



U.S. Department of the Interior  
Office of Inspector General

# AUDIT REPORT

ADMINISTRATION OF GRANTS AWARDED  
UNDER THE NORTH AMERICAN  
WETLANDS CONSERVATION ACT,  
U.S. FISH AND WILDLIFE SERVICE

REPORT NO. 97-I-1112  
AUGUST 1997



# United States Department of the Interior

OFFICE OF INSPECTOR GENERAL  
Washington, D.C. 20240

**AUG 29 1997**

## MEMORANDUM

TO: The Secretary

FROM: Wilma A. Lewis  
Inspector General

SUBJECT: Final Audit Report for Your Information - "Administration of Grants Awarded Under the North American Wetlands Conservation Act, U.S. Fish and Wildlife Service"

Attached for your information is a copy of the subject final audit report. The objective of the audit was to determine whether the U.S. Fish and Wildlife Service administered grants awarded under provisions of the North American Wetlands Conservation Act effectively and in compliance with laws, regulations, and Service policy.

We found that improvements in grants administration were needed. Specifically, the Service's Waterfowl and Wetlands Office, which administers Conservation Act grants, needed to verify the propriety of costs charged to grants and ensure that work was performed in a timely manner and in accordance with grant terms and conditions. We also found that the Conservation Act contained funding provisions that were unclear as to the required cost-sharing responsibilities of Federal and non-Federal partners. To correct these problems, we recommended that the Service obtain sufficient information to verify project costs, monitor project performance, and request grant modifications for work that is performed outside the scope of the grant agreements. Regarding the Conservation Act's cost-sharing provisions, we recommended that the Service request a Solicitor's opinion which clarifies the amount and source of funds that should be contributed by Federal and non-Federal partners.

Based on the Service's response to the report's six recommendations, we considered three recommendations resolved and implemented, two recommendations resolved but not implemented, and one recommendation unresolved. The Service was requested to reconsider its response to the unresolved recommendation, which pertained to the need for a clarification of the North American Wetlands Conservation Act's funding requirements.

If you have any questions concerning this matter, please contact me at (202) 208-5745 or Mr. Robert J. Williams, Assistant Inspector General for Audits, at (202) 208-4252.

Attachment



# United States Department of the Interior

OFFICE OF INSPECTOR GENERAL  
Washington, D.C. 20240

E-IN-FWS-012-96

AUG 29 1997

## Memorandum

To: Assistant Secretary for Fish and Wildlife and Parks

From: Robert J. Williams *Robert J. Williams*  
Assistant Inspector **General for Audits**

Subject: Final Audit Report on the Administration of Grants Awarded Under the North American Wetlands Conservation Act, U.S. Fish and Wildlife Service (No. 97-I-1112)

This report presents the results of our audit of the administration of grants awarded under provisions of the North American Wetlands Conservation Act of 1989. The objective of the audit was to determine whether the U.S. Fish and Wildlife Service administered grants effectively and in accordance with applicable laws, regulations, and Service policies.

We found that the Service needed to improve its administration of North American Wetlands Conservation Act grants. Specifically, the Service's Waterfowl and Wetlands Office, which was responsible for grants administration, in some cases did not adequately review or obtain sufficient information to verify the propriety of costs that were charged to the grants; monitor project performance to ensure that work was performed in a timely manner and conducted in accordance with the grant agreements, or request grant modifications for work that was performed outside the scope of the grant agreement. Also, we could not determine whether non-Federal partners had contributed their required share of project costs because the North American Wetlands Conservation Act does not specify the amount of funds that should be contributed by non-Federal partners.

For the 29 grants reviewed, we found that costs of \$1 million may have been improperly reimbursed or credited to the partners' share (12 agreements), grant modifications were issued after the performance period had lapsed (12 agreements), land was bought or easements were obtained outside the grant performance period (7 agreements), and work other than that described in the grant agreement was performed or work described in the grant agreement was not completed (5 agreements). We also found that non-Federal partners may not have paid their required share of project costs (4 agreements).

We made five recommendations to improve grants administration and one recommendation to ensure that grants are funded in accordance with provisions of the North American Wetlands Conservation Act.

Based on the July 17, 1997, response (Appendix 2) from the Director, U.S. Fish and Wildlife Service, we consider Recommendations A.1 and A.2 resolved but not implemented; Recommendations A.3 through A.5 resolved and implemented; and Recommendation B. 1 unresolved. Accordingly, the unimplemented recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation, and the Service was requested to reconsider its response to the unresolved recommendation (see Appendix 3).

