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

AUDIT REPORT

LAND ACQUISITION ACTIVITIES, U.S. FISH AND WILDLIFE SERVICE

REPORT NO. 99-I-162
DECEMBER 1998

United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

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Memorandum

To: Assistant Secretary for Fish and Wildlife and Parks

From: Robert J. Williams
Assistant Inspector General for Audits

Subject: Audit Report on Land Acquisition Activities. U.S. Fish and Wildlife Service

This report presents the results of our audit of land acquisition activities conducted by the U.S. Fish and Wildlife Service. The objective of the audit was to determine whether the Service conducted land acquisition activities in accordance with applicable laws and regulations and whether it paid a fair price for the land acquired.

We concluded that the Service did not sufficiently ensure that just compensation was properly established before it acquired land through purchase or wetland easements. Although the Service had established procedural requirements for conducting. reviewing, and updating appraisals and obtaining boundary surveys, we found that the Service did not fully comply with these requirements. Service officials said that they did not always comply with these requirements in order to expedite the acquisition process and minimize the cost of land acquisitions. We also found that the Service's procedures were insufficient in that they did not require (1) documentation in the files showing that consideration was given to updating appraisals over 6 months old. (2) both appraisals to be acceptable when two appraisals were required, or (3) the purchase price of the property to be adjusted based on the results of the boundary survey. As a result. the Service did not have sufficient assurance that it paid market value for 59 fee acquisitions ($38.2 million) of the 205 acquisitions we reviewed. The 59 acquisitions included 29 cases in which the Service may have overpaid landowners $748,063 because the number of acres in the appraisal was overstated and 3 cases in which the Senice may have underpaid landowners $145,06 1 because the number of acres in the appraisal was understated. Also. the Service did not have sufficient assurance thar it paid market value for 462 wetland easements that cost $3.5 million for which just compensation n-as not based on current data.

In addition, the Service did not ensure that payments to acquire grassland conservation easements and refuge land were necessary and appropriate. Although the Service's land acquisition guidance does not provide for payments to landowners for future or prior year property taxes or for weed control expenses. Service officials said that they paid landowners for these costs because they believed that the payments were necessary to fully compensate the landowners for the economic impact of the easements. Also. although the Service had established procedures for conducting land acquisitions with nonprofit organizations, it did

not provide sufficient oversight to prevent payments for unallowable or unsupported expenses or to ensure that established procedures for acquiring land from these organizations were followed. As a result, the Service inappropriately paid $207,425 to 22 landowners for costs related to grassland conservation easements and paid $66,504 to 3 landowners for expenses that were not the liability of the Service. Also, the Service paid expenses of $438,680 that were unsupported or ineligible for reimbursement to nonprofit organizations which had letters of intent and reimbursed expenses of $189,322 that were in excess of the fair market value of the acquired land to nonprofit organizations which did not have signed letters of intent.

We also found that the Service acquired two tracts of land which contained environmental contaminants without obtaining the required approvals because, according to Service officials, the additional notification and approval requirements would have delayed the acquisitions and because field personnel concluded that the contaminants did not represent a threat to the environment. As a result, the Service may have to pay as much as $722,862 to clean up sites if it is determined that full-scale cleanup is required.

Concerning land exchanges, the Service conducted 13 of the 14 land exchanges we reviewed in accordance with applicable laws and regulations and received fair value in these exchanges. However, in the remaining instance, the Service inappropriately obtained funds to acquire private land by selling timber worth $190.000 on refuge land to a third party, We believe that this transaction was not conducted in compliance with the statutory requirements for the use of revenues from timber sales, that it resulted in the Service's using timber sales proceeds for unauthorized purposes, and that it may have denied county governments the revenues to which they were entitled.

In the September 1, 1998, response (Appendix 3) to the draft report from the Director, U.S. Fish and Wildlife Service, the Service concurred with Recommendations A. 1, A.2. A.4, B.2. B.3, B.4, C.2, and D. 1 and nonconcurred with Recommendations A.3. B. 1, and C. 1. Based on the response. we consider Recommendations A.2, A.4, B.2. B.3, B.4. C.2, and D. 1 resolved but not implemented. Accordingly, these recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking ofimplementation. Also based on the response, we have revised Recommendation C. 1, and we request that the Service respond to the revised recommendation and to Recommendations A. 1, A.3, and B. 1, all of which are unresolved (see Appendix 4). The Service also provided additional comments on the findings, which we considered in preparing the final report and incorporated as appropriate.

In accordance with the Departmental Manual (360 DM5.3), we are requesting a written response to this report by January. 29, 1999. The response should provide the information requested in Appendix 4.

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, 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 Service personnel in the conduct of our audit.

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covered 79.820 acres (205 fee acquisitions. 96 easements. and 4 leases) and 14 land exchanges in which 457 acres of Federal land and timber valued at about $738.000 plus equalization payments of about $21,000 were exchanged for 1,233 acres of private land valued at about $759,000.

We conducted our review at the Service's headquarters (Central Office) in Arlington, Virginia, and at the regional offices in Albuquerque, New Mexico; Fort Snelling, Minnesota; Atlanta, Georgia; Hadley, Massachusetts; Denver, Colorado; and Anchorage, Alaska.

Our review 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 in the land acquisition process to the extent we considered necessary. We found internal control weaknesses in the Service's procedures for conducting appraisals and contaminant and boundary surveys. Our recommendations, if implemented. should improve the internal controls in these areas.

In addition, we reviewed the Secretary's Annual Statement and Report to the President and the Congress, which is required by the Federal Managers' Financial Integrity Act, for fiscal year 1995 and the Departmental Report on Accountability for Fiscal Years 1996 and 1997 which includes information required by the Act. and the Service's annual assurance statement for fiscal year 1997 and determined that no reported weaknesses were within the objective and scope of our audit.

PRIOR AUDIT COVERAGE

During the past 6 years, the General Accounting Office has not issued any audit reports on the Service's land acquisition activities. However, the Office of Inspector General issued rhe audit report "Department of the Interior Land Acquisitions Conducted With the Assistance of Nonprofit Organizations" (No. 92-I-833) in May 1992. which covered the U.S. Fish and Wildlife Service, the National Park Service. and the Bureau of Land hlanagement. The report concluded that nonprofit organizations helped acquire needed land but that certain transactions were not adequately controlled to ensure that nonprofit organizations did not benefit unduly and that the Government's interests were adequately protected. According to the report, most of these transactions occurred in the Fish and Wildlife Service, which paid the nonprofit organizations about $5.2 million more than the approved market value ($44 million) of the land on 64 transactions. The report also noted that the Service did not follow established standards for appraising real property. Specifically, appraisals were adjusted upward without adequate documentary support, land purchases were made without appraisals or properly approved appraisals, and the values of purchased land were based on appraisals that averaged over 1 year old. As a result. according to the report, the Department had little assurance that the fair market value estimates used by the Service were timely,

complete, or accurate. The report contained seven recommendations, all of which were considered resolved and implemented. However, our current audit found that the Service was not fully complying with the requirements for conducting. reviewing, and updating appraisals.

FINDINGS AND RECOMMENDATIONS

A. JUST COMPENSATION

The U.S. Fish and Wildlife Service did not sufficiently ensure that just compensation (the amount to be offered to the landowner) was properly established before it acquired land through purchase or wetland conservation easements. Federal land acquisition laws (42 U.S.C. 4651[3]) and regulations (49 CFR 24.102) require the Service to establish just compensation before negotiating land acquisitions and to base just compensation on the appraised market value of the property. Although the Service had established procedural requirements for conducting, reviewing, and updating appraisals and obtaining boundary surveys, we found that the Service did not fully comply with these requirements. Service officials said that they did not always comply with these requirements in an effort to expedite the acquisition process and minimize the cost of land acquisitions. We also found that the Service's procedures were insufficient in that they did not require (1) documentation in the files showing that consideration was given to updating appraisals over 6 months old, (2) both appraisals to be acceptable when two appraisals were required. or (3) the purchase price of the property to be adjusted based on the results of the boundary survey. As a result. the Service did not have sufficient assurance that it paid market value for 59 fee acquisitions (22.741 acres totaling $38.2 million) of the 205 fee acquisitions we reviewed. The 59 acquisitions include 29 cases in which the Service may have overpaid landowners about $748.063 because the number of acres in the appraisals was overstated (by 378 acres) and 3 cases in which the Service may have underpaid landowners about $ 145,061 because the number of acres in the appraisals was understated (by 22 acres). In addition, the Service did not have sufficient assurance that it paid market value for the 462 wetland easements (22,261 acres totaling $3.5 million) acquired during the scope of our review because just compensation was not based on current data.

Appraisals

Service guidance on establishing just compensation is contained in the Service's Appraisal and Appraisal Review Handbooks and its Manual. The Handbooks state that an appraisal should be obtained for all land acquisitions and that the appraisals "must be reviewed and approved ... before the respective values are used by the Service" to establish just compensation. Regarding the review of appraisals. the Review Handbook requires the reviewer to "decide whether a report [appraisal] is acceptable" and to document the reviewer's conclusions "so that there can be no question as to the reviewer's position" on matters such as "over-all acceptability."[5] According to the Handbooks. two appraisals should

[5]The Fish and Wildlife Service Manual (342 FW 2.5) states that a report is an "acceptable document" if it "adequately supports a reasonable and rational estimate of value."

be obtained for acquisitions exceeding $750,000, and consideration should be given to updating appraisals over 6 months old. Overall. we found that the Service did not fully comply with the Handbook guidance for establishing just compensation in 2 1 acquisitions (16,656 acres at a cost of $17.3 million) and did not obtain two acceptable appraisals in 10 acquisitions (3,863 acres at a cost of $12.3 million) because it had not established a requirement that both appraisals obtained should be acceptable. As a result, of the 205 fee acquisitions we reviewed, the Service did not have sufficient assurance that market value was paid for 28 acquisitions (18,421 acres at a cost of $27.7 million).[6]

Appraisal Preparation. Overall, we found that the Service complied with its appraisal preparation requirements in about 98 percent (200 out of 205) of the fee acquisitions we reviewed. However, the Service did not obtain appraisals for four tracts (26.3 acres) for which it paid $781,300 and could not provide a copy of an appraisal for one tract (340 acres) for which it paid $330,000. For example:

- On August 14, 1996, an organization offered to sell a 24-acre tract to the Southeast Region for $225,000 and to donate a 1,200-acre tract to the Region, both of which would become part of the Big Branch Marsh National Wildlife Refuge in Louisiana. On August 27, 1996, the organization increased the sales price of the 24-acre tract to $325,000. Although the Region did not obtain an appraisal for either tract, a Regional staff appraiser prepared a "value opinion," which stated that the smaller tract of land had a value of $120,000 based on "very limited" comparable sales in the area. The staff appraiser attributed the $205,000 difference to the 1,200-acre tract (which was supposed to have been a donation), stating that the $ 17 1 per acre value for this tract "is considerably below traditional market values of similar types of properties" and that "both tracts are worth not less than $325,000 (overall) or $266 per acre." On September 20, 1996, a Deed of Gift was recorded in which the organization donated the 1,200-acre tract to the Service, and on September 25, 1996, the Service paid $325,000 to the organization for the 24-acre tract. Because the Service bought the land without obtaining an appraisal, we could not determine whether the Service paid market value for the land.

- Three landowners offered to sell 1.8 acres of land to the Service for a total of $456,300. The tracts, which were acquired for the Archie Carr National Wildlife Refuge in Florida, were not appraised, although a Service staff appraiser did prepare an "Assessment of Value" memorandum in February 1995. The memorandum stated that the tracts were "worth the offered prices" and that "these amounts are not above fair market value and are values in the accepted range for property values of this type in this market." Service officials stated that since the landowners offered the tracts at a reasonable value, official appraisals were not necessary. However, the officials could not identify any regulation, policy, or

[6] We found that 3 of the 3 1 acquisitions (2,099 acres at a cost of $1 .88 million) were deficient in both areas (noncompliance with Service guidelines and not having two acceptable appraisals).

guidance that would authorize the Service to acquire land without obtaining a valid appraisal (except land with a value of less than $10.000. according to the Appraisal Handbook).

Two Appraisals. The Service did not fully comply with the requirement to obtain two appraisals for certain land acquisitions. The Service's Appraisal Handbook requires that a second appraisal be prepared by a qualified contract appraiser or an appraiser from a different region for property that is "unique," "controversial." or "complex" or that has an estimated value exceeding $750,000 and that the Service establish just compensation based on the value established by one or more of the acceptable appraisals.

We reviewed 40 acquisitions that exceeded $750,000 and found that the Service did not obtain two appraisals for 11 acquisitions totaling 14,06 1 acres at a cost of $14.2 million. For 19 of the 40 acquisitions, the Service obtained a waiver from the two-appraisal requirement in 2 cases and obtained two acceptable appraisals in the remaining 17 cases. The Service approved and paid the lower appraised value in 11 of the 17 cases,[7] which we believe illustrates the benefit of obtaining two acceptable appraisals.

