

BUREAU OF STATE AUDITS (BSA) – COMMISSION RESPONSE

The BSA Audit of the Off-Highway Motor Vehicle Recreation Program was released on August 17, 2005. A six-month and one-year response from the Off-Highway Motor Vehicle Recreation Division (“Division”) and Commission (“Commission”) regarding specific issues raised in the audit was requested by the Auditor.

Due to the Commission meeting schedule, the Commission was unable to submit an official one-year response to the Auditor by the August 17th 2006 deadline. The Division informed the BSA Auditor about Commission schedule.

On September 8, 2006, the Commission met in Sacramento. Audit materials for the Commission to review were on the agenda and presented in the Commission packet, but due to competing priorities at the meeting, the Commission was not able to hear the agenda item at that time.

Attached please find the one-year response submitted by the Division. Although the Division did not have the authority to officially respond on behalf of the Commission, it did try to impart the efforts of the both the Division and Commission to work together to achieve a shared vision for the program.

The Division would like to work with the Commission so an official response may be submitted to the BSA Auditor on behalf of the Commission. Please see the attached one-year response. The items highlighted in yellow are the responses of the Commission.

Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division
One-Year Response to the Recommendations by the State Auditor

CHAPTER 1

RECOMMENDATION #1:

To ensure that money from the OHV trust fund is allocated in a manner to ensure that the OHV program is adequately balanced between OHV recreation opportunity and environmental concerns, as the Legislature intended, the OHMVR Commission and the OHMVR Division should develop a shared vision that addresses the diverse interests in the OHV program. To implement this shared vision they should develop a Strategic Plan that identifies common goals for the grants and cooperative agreements program and the SVRA's, taken as a whole, and the strategies and action plans to meet those goals.

OHMVR PROGRAM #1:

As indicated in the sixty-day and six-month responses, the Department of Parks and Recreation (Department) recognizes a shared vision between the Off-Highway Motor Vehicle Recreation (OHMVR) Division and the OHMVR Commission is optimal for a successful overall program. With this in mind, at the May 19, 2006, OHMVR Commission meeting, a sub-committee was established to work with the Division Strategic Planning staff to develop a shared vision. The sub-committee is made up of two commissioners - a recent appointee of the Governor who brings a fresh outlook, and the Vice-Chair of Commission whose knowledge of the Commission can help guide the process. After a number of meetings and conference calls, the Division staff and Commission sub-committee have developed a draft vision statement which will be released at the September 8, 2006 Commission meeting with a goal of reaching full consensus.

While waiting the finalization of the vision statement, which will serve as a cornerstone and direction for the plan, the Division Strategic Planning staff continues to collect pertinent information from available data, public input, surveys and other necessary research appropriate to accomplishing this task.

Data gleaned from the Fuel Tax Study, e.g. where people recreate, numbers and types of vehicles in which they recreate, and for what length of time, will also contribute to the development of the Strategic Plan.

RECOMMENDATION #2:

To provide adequate guidance for implementing the SVRA portion of the OHV program and the expenditures of the OHV trust fund, the division should take the following steps to complete its strategic planning process:

- *Perform a thorough assessment of external factors that affect the OHV program. These factors may include available facilities, statutory changes, and environmental requirements.*
- *Perform a comprehensive evaluation of the internal factors that may prevent it from implementing its strategic plan. These factors would include its organization, the adequacy of its staffing, and the improvements in its operations that we identified.*
- *Collect the data necessary to report on the appropriate level of funding needed to sustain conservation and enforcement needs, areas supported by the grants program, SVRAs, capital outlay, and division support, as required by law.*

OHMVR PROGRAM #2:

As mentioned above, the Division has recently hired staff, with extensive field operations and statewide strategic planning background, to work on the Strategic Plan. Since mid-March, extensive staff time has been committed to the assessment of internal and external factors, environmental conditions and constraints through the review and validation of existing data and studies, interviews and surveys of the OHV recreation community, businesses, environmental groups and other stakeholders. In addition, a survey has been developed by the Division in an effort to assess OHMVR Programs and potential issues faced by other states that would be applicable to California's program. The development of goals, objectives, and strategies to guide the Division's overall program will follow the finalization of the environmental assessment component of the plan although preliminary concepts are underway to address specific program areas. These include but are not limited to: the development of a formal acquisition process and evaluation matrix; management assessment of SVRAs to formulate best management practices; and, finalization of new grants procedures and regulations.