In accordance with the Departmental Manual (360 DM 5.3), we are requesting a written response to this report by September 30, 1997. The response should provide the information requested in Appendix 3.

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

We appreciate the assistance of Fish and Wildlife Service personnel in the conduct of our audit.

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# INTRODUCTION

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## BACKGROUND

The North American Wetlands Conservation Act (Public Law 101-233) was enacted on December 13, 1989. The objectives of the Act were to encourage partnerships between public agencies and other interests to protect, enhance, restore, and manage wetlands and other habitats for migratory birds, fish, and other wildlife in North America; to foster migratory bird populations; and to support the goals of the North American Waterfowl Management Plan and the international obligations contained in migratory bird treaties, conventions, and agreements with Mexico, Canada, and other countries. The Act established a nine-member North American Wetlands Conservation Council<sup>1</sup> to recommend wetlands conservation projects for approval by the Migratory Bird Conservation Commission.<sup>2</sup> The Act also identified criteria to be considered by the Council in recommending projects for approval. In November 1990, the Coastal Wetlands Planning, Protection and Restoration Act (Public Law 101-646) was enacted, which provided additional funding for wetlands conservation projects in coastal states to be administered in accordance with provisions of the North American Wetlands Conservation Act.

Under provisions of the Conservation Act, the U.S. Fish and Wildlife Service enters into agreements, usually grants, with partners to conduct wetlands conservation projects. These partners include Service organizations; other Department of the Interior bureaus; other Federal agencies; agencies of state and foreign governments; and other parties, such as the Nature Conservancy and Ducks Unlimited. The work conducted under the agreements may be performed on government or private property and typically entails acquiring, developing, enhancing, and/or restoring wetlands habitats.

Grant agreements and Federal legislation and regulations govern project activity and the costs that can be charged or credited to a project. For example, the grant agreements specify the types of costs that are to be reimbursed with Conservation Act funds and the types of costs that are to be paid or the amounts that are to be contributed by partners. The agreements also establish the terms for project performance, including the tasks to be accomplished, the period of performance, and administrative requirements such as the

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<sup>1</sup>The North American Wetlands Conservation Council consists of the Director of the U.S. Fish and Wildlife Service; the Secretary of the Board of the National Fish and Wildlife Foundation; four individuals appointed by the Secretary of the Interior who are Directors of state fish and wildlife agencies; and three individuals appointed by the Secretary of the Interior who represent different charitable or nonprofit organizations that actively participate in wetlands conservation projects under the Act, the Plan, or the agreement between Canada, Mexico, and the United States.

<sup>2</sup>The Migratory Bird Conservation Commission consists of the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, two members of the Senate, and two members of the House of Representatives.

submission of periodic project reports. Also, the Code of Federal Regulations and Office of Management and Budget circulars establish the standards for allowable, allocable, and reasonable costs that can be charged or credited to Federal grant agreements.

Conservation Act funding for wetlands projects and for grant administration comes from four sources: a Departmental appropriation; interest on investments held in the Aid in Wildlife Restoration Fund; funds from the Coastal Wetlands Planning, Protection and Restoration Act (Sport Fish Restoration Account); and fines, penalties, and forfeitures assessed under Section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707). In fiscal years 1994, 1995, and 1996, amounts of \$26.2 million, \$25.0 million, and \$32.6 million, respectively, were provided from three of the funding sources. No fines, penalties, or forfeiture revenues were deposited into the Conservation Act Fund in these years. According to the Service, 407 grants were approved for funding since passage of the Act on December 13, 1989, through March 19, 1996. These grants totaled \$465.9 million: \$163.5 million from the Acts' funding sources and \$302.4 million from partners. The grants program is administered by the Service's North American Waterfowl and Wetlands Office, located in Arlington, Virginia. In fiscal years 1994 through 1996, 13 full-time equivalent positions, consisting of a grants administrator and 12 staff members, were authorized to administer the North American Wetlands Conservation Act program and to assist in the development and implementation of the North American Waterfowl Management Plan, which sets forth wetlands conservation objectives established by Mexico, Canada, and the United States.

## **OBJECTIVE AND SCOPE**

The objective of the audit was to determine whether the U.S. Fish and Wildlife Service administered grants awarded under provisions of the North American Wetlands Conservation Act effectively and in compliance with laws, regulations, and Service policies. The scope of the audit included wetlands conservation grants that were active during fiscal years 1994 through 1996 and related grant administrative activities.