Although the Service obtained two appraisals for the 10 other cases, the review appraisers' reports did not clearly conclude whether both of the appraisals were acceptable. In seven cases, the reviewers stated that only one of the two appraisals was acceptable, and in three cases, the reviewers did not state whether either of the two appraisals was acceptable. According to the Appraisal Review Handbook. "The reviewer must decide whether a report is acceptable and then decide from among one or more acceptable reports which report will be used as the Service's 'approved appraisal.'" The Handbook further states. "It is the reviewer's ultimate responsibility to conclude whether the appraisal report itself arrives at a **logical** and **reasonable** and therefore **acceptable** conclusion based on the facts presented."

Service officials said that even though the reviewers' reports did not specifically state that the appraisals were acceptable, payment for an appraisal represented acceptance and that even though they required two appraisals for certain land acquisitions. they did not require that both appraisals have to be acceptable. In our opinion. if the Service is going to require two appraisals. it should require both appraisals to be acceptable products that meet appraisal standards and provide a logical and reasonable estimate of market value. In addition. we believe that when a review appraiser identifies deficiencies or questionable issues in appraisals, the reviewer should send the appraisal back to the appraiser for correction or clarification. For example:

- A review appraiser reviewed two appraisals for a parcel containing 1,783 acres. One appraisal estimated the market value of the land at $650 per acre. or $1.16 million. The other appraisal estimated the value at $716 per acre. or S1.28 million. The review appraiser did not document his acceptance of either appraisal. as required by the Appraisal Review Handbook. Instead, the review appraiser accepted and approved the landowner's original

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'For the remaining six cases, the higher value was approved and paid in four cases. the higher value was approved but the Service acquired the land at less than the appraised value in one case. and both appraisals resulted in the same value in the remaining case.

offer of $700 per acre. or $1.25 million. as the just compensation without obtaining subsequent approval from the Service's Chief Appraiser.

- In late 1991, the Service obtained two appraisals for a 1,506-acre tract: one that valued the tract at $3.32 million and the other that valued the tract at $2.26 million. The land was being considered for joint acquisition by the Sen-ice and the Minnesota Department of Natural Resources. The review appraiser accepted the $2.26 million appraisal but did not accept the $3.32 million appraisal, which had placed a higher value on the land based on its potential for residential development use, stating that the appraisal was "very subjective, almost conjectural, and contain[ed] both procedural and arithmetic error." The review appraiser did not send the appraisal report back to the appraiser for correction and clarification or additional support. In March 1992, having approved the single acceptable appraisal, the Service offered $2.26 million to the landowner, who rejected the offer.

In 1994, the Service resumed efforts to acquire the land. By this time, property adjacent to the landowner's site was subdivided and developed (as envisioned in the appraisal that had not been accepted), and the zoning of the land had changed from agricultural land with residential development potential to residential subdivision. The Service obtained an update to the appraisal that previously had not been accepted and. based on this updated valuation, offered the landowner $4.26 million, which the landowner accepted. In our opinion, because more than 2 years had elapsed and market conditions had changed since submission of the initial appraisal, the initial $2.26 million appraisal was no longer valid as a second appraisal.

Appraisal Review and Approval. Overall. n-e found that the Service complied with the revien- and approval requirements in 98 percent of the cases we reviewed (200 out of 205 fee acquisitions). The Service's Appraisal Review Handbook requires that appraisals be reviewed and approved by an appraisal professional on behalf of the Service and that. if the review appraiser rejects the appraisal and establishes a different fair market value, the new value be approved by the Service's Chief Appraiser. However. we found that the Sen-ice did not perform appraisal reviews for two tracts containing 130 acres which were acquired for a total of $87.000 and that the Chief Appraiser had not approved the fair market values established by the review appraisers. who had rejected appraisals for three tracts containing 2.100 acres which were acquired for $1.88 million. For example. two appraisals were prepared for two tracts containing 3 15.58 acres that were to be added to the Stewart B. McKinney National Wildlife Refuge in Connecticut. The first appraisal. which was prepared by a contractor and established an average value of 53,623 per acre. was rejected by the review appraiser who said that the valuation was not a reasonable estimate of market value. The review appraiser also rejected the second appraisal, which was prepared by a Service appraiser and established an average value of about $1,500 per acre. stating that "[i]n general the report is poorly written and does not support its projected use or value." Having rejected both appraisals, the review appraiser determined that the fair market value of the property was $2.000 per acre, which was used to establish just compensation. However, there was no documentation in the file to support the review appraiser's fair market value estimate or to show that the Chief Appraiser had reviewed and approved the valuation.

Appraisal Updates. The Service's Appraisal Handbook states that the Service should "consider updating any appraisal over 6 months old as well as any appraisal that may be outdated due to extraordinary market conditions." However, because the Handbook does not require that this process be documented, no documentation was prepared. Accordingly, we could not determine whether the Service considered updating the appraisals for 101 of the 122 acquisitions we identified in which more than 6 months had elapsed from the date the appraisal was prepared to the date that the purchase agreement was signed or whether the Service had determined that the valuations of the properties were still valid. The 101 appraisals included 36 acquisitions totaling about $19.5 million for which the elapsed times were from 1 to 3 years and 3 acquisitions totaling about $906,000 for which the elapsed times were more than 3 years.

Boundary Surveys

Part 343, Chapter 1, of the Service Manual requires surveys to be made of tracts that form the boundary of Service lands, that require accurate area determination, or that involve adverse claims or disputes over boundaries. However, we found that the Service did not obtain boundary surveys in 10 (2,033 acres acquired for $5.48 million) of the 52 acquisitions reviewed which required these surveys. Therefore, the Service did not have sufficient assurance that it paid market value for these acquisitions. In six cases, the acreage to be appraised or conveyed was disputed or questioned, and in four cases, the tracts were on the boundaries of refuges. In two of the six cases that had acreage disputes, the reviewing appraisers said that the acreage needed to be determined or confirmed by the Service's Branch of Surveys and Maps. A Service official said that some regions did not obtain boundary surveys because of the high cost of contract surveys and the length of time required to contract for and complete the suweys.

We also identified 32 acquisitions (5.794 acres acquired for $20.2 million) in which the appraised values were based on the number of acres stated in deed records but for which the boundary surveys showed that the property consisted of a different amount of acreage. In these cases, the Service had prepared and signed purchase agreements based on a fixed price for the property independent of the actual acreage conveyed. However, the Service did not require that the purchase price be adjusted to reflect the actual acreage determined by a boundary survey. As a result, the Service, in 29 cases, may have overpaid landowners about $738,063 because the number of acres in the appraisals was overstated by about 378 acres and, in 3 cases, may have underpaid landowners about $145,06 1 because the number of acres in the appraisals was understated by about 22 acres.

For example, the boundary survey reports for two tracts being acquired for the Stewart B. McKinney National Wildlife Refuge identified a total of 3 16.4 acres for both parcels. However, according to the reports, 163.9 of the 3 16.4 acres were covered by water from various creeks and inlets to the mean high water line and should have been excluded from the acquisition. The Service paid the landowner a total of $627,560 for 3 16 acres. However, only 152.5 acres conveyed to the Service, as the warranty deeds specifically excluded the conveyance of "all portions of said tract which are covered by the waters of various creeks

and inlets to the mean high water line." Therefore. the Service in effect paid the landowner $326,749 for acreage that did not convey to the Service.

We believe that in cases where boundary surveys are required, the Service should prepare purchase agreements which state that the sales price of the land is subject to adjustment based on the results of a boundary survey, particularly when the variance in acreage in the appraisal and the boundary survey is significant. Such a practice would protect the interests of both the landowner and the Service, ensuring that the appraised per-acre valuation is reflected in the purchase price.

Wetland Easements

The Service did not ensure that wetland easements were obtained at market value because the values were not based on current data. During fiscal years 1995 and 1996, the Service acquired 462 perpetual easements on 22,261 acres at a cost of $3.5 million. The Service established values of wetland easements by applying valuation factors that were established in a 1984 study. This study estimated the effect of the wetland easements on the resale value of easement-encumbered properties in eight geographic areas in North Dakota. South Dakota, and Minnesota. Based on these factors, the Service developed wetland easement indices that provided for landowners to receive payments ranging from 30 to 90 percent of the fee value (the value for outright purchase) of the area covered by the easement.

Even though the 1984 study showed that the easements had no statistically significant impact on land values in five of the eight areas. the Service established easement indices rhat provided for payments ranging from 30 to 60 percent of the fee value for the five areas. In August 1990, the Service revised its easement indices, which provided landowners a minimum payment of 50 percent of the fee value of their land for easements on land in the five nonimpacted areas. Service officials said that the wetland easement program was a voluntary program and that the landowners would not agree to the easements if they did not receive sufficient compensation. However. the Service had not conducted any formal analysis to determine whether a reduction in the payments would negatively affect landowner participation in the program. Based on our review. we concluded that the Service spent about $1 million to purchase 118 wetland easements on 2. 903 acres on properties which were determined not to be financially impacted by the easements. Overall. we concluded that the Service did not have sufficient assurance that it paid market value for the 462 wetland easements it obtained at a total cost of about $3.5 million because the factors used to establish the easements' values were not based on current data.

Recommendations

We recommend that the Director. U.S. Fish and Wildlife Service, ensure that:

1. Requirements for preparing, reviewing, approving. and updating appraisals are followed. Specifically, the Service should obtain appraisals for all land acquisitions. ensure that appraisals are properly reviewed and approved, obtain two acceptable appraisals for land

estimated to be valued at more than $750.000. and update appraisals that are more rhan 6 months old or document the files to support the basis for not updating the appraisals.

2. Boundary surveys are conducted in accordance with the Service's requirements.

3. Purchase agreements are prepared that provide the Service an opportunity to revise the sales price of the property based on the actual acreage conveyed, as determined by a boundary survey.

4. An analysis is performed to update the factors used to establish market value for wetland easements and to determine whether payments to landowners could be reduced without a significant negative impact on landowner participation in the easement program.

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

In the September 1, 1998, response (Appendix 3) to the draft report from the Director, U.S. Fish and Wildlife Service, the Service concurred with Recommendations 1 and 2 and did not concur with Recommendations 3 and 4. Based on the response, we consider Recommendations 2 and 4 resolved but not implemented and request that the Service reconsider its response to Recommendations 1 and 3, which are unresolved (see Appendix 4.)

Recommendation 1. Concurrence.

Fish and Wildlife Service Response. The Service stated. "Service requirements as currently written have been largely followed to date, but we are not adverse to updating and clarifying those requirements. when such updates and clarifications are practical and do not conflict with sound realty practices." The Service further stated that it is proposing to amend the Appraisal Review Handbook "to clarify the distinction between 'rejected' appraisals and 'accepted but not approved' appraisals": to specify that "when two appraisals are required. both should be acceptable for payment as provided by the Appraisal Review Handbook": and to revise the expiration time for appraisals from 6 months to 1 year (at which time the appraisal would be validated or updated) and require that the files be documented to show the actions taken.

Office of Inspector General Reply. Although the report recommended that existing requirements for preparing. reviewing, approving. and updating appraisals be followed. we believe that the Service's proposal to amend its Handbook to clarify or revise those requirements will improve the integrity of the appraisal process. However, the Service did not identify specific actions for ensuring compliance with these requirements. such as issuing a memorandum similar to the memorandum described in the Service's response to Recommendation 3. Accordingly. we consider the recommendation unresolved.

Recommendation 3. Nonconcurrence.

Fish and Wildlife Service Response. The Service disagreed with the recommendation, stating, "We perceive serious difficulties with this policy." The Service also stated:

> We believe that our current regulations, properly understood and applied, do appropriately address this complex issue: [Those regulations state that] "[t]he purchase price may be negotiated on a lump sum or per hectare (acre) basis. Factors that influence the choice of approach are local custom, size of property, and reliability of the acreage estimate. Generally, a lump sum price offer is more acceptable to a landowner since there is no question as to the amount of money to be paid. However, in case of large properties where there is a real question as to the quantity of land involved, the per hectare (acre) approach may be the most desirable. . ."

The Service further stated that it will "issue a memorandum reemphasizing the importance of complying with Service requirements and accentuating the need for consistent application of current policy."

Office of Inspector General Reply. In 11 of the 32 acquisitions in which there was a difference between the appraised acreage based on deed records and the conveyed acreage based on boundary surveys. the difference was significant (more than 5 percent). For example, in one case, as described in the report. a landowner may have received excessive compensation of about $327.000 because the acreage used in the appraisal was overstated, while in three other cases, the landowners could have received additional compensation totaling about $145,000 if the appraisals had been based on the correct acreage.

We acknowledge that the Service's policy allows for negotiating the price on either a lump sum or per acre basis. However, in our opinion. the Service should use the per acre method when boundary surveys are required under the Service's regulations, and the purchase agreements should allow for an adjustment of the purchase price if the boundary survey identifies a significant variance in recorded and actual acreage. We believe that such a practice would help ensure that the interests of both the Service and the landowner are adequately protected.

