



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

**U.S. Fish and Wildlife Service Grants
Awarded to the State of Nevada, Department
of Wildlife, From July 1, 2017, Through June
30, 2019, Under the Wildlife and Sport Fish
Restoration Program**

This is a revised version of the report prepared for public release.



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

JUL 19 2022

Memorandum

To: Martha Williams
Director, U.S. Fish and Wildlife Service

From: Bryan Brazil 
Regional Manager, Western Region

Subject: Final Audit Report – *U.S. Fish and Wildlife Service Grants Awarded to the State of Nevada, Department of Wildlife, From July 1, 2017, Through June 30, 2019, Under the Wildlife and Sport Fish Restoration Program*
Report No. 2020–WR–021

This report presents the results of our audit of costs claimed by the Nevada Department of Wildlife (Department) under grants awarded by the U.S. Fish and Wildlife Service through the Wildlife and Sport Fish Restoration Program.

We provided a draft of this report to the FWS. The FWS concurred with our audit findings but did not state whether it concurred with our individual recommendations. The FWS stated it will work with the Department to implement corrective actions. The full responses from the Department and the FWS are included in Appendix 4. In this report, we summarize the Department's and FWS Region 8's responses to our recommendations, as well as our comments on their responses. We list the status of the recommendations in Appendix 5.

Please provide us with a corrective action plan based on our recommendations by October 18, 2022. The plan should provide information on actions taken or planned to address each recommendation, as well as target dates and titles of the officials responsible for implementation. It should also clearly indicate the dollar value of questioned costs that you plan to either allow or disallow. If a recommendation has already been implemented, provide documentation confirming that the action is complete. Please send your response to aie_reports@doioig.gov.

We will notify Congress about our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

If you have any questions regarding this report, please contact me at 916–978–6199.

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Introduction

Objectives

In June 2016, we entered into an intra-agency agreement with the U.S. Fish and Wildlife Service (FWS) to conduct audits of State agencies receiving grant funds under the Wildlife and Sport Fish Restoration Program (WSFR). These audits assist the FWS in fulfilling its statutory responsibility to oversee State agencies' use of these grant funds.

The objectives of this audit were to determine whether the Nevada Department of Wildlife (Department) used grant funds and State hunting and fishing license revenue for allowable fish and wildlife activities and complied with applicable laws and regulations, FWS guidelines, and grant agreements.

See Appendix 1 for details about our scope and methodology. See Appendix 2 for sites we reviewed.

Background

The FWS provides grants to States¹ through WSFR for the conservation, restoration, and management of wildlife and sport fish resources as well as educational and recreational activities. WSFR was established by the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act.² The Acts and related Federal regulations allow the FWS to reimburse grantees a portion of eligible costs incurred under WSFR grants—up to 75 percent for States and up to 100 percent for the Commonwealths, territories, and the District of Columbia.³ The reimbursement amount is called the Federal share. The Acts require that hunting and fishing license revenue be used only for the administration of participating fish and wildlife agencies. In addition, Federal regulations require participants to account for any income earned from grant-funded activities and to spend this income before requesting grant reimbursements.

¹ Federal regulations define the term “State” as the 50 States; the Commonwealths of Puerto Rico and the Northern Mariana Islands; the territories of Guam, the U.S. Virgin Islands, and American Samoa; and the District of Columbia (Dingell-Johnson Sport Fish Restoration Act only).

² Formally known, respectively, as the Federal Aid in Wildlife Restoration Act, 16 U.S.C. § 669, as amended, and the Federal Aid in Sport Fish Restoration Act, 16 U.S.C. § 777, as amended.

³ The District of Columbia does not receive funding under the Pittman-Robertson Wildlife Restoration Act.

Results of Audit

We determined that the Department generally ensured that grant funds and State hunting and fishing license revenue were used for allowable fish and wildlife activities and complied with applicable laws and regulations, FWS guidelines, and grant agreements. We noted, however, questioned costs related to a conflict of interest. We also identified control deficiencies related to payroll leave allocation.

We found the following:

- **Questioned Costs.** We questioned \$82,365 (\$61,774 Federal share) as unallowable. The Department told us that a conflict of interest occurred during the audit period, and we questioned costs related to that conflict of interest.
- **Control Deficiencies.** We found opportunities to improve controls in payroll leave allocation.

See Appendix 3 for a statement of monetary impact.