To accomplish our objective, we selected 31 grants, totaling \$39.5 million, for review. Of this amount, \$12.1 million was provided by the Conservation Act's funding sources, \$12.6 million was provided by other Federal partners, and \$14.8 million was provided by non-Federal partners. Our sample included all 24 United States grants that were completed during the period of October 1, 1993, to March 13, 1996, and that totaled \$100,000 or more of grants program funding; 4 of 25 Canadian grants that were completed during the same period; and 3 judgmentally selected grants for projects that were reported as incomplete. Because of insufficient documentation, we could not evaluate the costs or project accomplishments of two of the grants, totaling \$7.5 million, that were reported as incomplete. Therefore, we based our results on an evaluation of 29 grants, totaling \$32 million. We reviewed project documentation and guidance pertaining to the Conservation and Restoration Acts and to the grants administration function. In addition, we interviewed Waterfowl and Wetlands Office and other Service officials involved in related activities, such as land acquisition, and analyzed certain costs charged to grant

agreements. We did not determine whether the projects funded under the grants program were conducted effectively or verify reported project accomplishments.

Our audit, which was conducted at the Waterfowl and Wetlands Office, was made, as applicable, in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances.

As part of our audit, we evaluated the system of internal controls related to grants activities and administration. We found that the Service needed to implement additional controls to ensure that Federal and non-Federal partners fulfilled grant requirements and charged to the project only those costs that were allowable, allocable, and reasonable. Our recommendations, if implemented, should improve internal controls in these areas.

We also reviewed the Department of the Interior's Annual Statement and Report, which is required by the Federal Managers' Financial Integrity Act of 1982, for fiscal years 1994 and 1995 and determined that no material weaknesses were reported that directly related to the objective and scope of our audit.

## **PRIOR AUDIT COVERAGE**

Neither the Office of Inspector General nor the General Accounting Office has issued any reports in the past 5 years on grant activities or on the administration of grants or other agreements funded under provisions of the North American Wetlands Conservation Act and the Coastal Wetlands Planning, Protection and Restoration Act.



## FINDINGS AND RECOMMENDATIONS

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### A. GRANTS ADMINISTRATION

The U.S. Fish and Wildlife Service's North American Waterfowl and Wetlands Office needs to improve its administration of grants awarded under provisions of the North American Wetlands Conservation Act. Grants awarded under the Conservation Act contain provisions governing the work to be performed, the period of performance, and the amounts to be paid or contributed by each party. Also, the Act limits the Federal contribution to each project,<sup>3</sup> and the Code of Federal Regulations and Office of Management and Budget circulars establish criteria for costs that are incurred on projects funded under grant agreements. However, in some cases, the Waterfowl and Wetlands Office did not obtain sufficient documentation or perform adequate reviews to verify that grant costs were allowable, allocable, and reasonable; ensure that grant modifications were issued in a timely and appropriate manner; or monitor project performance to ensure that work was completed as planned. As a result, for the 29 wetlands conservation agreements that we reviewed, totaling \$32 million, we found costs totaling \$1 million that were unallowable, unallocable, or unreasonable which were reimbursed or credited to partners as their contribution to the projects (12 agreements); modifications to extend the grant performance period that had not been issued until after the performance period had expired (12 agreements); land that was bought or easements that were obtained outside of the grant performance period (7 agreements); and work other than that described in the grant agreement that was performed or work described in the project agreement that was not completed without issuance of a grant modification (5 agreements).

During our audit, we did not visit project sites or evaluate the overall merits and accomplishments of the grants program. However, based on our review of grant files, we concluded that the Service's Waterfowl and Wetlands Office appeared to have taken appropriate actions to ensure that projects selected for funding under the North American Wetlands Conservation Act met the Congressional mandate of improving and conserving wetlands habitats. In addition, reports prepared by grantees showed that in 26 of the 28 completed grants reviewed, the grantees and other contributors had met or exceeded planned accomplishments. We also found indications of broad participation in some of the grants administered under the program, with at least two of the grants reviewed having 10 or more participating partners. However, we believe that improvements are needed in the following areas related to grants administration: (1) implementing controls over project costs, grant modifications, and land and easement acquisitions and (2) ensuring compliance with the terms and conditions of project agreements.

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<sup>3</sup>The need for clarification regarding the cost-sharing provisions of the Act is discussed in Finding B of this report.