RECOMMENDATION #3:

To make efficient use of division staff time for developing recommendations, and to provide applicants for the grants program with information on how best to direct their efforts when applying for these funds, the commission should develop a strategy for using the grants and cooperative agreements program to promote an OHV program that is balanced between recreation and environmental concerns. The OHMVR Commission should communicate its strategy and its priorities to potential grant applicants and should follow these priorities when awarding funds.

OHMVR PROGRAM RESPONSE #3:

As part of the Commission's efforts to provide clarity to grant applicants, prior to the 2005/06 application process the Commission identified, voted and set priorities for funding that provided clarity and direction for the grant applicants.

In addition, the Division moved forward with proposed permanent regulations for the grants and cooperative agreements program through the Office of Administrative Law (OAL) process. Grant applicants have provided positive feedback to the Division and Commission on the new grant process. Along with the new regulations/guidelines, a Commission Tour is scheduled for September 7, 2006. This tour will provide Commissioners a first hand look at the types of projects they will be assessing in the upcoming workshops.

RECOMMENDATION #4:

To provide accountability for the awards of OHV trust fund money for the grants program, the Legislature should consider amending the Public Resources Code to require the OHMVR Commission to annually report the grants and cooperative agreements it awards by recipient and project category, and how the awards work to achieve the shared vision that it and the Division develops.

OHMVR PROGRAM RESPONSE #4:

While this response is directed at the Commission, the Division recognizes the importance of a grants program which is accountable, transparent and fair. The criteria developed by the Commission and the Division is designed in an effort to balance sustained long-term OHV recreation, facilities, and management with environmental concerns as the Legislature originally intended with the inception of the program. Absent changes in Legislation, the requirement for an annual reporting of grants and cooperative agreements is currently being considered as part of the Strategic Plan "Annual Plan" Reporting. The "Annual Plan" would combine accomplishments from the prior year along side proposed actions for the upcoming year. An additional opportunity would be to include details of grants in the Biennial Report.

RECOMMENDATION #5:

To ensure that it obtains information critical to the performance and planning for the OHV program, the commission should prepare and submit the required biennial program reports on the status and performance of the OHV program when they are due.

OHMVR PROGRAM RESPONSE #5:

The Division agrees with the BSA auditors' recommendation to require the Commission/Division to prepare and submit the required biennial program report on the status and performance of the OHV program when they are due. Unfortunately providing the staff resource capable of addressing this project within the timeframe was problematic. For the future, the Division is developing a more capable staff through training and appropriate classification to meet these deadlines and special assignments in a timely fashion. Completion of a draft Biennial Report is scheduled to be available in the fall of 2006 along with plans for public review as required.

RECOMMENDATION #6:

The OHMVR Division and OHMVR Commission should evaluate the current spending restrictions in the law to determine whether they allow for the allocation of funds necessary to implement a strategy to provide an OHV program that is properly balanced between the need for recreation and protection of the environment. If not, the division should seek changes in the law to include minimum spending guidelines that ensure that elements of the OHV program are addressed, but that allow the commission and the division the flexibility to implement a balanced program as the law intended.

OHMVR PROGRAM RESPONSE #6:

The Division Deputy Director and Division Chief along with key staff and consultants are working to better assess the funding needs of each of the core program areas to allow for program success, flexibility and balance. The upcoming fuel tax study, the Strategic Plan framework, as well as program operations from years past, will provide the necessary information and tools for development of a balanced OHV program.

RECOMMENDATION #7:

The legislature should consider amending the Public Resources Code to clarify whether the use of money from the OHV trust fund lands to restore land damaged by OHV usage requires that those lands be permanently closed to OHV recreation.

OHMVR PROGRAM RESPONSE #7:

During last year's legislative cycle the Division Deputy Director, Division Chief, and Department of Parks and Recreation Legislation Unit moved forward with recommended language to clarify the definition of restoration as a core issue. However, the legislation never got out of committee.

**Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division
One-Year Response to the Recommendations by the State Auditor**

CHAPTER 2

RECOMMENDATION #1:

The OHMVR Division should develop and implement a process of evaluating land acquisition projects to ensure that its investments of OHV funds provide strategic value in accomplishing the OHMVR Division's mission and that the level of OHV recreation that results from its land acquisitions provides the best use of the OHV trust fund. This process should include appropriate analysis of the costs and benefits of a proposed land acquisition, including an assessment of the need for additional land for OHV recreation in the area.

OHMVR PROGRAM RESPONSE #1:

The Division believes a comprehensive land acquisition strategy should be directly linked to the development of the Strategic Plan, the results of a shared visioning strategy between the Division and Commission, findings from the fuel tax study, as well as input from and collaboration with a variety of interested communities, organizations and stakeholders. The Strategic Planning staff has taken steps to incorporate these components into the Strategic Plan framework and intends to develop an acquisition planning process that will assist the Division to better identify sites that offer a balance between OHV recreation and resource protection.

RECOMMENDATION #2:

To ensure that money from the OHV trust fund is used appropriately, the Legislature should amend the law to make clear the allowable uses of the OHV trust fund. Specifically, the Legislature should clarify whether the department's broad interpretation that any road that is not defined as a highway, but is open for public use in a state park, qualifies for funding by the OHV trust fund or whether state law restricts the use of OHV trust fund money to those areas where non-street licensed vehicles can engage in traditional OHV activity.

OHMVR PROGRAM RESPONSE #2:

The Department appreciates the auditor's recommendation yet holds firm to the position that the Department has broad discretion when interpreting the language in a manner that is reasonable and consistent with the language provided in the Act. The Department believes the utilization of OHV Trust Funds for the partial support of State Park System units outside of the traditional State Vehicular Recreation Areas is appropriate when one considers the level of the OHV Trust Fund's eligible activities occurring in the park units outside the Division.

RECOMMENDATION #3:

The department should discontinue charging the director's office costs to the OHV trust fund, as the law requires. However, if the department believes that this statutory restriction is inappropriate, it should seek a statutory change to remove this requirement.

OHMVR PROGRAM RESPONSE #3:

As was noted in both the sixty-day and six-month response to the audit, the Director's Office charges to the OHV Trust Fund have been discontinued.

RECOMMENDATION #4:

To improve its contracting practices and comply with state laws, regulations, and rules, the OHMVR Division should implement the following changes:

- a) *Ensure that it complies with the State's contracting rules; particularly those that prohibit contract splitting.*
- b) *Contract only for services that are an allowable use of the OHV trust fund and that provide a clear value to the OHV program.*
- c) *Analyze its operations to determine if using existing staff or hiring additional staff would be a less expensive alternative to contracting for staff-related work and ongoing needs. This analysis should consider utilizing two positions that the division has loaned to other department units, as these could help alleviate the need for contracting.”*

OHMVR PROGRAM RESPONSE #4 (a) & (b):

Since the release of the audit, the Division has implemented new contracting procedures along with a review/approval process by the Division Chief for all headquarters contracts. These procedures have resulted in significant improvements in the contracting practices. SVRA District Superintendents have also been counseled on proper review and approval of contracts. As noted in Response #5, the Department has also implemented a tracking and notification system for small dollar contracts.

OHMVR PROGRAM RESPONSE #4(c):

In the past year there have been significant changes in staff at the Division. In addition, an overall examination of the roles and responsibilities of staff in the Division has resulted in the development of a formal organizational chart to address this and other staffing concerns. Some work previously done by contractors has been transferred to permanent state employees. In particular, Division staff has taken an active role in organizing and setting up OHMVR Commission sub-committee meetings, a function that was previously done exclusively by contract workers.

RECOMMENDATION #5:

The department should increase its oversight of the OHMVR Division's contracting practices, particularly of the small dollar contracts that the OHMVR Division and the SVRA's can approve, to ensure that they comply with state laws, regulations, and rules.

OHMVR PROGRAM RESPONSE #5:

Since the release of the audit, the Division has implemented a contracting procedure and has implemented a review/approval process by the Division Chief in conjunction with the Department's Contracts Service Unit (CSU) to review all small dollar contracts to ensure compliance. CSU has implemented a Departmental notification process to alert appropriate managers should there be a question of multiple small contracts to the same vendor(s).