Recommendation 4. Nonconcurrence.

Fish and Wildlife Service Response. The Service agreed to perform the recommended analysis and stated that it would award a contract or contracts for a new wetland easement study. However, the Service also stated that it "cannot agree that it [the study] should be 'to determine whether payments to landowners could be reduced."' The Service further stated that it "will not commit to a specific method of measuring Just Compensation. except to say that the formula should consider appropriate valuation factors. and payments should entice actual owners to enter into actual agreements under actual. real world. conditions."

Office of Inspector General Reply. The recommendation was based on two concerns: (1) the Service may have been paying excessive amounts for wetland easements because the factors it used to determine compensation were not based on current market data and (2) the Service had not performed a recent documented analysis to determine whether the rates of compensation were more than necessary to achieve a satisfactory level of landowner participation in the program.

Although the Service nonconcurred with the recommendation, we believe that the Service's plans to contract for a new wetland easement study will address these concerns if the contractor is directed to ensure that the levels of compensation for "enticing actual owners to enter into actual agreements" are not excessive for achieving sufficient participation in the program to provide adequate protection of the wetlands areas. We consider the recommendation resolved but not implemented.

Comments on Audit Finding

The Service also provided comments on our finding. The Service's comments and our replies are as follows:

General Comments

Fish and Wildlife Service Comments. In its response, the Service stated:

> The report states that the Service "did not fully comply with its requirements" in 148 of 305 acquisitions. This is incorrect. While a very small number of deficiencies are acknowledged. which will be addressed. the Service has conducted a credible and effective real estate program. In the preponderance of cases, the Service did manage its land acquisition program in accordance with its written requirements and recommended procedures. The Service takes issue with the audit's interpretation and application of its requirements.
>
> For example. the 148 cases include 10 1 cases where the audit merely found that appraisals over 6 months old had been used. Such appraisals can be valid if market conditions have been stable. as they generally have been in recent non-inflationary times. The report says that there was "no indication that the Service had considered updating the appraisals" (page 7). but in fact there is no requirement for this.
>
> In addition. we take exception to the way in which the Service and Service officials are portrayed. In numerous instances. the report portrays "Service officials," as caring nothing for Service regulations, policies, and procedures. For example. the report states that "Services officials said that they did not always comply with these requirements in an effort to expedite the acquisition process, minimize the cost of land acquisition. and/or provide landowners with incentives to participate in the Service's 'willing seller' land acquisition program" (page 4). These alleged quotes do not represent the

views of the Service. and they do a disservice to our dedicated career realty professionals. We object to this inaccurate presentation.

Office of Inspector General Reply. Regarding our statement in the draft report that the Service did not fully comply with its requirements in 148 of the 305 acquisitions we reviewed, we acknowledge that in some cases, the Service's guidance did not require certain actions. Specifically, although the Service's Handbook (1) states that the Service should "consider updating any appraisal over 6 months old," it does not require that this action be documented; (2) requires that two appraisals be obtained in certain cases, it does not require that both appraisals be acceptable; and (3) requires boundary surveys to be conducted for certain acquisitions, it does not require that the purchase price be adjusted if the boundary survey indicates that the acreage used to establish the purchase price was significantly understated or overstated. We have clarified the report (page 5) to state that the deficiencies related to these procedures were attributable to insufficient requirements rather than to noncompliance with existing requirements. However, we believe that these procedures should be mandatory rather than discretionary.

We disagree with the Service's statement that "appraisals [over 6 months old] can be valid if market conditions have been stable. as they generally have been in recent non-inflationary times" because there are factors other than inflation that could affect the validity of the appraisals. such as zoning changes and market conditions. We further disagree with the Service's position that there is no need to review appraisals which are in some cases 3 years old because market conditions remained stable. We question how the Service can determine. without reviewing the appraisal, that the conditions cited in the appraisal have remained stable. Furthermore, the files did not contain any documentation to show that appraisals more than 6 months old had been reviewed. Consequently. we could not determine whether the appraisals (some of which were more than 3 years old) had been reviewed to determine whether they were still valid.

Regarding the Service's statements pertaining to quotes in our report "not represent[ing] the views of the Service" and to the quotes "do[ing] a disservice to our dedicated career realty professionals." the report does not state or imply that the statements made by these individuals represented the official views or position of the Service. These statements are not "alleged" but were made by these individuals during the audit in response to our questions as to why certain procedures were not followed. The statements are documented in the form of memoranda for the record in the audit working papers.

Appraisal Preparation

Fish and Wildlife Senice Comments. The Service stated:

Of the 6 cases cited as deficient, one was apparently an instance where the audit team was unable to identify the appraisal because the name of the seller had changed. Others were instances where the appraisers had prepared a "memorandum of value" or "value opinion" instead of an appraisal, and one was a case where the appraisal had been made but could not be located.

> While any deviation from the Service's appraisal policy is a concern. the audit indicates that the Service complied with its appraisal preparation policy over 98 percent of the time.

Office of Inspector General Reply. Regarding the Service's statement pertaining to our audit not being able to identify the appraisal "because the name of the seller had changed," we found that the appraisal was not in the acquisition files for this transaction during our field visit to the Southeast Region in March 1997, and we asked the Regional officials to locate the appraisal. The officials were not able to provide us with the appraisal by the time of our audit survey exit briefing in April 1997. However, the Service did provide us a copy of the appraisal at our May 1998 exit conference. Accordingly, we have revised the audit report (page 6) to indicate that only one appraisal rather than two appraisals was not provided to us.

Regarding the four acquisitions for which an appraisal was not obtained, we acknowledged in the report (page 6) that the Service had prepared either an "assessment of value" memorandum or a "value opinion" for establishing market value of the property. However, preparation of these documents in lieu of obtaining a formal appraisal is not an acceptable practice under the Service's Handbook.

Two Appraisals

Fish and Wildlife Service Comments. The Service disagreed with our finding concerning compliance with its policy for obtaining two appraisals for certain acquisitions. Specifically. the Service stated that there is no specific requirement that both appraisals be "accepted." The response stated. "The purpose of the Service's two appraisal policy is to obtain an approved appraisal in which the Service can have confidence. An appraisal that is not 'acceptable' due to one or more flaws can still provide secondary facts and opinions that increase the Service's confidence in the approved report."

Regarding the examples in the report. the Service stated:

> We note that in the first case these two appraisals support one another, being less than five percent divergent from the mean. and the final approved value was bracketed by the appraisals and diverged by less than 2.5 percent from their average. We wish that all valuation efforts were this unequivocal.
>
> In the second case, the report contends that: "Although the Appraisal Handbook states that updating appraisals 'is a matter of appraisal judgment.' it also states that conditions such as 'a change in the highest and best use . . . will require a full reappraisal'" (page 6). As a matter of fact. the Appraisal Handbook does not say that. The Appraisal Handbook says: *"It is possible* that long delays in negotiations, radical changes in the marketplace, or changes in highest and best use of the property M-ill require a full reappraisal. This is a matter of appraisal judgement."

> Regarding the specific example, the reviewer first took the conservative course by *accepting* and approving the lower appraisal. When subsequent events pointed to the higher appraisal as the better measure, the Service ordered an update of that appraisal - as opposed to a certainly more expensive, but not necessarily more reliable, full reappraisal. As stated in the Appraisal Handbook, this was a matter of appraisal judgment. Since that updated appraisal was approved, which certainly shows acceptance and expurgation of the earlier "rejection." the Service did indeed obtain two acceptable appraisals in support of this acquisition.

Office of Inspector General Reply. We acknowledge that the Service's guidance does not specifically require both appraisals to be "acceptable" and have revised the report accordingly (page 7). However, we believe that the Service should require both appraisals obtained and used to establish just compensation during the land acquisition process (whether from a contractor or a Service appraiser) to be acceptable products that meet appraisal standards and provide a supportable estimate of market value. The Service cited the expensiveness of a reappraisal as a reason for some of the instances of deviating from existing procedures, but the Service appears to be willing to bear the full cost of an unacceptable appraisal. Even though. in the Service's opinion, a flawed appraisal can increase the Service's confidence in the approved appraisal, we believe that the Service, if it is going to incur the expense of obtaining an appraisal from a contractor or a Service appraiser. should make the most efficient use of the funds and obtain a product that meets standards and also provides as much useful and accurate information as possible.

Regarding the Service's comments on the first example that the difference between the two appraisals was small and that the appraisals support one another. there was a difference of $120.000 (over 10 percent) between the two appraisals. In addition, the main point of this example was not to show the difference between the two appraisals but to show that even though two appraisals were obtained. the just compensation established by the Service was not based on an accepted and properly approved appraisal.

Concerning the second example. we acknowledge that an update of the originally rejected report in lieu of replacing it with a new appraisal was acceptable, and we have revised the report (page 8) to remove statements that took exception to the update. However, we do not agree that the Service met its two-appraisal requirement on this acquisition. Since more than 2 years had elapsed and there was a significant change in conditions. the other appraisal citing a value of $2.26 million. which was obtained in late 1991, was not valid in 1994. In our opinion, the Service should have obtained another current appraisal.

Appraisal Review and Approval

Fish and Wildlife Service Comments. Regarding the finding pertaining to the Service not performing appraisal reviews in some cases and to the Chief Appraiser not approving the fair market value established by the review appraisers in other cases, the Service stated:

In the first category, there were apparently some reviews that were overlooked in the audit. In the second category, there were reviews that were not acknowledged because they were performed by other regional reviewers, not the Chief Appraiser. While these reviews may not have been done at a "higher level" as technically required by Service regulations. they were performed by competent review appraisers and the spirit , if not the precise letter, of the appraisal review mandate was followed.

Office of Inspector General Reply. Based on additional information provided by the Service during the exit conference in May 1998, we have revised our report (page 8) to state that appraisal reviews were not performed in two, rather than four, of the cases we reviewed. Concerning the three cases in which the Chief Appraiser did not approve the values established by review appraisers, we acknowledged that for two cases, the review appraiser's value was reviewed and approved by another regional review appraiser. However, because the designated higher-level official, the Chief Appraiser, had not approved the appraised value, the reviews did not receive the level of scrutiny established by regulation. Therefore, we do not agree with the Service's statement that the "spirit ... of the appraisal review mandate" was followed. In the remaining case (Tract #29 at Bald Knob National Wildlife Refuge), the review appraiser's established value was not reviewed and approved by another review appraiser or by the Chief Appraiser.

Appraisal Updates

Fish and Wildlife Service Comments. Regarding the Service's compliance with the requirement that consideration must be given to updating any appraisal over 6 months old, the Service stated that the appropriate considerations were given but that these considerations were not documented because "Service regulations ... do not require the creation of any additional documentation when appraisals are still valid." The Service further stated, "The absence of supplemental updates as required by the Handbook is evidence that such changes were unnecessary."

Office of Inspector General Reply. We ha\-e clarified our report (page 9) to acknowledge that the Service's guidance does not require documentation to be prepared to support that appraisals over 6 months old were considered for updating. However. we believe that requiring documentation of update consideration is a necessary internal control mechanism to ensure that the procedures are followed. We disagree with the Service's statement that "the absence of supplemental updates is evidence that such changes were unnecessary" because, in the absence of documentation. there is no assurance that the appraisals were even reviewed. However, in response to our recommendation, the Service said that it would include the appropriate documentation in its files.

Boundary Surveys

Fish and Wildlife Service Comments. Regarding the Service's practice of using the "lump sum price offer" approach and purchasing land on the basis of deeded acres as opposed to acres defined by boundary surveys. the Service stated:

> It is not our policy to uniformly base payments on boundary surveys. nor is it a commonly accepted real estate practice. Land acquisition payments are not invariably made on the basis of the surveyed acres, and precision in the measurement of acquired tracts does not necessarily increase the reliability of valuations. In some markets, it is common practice to buy and sell property based on deeded acres; in other markets. tracts are bought and sold based on lump-sum negotiations; and in others. custom dictates a formal survey. The Service Manual states that "the purchase price may be negotiated on a lump sum or per hectare (acre) basis .... Generally a lump sum price offer is more acceptable to a landowner since there is no question as to the amount of money to be paid." The report is interpolating and presuming regulations that do not actually exist; it did not apply the Service's regulations as they are written in the Service Manual. The report's citation - that the Service bought land on the basis of deeded acres as opposed to boundary surveyed acres - is not a violation of Service policy or of sound realty practices.

Office of Inspector General Reply. We reported that the Service did not obtain boundary surveys in 10 of the 52 acquisitions in which boundary surveys were required and that the Service therefore did not have sufficient assurance that it paid market value for these acquisitions. For the 32 acquisitions in which there were differences between the deeded acreage and acreage identified by boundary surveys, we concluded that the Service may not have paid market value in these cases. We have revised the report (page 9) to clarify that the Service does not require the purchase price to be adjusted to reflect the actual acreage determined by the boundary survey. However, we concluded that the Service. in order to better protect the interests of both the Service and the landowner, should establish a requirement that purchase agreements provide for the adjustment of the purchase price in instances where the variance in the acreage in the appraisal and the boundary survey is significant.