## Project Costs

We found that the Waterfowl and Wetlands Office in some cases had not ensured that wetlands conservation project costs were incurred in accordance with provisions of grant and project agreements, which specified the costs that could be reimbursed by the Federal Government or credited to the grantees as their project contribution. We questioned costs totaling about \$607,000 that were reimbursed and costs totaling about \$406,000 that were credited to partners as their project contributions. For example:

- Two grantees were reimbursed about \$35,200 for overhead and administrative expenses that were not budgeted items in the project proposals;<sup>4</sup> three grantees were paid \$338,900 for project expenses that, according to the project agreements, should have been paid by the grantees rather than by the Federal Government; one grantee was reimbursed \$22,000 for expenses such as equipment, office, and “other” that were not listed as budgeted items in two project agreements; and one grantee charged \$22,000 to a project for the cost of work that was performed on another grant for the same project. These costs were improperly reimbursed or credited to grantees as their project contribution because the grants administrator had not performed a line item analysis of budgeted to actual costs to determine whether claimed costs were included in the project agreement or to compute the reimbursable amount of shared costs. In some cases, it would have been difficult for the grants administrator to perform such a comparison because the cost data in the grantees’ final reports were presented in a format that differed from the formats of the project proposals. However, the grants administrator did not request or obtain sufficient documentation from grantees to determine whether claimed costs were allowable, allocable, or reasonable. The grants administrator said that he relied on the grantee to report costs fairly and accurately. During the review, the Executive Director of the Waterfowl and Wetlands Office said that performing a detailed cost analysis would be time consuming and that additional staff would be needed to perform this work thoroughly. At the exit conference, the Executive Director said that the Waterfowl and Wetlands Office planned to hire a staff member to assist the grants administrator in processing reimbursement requests.

- A Service national wildlife refuge used \$45,000 of Conservation Act money for a “contingency fund” despite Code of Federal Regulations guidance (48 CFR 31.205-7) that classifies contingencies as unallowable costs. The grants administrator said that he was not aware of how these funds were used because he had not monitored expenditures during the grant performance period. He explained that after the grant was approved, funds were transferred to the Service’s regional director, who assumed responsibility for grant oversight.

- A grantee for a Canadian project was overpaid \$7,000 for a land acquisition. The grants administrator paid the partner the full amount of Conservation Act funds available for the project without computing the portion of the acquisition cost that was reimbursable.

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<sup>4</sup>Project proposals were incorporated by reference into the project agreements or grants.

- Another grantee requested reimbursement for project costs that, according to two grant agreements, should have been paid by the grantee, resulting in a net overpayment of about \$55,300.

- Three grantees received a total of about \$37,400 for expenses that were incurred before the effective date of the grant. The grantees had not informed the grants administrator that the costs were incurred before the expenditures were authorized or requested a grant modification to authorize payment of these expenses, and the grants administrator had not requested documentation to support these transactions.

- Two grantees stated that they would make lease payments on project land as part of their project contributions. Most of the lease payments were to be made after the project performance period had expired. Because the grantees had not guaranteed future lease payments of \$128,000, the Federal Government had no assurance that these payments would be made and that the grantees would meet their cost-sharing requirement.

- One grantee met its cost-sharing requirement by reportedly spending \$26,000 to secure project land. However, the grantee did not secure the land, which was the property of the Canadian Government. Instead, the grantee entered into agreements with land users that, as stated in the agreements, were “not legally binding.”

During our audit, we reviewed documentation on selected project costs and compared the budgeted costs with the actual costs as reported by the grantees. Because the focus of our review was on grants administration, we reviewed only project files maintained by the Waterfowl and Wetlands Office, which generally contained reported project costs submitted by the grantee. Since the project files did not contain source documentation, we could not determine whether other costs were improperly claimed and/or reimbursed or whether there were additional eligible costs that were not claimed and/or reimbursed.

We believe that the Waterfowl and Wetlands Office should obtain the necessary documents to determine whether (and in what amounts) grantees have been reimbursed or credited for questionable costs charged to the grants covered in our review and take appropriate action to resolve such questionable costs.<sup>5</sup>

## **Grant Modifications**

We found 12 grants that had expired before modifications were issued to extend the performance period, even though work had continued during the lapsed performance period. For these grants, from 6 to 543 days had elapsed from the date that the grant expired to the date that a modification was issued to extend the performance period. According to the grants administrator, grants were not modified in a timely manner because grantees did not notify his office when projects were behind schedule. He further

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<sup>5</sup>The Office of Inspector General has provided the Waterfowl and Wetlands Office information on each grant’s questioned costs.

stated that unless he received notification of delays in project completion and a request for a time extension, he did not process grant modifications to extend the performance period.

