



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL

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November 3, 2008

Memorandum

To: Director
U.S. Fish and Wildlife Service

From: Christina M. Bruner *Christina M. Bruner*
Regional Manager, Eastern Region

Subject: Management Advisory – Clarification Needed on Disposal of Equipment Acquired with Grant Funds (B-EV-FWS-0013-2008)

Under the Federal Wildlife and Sport Fish Restoration Program (the Program), the U.S. Fish and Wildlife Service (FWS) provides grant funds to each eligible State to conserve and enhance sport fish and wildlife. States can use these funds for the purchase of equipment. We are concerned because of conflicts that exist between federal regulations and statements contained in the FWS Service Manual. The conflicting statements pertain to how States should handle proceeds from the disposal and/or sale of equipment worth more than \$5,000 at the time of disposition. As a result of these conflicting statements, the FWS Regions are providing conflicting guidance to the States.

Specifically, the FWS Service Manual (522 FW 1.16) states, “. . . If equipment with a current market value over \$5,000 is sold, the proceeds must be treated as program income. Costs related to the sale of the equipment may be deducted in the determination of program income.”

However, the Code of Federal Regulations (43 C.F.R. § 12.72(b)) states, “A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures.” If a State does not have its own laws and procedures, 43 C.F.R. § 12.72(c), (d), and (e) impose restrictions on the use and disposition of equipment purchased with grant funds. If the equipment item has a current market value of less than \$5,000 and is no longer needed for the original project or program or another federally-supported program, the State may retain, sell, or otherwise dispose of the item with no further obligation. If the equipment has a fair market value greater than \$5,000 and the State disposes of it, then the awarding agency has a right to the value of its share of the equipment.

The uniform administration requirements for grants to State governments 53 FR 8034, 8077 (March 11, 1988) echoes the C.F.R. It states, “A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.”

We believe that the language in the FWS Service Manual regarding disposal of equipment greater than \$5,000 is in error. According to the C.F.R., proceeds from the sale of such equipment should not be treated as program income but should follow State rules and procedures. If the State has no procedures then States should follow 43 C.F.R. § 12.72(c), (d), and (e). Additionally, the conflict between the FWS Service Manual and federal regulations has resulted in FWS Regions issuing conflicting interpretations to the States on the disposition of equipment.

We therefore suggest that FWS revise the Service Manual (522 FW 1.16B) to agree with Federal regulations and ensure all FWS Regions are aware of the change when it is made.

No formal response to the Management Advisory is necessary. However, we would appreciate being apprised of any actions that FWS takes on this issue.