Wetland Easements

Fish and Wildlife Service Comments. Regarding our statement that wetland easement payments were not based on current data. the Service said. "This is only partially true." The Service further stated. "While the base study dates from 1984, the payment formula requires the input of current market land values." The Service further stated that the study "was revisited and revalidated by a review committee in 1992." The Service also stated:

> We are in agreement that it is nearly time to revisit and update the wetlands easement study. but we do not agree that the Service lacks assurance that it was paying fair value for its wetland easements. ... About 30 to 40 percent of the landowners who inquire about wetland easements subsequently decline to enroll their land. ... It is simple economics: if the Service were indeed

offering more than market value, landowners would not be turning the offers down.

Office of Inspector General Reply. We were aware that the 1984 study was evaluated by a review committee in 1992, which concluded that the process was still valid. However, based on the memorandum that resulted from that effort, there was no indication that the review committee had updated the regression analysis using current market sales data. In addition, officials at the Denver Region said that the regression analysis which served as the basis for the factors developed in the 1984 study had never been updated using current market sales information.

Regarding the statement made by the Service that it was not offering more than market value based on "simple economics" because landowners were not accepting the Service's offers on wetland easements, we were not able to reach this same conclusion because we had no information supporting why landowners declined to enroll their land in the Service's wetland easement program. There are other factors that could potentially affect a landowner's willingness to participate in the program, such as the landowner's willingness to work with the Federal Government, conservation programs and state and local regulations concerning wetlands, and a landowner's reluctance to place land under easements that restrict the use of those lands.

B. PAYMENTS TO LANDOWNERS

The U.S. Fish and Wildlife Service did not ensure that payments to acquire grassland conservation easements and refuge land were necessary and appropriate. The Service's land acquisition guidance does not provide for payments to landowners for future or prior year property taxes or for weed control expenses. However. Service officials said that they paid landowners for these costs because they believed that the payments were necessary to fully compensate the landowners for the easements. Also, although the Service had established procedures for transacting land acquisitions with nonprofit organizations, it did not provide sufficient oversight to prevent payments for unallowable or unsupported expenses or to ensure that procedures for acquiring land from these organizations were followed. As a result, the Service inappropriately paid 22 landowners $207,425 for expenses related to grassland conservation easements and compensated 3 landowners $66,504 for expenses that were not the liability of the Service. In addition. the Service reimbursed nonprofit organizations for costs of $438.680 that were unsupported and/or ineligible for reimbursement under letters of intent (16 acquisitions) and for costs of $189,322 that were ineligible for reimbursement without letters of intent (14 acquisitions).

Grassland Easements

In acquiring grassland easements, the Service's North Central Region inappropriately compensated landowners for future property taxes ($79.943) and future weed control costs ($127,482) related to the easements. Regional officials said that these payments were made because. under the grassland easement agreements. the landowner is required to pay property taxes and control weeds, even though the land may have little economic value because of the easements' restrictions on agricultural use.

In fiscal years 1995 and 1996, 20 of the 22 grassland easements acquired by the North Central Region included compensation totaling $79.943 for future property taxes.[8] According to staffappraisers. provisions for tax payments were not included in two grassland easements because easement restrictions would lower rhe property values. thus reducing taxes. Because the Service had not determined what effect the easements would have on the property values of the 20 other landowners, we consider the compensation for future taxes to be inappropriate. Furthermore. we found that this practice was inconsistent with that of the Denver Region, which obtained grassland easements without paying the landowners for these expenses. During our review. the North Central Region's Chief of the Realty Division said that the Region was going to discontinue the practice of compensating landowners for

[8]The Service computed the amount of the lump-sum payment for property tases by estimating the amount of the annual tax on the land under the easement and dividing the anr. ual tax amount by the 1-year U.S. Treasury bill interest rate in effect at the time of appraisal. The Service saidthat this method would provide sufficient compensation to the landowner if the lump-sum payment was invesred in a Treasury bill and the interest earned each year was used to pay the taxes. Property tax and weed control (discussed in footnote 9) compensation was included in the appraisals as part of the just compensation. as determined by North Central Region personnel.

future taxes because it had determined that the land does have economic value. even if the land is under easement.

In fiscal years 1995 and 1996, the 22 grassland easements acquired by the North Central Region provided payments totaling $127,46 1 for future weed control costs.[9] We believe that these payments should be discontinued because the landowners are required to control weeds under county requirements. Therefore, these costs are not incurred solely for the benefit of the Federal Government.

Rollback Tax Payments

The Service's Real Property Manual (Part 342 FW 4.15K(3)) states, "The owner is entitled to reimbursement of the pro rata portion of any prepaid real property taxes which are allocable to the period after the United States obtains title to the property or effective possession of it, whichever is earlier." However, to facilitate the acquisition of three tracts of land for the Wallkill River National Wildlife Refuge in New Jersey in October 1994 and January 1995, the Service's Northeast Region reimbursed landowners for taxes that were assessed on the properties in November 1993 for tas years 199 1, 1992, and 1993 (before the Service acquired the property). The rollback taxes were assessed by the County Board of Taxation because the owners had removed their land from the New Jersey Farmland Assessment Program and their land had been reclassified from general farming use to residential subdivision use (prior to the Service's appraisal). Since the property taxes were assessed for the period before the landow-ners started negotiating with the Service and before the Service took possession of the land, we concluded that the landowners were compensated $66.504 for expenses that were liabilities of the landouners and not the Service.

Nonprofit Organizations

In August 1995. the Department of the Interior issued "Clarifications to August 10. 1983 Guidelines for Transactions Between Nonprofit Organizations and Agencies of the Department of the Interior," which provided guidance on real estate transactions between Departmental bureaus and nonprofit organizations. The guidance pertained to land purchases transacted pursuant to letters of intent,[10] which establish a cooperative arrangement between a Federal agency and a nonprofit organization that "intend[s] to acquire land for subsequent conveyance to a Federal agency." According to the guidance, letters of intent should disclose the nonprofit organization's estimated purchase price or other consideration for the land and the Service's purchase price should be either (1) the fair market value of the property based

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"The Service computed the amount of the lump-sum payment for weed control in a manner similar to that used to calculate the payment for taxes. The annual weed control cost was estimated by multiplying the total number of acres under the easement by the estimated annual maintenance cost per acre.

"According to the Department's guidelines, a letter of intent should be used whenever (1) a nonprofit organization seeks prior assurance from a Federal agency that the agency has an interest in and an intent to take conveyance of land acquired by a nonprofit organization or (2) a Federal agency requests the assistance of a nonprofit organization in a proposed acquisition.

future taxes because it had determined that the land does have economic value, even if the land is under easement.

In fiscal years 1995 and 1996, the 22 grassland easements acquired by the North Central Region provided payments totaling $127,461 for future weed control costs.[9] We believe that these payments should be discontinued because the landowners are required to control weeds under county requirements. Therefore, these costs are not incurred solely for the benefit of the Federal Government.

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on an approved appraisal or on "such lesser figure at which the nonprofit organization offers to sell the property" or (2) the nonprofit organization's cost to acquire the property at an amount "not to exceed the appraised fair market value . . . plus related and associated expenses from a list approved by the Assistant Secretary for Policy, Management and Budget." The second option provided for the payment of a "predetermined overhead cost" if such cost was authorized "in special cases subject to the approval of the Secretary." Furthermore, the guidance stated that nonprofit organizations "must be able to document and substantiate all expenses claimed in the transaction."

Prior to August 1995, the Service had issued guidance on reimbursing nonprofit organizations for land acquisition costs when the organizations operated under letters of intent. In 1990, 1992, and 1993 guidance ("Policy and Operating Procedure for Cooperative Land Acquisition Projects Involving Nonprofit Conservation Organizations (NCO)," "Non-Profits, Reimbursable Costs," and "Status on Reimbursable Costs with Non-Profits," respectively), the Service established reimbursement policy comparable to that contained in the August 1995 Departmental guidance. In addition, the Service guidance (1) stated that to be eligible for reimbursement of direct costs, the nonprofit organization should identify these costs "at the beginning of the acquisition"; (2) provided for overhead cost reimbursement of "up to 15 percent" but stated that the nonprofit organizations had to justify the need to pay these costs in disclosure statements; and (3) required "full disclosure of the specifics of the nonprofits' purchase [price]" before the Service would accept and reimburse the nonprofit organization for the land. Also, the Service's policy stated that if a nonprofit organization bought land at less than market value, the organization should be "encouraged to transfer the property at the reduced price plus reasonable direct expenses. This enables the savings to be applied to other Service high priority acquisitions."

Letters of Intent. In our review of 51 land acquisitions transacted with nonprofit organizations, we found that 24 acquisitions for $12.2 million were made pursuant to letters of intent. In 16 of these transactions that had total acquisition costs of $4.9 million, we found that the Service had compensated nonprofit organizations $438,680 for costs that were unsupported or ineligible for reimbursement under Departmental and Service guidance. Specifically, the Service reimbursed the organization for direct costs of $64,306 that were undocumented and for indirect costs of $356,627 that were not adequately justified by the organizations, and it paid expenses of $17,299 in addition to the fair market value of the properties without obtaining the required information on the organization's purchase price. Also, the Service paid a nonprofit organization $448 more than the amount authorized under either of the two payment options described in the Department's guidelines.[11]

[11] Although we identified reimbursed costs that were unsupported or ineligible for payment in 16 acquisitions, some reimbursements were classified in more than one category of questioned costs. For example, there were 13 instances in which costs were not supported or indirect costs were not approved, 5 instances in which the purchase price was not disclosed and payments were made in excess of fair market value, and 3 instances in which the purchase price was not disclosed but no payments were made in excess of fair market value. There was one instance in which payment was made for more than the amount authorized under either of the two payment options.

No Letters of Intent. We also reviewed 27 acquisitions for $16.3 million that were transacted without letters of intent. Since neither the Department's nor the Service's guidelines apply to acquisitions that are made without letters of intent, we considered these acquisitions not to be subject to the special regulations that pertain to nonprofit organizations operating under letters of intent. In 14 of these transactions that had total acquisition costs of $12.1 million, we found that the Service had reimbursed the nonprofit organizations for costs of $189,322 in excess of fair market value. These costs, which compensated nonprofit organizations for their reported direct and indirect costs to acquire the land, were not reimbursable to landowners other than nonprofit organizations. Therefore, we believe that such costs should not be reimbursable to nonprofit organizations unless the organizations are operating under letters of intent. Moreover, in 8 of the 14 cases, the nonprofit organizations had not documented the expenses and thus may not have qualified for reimbursement had a letter of intent been issued.

Potential Savings. Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646), Federal agencies are required to offer landowners just compensation (based on the appraised fair market value). However, in 10 of the 27 fee acquisitions in which the organizations disclosed the purchase price, we found no documentation to show that the Service had attempted to acquire property at amounts less than fair market value despite the Service's 1993 reemphasis of its 1990 guidance encouraging such efforts. In these cases, the Service had an opportunity to reduce costs by negotiating a purchase price at an amount that compensated the organizations for their acquisition costs (land plus acquisition-related expenses) rather than at the lands' fair market value. For example, in one transaction, an organization disclosed that it had bought the property for $369,750 and reported transaction-related expenses of $884. However, the Service paid the organization $870.000 for the fair market value of the property and $884 for direct costs, or $500,250 more than the organization's reported cost to transact the sale. We found no documentation to show that the Service had encouraged the organization to sell the land at less than fair market value. Although this land acquisition was proper, we believe that the transaction illustrates the potential savings that could be obtained if the Service sought to acquire land from nonprofit organizations at cost plus related expenses rather than at fair market value.

Recommendations

We recommend that the Director, U.S. Fish and Wildlife Service, ensure that:

1. The practice of compensating landowners for future property taxes and weed control costs of properties that are under grassland easements is discontinued.

2. The practice of paying landowners for rollback property taxes which are not the liability of the Service is discontinued.

3. Acquisitions involving nonprofit organizations are conducted in accordance with Departmental guidelines regarding letters of intent and reimbursements for direct and indirect costs.

4. Efforts are made to encourage nonprofit organizations to transfer land at a reduced price if the nonprofit organizations bought the land at less than fair market value and that such efforts to achieve savings are documented.

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

In the September 1, 1998, response (Appendix 3) to the draft report from the Director, U.S. Fish and Wildlife Service, the Service concurred with Recommendations 2, 3, and 4 but did not concur with Recommendation 1. Based on the response, we consider Recommendations 2, 3, and 4 resolved but not implemented and request that the Service reconsider its response to Recommendation 1, which is unresolved (see Appendix 4).