We also identified two grants that were modified after project work was completed so that unspent Federal funds totaling about \$32,000 could be used. In one instance, the grantee requested to use unspent funds on work that was included in a subsequent grant for the same project. The grants administrator endorsed the request, and the contracting officer modified the grant to authorize this work. We consider this modification to be inappropriate because funds had already been provided for the work in a subsequent grant. Moreover, we believe that the issuance of the modification would make it more difficult to track grant costs and accomplishments because the modification created overlapping performance periods and redundant tasks for separate grants awarded for the same project. In the other instance, the grantee requested a grant modification "to complete expenditure of these [the unspent grant] funds." Although the grantee said that it planned to use the funds on project-related work, we consider this modification to be inappropriate because the remaining funds were to be spent on work that was not described in the project proposal. In our opinion, the unspent money for both grants should have been deobligated and thereby made available for other wetlands conservation projects.

## **Land and Easement Acquisitions**

We found that land acquisitions for \$5.6 million (5 grants) were transacted without authorization before the grant performance period. The grants administrator said that since he had not obtained documentation identifying the acquisition date, such as deeds or other records of the sales transactions, he was unaware of land purchases that took place before the grant agreements were signed. We found that, although some land purchases were made before the grants were approved, the purchases generally were transacted properly and were appropriate. Specifically, in most cases, appraisals had been conducted on the land, the purchase price of the land was equal to or less than the appraised value, and the land purchased was consistent with the property described in the project proposal.

We also identified three instances in which grantees were fully reimbursed for project expenses before they had obtained required conservation easements on project lands. As such, the Government was at risk of not securing a conservation interest in the land for which funding had been provided. The grants administrator said that he processed requests for reimbursement of easement costs without obtaining documentation on the transactions if the grantees reported that they were in the process of obtaining an easement or if they submitted a draft easement. We found that in two of the three instances in which easements were not obtained during the performance period, the grantees obtained the easements after the project was completed. However, in one instance, the grantee had not obtained a conservation easement on a \$35,000 tract of land. After we brought this matter to the attention of the grants administrator, he contacted the grantee, who then secured a conservation easement on the property.

## **Compliance With Project Agreements**

We found five grants in which the work performed by partners differed from the work described in the project agreement or in which the agreed-to work was not completed. For example, Conservation Act funds of \$232,500 were provided to a Service regional office for a restoration and enhancement project at a national wildlife refuge. The proposal stated that the project was to be engineered “in-house utilizing [refuge] engineers and biologists” and that “engineering and biological staff [at the refuge] will be responsible for the wetland construction phase of the project from start to finish. ” When the project was completed, the refuge reported to the Waterfowl and Wetlands Office that a partner had conducted all surveying, engineering, and construction work and that the refuge had completed only the design work. The report also indicated that only 860 of 1,200 acres had been restored and only 125 of 250 acres had been enhanced. A refuge official said that the “unforeseen shortfall [in the number of acres enhanced and restored] was a direct result of costs associated with the complete rehabilitation of the existing water delivery system” and that this work “was not included in the grant proposal.” Also, Act funds of \$77,500 were used to pay for items such as computers and materials, which should have been funded through other sources because they were not included in the project agreement.

The grants administrator said that work was not completed as planned because the refuge had not notified him until after the expiration of the project that it had not completed the planned work and that it had performed work which was not included in the project proposal. The administrator also said that he did not object to deviations from the work described in a project proposal if the alternative work achieved the objectives of the project.

In addition to not completing the planned work, the refuge did not comply with the terms of the agreement with regard to the method of procuring supplies and services for the project. The agreement stated that the refuge would “follow formal bid procedures” in contracting for work. However, rather than following competitive procurement procedures, the refuge entered into a noncompetitive cooperative agreement with a partner and paid the partner \$178,200 for project work.

## **Actions Proposed to Improve Grants Administration**

In an August 8, 1996, letter to our office, the grants administrator said that he planned to take actions to improve grant oversight such as the following: issuing guidance to grantees on reporting project costs, reviewing cost data in greater detail, notifying grantees of their reporting requirements and of the need to comply with the approved project work plan, and increasing oversight of land and easement acquisitions. He also said that he had implemented measures to track project progress and to ensure that modifications were issued to extend the performance period when grantees experienced delays in project completion.

