8 percent (Virgin Islands) to 58 percent (American Samoa).

Chapter 2
Status of Oil Overcharge Funds Received and
Spent by the Territories

Figure 2.2: Total Exxon and Stripper Well Funds, Including Interest, Received and Spent in the Territories, As of June 30, 1990



Note: Puerto Rico Received \$39.65 Million; Spent \$20.95 Million (52.8%).

Virgin Islands received \$20.38 million; spent \$1.4 million (6.8%), as of September 30, 1990.

Guam received \$6.73 million; spent \$491,238 (7.3%), as of September 30, 1990.

American Samoa received \$637,030; spent \$369,550 (58.0%).

Northern Mariana Islands received \$377,302; spent \$168,754 (44.7%).

Territorial officials cited various reasons for delays in spending oil overcharge funds, including government reorganization, internal approval delays, other administrative delays, and a natural disaster. The following reasons are examples:

- Puerto Rico's reorganization of its Energy Office delayed the commonwealth's implementation of energy programs. The energy program's staff was significantly reduced, and the former Puerto Rico Energy Office was incorporated into the Puerto Rico Department of Consumer Affairs, which now administers the commonwealth's energy programs.

Chapter 2
Status of Oil Overcharge Funds Received and
Spent by the Territories

- DOE officials in the San Francisco Operations Office said that Guam's legislature debated how to spend its oil overcharge funds for several years and approved only limited spending of the funds until 1990.
- The Virgin Islands Energy Office Director said that administrative start-up time was needed to reorganize the territory's energy programs, which had been discontinued while the office was closed. DOE cut off federal funding to the Virgin Islands Energy Office from July 1986 through June 1987 as a result of management weaknesses. The Director said the energy programs were delayed further after Hurricane Hugo devastated the islands in September 1989 and because of staff shortages.

How the Funds Have Been Used

Most of the \$23 million that the territories had spent as of June 30, 1990, went for three of DOE's energy conservation programs and HHS' LIHEAP. Puerto Rico's and American Samoa's energy assistance expenditures account for about \$20 million, or 86 percent, of the total funds spent. The territories spent the remaining \$3 million as follows: about \$2.5 million for the State Energy Conservation Program/Energy Extension Service (SECP/EES) and about \$816,000 for ICP. No funds have been spent for DOE's Weatherization Assistance Program in the territories. The amounts spent for the grant programs by each territory are shown in table 2.1.

Table 2.1: Amounts the Territories Spent by Program, as of June 30, 1990

| Territory | Programs | | | Total |
|-------------------|------------------|--------------------|---------------------|---------------------|
| | ICP | SECP/EES | LIHEAP | |
| Puerto Rico | \$680,000 | \$286,000 | \$19,980,000 | \$20,946,000 |
| Virgin Islands | 50,439 | 1,322,648 | N/A | 1,373,087 |
| Guam | 65,000 | 426,238 | N/A | 491,238 |
| American Samoa | 21,000 | 298,550 | 50,000 | 369,550 |
| Northern Marianas | N/A | 168,754 | N/A | 168,754 |
| Total | \$816,439 | \$2,502,190 | \$20,030,000 | \$23,348,629 |

Note: N/A = not applicable.

Grant programs implemented include activities such as (1) operating an auto analysis clinic and waste-oil collection program in the Virgin Islands; (2) implementing mandatory thermal and lighting efficiency standards for public buildings and promoting energy conservation through public information campaigns in Guam; and (3) assisting low-income families in paying their utility bills, making cost-effective energy conservation repairs, and purchasing energy-efficient appliances (such as stoves and refrigerators) in Puerto Rico.

As of June 30, 1990, about \$45 million (66 percent) of the funds available to the territories were still unspent, although about \$29 million of the unspent funds have been designated or planned for specific programs. The territories plan to use \$8.3 million of unspent Stripper Well funds for non-grant projects that include (1) a \$4.5 million revolving fund in Puerto Rico to provide loans to finance renewable energy projects and (2) \$750,000 in the Virgin Islands to purchase diesel buses for public transportation.

DOE's Reports Lack Data on Territories' Expenditures

Data on states' and territories' uses of oil overcharge funds can play an important role in congressional decisions on funding levels for energy conservation and assistance programs. For example, DOE cited the availability of oil overcharge funds as a basis for requesting reduced appropriations for energy conservation grant programs in fiscal years 1991 and 1992. While DOE has provided the Congress with information on states' and territories' uses of oil overcharge funds, this information has generally not included the amounts that have actually been spent. Furthermore, some of the information reported has been incomplete.