Regarding Recommendation 1, the Service stated that it was not paying for future property taxes and weed control costs, as stated in the report, but that it was "considering the impact of legitimate operating expenses when preparing its appraisals." The Service further stated:

> Resales of properties - i.e., the emergence of empirical data addressing the "after" values of lands placed under grassland easements - have made this appraisal technique unnecessary. However, we cannot agree to always exclude the consideration of these operating expenses, to do so would result in a departure from the Uniform Appraisal Standards, and would most probably be a violation of the Just Compensation provision of P.L. 91-646.

Although the Service stated that "resales of properties . . . have made this appraisal technique unnecessary," the Service did not clearly state whether it was going to discontinue this method of payment for grassland easements in the North Central Region or provide information on the circumstances under which it would be appropriate to fully compensate landowners for property taxes.

Comments on Audit Finding

The Service also provided comments on the finding. The Service's comments and our replies are as follows:

Grassland Easements

Fish and Wildlife Service Comments. The Service disagreed with the finding that compensating landowners for future property taxes and weed control costs was inappropriate. The Service stated that Region 3 (North Central Region) had projected that grassland easement enrollees would incur negative cash flows "due to future property taxes and future

weed control costs, which continued to be the responsibility of the seller, even though the economic utility of the property had been largely severed by the easement." The Service further stated:

> The value of the property in its "after" condition was not equal to the preliminarily estimated value derived from analysis of the cover types, prior to considering the economic effect of these specific liabilities. In order to estimate Just Compensation, which by definition is the total loss in value suffered by the property, these liabilities had to be accounted for.
>
> The items in question are classified as operating expenses, which are routinely taken into account when valuing income-producing property such as a farm, apartment, or office building. Regarding operating expenses, a definitive real estate appraisal text, *The Appraisal of Real Estate*, says: "a comprehensive analysis of the annual expenses of property operation is essential. " And the Uniform Standards of Professional Appraisal Practice (USPAP) require that, when applicable, an appraiser must "collect, verify, analyze, and reconcile . . . such comparable operating expense data as are available to estimate the operating expenses of the property being appraised.
>
> The elements in question do not constitute unsanctioned payment to landowners, but legitimate components of Just Compensation that were included in the appraisals, approved by the appraisal review process, and included in the statements of Just Compensation. The report does not recognize the common and appropriate practice of considering operating expenses when valuing a property.

Additionally, the response stated that Region 3's grassland easements "are substantially more restrictive than those taken in Region 6 (Denver Region), and that comparison of the two programs is not valid."

Office of Inspector General Reply. As we stated in our report, the North Central Region's Chief of the Realty Division said that the Region was going to discontinue the practice of compensating landowners for future taxes because it had determined that the land does have economic value, even if the land is under easement. In addition, the Service, in response to Recommendation 1, stated that this appraisal technique is unnecessary "due to the emergence of empirical data addressing the 'after' values of lands placed under grassland easements." We believe that this statement further indicates that the property has economic value.

Though the grassland easements restrict the use of the land, we noted that some use of the land is still allowed under the easements. However, the appraisals did not consider any income potential remaining after the grassland easements were implemented. As such, we believe that it was inappropriate to relieve the landowners of the entire tax burden on the easement areas because the areas still had economic value. In addition, as stated in our report (page 20), the appraisers in two cases confirmed that the property taxes would be reduced as

a result of the grassland easements. However, for the other 20 cases, there was no indication that the appraisers confirmed whether or not the taxes would be reduced, even though the appraisers stated, "Because the easement area no longer produces any steady income, the taxes should be reduced, but they probably will not."

The North Central Region's method of calculating payments to landowners for grassland easements was inconsistent with the Denver Region's method. Specifically, the North Central Region's grassland easements were more restrictive by prohibiting grazing, but the Denver Region did not factor in taxes or weed control payments, even though there were some losses of value. We did not consider this additional restriction on grazing to be sufficient justification for the North Central Region's practice of factoring in the full cost of taxes and weed control. If there was no decrease in taxes and no income potential, some portion of the taxes and weed control could be factored into the North Central Region's grassland easements, but not the entire amount.

Nonprofit Organizations

Fish and Wildlife Service Comments. The Service stated that a number of land acquisitions discussed in the report were completed or started prior to the Department's August 1995 guidance and that therefore "the rules that the Service was operating under were not those of the August 28, 1995, memorandum."

Office of Inspector General Reply. As we stated in our report (page 22), the Service, prior to the Department's August 1995 guidance, had guidance that was comparable and that included other considerations not included in the Department's 1995 guidance. The acquisitions were evaluated using the guidance in effect at the time of the transaction.

Fish and Wildlife Service Comments. The Service disagreed with the finding that it reimbursed nonprofit organizations for costs of $189,322 that were in excess of fair market value, stating:

> In the cases of nonprofit organizations operating without letters of intent, we believe that many of the direct costs are indeed reimbursable under P.L. 91-646. No itemization of the costs were provided in the report, but many of these reimbursements were for legitimate costs such as tax recompenses, relocations expenses, closing costs, and other expenses legitimately reimbursable under the law.

Office of Inspector General Reply. Regarding the Service's disagreement with our statement that the Service paid ineligible costs of $189,322 to nonprofit organizations which operated without letters of intent, the costs in question were costs associated with the nonprofit organizations' original acquisition or option costs, not the costs of selling or transferring the land to the Government. For example, the Service reimbursed a nonprofit organization for appraisal and survey costs, overhead, and other costs totaling $47,409 that were related to two tracts on which the organization had obtained a purchase option. However, the nonprofit organization transferred the option to the Service, which purchased

the land directly from the landowner. We believe that these payments were inappropriate because the Service purchased the property directly from the landowner, and there was no letter of intent for this transaction authorizing such payments. Also, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) allows for reimbursement of relocation and replacement housing expenses applicable at the time the Government is acquiring the real property, not expenses incurred by landowners when they originally acquired the real property.

Fish and Wildlife Service Comments. The Service disagreed with the statement that we found "no documentation to show that the Service had attempted to acquire property from nonprofit organizations at less than fair market value." The Service cited examples where it had acquired property from nonprofit organizations at less than the appraised value and stated:

> There are many other cases where nonprofit organizations have made substantial and valuable donations to the Service. During the period of time covered by the audit, nonprofit organizations donated 23 tracts totaling 16,662.33 acres to the Service to be used for the public good.

Office of Inspector General Reply. We acknowledge that the Service has been successful in acquiring land through donations from nonprofit organizations; however, donations were not within the scope of our review. We have clarified the report (page 23) to state that we found no documentation to support that the Service had attempted to acquire property at amounts less than fair market value for 10 of the 27 fee acquisitions reviewed in which the nonprofit organizations disclosed the purchase price to the Service.

C. CONTAMINANT SURVEYS

The U.S. Fish and Wildlife Service's North Central Region acquired two tracts of land that had environmental contaminants without obtaining the required Departmental approvals. The Department of the Interior's Interim Guidance on Implementation of Secretarial Order 3127 and the Departmental Manual (602 DM 2) require potential land acquisitions to be reviewed to determine whether hazardous substances are present. The Guidance requires the approval of the Assistant Secretary for Fish and Wildlife and Parks and the Assistant Secretary for Policy, Management and Budget for acquisitions of land on which contaminants have been identified and which have associated cleanup costs. A regional Service official stated that the required approvals were not obtained because the additional notification and approval requirements would have delayed the acquisitions and because the field personnel concluded that the level of identified contaminants did not represent a threat to the environment. As a result, the Service may have to pay as much as $722,862 to clean up the two sites that had environmental contaminants if it is determined that full-scale cleanup is required.

Meredosia National Wildlife Refuge

As required by the Department's Interim Guidance,[12] the Service completed a Level I Contaminant Survey in May 1992 before acquiring a 400-acre tract for the Meredosia National Wildlife Refuge in Illinois. The Survey identified a half-mile long ditch within a 4-acre tract that had been used as a dump site and that contained empty 50-gallon drums, paint and oil cans, motors and automobile parts, abandoned motor vehicles, and tires and recommended that a Level II Contaminant Survey be performed. A Level II Survey conducted in December 1993 found that hydrocarbons and silver levels in the dump area were "substantially" higher than the acceptable levels identified in the regional soil/sediment cleanup guidelines and concluded that there was a potential for contaminants, or the effects of contaminants, to be present on the property.

Based on the results of the Level II Survey, a Level III Contaminant Survey was requested by the Refuge Manager. However, before completing the Level III Survey, the Service acquired 306 acres of this tract on July 20, 1994, but delayed taking possession of the western 94 acres of the property that contained the 4-acre contaminated ditch. The Service paid the owner $431,000 for 306 acres, and the remaining $125,000 was placed in escrow pending sale of the remaining acres.

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[12]As stated in the Department's Guidance, a Level I Contaminant Survey is required for all potential land acquisitions to determine whether contaminants are present. If the Level I Survey identifies indications of contaminants, a Level II Contaminant Survey is conducted to determine the presence or absence of a contaminant. A Level III Contaminant Survey is required when a bureau determines that, based on the Level I or II Survey, a reasonable basis exists to assume that contaminants are present on the site or that the effects of contamination are present at the site and extensive sampling and research are required to obtain an estimate of the cleanup cost.

The Level III Survey completed by the Contaminants Specialist in August 1994 concluded that 1 of the 47 sites tested on the 4-acre tract contained chlordane levels that exceeded the State of Illinois groundwater quality standards and that silver levels were "significantly" higher within the entire test site than in nondump areas. According to the Specialist, chlordane is a hydrocarbon that has been shown to be carcinogenic, to be connected to eggshell thinning in fish-eating migratory birds, to be a cause of mortality in birds, and to be extremely toxic to rainbow trout. Although a Service contractor estimated that the cleanup cost of the entire ditch would be $704,800, the Field Supervisor at the office which conducted the surveys noted: "Only one data point was estimated to exceed State of Illinois' groundwater standards. It seems reasonable that some simple method of clean-up (as opposed to the contractor's estimated full scale remediation) should be satisfactory particularly since the main function of the area will not be for human use."

We also found that the Service did not obtain the required Departmental approvals before it proceeded with the acquisition. The Interim Guidance on Contaminant Surveys requires that Level II and III Contaminant Survey Reports be reviewed and approved by the Assistant Secretary for Fish and Wildlife and Parks or a designee and submitted to the Assistant Secretary for Policy, Management and Budget for approval of the acquisition. The files contained no documentation showing that survey reports had been submitted to or approved by either Assistant Secretary.

Furthermore, the file for the acquisition of the 4-acre tract was incomplete and contained information that was inconsistent with the conclusions in the Contaminant Survey Reports. For example, we did not find the Level III Contaminant Survey Report in our review of the acquisition file. However, the file did contain a second Level I Contaminant Survey Checklist and Report that had been prepared by the Refuge Manager in March 1995. The Report indicated that there was no surface material on the property, even though the surface material identified in May 1992 was still on-site. The file also included a certification by the Refuge Manager stating, "To the best of my knowledge no contaminants are present on this real estate and there are no conclusive signs of any effects of contamination."

The Service took possession of the contaminated 4-acre tract on May 9, 1995. According to the Acting Refuge Manager, the surface material was removed during the summer of 1996, but the contaminants on the property had not been cleaned up.

Cypress Creek National Wildlife Refuge

In May 1993, a Senior Appraiser completed a Level I Contaminant Survey of a 6-acre tract that was to be acquired for the Cypress Creek National Wildlife Refuge in Illinois at the appraised value of $6,100. The Survey Report identified several dump sites and stated that the current owner operated a lawn mower repair business on the property and that there was evidence of waste oil dumping and discarded lawn mower oil filters on the property.

A Level II Contaminant Survey completed in September 1993 found that hydrocarbons, lead, and cadmium levels were "significantly" higher on the site than in non-dump areas and higher than the acceptable levels in the regional soil cleanup guidelines, which were indicative of moderate soil contamination. The Survey Report also stated that, according to the landowner, a former owner operated an automobile service station on the property several decades ago and that moderate soil contamination may have resulted from the operations of the service station. The Report recommended the removal of surface soil at the contaminated sites and additional sampling and analysis of the site after the soil removal.

A Level III Contaminant Survey completed in July 1994 stated that lead, cadmium, and barium concentrations were higher than those in the State of Illinois Groundwater Quality Standards. The State Water Survey Office told the Service that there were three wells in the same section, which indicated that there was local potable use of the groundwater in the general vicinity of the contaminated property. A Service contractor estimated the cost of remediating the soil and potential groundwater contamination to be $18,062.

Even though all of the contaminants remained on the property, the Refuge Manager certified in the files that, "To the best of my knowledge no contaminants are present on this real estate and there are no obvious signs of any effects of contamination." According to a Regional official, the Service took possession of the property in March 1995 without obtaining the required approvals from the Assistant Secretaries. The surface material was removed by Refuge staff in 1996, but the contaminants had not been cleaned up.

Recommendations

We recommend that the Director, U.S. Fish and Wildlife Service, ensure that:

1. Immediate action is taken to develop an action plan, including costs estimates and target dates, to clean up the areas which contain contaminants at the Meredosia and Cypress Creek National Wildlife Refuges. If a determination is made that further cleanup work is unnecessary, a written justification fully supporting that determination should be prepared and approved by the appropriate officials.