## **Recommendations**

We recommend that the Director, U.S. Fish and Wildlife Service, direct the North American Waterfowl and Wetlands Office to:

1. Obtain sufficient documentation from grantees to determine whether costs charged to wetlands conservation grants are allowable, allocable, and reasonable and disallow claimed costs that are not allowable, allocable, or reasonable.
2. Perform an analysis of the grants covered by our review in which we questioned costs that were reimbursed or credited to grantees and resolve improper reimbursements or claimed contributions as appropriate.
3. Issue guidance or procedures for ensuring that grant modifications are issued in a timely manner (for modifications that extend the performance period) and are appropriate (for modifications that provide for the use of unspent grant funds).
4. Obtain documentation on all land purchases, leases, and conservation easements and reimburse or credit grantees for only those transactions that are properly executed, fully documented, and incurred within the performance period.
5. Request grant modifications for work performed outside the scope of the grant agreement or disallow claimed costs for work performed outside the scope of the grant agreement for which a grant modification has not been issued.

## **U.S. Fish and Wildlife Service Response and Office of Inspector General Reply**

In the July 17, 1997, response (Appendix 2) to the draft report from the Director, U.S. Fish and Wildlife Service, the Service concurred with the recommendations. Based on the response, we consider Recommendations 1 and 2 resolved but not implemented and Recommendations 3 through 5 resolved and implemented (see Appendix 3).

## B. GRANT FUNDING

The North American Wetlands Conservation Act does not clearly define the non-Federal cost-sharing requirements for wetlands conservation projects. Although the Act refers to a requirement that sufficient non-Federal funds should be made available to match Federal funds, the Act does not clearly define the matching funds requirement. As such, the U.S. Fish and Wildlife Service has no assurance that grantees are meeting the funding requirements of the Act.

Section 5(a)(2) of the Act states that projects are to be approved based on consideration of “the availability of sufficient non-Federal moneys to carry out any wetlands conservation project and to match Federal contributions in accordance with the requirements of Section 8(b) of this Act.” However, Section 8(b) does not clearly define the matching funds requirements. Specifically, the Act as amended states:

The Federal moneys allocated [for approved wetlands conservation projects] shall be used for the payment of not to exceed 50 per centum of the total United States contribution to the costs of such projects . . . In the case of a project carried out in Mexico, the non-Federal share of the United States contribution to the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project.

We believe that Section 8(b) is unclear for two reasons. First, it does not **define** the terms “Federal moneys,” the “total United States contribution,” or the “non-Federal share,” which are the bases for the cost-sharing requirement. Second, the statement regarding projects in Mexico is confusing in that it provides for a United States contribution that “may include cash contributions from non-United States sources.”

Also, the legislative history of the Act and the Act itself do not have consistent provisions for the funding of wetlands conservation projects. Specifically, Senate Report 101-161, which recorded the September 1989 Senate hearings on the Act, stated that “[t]he Federal money for projects in Canada or Mexico must be matched by at least 25 percent non-Federal money.” The Act, however, makes no reference to the 25 percent matching funds requirement for these two countries.

Because the Act is unclear, there are different interpretations of the amount and sources of Federal and non-Federal moneys needed to finance Wetlands Conservation Act projects. Waterfowl and Wetlands Office officials said that non-Federal partners are required to contribute sufficient funds to match or exceed the amount of funds provided under the Act regardless of the total amount of Federal funding that was contributed to the project. However, a Departmental official who participated in the drafting of the Act said that, in his opinion, the Act required non-Federal funds to match or exceed the amount of funds from the Act, as well as funds from other Federal sources. During our review, we identified four grants in which the non-Federal partners had contributed sufficient funds

to match the amount of Act funds provided; however, the amount of the non-Federal contribution did not match or exceed the total amount of the Federal funds that were provided.

## **Recommendation**

We recommend that the Director, U.S. Fish and Wildlife Service, request an opinion from the Office of the Solicitor clarifying the amount and source of funds to be matched and the matching fund requirements for approved wetlands conservation projects in Canada, Mexico, and the United States.

## **U.S. Fish and Wildlife Service Response and Office of Inspector General Reply**

In the July 17, 1997, response (Appendix 2) to the draft report from the Director, U.S. Fish and Wildlife Service, the Service did not concur with the recommendation. In that regard, the Service said that a Solicitor's opinion on the funding requirements for North American Wetlands Conservation Act grants was "unwarranted and unnecessary" because the provision in the North American Wetlands Conservation Act related to grant funding is "unambiguous."