The conferees on the Department of the Interior and Related Agencies Appropriation Bill of 1988 expected DOE to report to the Congress quarterly on its monitoring activities for Exxon and Stripper Well funds and to provide a comprehensive status of the funds. The conference report did not specify, however, what information DOE was to report.

In response to congressional intent in the conference report, DOE has submitted quarterly reports to the Congress. Until April 1991 the quarterly reports primarily included information on (1) DOE's monitoring and enforcement activities, (2) the amounts that the territories planned or designated to spend on various programs, and (3) the amounts of the territories' planned spending that DOE approved. The reports did not include information on the amounts of oil overcharge funds that states and territories have actually spent. Such information, in our view, would have

provided a more complete picture of states' and territories' uses of the funds.

DOE officials told us that expenditure information was not included in the quarterly reports because the conference report did not specifically require it. They also told us that DOE's ability to report quarterly information on expenditures is limited because the territories only report expenditure data quarterly for the DOE grant programs. Expenditure data for the territories' LIHEAP and nongrant programs are only reported to DOE annually. However, following our discussions with DOE on this issue, DOE decided to include expenditure data in its April 1991 quarterly report to the Congress.

Some Data That DOE Has Reported Have Been Incomplete

While DOE only recently began including expenditure data in its quarterly reports to the Congress, DOE has provided some expenditure data to the Congress in the past. The expenditure information was typically provided during the federal budget cycle and included cumulative data and the most recent fiscal year data.

However, the data DOE provided did not always reflect the most accurate and up-to-date information available on interest earned by the territories or include the territories' expenditures for HHS' LIHEAP program. For example, the information that DOE reported to the Congress in February 1991, during the budget cycle on the status of states' and territories' oil overcharge funds at the end of fiscal year 1990, understated interest that the Virgin Islands had earned on oil overcharge funds by about \$2.5 million. The Virgin Islands had reported this interest to DOE in October 1990 as part of its 1990 annual oil overcharge report. Similarly, interest earned by Guam was underreported by about \$384,600.

Furthermore, the expenditure information that DOE presented to the Congress in the February 1991 report did not include expenditures for LIHEAP. While the report noted that expenditures for LIHEAP and Stripper Well nongrant projects were excluded, inclusion of this information would have made the reports more complete since about \$20 million of the territories' expenditures were for LIHEAP.¹ The \$20 million in LIHEAP expenditures was also not included as part of the expenditure information DOE presented in its April 1991 quarterly report to the Congress. DOE officials told us that

¹The expenditure data that DOE provided to the Congress during the budget cycle on the status of states' oil overcharge funds also were incomplete. Our review of a judgmentally selected sample of 1990 annual reports on Stripper Well and Exxon funds from five states showed that 1990 expenditures of about \$55 million for LIHEAP and about \$30 million for nongrant projects were excluded from DOE's February 1991 data provided to the Congress.

LIHEAP expenditures were not included in the April 1991 report because Puerto Rico had not filed an annual report with DOE for the period July 1, 1989 to June 30, 1990, and thus, DOE had no source for the information. However, we noted that Puerto Rico had included these expenditures in its annual report to DOE for the preceding year.

Conclusions

Information on states' and territories' uses of oil overcharge funds can play an integral part in the congressional budget process for energy conservation and assistance grant programs. Thus, it is important that the Congress receive the most complete and accurate information available. Not including all of the funds that states and territories have spent could overstate the amount of funds still available for use. Conversely, not including all available information on the amount of interest earned on the funds could understate the amount of funds available to some territories.

DOE receives annual reports on the status of Exxon and Stripper Well funds from the territories and states that generally contain information on the amounts spent for the various grant and nongrant programs and the amount of interest earned on the funds. However, DOE has not always ensured that this information has been accurately reflected in reports to the Congress.

Recommendation to the Secretary of Energy

So that the Congress receives accurate information on the status of Exxon and Stripper Well funds available, we recommend that the Secretary of Energy require the Assistant Secretary for Conservation and Renewable Energy to use the most complete, accurate, and up-to-date information available in preparing DOE's reports to the Congress on territories' and states' receipts and expenditures of oil overcharge funds.