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CHAPTER 3

RECOMMENDATION #1:

To ensure that advanced funds are adequately accounted for and spent on allowable activities, the division should develop processes for tracking advanced funds to recipients of grants and cooperative agreements, determining the status of these funds, and promptly recovering any unspent amount. Further, the division should promptly follow-up with the BLM, Los Angeles County, and Reclamation on the outstanding advances that we identified.

OHMVR PROGRAM RESPONSE #1:

The Division continues to work to resolve the outstanding advances as identified by the audit although the process is long and tedious. The difficulties faced are due in large part to the large number of grants in question and the records retention procedures for these grants, some of which are over twenty years old. These outstanding grants need to be matched up with the grant regulations that existed during that particular project period to ensure accuracy of the funds in question. The Division continues to work on resolving balances in question from the BLM and USFS as was reported in the six-month response.

Over the past year, the Division has worked with Los Angeles County to identify outstanding balances due back to the Division. Recently the Division received a refund of \$225,806 owed to the OHV Trust Fund.

The Division has also been working with the Bureau of Reclamation to resolve outstanding audit refunds due. All supporting documentation for OR-3-BR-07 has been received, on-site management issues have been resolved, and the final \$120,000 allocation has been released. However, due to Bureau of Reclamation records retention procedures, no further documentation is available to substantiate the outstanding \$100,065 from OR-370. As such the Division is identifying proper file closure procedures with the Bureau to finalize this transaction.

RECOMMENDATION #2:

To provide accountability for the OHV program funds awarded through the grants and cooperative agreements program, the division should ensure that all grants and cooperative agreements receive an annual fiscal audit and performance review. Further, it should ensure that audit findings are promptly resolved and ineligible costs collected.

OHMVR PROGRAM RESPONSE #2:

As was highlighted in the six-month response, the Division has created a more comprehensive mechanism to ensure audit findings are promptly scheduled, resolved, and any outstanding or ineligible costs are returned to the Division. The Division continues to improve the tracking and processing of grants and cooperative agreements to make sure grants and cooperative agreements are audited and ineligible costs collected. In an effort to have greater accountability, the Division has worked with the Department's Audits Office to dedicate full time staff to work solely towards auditing OHV grants and cooperative agreements. This undertaking is massive because of the requirements in the statute to conduct an annual audit on all grants and cooperative agreements.

RECOMMENDATION #3:

The division and the commission should ensure that they do not reallocate funds among Forest Services districts without regard for the period of availability for grant funds and state contracting rules. Instead, if Forest Service districts have unspent funds on their cooperative agreements, the division should require that they promptly return those funds.

OHMVR PROGRAM RESPONSE #3:

As stated in the six-month and sixty-day responses, reallocations, or “rescopes”, were discontinued during the 2004/2005 grant cycle. This includes the possible reallocation of any unspent grant funds among Forest Service districts or any other agency. In addition, the Division has implemented policies and procedures to promptly close completed project files. Under the Division emergency regulations effective April 11, 2005, and the proposed permanent regulations which will be effective in the fall of 2006, “rescopes” are no longer a means to redistribute money to applicants.

RECOMMENDATION #4:

To ensure that grants program funds are expended only on projects that meet the intent of the OHV program, the commission should ensure that it allocates funds only for purposes that clearly meet the intent of the OHV program.

OHMVR PROGRAM RESPONSE #4:

As previously mentioned, the Division is working in concert with the Commission to develop a shared vision as part of the Strategic Plan. This shared vision, along with Commission and Division priorities will provide the foundation to assure funding will be allocated to projects that meet the intent of the OHV program. The Division is also following the competitive process detailed in the emergency and proposed new regulations to ensure grant program funds are expended on projects that meet the established criteria that reflect the intent of the OHV program.

RECOMMENDATION #5:

To make its grants database a more effective tool for managing the grants program, the division should expand the capabilities of the database to record more detailed information regarding the types of grants and cooperative agreements awarded and also develop procedures to ensure that staff accurately enter information into the database.

OHMVR PROGRAM RESPONSE #5:

The Division continues to work with the California State Parks Department Information Technology staff along with an information technology contractor to improve the grants database to address certain deficiencies brought up in the audit. In an effort to gather comprehensive digital information and reduce staff data entry errors, the contractor has begun to digitize the grant application process. Efforts are underway to implement a new and thorough online grant application database that will store all aspects of a grant application and track individual grants from submittal to completion.