Questioned Costs Due to Conflict of Interest—\$82,365 (\$61,774 Federal Share)

The Department told us that a conflict of interest occurred during the audit period. A Department employee in a supervisory role knowingly hired their spouse [REDACTED] through a temporary employment agency. In response to a complaint, Department management placed the Department employee on administrative leave while the Department performed an internal investigation. We reviewed the costs associated with the conflict of interest and questioned a total of \$82,365 (\$61,774 Federal share) as unallowable. Specifically, we questioned:

- Costs associated with the spouse's work charged directly to grants and associated indirect costs: \$52,838 (\$39,629 Federal share).
- Costs charged to grants for the employee's administrative leave (which were not allowable for the purposes of the grant) and associated indirect costs: \$26,673 (\$20,005 Federal share).
- The Department employee's payroll charges and spouse's attendance fee and per diem for a conference they attended and during which shared a room. We determined this was an unallowable cost because it gave the appearance of misusing U.S. Government funds for the employee's personal benefit. We question these costs and associated indirect costs: \$2,255 (\$1,691 Federal share).
- Costs associated with the spouse's work charged to grants via subawards: \$598 (\$449 Federal share).

Federal regulations at 2 C.F.R. § 200.318(c)(1) state that no employee may participate in the selection, award, or administration of a contract supported by a Federal award if they have a real or apparent conflict of interest that might result in personal or financial gain. In addition, Federal regulations at 2 C.F.R. § 200.403(a) state that for costs to be allowable, they must be necessary and reasonable for the performance of the award. Also, regulations at 2 C.F.R. § 200.404(a) state that costs must be necessary for the proper and efficient performance of the award. Further, regulations at 2 C.F.R. § 200.404(d) state that reasonableness is determined by whether the individuals involved acted with prudence in the circumstances considering their responsibilities toward the Federal Government. Finally, regulations at 2 C.F.R. § 200.405(a)(1) state that a cost is allocable to a particular award if incurred specifically for the Federal award.

The Department employee failed to disclose the conflict of interest as required, therefore Department personnel were unaware of the situation. After the conflict was brought to the attention of Department management, the Department updated its policies and procedures to better identify and ensure disclosure of conflicts of interest. While the Department did act to address the situation, it did not have policies and procedures that ensured costs were scrutinized for relation to grant purposes. As a result, the Department charged unallowable costs to Federal grants.

Recommendations

We recommend the FWS:

1. Resolve the Federal share of questioned costs related to the conflict of interest totaling \$61,774.
2. Require the Department to implement policies and procedures to ensure costs are scrutinized for relation to grant purpose.

Control Deficiencies

Improper Allocation of Payroll Leave Costs

The Department may have improperly allocated leave costs during the audit period. Leave taken by Department employees during a pay period was not associated with a grant or State accounting code. Rather, the costs of employee leave were allocated to grants using a labor distribution profile (LDPR) that was set up for each employee based on what the employee worked on during the prior fiscal year. Because the LDPR allocation is based on prior fiscal year activities, it may not be reflective of the current year's work. Therefore, leave charged to grants may not reflect the leave earned as a result of work performed on those grants. For example, if a Department employee worked on two similar grants in consecutive years, the employee's LDPR would apply the same leave allocation for both years, regardless of the work performed during the second year. That is, if the employee spent 75 percent of his or her time on grant activities and 25 percent on nongrant activities in the first year, the employee's costs of leave taken during

the second year would be split 75 percent to grant activities and 25 percent to nongrant activities (even if the employee performs significantly less work for the second grant).

Federal regulations at 2 C.F.R. § 200.405(a) state that a cost is allocable to a particular Federal award or other cost objective if the services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received.

The Department may have improperly allocated leave because the LDPR methodology relies on separate and past grant awards and nongrant activities for allocating current leave costs. Because the LDPR methodology does not track leave amounts earned on a per-grant basis, there is no control in place to ensure employee leave charged to the grants is allocated based on actual work performed and does not exceed leave earned on the grant. Further, we cannot determine whether leave charged to a grant exceeded the leave earned on that grant. Therefore, grants may have been charged excessive amounts of leave costs.

Recommendation
<p>We recommend that the FWS:</p> <ol style="list-style-type: none">3. Require the Department to implement or revise policies and procedures to ensure leave allocated to a grant code does not exceed the value of leave earned on that grant.

Recommendations Summary

We provided a draft of this report to the FWS for review. The FWS stated that it concurred with both findings and that it will work with the Department to implement a corrective action plan to resolve audit findings and recommendations. The FWS did not explicitly state whether it concurred with individual recommendations; as such, we consider Recommendations 1–3 unresolved. Below we summarize the FWS’ and the Department’s responses to our recommendations, as well as our comments on their responses. See Appendix 4 for the full text of the FWS’ and the Department’s responses; Appendix 5 lists the status of each recommendation.