Agency Comments

DOE agreed with our recommendation that reports to the Congress should include the most up-to-date information available and stated that it would continue to ensure that this is done. DOE also noted that it had begun to include information on funds actually expended in its reports to the Congress and stated that it had corrected the reporting errors we identified.

DOE And HHS Lack Assurance That Territories Are Using Oil Overcharge Funds As Required

Both DOE and HHS have established procedures to monitor territories' uses of oil overcharge funds. However, as currently implemented, their monitoring activities provide limited assurance that improper uses of oil overcharge funds will be identified. We identified instances in which DOE and HHS monitoring did not detect problems with the territories' uses of oil overcharge funds. This includes over \$250,000 that the territories had spent on ineligible activities. Recent actions by the Office of Management and Budget (OMB) to require specifically that oil overcharge funds be included in Single Audit Act audits should help improve compliance.

DOE And HHS Have Not Detected Improper Uses of Funds

Both DOE and HHS have responsibility for overseeing territories' uses of oil overcharge funds. However, we identified two instances in which DOE and HHS monitoring did not detect uses of funds that appear to be inconsistent with requirements governing the uses of oil overcharge funds. These included (1) funds used to finance an ineligible project and (2) funds used under LIHEAP to purchase ineligible items. Furthermore, available documentation in one territory did not make it clear whether funds had been properly accounted for.

Funds Were Used for an Ineligible Project

More than \$181,000 of the Exxon funds was used to finance part of an institutional energy conservation project that was not eligible for funding because the work had already been completed and paid for. While DOE's Institutional Conservation Program regulations allow certain pre-award costs incurred before DOE's approval of a project to be reimbursed from appropriated grant funds and oil overcharge funds, they do not allow reimbursement for the costs of completed energy conservation measures. However, credit is allowed for the cost of work completed before a project's approval.

The subgrantee had initially applied for funding in 1987 to finance the proposed energy conservation measures. However, the 1987 grant application was not approved because the proposed project did not make the DOE ranking cutoff for funding. Before resubmitting the application and obtaining funding approval in 1988, the subgrantee had used its own funds to complete the measures.

Our review of the project file maintained by the Puerto Rico Energy Office revealed that important information was missing. For example, a certification that would have shown that the project had been completed before funding was not correctly made in the grant application. In addition,

the file did not contain any of the required progress reports, which discuss project milestones and give the project's financial status. If the reports had been submitted, they might have indicated that the project was ineligible for funding. Puerto Rico's energy program coordinator told us, however, that the energy office had not questioned the project because it was unaware that costs previously incurred for a completed project could not be reimbursed.

Following our disclosure of this grant, DOE headquarters' Office of Grants Management investigated this matter and agreed that the project was not eligible for funding. In a September 6, 1991, memorandum, the headquarters' Director of ICP Division said there was an apparent misreading or misunderstanding of the program rules and that DOE was currently attempting to clarify these rules. DOE officials told us they are now studying what, if any, actions should be taken to recover the funds.

LIHEAP Funds Were Misused in Puerto Rico

Puerto Rico improperly allowed LIHEAP oil overcharge funds to be used for washing machines that were provided to LIHEAP recipients, contrary to requirements of the energy crisis assistance component of the program.

HHS was aware that Puerto Rico planned to use LIHEAP funds to purchase appliances during its desk review of the commonwealth's application for fiscal year 1988. However, the application did not specify all the types of appliances that would be purchased. HHS accepted Puerto Rico's application because it believed that the appliances purchased would be stoves and refrigerators, which could be used for heating and cooling. Improper use of the funds was not questioned until the former Governor of Puerto Rico filed a complaint alleging that funds were being used to purchase appliances for LIHEAP recipients to influence the outcome of the 1988 election.

Acting on the complaint, HHS in 1989 reviewed Puerto Rico's uses of fiscal year 1988 LIHEAP funds, which led to an investigation by HHS' OIG. The Inspector General reviewed the complaint and concluded that Puerto Rico had improperly purchased \$78,000 in washing machines with LIHEAP funds. HHS has not yet identified what, if any, course of action it will take in response to the inappropriate use of the funds.

The Inspector General is also now investigating another \$3.2 million that was contracted out for weatherization assistance. After an on-site visit to Puerto Rico in response to the former Governor's complaint, HHS reported

that it was not clear how the weatherization funds had been spent. The investigation also includes an examination of whether \$262,000 in Exxon funds that were to cover administrative expenses for the weatherization assistance were properly spent. The Inspector General has reviewed the weatherization issue and was preparing a report as of October 22, 1991. The OIG issued a separate report on other LIHEAP issues in Puerto Rico on September 17, 1991.