Based on our review of the legislation and discussions with an official who participated in the drafting of the North American Wetlands Conservation Act and with the Office of Inspector General's General Counsel, we believe that the Act does not provide clear guidance on its cost-sharing requirements. In regard to funding, the Act states that projects will be recommended for funding based on "the availability of sufficient non-Federal moneys to carry out any wetlands conservation project and to match Federal contributions" and provides funding for "the payment of not to exceed 50 per centum of the total United States contribution" to the cost of projects. However, the Act does not define the terms "Federal contributions" or "total United States contribution," which are the bases for the cost-sharing requirement. For example, it is not clear whether the term "Federal contributions" includes just Conservation Act funds or all Federal funds contributed or whether "United States contribution" consists of Federal funds or a combination of Federal and non-Federal funds. As such, we could not determine the amount or sources of funds that are required to meet the Act's cost-sharing requirement. Moreover, the Service, in its response, stated that reliance on Congressional reports to "resolve any ambiguity in the text of Federal legislation . . . appears to be not the case here." Therefore, we request that the Service reconsider its response to the recommendation, which is unresolved (see Appendix 3).



## OTHER MATTER

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During our audit of grants awarded under the North American Wetlands Conservation Act, we found that the U.S. Fish and Wildlife Service's Waterfowl and Wetlands Office had used the Service's refuge operations and maintenance appropriation to pay the costs of grant administration staff in fiscal year 1995. We consider this practice to be inappropriate because provisions of the Conservation Act and the Restoration Act limit grant administration expenses to 4 percent and 6 percent, respectively, of the funding made available under these two acts. The Waterfowl and Wetlands Office's administrative expenses would have exceeded the combined limitation by over \$140,000 had these costs been paid from the Acts' funding sources. However, we found that the salaries of grant administration staff had not been charged to the refuge appropriation in fiscal year 1996. Moreover, a Waterfowl and Wetlands official stated that a policy would be issued to prevent future use of these funds for payment of salaries of grant administration staff. We believe that a formal policy would deter future inappropriate funding of grant administration expenses.

**CLASSIFICATION OF MONETARY AMOUNTS**

<u>Finding Area</u>	<u>Funds To Be Put To Better Use</u>
Grants Administration	
Reimbursed Costs	\$607,000*

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\*We also questioned additional costs of \$406,000 that were credited to grantees as their project contributions.



# United States Department of the Interior

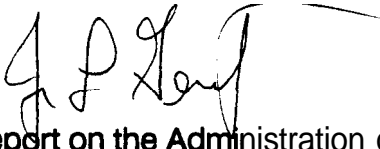
FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240

In Reply Refer To:  
**FWS/NAWWO**

JUL 17 1997

Memorandum

To: Assistant Inspector General for Audits

From: Director 

Subject: Draft Audit **Report on the Administration** of Grants Awarded under the North American Wetlands Conservation Act, U.S. Fish and Wildlife Service (Assignment No. E-IN-FWS-012-98)

Thank you for the opportunity to respond to the Inspector General's Draft Audit Report on the Administration of Grant Awards under the North American Wetlands Conservation Act. The first audit of the relatively new North American Wetlands Conservation Fund program is considered to have been a fair and appropriate review.

We concur with each of the draft report's recommendations, except for the sixth and final one, and have provided in the attachment a listing of completed and planned actions, proposed target dates, and the title of a responsible official. We will make every effort to implement corrective actions in a timely and effective manner. If you have any questions, please contact Byron K. Williams, Executive Director, North American Waterfowl and Wetlands Office at (703) 358-4784.

Attachment

U.S. Fish and Wildlife Service  
Washington, D.C.

Subject: Office of Inspector General Draft Audit Report on the Administration of Grants Awarded under the North American Wetlands Conservation Act, U.S. Fish and Wildlife Service (Assignment No. **E-IN-FWS-012-96**)

The following comments are submitted in response to the recommendations contained in the above referenced draft audit report in accordance with Part 366, Chapter 5 of the Departmental Manual:

**OIG Recommendation 1:** Obtain sufficient documentation from grantees to determine whether costs charged to wetlands conservation grants are allowable, allocable, and reasonable and to disallow claimed costs that are not allowable, allocable, or reasonable.

**FWS Response:** Concur. A combination of things led to the need for this recommendation, including limitations in the time available to review costs in satisfactory detail due to the press of other responsibilities, and inadequate direction to grantees to provide cost details for comparison of budgeted line items. To correct this problem, the North American Waterfowl and Wetlands Office will add additional staff to share accountabilities with the Grants Administrator. This should permit the necessary scrutiny of wetlands conservation project grant costs to determine whether or not they are 'allowable, allocable, and reasonable.' To assist that scrutiny, each grant recipient is being required to provide invoices in support of the first project voucher for grant funds submitted to further determine allowability, allocability, and reasonableness of costs. In addition, all recipients are being directed to add an "**actual**" column next to each "proposed" column in the recipient's proposal budget for purposes of fiscal reporting, thus allowing for accurate comparison between budget and what was actually spent.