We recommend that the FWS:

1. Resolve the Federal share of questioned costs related to the conflict of interest totaling \$61,774.

Department Response: The Department did not concur with our finding and did not comment on the associated recommendations.

The Department stated that the \$26,673 in administrative leave costs for the employee investigated for the conflict of interest were allowable under 2 C.F.R. 200.431(b), met the requirement for equitable allocation, and were “reasonable and justifiable.” As part of the Department’s reasoning as to why the costs were allowable, the Department stated that it is required by Federal law to take appropriate steps to avoid conflicts of interest and that the investigation was an appropriate step to ensure avoidance of the conflict of interest.

In addition, the Department stated that the other costs in question (\$52,838 charged directly to grants related to the spouse’s work and related costs, \$2,255 charged to grants related to a conference attended by the Department employee and ■ spouse, and \$598 in payroll costs charged to subawards under grants) were allowable costs on the Federal awards: “Although the employee’s spouse was working for the employee, the Department and federal award both benefited from the work that was provided by the employee’s spouse, including the costs associated with the employee and ■ spouse’s travel to attend a training event and conference.” The Department further stated that the employee sharing a room with ■ spouse ultimately reduced costs to the award and that “[n]either the employee nor spouse personally benefitted from this travel.”

The Department also stated that it “does not understand” the relevance of the multiple Federal regulations we cited in our draft report. It requested that we provide specific regulations “and an explanation that deems ineligible, any work performed, during a period of conflict of interest if it met the tests of ‘reasonable’ and ‘necessary’ to achieve the objectives of the award.”

FWS Response: The FWS concurred with our finding that there was an inappropriate conflict of interest but did not state whether it concurred with the associated recommendations. The FWS stated that it was “appropriate and laudable” that the Department detected the conflict of interest, reported it to the FWS and the OIG, and took corrective actions. Furthermore, the FWS stated that “the value of work done in meeting the objectives of the Award might have a bearing on resolving the questioned costs.”

OIG Comment: Because the FWS did not state whether it concurred with the recommendations associated with our finding, we consider Recommendation 1 unresolved.

We did not anticipate that the Department would oppose this finding and associated questioned costs or that it would defend costs arising from a conflict of interest as allowable expenditures of Federal funds. A Department official disclosed the conflict of interest to us during a meeting in October 2020, stating that the Department was conducting an internal investigation and that the Department was prepared to pay back the related costs. The Department also provided documentation that stated the internal investigation sustained 13 of the 17 allegations against the employee, including:

- “Embezzlement or misappropriation of Department funds or other funds which come into the employee’s possession by reason of their official position for personal gain.”
- “Disregard and/or deliberate failure to comply with or enforce statewide, department or office regulations and policies.”
- “Deliberate failure to enforce or comply with laws and/or agency policies and regulations which directly relate to the employee’s work activities.”
- “Negligence in performing official duties including failure to follow instructions or state and federal statutes regulations and administrative rules.”
- “Failure to adhere to principles in [Department] Mission, Charter, and Guiding Principles that are core to the purpose as a State Agency supported by the public.”

Regarding our questioning of the administrative leave costs, we acknowledge that State personnel rules allow the Department Director to place an employee on administrative leave with pay during an active investigation of a suspected criminal violation or investigation of alleged wrongdoing. The Director did place the employee on administrative leave with pay during the aforementioned investigation and the employee [REDACTED]. However, the Department charged these costs to the Federal grant. Due to the nature of the administrative leave, we believe these costs

were unallowable per 2 C.F.R. § 200.403(a) because they were not necessary for this grant.

We also questioned other costs associated with the conflict of interest, which the Department is also challenging, including costs associated with the spouse's work charged directly to grants, costs for the employee and their spouse related to a conference they attended together, and costs associated with the spouse's work charged to grants via subawards. The Department's internal investigation concluded that the employee "effectively enriched [REDACTED] with the Department's awarded federal grant monies which had come into [REDACTED] direct control by reason of [REDACTED] official position with the Department. This type of conduct is in direct conflict of interest that 2 CFR 200.318 and NRS 204.020 intend to curtail and make illegal."