Available Documentation Did Not Clearly Show Whether Funds and Interest Were Properly Accounted for

Available documentation did not make clear whether the Virgin Islands had properly accounted for all oil overcharge funds and had invested all of its funds in interest-bearing accounts.

During our August 1990 field visit to the Virgin Islands, we were unable to determine from available documentation whether all oil overcharge funds were properly accounted for and whether some of the funds had ever been kept in interest-bearing accounts. We discussed the posting of some funds with the Virgin Islands Energy Office and Department of Finance officials but were unable to obtain documentation to show that the posting was correct. An official of the Virgin Islands Department of Finance told us that the financial records covering the funds in question could not be located. In addition, he told us that updating records and recording interest had been hindered by the implementation of a new automated financial management system.

In February 1991 the Director of the Virgin Islands Energy Office sent us information provided by the Acting Commissioner of Finance in response to questions we asked in August 1990. The information provided a description of the Virgin Islands accounting code structure but did not provide documents to show the proper posting of the funds. The Virgin Islands subsequently provided us with additional information on the transactions about which we had questions. However, the information was still insufficient for us to verify that all funds had been properly accounted for.

Rather than conducting a followup site visit to the Virgin Islands, in September 1991 we discussed the matter with the head of DOE's OTFA, who stated that DOE's Atlanta Support Office would conduct an inquiry into the matter. We were subsequently told by a DOE official in the Atlanta Support Office that on the basis of information received from the Director of the Virgin Islands Energy Office, DOE believes the funds were properly accounted for. However, the official acknowledged that DOE did not

conduct a financial review to verify the accuracy of the Virgin Islands' financial records.

DOE And HHS Monitoring Practices Limit Their Ability to Detect Misuses of Funds

Both DOE and HHS have established procedures to monitor territories' uses of oil overcharge funds. However, as currently implemented, their monitoring activities provide limited assurance that improper uses of oil overcharge funds will be identified. In particular, DOE field offices' ability to detect financial improprieties is limited because the offices do not always follow the monitoring requirements established by DOE headquarters. Furthermore, we found that other misuses of funds may go undetected because DOE does not plan to monitor funds that the territories use for nongrant projects.

HHS has performed limited reviews of the territories' uses of LIHEAP expenditures. In addition, HHS had not issued guidance on whether the territories could consolidate oil overcharge funds approved for use under LIHEAP with funds for other HHS block grant programs. HHS has subsequently issued such guidance.

Field Offices Do Not Always Follow DOE's Monitoring Guidance

In fiscal year 1988 OTFA's predecessor, the Office of State and Local Assistance Programs, issued a Consolidated Administrative Monitoring Guide to enhance the territories' administrative compliance with the provisions of the grant programs. The guide, which DOE field offices are currently using, primarily provides guidelines for overseeing and monitoring the grant programs funded with appropriated and/or oil overcharge funds. The guide recommends that DOE field offices use monitoring checklists for the four DOE grant programs when performing the required on-site compliance visits to the territories' energy programs. These checklists are designed to (1) help field offices identify problems that grantees have in complying with federal requirements and (2) promote timely resolutions of such problems.

The guide also requires DOE field offices to perform biennial management reviews of the grantees' State Energy Conservation Program and the Energy Extension Service program at least once every 2 years. The reviews are designed to provide an objective examination and analysis of grantees' programs and how well they are being implemented. Also, a comprehensive review of the Weatherization Assistance Program is required annually. DOE does not require annual or biennial reviews for the ICP. This program

funds numerous individual projects at schools and hospitals and relies primarily on on-site monitoring.

We found, however, that the field offices that DOE relies on to monitor the territories' uses of oil overcharge funds are not always following monitoring requirements established by DOE headquarters. Although the offices were making the required annual on-site monitoring visits to the territories, they seldom used the recommended monitoring checklists to assess grantees' compliance with the requirements of the grant programs. Also, the monitoring staff had not completed the required management reviews, but the San Francisco Office had performed some financial and program reviews.