**Target Date(s):** Staffing -- August 31, 1997; other -- completed.

**Title of Responsible Official(s):** Assistant Director - Refuges and Wildlife

**OIG Recommendation 2:** Perform an analysis of the grants covered by our review in which we questioned costs that were reimbursed or credited to grantees and resolve improper reimbursements or claimed contributions as appropriate.

**FWS Response:** Concur. An analysis of the subject grant agreements will occur over a sufficient period of time to avoid compromising the responsibilities of grants administration incumbent upon the North American Waterfowl and Wetlands Office.

**Target Date(s):** June 30, 1998

**Title of Responsible Official(s):** Assistant Director - Refuges and Wildlife

**OIG Recommendation 3:** Issue guidance or procedures for ensuring that grant modifications are issued in a timely manner (for modifications that extend the performance period) and are appropriate (for modifications that provide for the use of unspent grant funds).

**FWS Response:** Concur. In a revised letter sent to each new recipient of a North American Wetlands Conservation Fund grant, the recipient is alerted to the need to request an extension of a period of performance no later than the date of the current period of performance. To assist the recipient in keeping track of this, the grants database is queried monthly for those periods of performance coming due within **30** to 45 days. Affected recipients are reminded of their respective grant agreement periods of performance, noting that if they foresee a need for extending the period of performance, a request to the **FWS** Contracting Officer is needed before the current period of performance date.

In addition, the revised letter instructs the new grant recipient to request a modification to the grant agreement's "Scope of Work" if at any time there is a change in the project objectives as outlined in the project proposal. This guideline should preclude any inappropriate use of unspent grant funds.

**Target Date(s):** Completed.

**OIG Recommendation 4:** Obtain documentation on all land purchases, leases, and conservation easements and reimburse or credit grantees for only those transactions that are properly executed, fully documented, and incurred within the performance period.

**FWS Response:** Concur. Better communications have been effected with grant recipients. As a part of the revised letter for new grant recipients, the recipients are reminded that if their project includes real property acquisition, the Special Provisions section of the grant agreement requires a conservation easement or other recordable document to assure the long-term conservation of those properties. The grant agreement states, "**Copies** of registered titles and other recordable legal documents shall be provided to the FWS Project Officer prior to final payment of Act dollars." This special provision will be honored.

In addition, each grant recipient is queried during the development of the grant agreement concerning the need of a retroactive funding clause in the case of real property acquisition to be effected prior to execution of the agreement. This will preclude any transactions out of order with the agreement.

**Target Date(s):** Completed.

**OIG Recommendation 5:** Request grant modifications for work performed outside the scope of the grant agreement or disallow claimed costs for work performed outside the scope of the grant agreement for which a grant modification has not been issued.

**FWS Response:** Concur. The revised letter to new grant recipients addresses the need for a request to the FWS Contracting **Officer** to modify the grant agreement if there is to be any work performed outside the 'Scope of Work' of the agreement. Any work performed outside of the scope of work is unauthorized without modification of the agreement. **If** for some reason work is performed outside the scope of work of the grant agreement, claimed costs will be disallowed.

**Target Date(s):** Completed.

**OIG Recommendation 6:** We recommend that the Director, U.S. Fish and Wildlife Service, request an opinion from the Office of the Solicitor clarifying the amount and source of funds to be matched and the matching fund requirements for approved wetlands conservation projects in Canada, Mexico, and the United States.

**FWS Response:** Do not concur; The North American Wetlands Conservation Act is unambiguous, stating under Section 8 (b), "The Federal moneys allocated under subsection (a) of this section [i.e., Act or grant dollars] for any fiscal year to carry out approved wetlands conservation projects shall be used for the payment of not to exceed **50** per centum of the total United States contribution to the costs of such projects . . . ." The only ambiguity is in the report language of the Senate and the House, "The Federal money to carry out approved wetlands conservation projects in the United States must be matched by at least **50** percent non-Federal money."

Congressional reports are meant to resolve any ambiguity in the text of Federal legislation. Clearly, this appears to be not the case here. The North American Wetlands Conservation Act language is clear and therefore should stand as the basis for cost sharing under the Act. A request for a Solicitor's opinion on this matter is unwarranted and unnecessary.

## STATUS OF AUDIT REPORT RECOMMENDATIONS

Finding/Recommendation Reference	Status	Action Required
A.1 and A.2	Resolved; not implemented.	No further response to the Office of Inspector General is required. The recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.
A.3-A.5	Implemented.	No further action is required.
B.1	Unresolved.	Reconsider the recommendation, and provide an action plan that includes target dates and titles of officials responsible for implementation.

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