2. Appropriate approvals are obtained from the Assistant Secretary for Fish and Wildlife and Parks and the Assistant Secretary for Policy, Management and Budget before land that contains contaminants is acquired.

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

In the September 1, 1998, response (Appendix 3) to the draft report from the Director, U.S. Fish and Wildlife Service, the Service concurred with Recommendation 2 but did not concur with Recommendation 1. Based on the response, we consider Recommendation 2 resolved but not implemented. Also based on the response, we have revised Recommendation 1 and request that the Service respond to the revised recommendation (see Appendix 4).

Regarding Recommendation 1, the Service stated, "After consulting the IEPA [Illinois Environmental Protection Agency], the Service determined that-full scale cleanup for these sites was not appropriate." The Service further stated that the affected surface areas of both sites had been cleaned up in 1996 and that "[i]n the opinion of Service professionals, the tracts do not pose a contaminant threat to the Service's trust resources or to the public, nor do they represent a hazard or a liability."

We were not provided any documentation, such as test or study results, to support the Service's statements that the tracts do not pose a contaminant threat to the Service's trust resources or to the public or that they do not represent a hazard or a liability. The Assistant Field Supervisor of the Rock Island Field Office told us that the Illinois Environmental Protection Agency was not provided a copy of the Level III Contaminant Survey on the contaminated tract in the Meredosia National Wildlife Refuge. In addition, the Service did not provide any documentation obtained from the Agency which supports a determination that a full-scale cleanup of the Meredosia site was inappropriate. Concerning the tract in the Cypress Creek National Wildlife Refuge, the Assistant Field Supervisor of the Rock Island Field Office provided us with documentation which supported that the Agency was consulted on the tract, but the information provided to the Agency was not sufficient for the Agency to render an opinion concerning liability clearance for the contaminated tract and the Assistant Field Supervisor did not pursue liability clearance from the Agency. Based on the Service's comment that full-scale cleanup of the sites is unnecessary, we have revised the recommendation to require the Service to prepare sufficient documentation justifying its position. Accordingly, we request that the Service respond to the revised recommendation.

Comments on Audit Finding

The Service also provided additional comments on our finding. The Service's comments and our reply are as follows:

Fish and Wildlife Service Comments. The Service stated that it did not consider the $704,800 cost estimate for the Meredosia National Wildlife Refuge or the $18,062 estimate for the Cypress Creek National Wildlife Refuge to be "credible or meaningful" because the estimates were based on a "worst-case desk exercise" and the contractor did not visit the site or examine the data obtained from the Level II and Level III Surveys. The

Service also stated, regarding the Meredosia National Wildlife Refuge, that "information obtained form IEPA [Illinois Environmental Protection Agency] after the Level III Survey was conducted determined that a full-scale cleanup of the site was inappropriate. Good site management (using management practices to minimize the risks to trust resources) was determined to be appropriate for this property." Regarding the Cypress Creek Refuge, the Service stated, "Information obtained from the IEPA after the remediation estimate was made led to the determination that a full-scale cleanup was not appropriate."

Office of Inspector General Reply. The Assistant Field Supervisor of the Rock Island Field Office told us that the Level III Contaminant Studies for both tracts were conducted properly and that the results (including the cost estimates) were valid. Concerning the estimate of the cleanup cost for the Meredosia tract, the Assistant Supervisor said that, in her opinion, the cleanup costs may be closer to $200,000 rather than $700,000. However, the potential cost to clean up the sites, if any, cannot be determined until the Service has adequately documented the basis for its decision that full-scale cleanup at these sites is unnecessary.

D. LAND EXCHANGES

The U.S. Fish and Wildlife Service conducted 13 of the 14 land exchanges we reviewed in accordance with applicable laws and regulations and received fair value in these exchanges. However, for the remaining exchange, the Southeast Region may have inappropriately obtained funds to acquire private land by selling timber on refuge lands to a third party. The United States Code (16 U.S.C. 715s, "Participation of States in Revenues from National Wildlife Refuge System"), as amended (Public Law 95-469), requires timber sale revenues from areas under the Service's National Wildlife Refuge System to be deposited into a separate fund that is used for revenue-sharing payments to counties in lieu of taxes on refuge lands. Although the National Wildlife Refuge System Administration Act authorizes the Service to exchange timber on refuge land for private land, it does not, in our opinion, permit the Service to sell timber to one party and use the proceeds to acquire land from another party. The Region entered into a purchase agreement with a private landowner to acquire 92.4 acres for the appraised value of $190,000. In a separate transaction, the Service issued a special use permit to a lumber company to harvest timber worth $190,000 from a refuge, and the Region directed the lumber company to pay the landowner $190,000 on the Service's behalf to acquire the 92.4-acre tract. Regional officials said that they entered into this arrangement with the lumber company because the Region did not have funds available for the acquisition when the landowner was willing to sell the property. At the exit conference, Service officials said that they believed that this transaction was appropriate but agreed that a Solicitor's opinion should be obtained to resolve the issue. In our opinion, the Region's method of using timber sale proceeds to acquire land was inappropriate, and the counties may have been denied revenues to which they were entitled.

Recommendation

We recommend that the Director, U.S. Fish and Wildlife Service, request an opinion from the Solicitor's Office on the propriety of the transactions conducted by the Southeast Region and a determination as to whether the Region should be required to deposit $190.000 from the sale of timber into the revenue-sharing fund established by Public Law 95-469. If the Solicitor determines that such action is required, the Director should ensure that the Region deposits the revenues from the timber sale into the revenue-sharing fund.

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

In the September 1, 1998, response (Appendix 3) to the draft report from the Director, U.S. Fish and Wildlife Service, the Service agreed with our recommendation. Based on the response, we consider the recommendation resolved but not implemented (see Appendix 4).

CLASSIFICATION OF MONETARY AMOUNTS

Finding Area	Funds To Be Put To Better Use	Unsupported Costs
Boundary Surveys	$603,002*	
Grassland Easements	207,425	
Rollback Taxes	66,504	
Nonprofit Organizations	189,322	$438,680
Total	$1,066,253	$438,680

*The net amount of $603,002 represents 29 overpayments totaling $748,063 and 3 underpayments totaling $145,061

U.S. FISH AND WILDLIFE SERVICE
OFFICES VISITED OR CONTACTED

Office	Location
Central Office	Arlington, Virginia
Pacific Region*	Portland, Oregon
Southwest Region	Albuquerque, New Mexico
North Central Region	Fort Snelling, Minnesota
Litchfield Wetland Acquisition Office	Litchfield, Minnesota
Southeast Region	Atlanta, Georgia
Northeast Region	Hadley, Massachusetts
Denver Region	Denver, Colorado
Alaska Region	Anchorage, Alaska

*Contacted only.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

IN REPLY REFER TO:
FWS/RE98-00111

SEP 1 1998

Memorandum

To: Acting Inspector General

From: Director

Subject: Draft Audit Report on Land Acquisition Activities, U.S. Fish and Wildlife Service (Assignment No. E-IN-FWS-001-97)

This responds to your June 30, 1998, request for written comments to the subject report. As required by the Department Manual (360 DM 5.3), we are providing our specific comments in the attachment; these include our concurrence or nonconcurrence with the findings and recommendations, and the specific reasons for our nonconcurrence. We would appreciate your giving this material very serious consideration as you prepare your final report.

The Service has concerns with many of the conclusions reached by the draft audit report. While a very small number of deficiencies are acknowledged, which will be addressed, the Service has conducted a credible and effective real estate program. In most cases, the Service did manage its land acquisition program in accordance with applicable laws and regulations. Where legitimate deficiencies were found, we are quite ready to take appropriate corrective actions.

We are disappointed that the comments, explanations, and documents that our Realty experts provided during and after the May 27, 1998, exit conference did not result in a more balanced draft report.

If you have questions regarding these comments, please call Mr. Jeffery Donahoe, Chief, Division of Realty, at (703) 358-1713.

Comments on Draft Audit Report on Land Acquisition Activities (E-IN-FWS-001-97)

The Service strongly disagrees with many of the conclusions of the draft audit report because the data collected does not support the audit's conclusions. The report identified a total of $1,067,070 in "Funds To Be Put To Better Use" and $438,680 in "Unsupported Costs" (page 19). While the Service does not agree with these determinations, the dollars represent less than one percent of the $155.4 million that the Service used to acquire 301,577 acres of land during the period covered by the audit.[1] These numbers show that the Service has conducted a responsible and accountable land acquisition program.

The report states that the Service "did not fully comply with its requirements" in 148 of 305 acquisitions.[2] This is incorrect. While a very small number of deficiencies are acknowledged, which will be addressed, the Service has conducted a credible and effective real estate program. In the preponderance of cases, the Service did manage its land acquisition program in accordance with its written requirements and recommended procedures. The Service takes issue with the audit's interpretation and application of its requirements.

For example, the 148 cases include 101 cases where the audit merely found that appraisals over 6 months old had been used. Such appraisals can be valid if market conditions have been stable, as they generally have been in recent non-inflationary times. The report says that there was "no indication that the Service had considered updating the appraisals" (page 7), but in fact there is no requirement for this. The Service's Appraisal Handbook requires that appraisals reflect current market values; it does not require the creation of any specific documentation, unless updates or revisions to the appraisals are needed.[3] The report presumed the requirement for documentation, then charges the Service with not following a directive that does not exist. This issue pertains to 68 percent of the 148 cases where the Service purportedly "did not fully comply with its requirements."

The report also faults 20 cases where it was thought that compensation for future property taxes had been paid, and 22 cases where payments were made for future weed control costs (page 10). In

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[1] These figures are according to the Draft Audit Report on Land Acquisition Activities, July 1998, page 8. According to Service records, the Service acquired 1,723 tracts, totaling 534,064.88 acres at a total cost of $191,269,818.30 during Fiscal Years 1995 and 1996.

[2] Draft Audit Report on Land Acquisition Activities, July 1998, cover memorandum dated June 30, 1998 from Robert J. Williams, Acting Inspector General, to Director, U.S. Fish and Wildlife Service.

[3] Appraisal Handbook (342 FW 1.5C).

actuality, these were Just Compensation issues, not "inappropriate" payments to landowners. The elements in question do not constitute unsanctioned payments to landowners, but legitimate components of Just Compensation that were included in the appraisals, approved by the appraisal review process, and included in the Statements of Just Compensation. The audit failed to recognize the common and completely acceptable appraisal practice of considering the impact of taxes and other operating expenses when valuing a property.

The report also states that there were 30 cases where the Service "overpaid" landowners and three cases where the Service "underpaid" landowners because "the boundary surveys showed that the property consisted of a different amount of acreage" (page 8). We do not always base payments on boundary surveys, nor is it a commonly accepted real estate practice. The Service Manual states clearly that "the purchase price may be negotiated on a lump sum or per hectare (acre) basis... Generally a lump sum price offer is more acceptable to a landowner since there is no question as to the amount of money to be paid."[4]

The report also cites eight cases where the Service obtained two appraisals in accordance with its two appraisal policy, but did not "accept" both appraisals prior to approving one of them as a basis for value. There is no Service policy that two appraisals need to be obtained *and* accepted. The purpose of the Service's two appraisal policy - a policy that goes well beyond the standards of diligence that most other agencies set for themselves - is to obtain an approved appraisal in which the Service can have confidence. It is not to obtain two "acceptable" appraisals, one of which will not be used. Here again, the report says that the Service "did not fully comply with its requirements," but the audit did not correctly apply the written guidelines found in the Service Manual.

In addition, we take exception to the way in which the Service and Service officials are portrayed. In numerous instances, the report portrays "Service officials," as caring nothing for Service regulations, policies, and procedures. For example, the report states that "Services officials said that they did not always comply with these requirements in an effort to expedite the acquisition process, minimize the cost of land acquisition, and/or provide landowners with incentives to participate in the Service's 'willing seller' land acquisition program" (page 4). These alleged quotes do not represent the views of the Service, and they do a disservice to our dedicated career realty professionals. We object to this inaccurate presentation.

The following are our considered responses to the draft audit report, including our concurrence or nonconcurrence with certain findings, the specific reasons for any nonconcurrence, and the actions taken or planned to remedy those items that are believed to be in need of remediation.

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[4] Service Manual (342 FW 3.8C).

A. JUST COMPENSATION

Appraisals

The report states that the Service "did not have sufficient assurance that market value was paid for 125 acquisitions" (page 4). These 125 cases include, among others, the 101 cases where appraisals were used that were over 6 months old, and the 8 cases where the Service obtained two appraisals in accordance with policy, but did not "accept" both appraisals prior to approving one of them. In these cases, the Service followed its written procedures.