According to the monitoring reports submitted, the field offices used only certain parts of the fiscal year 1988 monitoring guide to detect the territories' noncompliance problems. Most of the monitoring reports we reviewed for the Atlanta field office showed that the field office made only a cursory effort to review the territories' uses of oil overcharge funds and did not assess the adequacy of the territories' financial management systems. Reports prepared by the office were limited in scope and generally addressed matters such as the field office's review of the territories' applications for grant program funding, visits to selected ICP grant recipients, attendance at dedication ceremonies for energy demonstration projects, and the territories' reporting of problems.

While the San Francisco office generally did not complete the checklists, it used questions from the checklists during on-site visits that were relevant to the territories and prepared detailed monitoring reports. Even though the office did not conduct the required management reviews, it did perform comprehensive financial and program reviews in 1988 for each of the territories under its jurisdiction and made recommendations for improvements.

DOE officials at the two DOE field offices with responsibility for monitoring territories' uses of oil overcharge funds told us that the management reviews and checklists were not always completed because monitoring personnel need flexibility in carrying out monitoring activities. The officials believe that the staff's experience and judgment are as valuable to DOE's oversight capabilities as the monitoring guidance. While experience and judgment are important, in our view, a greater reliance by the monitoring staff on the DOE checklists and management reviews may have helped the staff to uncover the problems that we identified.

Chapter 3
DOE And HHS Lack Assurance That
Territories Are Using Oil Overcharge Funds
As Required

DOE OTFA officials said they recognized that there had been some problems in getting field offices to follow monitoring guidance. However, they said the offices have recently been placed more directly under OTFA and that this action should increase OTFA's ability to ensure that monitoring guidance is followed.

DOE Does Not Plan to
Monitor Nongrant Projects

DOE field offices do not plan to monitor Stripper Well funds that the territories use for nongrant projects. As of June 30, 1990, the territories planned to spend about \$8.3 million on such projects, but as of June 30, 1990, none of the funds had been spent.¹

The Stripper Well agreement requires that, at least 30 days before spending the funds, the recipients submit a report or plan to both the court and DOE. The plans identify the programs for which the funds will be spent, including nongrant projects. The agreement does not specifically require that DOE approve these plans. DOE reviews the plans and advises the territories of whether projects are consistent with the settlement agreement.

Although the Stripper Well settlement agreement does not specifically require DOE to monitor Stripper Well funds, the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA) requires DOE to monitor the disposition of Stripper Well funds in a manner substantially similar to those funds distributed under the Warner Amendment.² In a previous report, we concluded that the requirement applied to nongrant projects as well as grant projects.³ We recommended that the Secretary of Energy direct the Assistant Secretary for Conservation and Renewable Energy to formulate monitoring procedures for nongrant projects funded with oil overcharge funds.

DOE has not implemented our recommendation for monitoring nongrant projects. DOE officials continue to base their decision not to monitor these funds on the fact that the Stripper Well settlement agreement is silent on monitoring funds used for nongrant projects. DOE officials also told us that to monitor nongrant projects would require additional DOE personnel with an expanded knowledge of the territories' laws, policies, and procedures.

¹States have spent Stripper Well funds on nongrant projects.

²The Warner Amendment allowed the use of oil overcharge funds for the five energy assistance and energy conservation grant programs. The funds were to be monitored in the same manner as appropriated funds were monitored.

³Energy Management: States' Use and DOE Oversight of Exxon and Stripper Well Overcharge Funds (GAO/RCED-88-152, June 14, 1988).

We recognize that DOE personnel may not have knowledge of policies and procedures for nonenergy programs, such as highway projects, for which the Stripper Well funds can be used. However, DOE could review how funds are accounted for and spent (e.g., whether they are spent on the proposed project) with little special knowledge of the programs.

HHS Has Done Little
Monitoring of LIHEAP
Projects

HHS monitoring of the territories' uses of LIHEAP funds has been limited. Each fiscal year, HHS must conduct compliance reviews of several LIHEAP grantees to determine whether their uses of LIHEAP funds comply with provisions of the LIHEAP statute. While the compliance reviews address both the programmatic and financial operations of the program, HHS generally collects expenditure and obligation data through voluntary participation in telephone surveys. HHS also performs desk reviews of all grantees' planned expenditure data that are submitted with their annual plans.

According to HHS, the territories have not generally been included in these reviews and surveys because the appropriated funds they have received are small compared with the amounts states receive. Puerto Rico did, however, use a substantial amount of oil overcharge funds during fiscal year 1988 for LIHEAP. In 1990 HHS conducted a compliance review of Puerto Rico's 1989 LIHEAP activities; however, no oil overcharge funds were used in the program during 1989.

HHS Had Not Issued
Guidance on Consolidating
LIHEAP Funds With Other
Programs

During our review, we found that the Virgin Islands' Department of Human Services had consolidated LIHEAP with other programs covered by the HHS Social Services Block Grant program. The consolidation was made to provide greater flexibility in utilizing funds. However, after the grant programs are consolidated, LIHEAP funds can potentially be used on any of the activities eligible under the block grant program. While the Virgin Islands had not spent any of its oil overcharge funds for LIHEAP at the time of our review, its 1990 annual oil overcharge report showed that it planned to spend \$500,000 of its Exxon funds for LIHEAP. Since the funds may lose their identity when consolidated, it is unclear whether HHS could determine if the oil overcharge funds were actually spent for LIHEAP activities.

The Omnibus Territories Act of 1977 and its accompanying regulations allow the territories to consolidate their appropriated LIHEAP funds with other grant programs. The territories are allowed to consolidate their grants to minimize the administrative burden and provide flexibility for using the funds in a manner they determine is the most appropriate.

However, restrictions placed on the uses of oil overcharge funds by the Congress and the courts specify that the funds cannot be used on nonenergy programs and are limited to the five grant programs and approved nongrant projects.

When we questioned HHS officials about the consolidation, they expressed uncertainty as to whether LIHEAP oil overcharge funds may be consolidated under a block grant program. To resolve the uncertainty, HHS requested clarification from DOE in a letter dated November 19, 1990. In its response to HHS, DOE concluded that it was permissible to include oil overcharge funds under a consolidated grant program if the funds are specifically earmarked for LIHEAP and are used only for LIHEAP program activities. HHS subsequently drafted a letter to the territories informing them of this ruling. HHS officials told us, however, that it was still unclear how the territories' compliance with this requirement would be monitored.

Applying Requirements of the Single Audit Act to Oil Overcharge Funds May Improve Federal Oversight

In 1990 OMB took action to require that states and territories include oil overcharge funds in the annual independent audits required for federal assistance programs under the Single Audit Act of 1984. This action can help provide needed financial oversight. However, DOE is planning to ask OMB to amend the requirement so that it would cover oil overcharge funds used for grant programs only.

The Single Audit Act of 1984 and OMB Circular A-128 require territorial and state governments that receive \$100,000 or more in federal assistance funds, which includes appropriated funds, to annually obtain an independent audit of the funds. Governments that receive between \$25,000 and \$100,000 have the option of complying with the act or the audit requirements of the federal programs in which they participate. While the act does not ensure total program compliance with the funds' use restrictions, audits required under the act provide some accountability of the funds. Furthermore, the act requires a review of internal controls to determine whether controls are in place and functioning to help ensure compliance with federal requirements. Federal agencies may carry out their own monitoring activities to supplement Single Audit Act audits, as needed.

**Chapter 3
DOE And HHS Lack Assurance That
Territories Are Using Oil Overcharge Funds
As Required**

In 1990 OMB revised its guidance on the Single Audit Act to specifically require that oil overcharge funds as well as appropriated funds be included in Single Audit Act audits.⁴ The revised guidance sets forth the requirements contained in various oil overcharge cases, including the Exxon decision and Stripper Well settlement. It also suggests procedures for auditors to follow that would address areas in which we found problems. The procedures include determining whether interest is being used for authorized purposes, determining whether Exxon funds have been used for administrative expenses, and reviewing whether funds used for nongrant projects are being spent for project-related activities.

OMB's action was based on a recommendation made by DOE's OIG. According to an OIG staff member, the OIG had found that some states and territories were not including oil overcharge funds in their Single Audit Act audits. Accordingly, the OIG believed that the OMB guidance needed to be revised to specifically set forth a requirement that all oil overcharge funds be reviewed.