Appraisal Preparation. Service policy is "to protect both private and public interests by means of market value appraisals as a basis for all land transactions."[5] According to the report, the Service followed this policy in 299 out of 305 cases. Of the 6 cases cited as deficient, one was apparently an instance where the audit team was unable to identify the appraisal because the name of the seller had changed. Others were instances where the appraisers had prepared a "memorandum of value" or "value opinion" instead of an appraisal, and one was a case where the appraisal had been made but could not be located. While any deviation from the Service's appraisal policy is a concern, the audit indicates that the Service complied with its appraisal preparation policy over 98 percent of the time.

Two Appraisals. At the outset, it is worth noting that the Service's two appraisal policy clearly goes beyond the standards set by other agencies. To our knowledge, no other land acquisition agency in the Department of the Interior has this policy.

The report identified eight cases where the Service obtained two appraisals in accordance with its two appraisal policy, but did not "accept" both appraisals prior to approving one of them as a basis for acquisition. There is no Service policy that two appraisals be obtained *and* accepted. The Service's Appraisal Handbook says that under certain circumstances two appraisals are required.[6] And the Appraisal Review Handbook indicates that the "'approved appraisal' is based on the reviewer's analysis and ultimate selection from among *one or more* acceptable reports."[7] But there is no specific requirement that two appraisals be obtained *and* accepted. The purpose of the Service's two appraisal policy is to obtain an approved appraisal in which the Service can have

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[5] Appraisal Handbook (342 FW 1.2).

[6] The Service's two appraisal policy is specified in the Appraisal Handbook (342 FW 1.5F). The policy calls for two appraisals for unique, controversial, complex, and relatively high valued property, for judicial proceedings unless otherwise instructed by the Department of Justice, and for properties valued in excess of $750,000.

[7] Appraisal Review Handbook (342 FW 2.9B). Emphasis added.

confidence. An appraisal that is not "acceptable" due to one or more flaws can still provide secondary facts and opinions that increase the Service's confidence in the approved report.

Regarding the examples, we note that in the first case these two appraisals support one another, being less than five percent divergent from the mean, and that the final approved value was bracketed by the appraisals and diverged by less than 2.5 percent from their average. We wish that all valuation efforts were this unequivocal.

In the second case, the report contends that: "Although the Appraisal Handbook states that updating appraisals 'is a matter of appraisal judgment,' it also states that conditions such as 'a change in the highest and best use... will require a full reappraisal" (page 6). As a matter of fact, the Appraisal Handbook does *not* say that. The Appraisal Handbook says: *"It is possible* that long delays in negotiations, radical changes in the marketplace, or changes in highest and best use of the property will require a full reappraisal. This is a matter of appraisal judgment."[8]

Regarding the specific example, the reviewer first took the conservative course by *accepting* and approving the lower appraisal. When subsequent events pointed to the higher appraisal as the better measure, the Service ordered an update of that appraisal – as opposed to a certainly more expensive, but not necessarily more reliable, full reappraisal. As stated in the Appraisal Handbook, this was a matter of appraisal judgment. Since that updated appraisal was approved, which certainly shows acceptance and expurgation of the earlier "rejection," the Service did indeed obtain two acceptable appraisals in support of this acquisition.

Appraisal Review and Approval. Service policy and procedures require that appraisals be reviewed and approved by a qualified review appraiser.[9] Of the 305 cases examined, the report identified four cases where it was believed that appraisal reviews were not performed, and four cases where review appraisers prepared independent opinions of value that were not subsequently reviewed by the Chief Appraiser. In the first category, there were apparently some reviews that were overlooked in the audit. In the second category, there were reviews that were not acknowledged because they were performed by other regional reviewers, not the Chief Appraiser. While these reviews may not have been done at a "higher level" as technically required by Service regulations, they were performed by competent review appraisers and the spirit, if not the precise letter, of the appraisal review mandate was followed. While any deviation from the policy of providing conscientious appraisal reviews for Service appraisals is a matter of concern, the report does show that proper procedures were followed in over 97 percent of the cases.

Appraisal Updates. The report contends that there was "no indication that the Service had considered updating the appraisals for 101 of 122 acquisitions we identified in which more than six

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[8] Appraisal Handbook (342 FW 1.5C (2)). Emphasis added

[9] Appraisal Review Handbook (342 FW 2.5A)

months had elapsed from the date the appraisal was prepared to the date the purchase agreement was signed" (page 7). Of these 101 cases, at least 64 were cases where the appraised value was less than one year old. We do not believe any of these cases violate the Service's written appraisal standards; the integrity of the Service's acquisition program was not compromised.

The Appraisal Handbook states that: "Consideration must be given to updating any appraisal over 6 months old as well as any appraisal that may be outdated due to extraordinary market conditions."[10] The Appraisal Handbook requires documentation only in affirmative cases, where updates are found to be necessary. This is shown by the fact that the Handbook gives a detailed outline to be followed for appraisals that require updates,[11] but says nothing on the question of creating a document for appraisals that are found to be valid. This is because the Handbook does not require documentation in such cases.

The appropriate considerations required by the Handbook were given to updating appraisals over 6 months old as well as to any appraisals that may have been "outdated due to extraordinary market conditions." The absence of supplemental updates as required by the Handbook is evidence that such changes were unnecessary. Service regulations require that appraisals reflect current market values; they do not require the creation of any additional documentation when appraisals are still valid.[12]

Boundary Surveys

The report states that there were 30 cases where the Service "overpaid" landowners and 3 cases where the Service "underpaid" landowners because "the boundary surveys showed that the property consisted of a different amount of acreage." It is not our policy to uniformly base payments on boundary surveys, nor is it a commonly accepted real estate practice. Land acquisition payments are not invariably made on the basis of the surveyed acres, and precision in the measurement of acquired tracts does not necessarily increase the reliability of valuations. In some markets, it is common practice to buy and sell property based on deeded acres; in other markets, tracts are bought and sold based on lump-sum negotiations; and in others, custom dictates a formal survey. The Service Manual states that "the purchase price may be negotiated on a lump sum or per hectare (acre) basis... Generally a lump sum price offer is more acceptable to a landowner since there is no question as to the amount of money to be paid."[13] The report is

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[10] Appraisal Handbook (342 FW 1.5C (1))

[11] Appraisal Handbook (342 FW 1.5C (4))

[12] It is important to note that Service appraisers are actively involved in doing appraisal work in their local markets. Any substantive change in those markets would almost certainly be known to the Service appraiser.

[13] Service Manual (342 FW 3.8C).

interpolating and presuming regulations that do not actually exist; it did not apply the Service's regulations as they are written in the Service Manual. The report's citation – that the Service bought land on the basis of deeded acres as opposed to boundary surveyed acres – is not a violation of Service policy or of sound realty practices.

Wetland Easements

The report states that wetland easement payments "were not based on current data" (page 8). This is only partially true. While the base study dates from 1984, the payment formula requires the input of current market land values. Although the Service's study was conducted in the 1980s, it was revisited and revalidated by a review committee in 1992. As stated in that review: "The committee agreed the WPA easement appraisal is valid under today's condition and should remain so into the foreseeable future."[14]

The report also states that "the Service had not conducted any formal analysis to determine whether a reduction in the payments would negatively affect landowner participation in the program" (page 9). We are in agreement that it is nearly time to revisit and update the wetlands easement study, but we do not agree that the Service lacks assurance that it was paying fair value for its wetland easements. According to those in charge of Service field offices, about 30 to 40 percent of the landowners who inquire about wetland easements subsequently decline to enroll their land. And in areas where the Service's program can be compared to a similar conservation effort, the Department of Agriculture's Wetlands Reserve Program, the Service's payments are perceived to be noncompetitive. Although the wetlands program has been in existence for 30 years, there are still prime wetlands that remain unprotected. It is simple economics: if the Service were indeed offering more than market value, landowners would not be turning the offers down.

Recommendations

The report makes four recommendations, which are repeated here in italicized type, followed by our comments.

1. Requirements for preparing, reviewing, approving, and updating appraisals are followed. Specifically, the Service should obtain appraisals for all land acquisitions, ensure that appraisals are properly reviewed and approved, obtain two acceptable appraisals for land estimated to be valued at more than $750,000, and update appraisals that are more than 6 months old or document the files to support the basis for not updating the appraisals.

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[14] United States Department of the Interior, Fish and Wildlife Service, Appraisal Review Memorandum, from Regional Review Appraiser, Region 3 and Regional Review Appraiser, Region 6, to Chief, Division of Realty, Region 3 and Chief, Division of Realty, Region 6, subject: "Appraisal Review Update and Approval of the Waterfowl Production Area (WPA) Easement Report of 1984," dated November 30, 1992.

COMMENT: We agree that Service requirements for preparing, reviewing, approving, and updating appraisals should be followed. Service requirements as currently written have been largely followed to date, but we are not adverse to updating and clarifying those requirements, when such updates and clarifications are practical and do not conflict with sound realty practices.

Although our two appraisal policy already goes well beyond standard Department of the Interior requirements, we propose amending the Appraisal Review Handbook to clarify the distinction between "rejected" appraisals and "accepted but not approved" appraisals. We will also specify that, when two appraisals are required, both should be acceptable for payment as provided by the Appraisal Review Handbook.[15]

We are also agreeable to amending the appraisal handbook to create a firm expiration time for appraisals, but we believe that a six month period is far too short. Since appraisals are generally dated as of the day of inspection, they may technically be a month old or more before they are even submitted for review. Depending upon scheduling, it may take another month or more to review them, and if they need to be returned for corrections, even more time will pass. In the real world, an appraisal could be six months old before an offer is even presented to the landowner. We propose a more realistic measure as follows: Statements of Just Compensation (SJCs) shall be based on appraisals that reflect current market values and are not more than 12 months old from the date of value. SJCs shall be valid for not more than six months. Appraisals shall be re-validated or updated, and the file shall be appropriately documented, for any appraisal over 12 moths old at the time of the issuance of the SJC, or for any re-issuances of a SJC.

IMPLEMENTING ACTION: Prior to the receipt of the draft audit report, the Chief Appraiser had prepared a memorandum for the Director's signature raising the two appraisal threshold to $1 million. As stated in that draft memorandum: "The monetary threshold for securing second appraisals was last changed by memorandum dated March 22, 1991. The threshold established at that time, $750,000, was incorporated into the Appraisal Handbook issued August 16, 1993. In recognition of general market changes that have occurred since 1991, the Chief Appraiser has reevaluated the monetary threshold and other criteria for obtaining second appraisals." We propose expanding that memorandum and incorporating therein these other changes to Service policies and procedures.

RESPONSIBLE OFFICIAL: Chief, Division of Realty

TARGET COMPLETION DATE: April 1, 1999

2. Boundary surveys are conducted in accordance with the Service's requirements.

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[15] Appraisal Review Handbook (342 FW 2.9A). An "Acceptable Report" is defined as "An appraisal [that] may be acceptable for payment because it adheres to contractual specifications and professional standards..."

COMMENT: We agree.

IMPLEMENTING ACTION: The Service shall issue a memorandum reemphasizing the importance of conducting boundary surveys in accordance with Service requirements.

RESPONSIBLE OFFICIAL: Chief, Division of Realty

TARGET COMPLETION DATE: January 1, 1999

3. Purchase agreements are prepared that provide the Service an opportunity to revise the sales price of the property based on the actual acreage conveyed, as determined by a boundary survey.

COMMENT: We disagree. We perceive serious difficulties with this policy. We believe that our current regulations, properly understood and applied, do appropriately address this complex issue: "The purchase price may be negotiated on a lump sum or per hectare (acre) basis. Factors that influence the choice of approach are local custom, size of property, and reliability of the acreage estimate. Generally, a lump sum price offer is more acceptable to a landowner since there is no question as to the amount of money to be paid. However, in case of large properties where there is a real question as to the quantity of the land involved, the per hectare (acre) approach may be the most desirable..."

IMPLEMENTING ACTION: The Service shall issue a memorandum reemphasizing the importance of complying with Service requirements and accentuating the need for consistent application of current policy.

RESPONSIBLE OFFICIAL: Chief, Division of Realty

TARGET COMPLETION DATE: January 1, 1999

4. An analysis is performed to update the factors used to establish market value for wetland easements and to determine whether payments to landowners could be reduced without a significant impact on landowner participation in the easement program.

COMMENT: We agree to perform an analysis, but we cannot agree that it should be "to determine whether payments to landowners could be reduced." The Service is required by law to offer Just Compensation, and it is unrealistic to suppose that easement payments could be reduced without having an impact on landowner participation. The wetlands easement program is a very popular undertaking. It preserves wetlands, a high-priority holistic environmental resource, while keeping lands in private ownership, in agriculture production, and on the tax roles. We maintain that, based upon the acid test of the behavior of bona fide landowners operating in real markets, our payments have not been unreasonable.

IMPLEMENTING ACTION: The Service will revisit the wetland easements study, but we will not commit to a specific method of measuring Just Compensation, except to say that the formula should consider appropriate valuation factors, and payments should entice actual owners to enter into actual agreements under actual, real world, conditions. The Service shall appoint a committee of appraisers and other experts to develop contract specifications and award a contract or contracts for a new wetland easement study.