The Deputy Assistant Secretary for Technical and Financial Assistance told us, however, that his office had requested that the OIG ask OMB to amend the requirement so that Stripper Well funds used for nongrant programs would not be included in the single audits. This request is based primarily on a September 12, 1991, legal opinion. The opinion specifically focuses on whether states' use of Stripper Well funds to provide a portion of their required matching contributions under certain DOE grant programs violates the Stripper Well agreement. However, more broadly, the opinion asserts that Stripper Well funds should be characterized as "nonfederal" funds. According to OTFA, this interpretation implies that Stripper Well funds should be included in single audits only if they are used in federal programs—i.e., the five grant programs. As of November 1, 1991, the OIG was still reviewing the legal opinion and had not decided what, if any, recommendation it would make to OMB to amend the Single Audit Act guidance. However, an OIG official told us that any recommendation that the OIG makes would focus on states' use of Stripper Well funds for matching funds, not on whether nongrant programs should be included in Single Audit Act audits.

⁴HHS guidelines also require that oil overcharge funds used for LIHEAP be included in Single Audit Act audits.

DOE And HHS Monitor States' and Territories' Use of Oil Overcharge Funds in Substantially the Same Manner

We did not carry out a detailed review of how DOE and HHS monitor states' uses of oil overcharge funds. However, on the basis of discussions with DOE and HHS staffs, it appears that their monitoring of states' and territories' usage of the funds is similar. For example, officials at DOE's Atlanta Support Office and the San Francisco Operations Office told us that they monitor states' and territories' usage of the funds in essentially the same manner. Along these lines, we found that the two DOE field offices were not completing the management reviews of states' energy programs or using the checklists to complete their on-site monitoring activities. However, the San Francisco office had completed financial and program reviews that incorporated some of the activities required by the management reviews.

Three previous GAO reports also cited cases in which states had not properly accounted for interest earned on oil overcharge funds.⁵ DOE also does not monitor states' uses of funds for nongrant projects.

While HHS performs compliance reviews in several states each year, it generally relies on the states, as it does the territories, to monitor their LIHEAP activities. It also does not require any expenditure reports or status reports on LIHEAP activities funded.

Conclusions

DOE and HHS monitoring have provided limited assurance that territories properly use oil overcharge funds. This situation should be improved by OMB's recent actions to specifically apply Single Audit Act requirements for federal assistance programs to oil overcharge funds. If the territories include uses of oil overcharge funds in the single audits, DOE and HHS could then use their own monitoring activities to supplement the audits when additional compliance reviews are needed. However, excluding funds used for nongrant projects from the single audits requirements would weaken the requirements' impact. In our view, excluding Stripper Well funds used for nongrant programs from the Single Audit Act audits would not be consistent with PODRA. As noted earlier, we interpret the act as requiring that oil overcharge funds used for grant programs and nongrant programs be monitored in a manner substantially similar to that of appropriated funds.

Finally, while we did not carry out a detailed review of states' uses of oil overcharge funds, we are concerned that problems similar to those that we

⁵Energy Management: States' Use and DOE Oversight of Exxon and Stripper Well Overcharge Funds (GAO/RCED-88-152, June 14, 1988); Energy Conservation: States' Use of Interest Earned on Oil Overcharge Funds (GAO/RCED-88-51, Feb. 4, 1988); and The Department of Energy Should Improve Its Management of Oil Overcharge Funds (GAO/RCED-85-46, Feb. 14, 1985).

found with the territories' uses of oil overcharge funds could exist in the states.

Recommendations to the Secretary of Energy

We recommend that the Secretary of Energy direct the Assistant Secretary for Conservation and Renewable Energy to take the following actions:

- Review the territories' submission of audit reports mandated by the Single Audit Act of 1984 to determine the extent to which the reports ensure compliance with requirements governing the use of oil overcharge funds. This review should include funds used for both grant and nongrant programs.
- Require agency staff to carry out reviews of the territories' compliance with requirements governing the accounting and use of oil overcharge funds as needed to supplement the Single Audit Act audits.
- Review states' accounting and uses of oil overcharge funds to determine if similar weaknesses found in the territories exist, and implement appropriate corrective actions.

In addition, we recommend that the Secretary of Energy direct the Assistant Secretary for Conservation and Renewable Energy to take action to ensure that field offices carry out their monitoring activities in concert with OTFA monitoring guidance.

Agency Comments

DOE believes that its current monitoring procedures for nongrant programs comply with the Stripper Well agreement and PODRA. These procedures consist primarily of reviewing proposed projects and annual reports filed by states and territories. Also, because it does not consider oil overcharge funds to be federal funds, DOE believes the basis for including oil overcharge funds in the independent audits required by the Single Audit Act is unclear. In addition, DOE stated that while, in general, its field offices follow headquarters' monitoring procedures, further uniformity in monitoring is expected to result from an organizational change that required field offices to report to DOE headquarters rather than to five different field offices.