RESPONSIBLE OFFICIAL: Chief, Division of Realty

TARGET COMPLETION DATES: January 1, 1999 for appointment of a committee; July 1, 1999, for award of the first contract or contracts; January 1, 2000 for receipt of the contracted for study or studies; July 1, 2000, for review, approval and implementation of the new study or studies.

B. PAYMENTS TO LANDOWNERS

Grassland Easements

This is a Just Compensation issue, not a payments to landowners issue. In the early years of the grassland easements program, Region 3 projected that negative cash flows would be incurred by grassland easement enrollees. This negative income would be due to future property taxes and future weed control costs, which continued to be the responsibility of the seller, even though the economic utility of the property had been largely severed by the easement. It should be noted that Region 3's grassland easements are substantially more restrictive than those taken in Region 6, and that comparison of the two programs is not valid.

In Region 3, it was reasoned that landowners who sold their property outright would incur no future benefits and no future costs, while landowners who placed their lands under these restrictive easements would also receive virtually no future benefits, but would still incur future costs in the form of taxes and weed control expenses. In other words, Region 3's easements left landowners with little in the way of an economic asset, and with a continued liability for taxes and weed control on property that they "owned," but could not really use to produce an economic benefit. In order to assure Just Compensation as required by P.L. 91-646, Region 3 found it necessary to account for this. Because of the economic maxim that the worth of an asset is the present value of its future benefits, less its future liabilities, the negative cash flows diminished the value of the remaining estate to which the liabilities were attached. The value of the property in its "after" condition was not equal to the preliminarily estimated value derived from analysis of the cover types, prior to considering the economic effect of these specific liabilities. In order to estimate Just Compensation, which by definition is the total loss in value suffered by the property, these liabilities had to be accounted for.

The items in question are classified as operating expenses, which are routinely taken into account when valuing income-producing property such as a farm, apartment, or office building. Regarding

operating expenses, a definitive real estate appraisal text, *The Appraisal of Real Estate,* says: "a comprehensive analysis of the annual expenses of property operation is essential."[16] And the Uniform Standards of Professional Appraisal Practice (USPAP) require that, when applicable, an appraiser must "collect, verify, analyze, and reconcile... such comparable operating expense data as are available to estimate the operating expenses of the property being appraised."[17]

The elements in question do not constitute unsanctioned payments to landowners, but legitimate components of Just Compensation that were included in the appraisals, approved by the appraisal review process, and included in the statements of Just Compensation. The report does not recognize the common and appropriate practice of considering operating expenses when valuing a property.

Rollback Tax Payments

If a tax occurs because the landowner sold to the Government and thereby incurs a rollback tax because the Government changed the use of the property, the expense is incidental to conveying the property to the Government and therefore compensable under P.L. 91-646.[18] In the case presented, however, the subdivision process was apparently initiated prior to the Service beginning active negotiations to acquire the property; therefore the taxes were not incurred as a direct result of the sale of the property to the Government.

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[16] Appraisal Institute, *The Appraisal Of Real Estate,* 10th Edition, 1992, page 444. The quoted statement refers to the income approach, of which the appraisal technique in question is a variation.

[17] Uniform Standards of Professional Practice (USPAP), 1998 Edition, Standard Rule 1-4 (b) (v). Promulgated by the Appraisal Standards Board of the Appraisal Foundation, the USPAP apply to all real estate appraisals unless superseded by specific statutes or jurisdictional exceptions.

[18] U.S. Department of Transportation, Federal Highway Administration, memorandum from Chief, Environmental and Right-of-Way Law Branch, to Mr. Del Luckow, Chief, Program Requirements Division, subject: "Uniform Relocation Act - Vermont Tax on the Transfer of Land," dated July 16, 1991. U.S. Department of Transportation, Federal Highway Administration, memorandum from Regional Counsel, Albany New York, to Mr. C. D. Reagan, Director, Office of Planning and Program Development, subject: "Vermont Tax on Transfer of Land, Eligibility for Reimbursement under Uniform Act," dated July 1, 1991.

Nonprofit Organizations

We note that in a number of cases the subject tracts' acquisition dates were prior to the issuance of the Departmental memorandum of August 28, 1995,[19] and that in other cases it appears that the projects were started, and the letters of intent entered into, prior to August 1995. On many of these cases, therefore, the rules that the Service was operating under were not those of the August 28, 1995, memorandum.

Regarding nonprofit or non-governmental organizations operating without letters of intent, we agree that these transactions should be fully documented according to our policies and procedures. However, we point out that while the reimbursements were perhaps not always appropriately documented, we believe that they were approvable and legitimate payments.

In the cases of nonprofit organizations operating without letters of intent, we believe that many of the direct costs are indeed reimbursable under P.L. 91-646. No itemization of the costs were provided in the report, but many of these reimbursements were for legitimate costs such as tax recompenses, relocations expenses, closing costs, and other expenses legitimately reimbursable under the law.

The report "found no documentation to show that the Service had attempted to acquire property from nonprofit organizations at amounts less than fair market value..." (page 13). On the contrary, at Petit Manan Refuge, Tracts 10 h and 10 j, the appraised value was $145,000, while the actual price paid to The Nature Conservancy (TNC) for these tracts, plus three others, was $35,000. The other three tracts, East Barge Island, West Barge Island, and Bar Island, were appraised for Revenue Sharing purposes at $128,400, for a total value of $273,400 received from a major nonprofit organization for a payment of only $35,000. The value of TNC's donation was $238,400. There are many other cases where nonprofit organizations have made substantial and valuable donations to the Service. During the period of time covered by the audit, nonprofit organizations donated 23 tracts totaling 16,662.33 acres to the Service to be used for the public good.

Recommendations

The report's recommendations are repeated here in italicized type, followed by our comments.

1. The practice of paying landowners for future property taxes and weed control costs of properties that are under grassland easements is discontinued.

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[19] "Clarifications to August 10, 1983 Guidelines for Transactions Between Nonprofit Organizations and Agencies of the Department of the Interior," issued in August 1995 by the Department of the Interior.

COMMENT: We disagree. The Service was not "paying landowners for future property taxes and weed control costs," but considering the impact of legitimate operating expenses when preparing its appraisals. Resales of properties – i.e., the emergence of empirical data addressing the "after" values of lands placed under grassland easements – have made this appraisal technique unnecessary. However, we cannot agree to always exclude the consideration of these operating expenses, to do so would result in a departure from the Uniform Appraisal Standards,[20] and would most probably be a violation of the Just Compensation provision of P.L. 91-646.

IMPLEMENTING ACTION: None.

2. The practice of paying landowners for rollback property taxes which are not the liability of the Service is discontinued.

COMMENT: We agree. The Service will ensure that reimbursements are made only for those rollback taxes that were actually incurred as a result of the sale of the property to the Government.

IMPLEMENTING ACTION: The Service shall issue a memorandum elucidating this and reemphasizing the importance of complying with P.L. 91-646 and Service policy.

RESPONSIBLE OFFICIAL: Chief, Division of Realty

TARGET COMPLETION DATE: January 1, 1999

3. Acquisitions involving nonprofit organizations are conducted in accordance with the Departmental guidelines regarding letters of intent and reimbursements for direct and indirect costs.

COMMENT: We agree.

IMPLEMENTING ACTION: The Service has rewritten its manual chapter concerning cooperation with nonprofit or non-governmental organizations. Approval and distribution of this chapter will reemphasize the importance of complying with Departmental and Service policy.

RESPONSIBLE OFFICIAL: Chief, Division of Realty

TARGET COMPLETION DATE: January 1, 1999

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[20] The Uniform Standards of Professional Appraisal Practice (USPAP) require that, when applicable, an appraiser must, "collect, verify, analyze, and reconcile... such comparable operating expense data as are available to estimate the operating expenses of the property being appraised" [SR1-4 (b) (v)].

4. *Efforts are made to encourage nonprofit organizations to transfer land at a reduced price if the nonprofit organizations bought the land at less than fair market value and that such efforts to achieve savings are documented.*

COMMENT: We agree. As noted above, there are cases where nonprofit organizations have made valuable donations to the Service and we intend to keep encouraging them to do so.

IMPLEMENTING ACTION: The Service shall include a statement in our letters of intent which shall encourage the nonprofit organizations to consider conveying land at an amount that compensates them for the acquisition costs plus expenses rather than at the land's fair market value when the fair market value is greater than the acquisition cost.

RESPONSIBLE OFFICIAL: Chief, Division of Realty

TARGET COMPLETION DATE: April 1, 1999

C. CONTAMINANT SURVEYS

The contaminant survey process under scrutiny was conducted while the Service concurrently coordinated with the Illinois Environmental Protection Agency (IEPA) regarding regulatory issues and appropriate cleanup levels for suspected contaminants in the State of Illinois.

The remediation cost estimate for the Meredosia National Wildlife refuge tracts, $704,800, was based on a worst-case desk exercise. The contractor did not visit the site or examine the data obtained from the Level II and Level III Surveys to derive the estimate. Furthermore, no factor of actual need was taken into account when this estimate was made. For these reasons, the Service does not consider the $704,800 figure to be credible or meaningful. Information obtained from the IEPA after the Level III Survey was conducted determined that a full-scale cleanup of the site was inappropriate. Good site management (using management practices to minimize the risks to trust resources) was determined to be appropriate for this property.

The Cypress Creek National Wildlife property is similar. The remediation estimate, $18,062, was a worst-case desk exercise. The contractor did not visit the site or examine the data obtained from the Level II and Level III Surveys. The estimate is not credible. Information obtained from the IEPA after the remediation estimate was made led to the determination that a full-scale cleanup was not appropriate.

Recommendations

The report's recommendations are repeated here in italicized type, followed by our comments.

1. Immediate action is taken to develop an action plan, including cost estimates and target dates, to clean up areas which contain contaminants at the Meredosia and Cypress Creek National Wildlife Refuges.

COMMENT: We disagree. After consulting with the IEPA, the Service determined that full-scale cleanup for these sites was not appropriate. The surface of a four-acre area on the Meredosia tract was cleaned up in 1996 and the entire tract has been restored to a natural state. The surface of the six-acre Cypress Creek tract was cleaned up in 1996; building materials, tires, and scrap metal were salvaged or hauled to a landfill. The tract will be maintained as a natural area and it is not intensively used by the public. In the opinion of Service professionals, the tracts do not pose a contaminant threat to the Service's trust resources or to the public, nor do they represent a hazard or a liability.

IMPLEMENTING ACTION: None. Additional cleanup is not needed.

2. Appropriate approvals are obtained from the Assistant Secretary for Fish and Wildlife and Parks and the Assistant Secretary for Policy, Management and Budget before land that contains contaminants is acquired.

COMMENT: We agree.

IMPLEMENTING ACTION: The Service shall issue a memorandum reemphasizing the importance of complying with applicable laws, and Service and Departmental policy.

RESPONSIBLE OFFICIAL: Chief, Division of Realty

TARGET COMPLETION DATE: January 1, 1999

D. LAND EXCHANGES

The Service conducts timber for land exchanges through the authority granted the Secretary in 16 U.S.C. Section 668dd(a)(3), "the Secretary is authorized... to acquire lands or interests therein by exchange... for the right to remove, in accordance with such terms and conditions as may be prescribed, products from the acquired or public lands within the System."

As specified in the Warranty Deed entered into on October 4, 1995, the transaction in question was a timber for land exchange constituting a single transaction. No funds were received by the United States. We believe that this equal value exchange was conducted properly under the authority granted the Secretary cited above.

Recommendations

The report's recommendations are repeated here in italicized type, followed by our comments.

1. We recommend that the Director, U.S. Fish and Wildlife Service, request an opinion from the Solicitor's Office on the propriety of the transactions conducted by the Southeast Region and a determination as to whether the Region should be required to deposit $190,000 from the sale of timber into the revenue-sharing fund established by Public Law 95-469. If the Solicitor determines that such action is required, the Director should ensure that the Region deposits the revenues from the timber sale into the revenue-sharing fund.

COMMENT AND IMPLEMENTING ACTION: The Service will make such a request to the Solicitor's Office.

RESPONSIBLE OFFICIAL: Chief, Division of Realty

TARGET COMPLETION DATE: January 1, 1999

STATUS OF AUDIT REPORT RECOMMENDATIONS

Finding/Recommendation Reference	Status	Action Required
A.2, A.4, B.2, B.3, B.4, C.2, and D.1	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.1, A.3, and B.1	Unresolved	Reconsider the recommendations, and provide action plans that include target dates and titles of officials responsible for implementation.
C.1	Unresolved	Provide a response to the revised recommendation. If concurrence is indicated, provide an action plan that includes a target date and the title of the official responsible for implementation. If nonconcurrence is indicated, provide the reasons for the nonconcurrence.

ILLEGAL OR WASTEFUL ACTIVITIES SHOULD BE REPORTED TO THE OFFICE OF INSPECTOR GENERAL

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