We continue to believe that on-site compliance reviews are needed to ensure that states and territories are properly using oil overcharge funds. Accordingly, we continue to support OMB's action to specifically include reviews of oil overcharge funds in its Single Audit Act guidance and believe that excluding funds used for nongrant programs from such audits would not be consistent with PODRA. DOE also has a responsibility for carrying out

Chapter 3
DOE And HHS Lack Assurance That
Territories Are Using Oil Overcharge Funds
As Required

additional compliance reviews as needed to supplement Single Audit Act audits.

In a draft of this report, we had also proposed that the Secretary of HHS take actions similar to those suggested to DOE. HHS officials told us that they were already complying with the intent of the recommendations in their ongoing activities. Because of this and HHS' assurances, we are no longer making the recommendations.

Exxon and Stripper Well Funds and Interest in the Territories, as of June 30, 1990

| Funds and interest | Puerto Rico | Virgin Islands^a | Guam^a | American Samoa | Northern Marianas | Total |
|---------------------------------|---------------------|-----------------------------------|-------------------------|-----------------------|--------------------------|---------------------|
| Amount received | | | | | | |
| Exxon | \$20,053,949 | \$9,951,205 | \$3,099,681 | \$371,352 | \$192,062 | \$33,668,249 |
| Stripper Well | 12,980,698 | 6,303,110 | 2,008,023 | 242,680 | 125,526 | 21,660,037 |
| Total funds distributed | 33,034,647 | 16,254,315 | 5,107,704 | 614,032 | 317,588 | 55,328,286 |
| Interest earned | | | | | | |
| Exxon | 3,841,633 | 3,118,666 | 1,166,386 | 22,998 | 39,739 | 8,189,422 |
| Stripper Well | 2,769,699 | 1,404,617 | 453,735 | 0 | 19,975 | 4,648,026 |
| Total interest earned | 6,611,332 | 4,523,283 | 1,620,121 | 22,998 | 59,714 | 12,837,448 |
| Total funds and interest | \$39,645,979 | \$20,777,598 | \$6,727,825 | \$637,030 | \$377,302 | \$68,165,734 |

^aVirgin Islands and Guam data are as of September 30, 1990.

Major Contributors to This Report

Resources,
Community, and
Economic
Development Division,
Washington, D.C.

Judy A. England-Joseph, Associate Director
Richard A. Hale, Assistant Director
Carrie M. Stevens, Assignment Manager
Eva M. Fallon, Staff Evaluator

Office of the General
Counsel

David K. Hooper, Attorney

Chicago Regional
Office

John R. Richter, Regional Assignment Representative
Jimmie Gilbert, Evaluator-in-Charge
David J. Cummings, Site Senior

Related GAO Products

Low-Income Home Energy Assistance: States Cushioned Funding Cuts but Also Scaled Back Program Benefits (GAO/HRD-91-13, Jan. 24, 1991).

Energy Reports and Testimony: 1990 (GAO/RCED-91-84, Jan. 1, 1991).

Energy Regulation: Factors Relating to Oil Overcharge Settlements Need Better Documentation (GAO/RCED-90-181, Aug. 23, 1990).

Energy: Bibliography of GAO Documents January 1986–December 1989 (GAO/RCED-90-179, July 16, 1990).

Energy Management: States' Use of Oil Overcharge Funds for Legal Expenses (GAO/RCED-89-60, Mar. 21, 1989).

Energy Regulation: The Quality of DOE's Oil Overcharge Information (GAO/RCED-89-104, Mar. 15, 1989).

Energy Management: States' Use and DOE Oversight of Exxon and Stripper Well Overcharge Funds (GAO/RCED-88-152, June 14, 1988).

Energy Conservation: States' Expenditures of Warner Amendment Oil Overcharge Funds (GAO/RCED-88-119 BR, May 17, 1988).

Energy Management: How States Are Using Exxon and Stripper Well Funds (GAO/RCED-88-145 FS, May 16, 1988).

Energy Conservation: States' Use of Interest Earned on Oil Overcharge Funds (GAO/RCED-88-51, Feb. 4, 1988).

Ordering Information

The first copy of each GAO report is free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

**U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20877**

Orders may also be placed by calling (202) 275-6241.

United States
General Accounting Office
Washington, D.C. 20548

First-Class Mail
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use \$300