Though the grants these costs were charged to may have benefited, to some extent, from these activities, we cannot determine that these costs were reasonable; therefore, they are unallowable costs under Federal awards per 2 C.F.R. § 200.403(a) and 2 C.F.R. § 200.404(d).

2. Require the Department to implement policies and procedures that ensure only necessary costs are charged to grants.

Department Response: The Department did not concur with our finding and stated that it "discovered and took prompt action to address the conflict of interest and updated existing internal Department policies and procedures to prevent any future occurrences."

FWS Response: The FWS concurred with our finding but did not state whether it concurred with the associated recommendations.

OIG Comment: Because the FWS did not state whether it concurred with the recommendations associated with our finding, we consider Recommendation 2 unresolved. The Department stated that it updated its policies and procedures after it discovered the conflict of interest, but it did not concur with our finding and questioned costs. Therefore, any updates to policies and procedures may not properly ensure unallowable costs are not charged to Federal grants.

3. Require the Department to implement or revise policies and procedures to ensure leave allocated to a grant code does not exceed the value of leave earned on that grant.

Department Response: The Department did not concur with our finding and did not comment on the associated recommendation.

The Department stated that employees working on WSFR grants generally have a "long tenure as WSFR grant managers" and its current leave allocation procedure "reasonably represents a history of compensation and provides a sound, reasonable

and justifiable allocation pattern to determine proportions of accrued leave taken that can be allocated to *current* awards [emphasis added].”

The Department added that this finding was unanticipated and that the “systems in use for administering accrued leave balances have been in use for decades and in use during previous audits without any indication of impropriety.” The Department stated that it “welcomes detailed examples identified as ‘best practices’ in the area of ‘leave allocation that does not exceed value of leave earned on a grant.’”

Furthermore, the Department stated that if this audit issue is not attributed solely to the Department but is a common issue being identified across multiple State programs, “it should be represented as such and identified as a common area of State leave accounting in need of improvement.”

FWS Response: The FWS concurred with our finding that the process used by the Department to allocate costs of leave to awards may not be accurate. However, the FWS did not state whether it concurred the associated recommendation. The FWS stated that this issue may be occurring in several State wildlife agencies and that it would be helpful if the FWS and the OIG could “direct [the Department] and the State [of Nevada] to benchmark applications or processes that better address this process.”

OIG Comment: Because the FWS did not state whether it concurred with the recommendation associated with our finding, we consider Recommendation 3 unresolved.

We disagree with the Department’s claim that employee tenure as WSFR grants managers makes its leave allocation “reasonable and justifiable.” Although costs of leave charged to grants might be associated with employees who have long tenures as WSFR grant managers, an employee’s tenure does not dictate the allowability of leave costs. Costs of leave are allowable charges under a Federal award in accordance with the relative benefits that award has received. By using a process that considers past performance on other Federal grants—and nongrant activities—to determine the proportions of leave costs to allocate to current grants, the Department failed to ensure leave costs were properly allocated to the awards that benefited from the labor that generated those leave costs.

We also disagree that the Department did not anticipate this finding as we informed it of this finding on multiple occasions. We initially held a meeting with our audit contact at the Department on August 27, 2021, to discuss the potential issue. We then communicated this finding in a Notice of Potential Finding and Recommendation (NPFR) that we emailed to the Department on September 28, 2021. The Department responded to that NPFR on October 13, 2021. We also discussed this finding during our exit conference with the Department on January 3, 2022, before we included it in our draft report we issued to the FWS on March 15, 2022.

While we do not contest the Department’s assertion that its systems have been used for decades during previous audits, it is possible to find issues during an audit that were present in prior audit scopes but not identified during that audit. This does not alleviate the auditee of responsibility for issues that existed during those fiscal years, nor does it preclude Federal entities from pursuing correction of those issues.

Finally, we appreciate that the Department welcomed detailed examples of best practices; however, providing detailed guidance to audited entities may be considered nonaudit services that impair our audit independence per the U.S. Government Accountability Office’s (GAO’s) generally accepted government auditing standards (GAGAS).

GAGAS describe steps auditors should take to ensure they do not provide nonaudit services, such as management responsibilities,⁴ that may impair audit independence.⁵ We may provide advice as a routine function during our audit,⁶ but developing methodologies or documents that promote the understanding of technical issues or standards may be seen as management responsibilities.⁷ In this audit report, we make recommendations aimed at correcting the audit issues, but it is ultimately the responsibility of the Department to implement controls that correct the issues. The FWS has stated it would work with Department staff to develop and implement a corrective action plan that will resolve the audit findings and recommendations. These corrective actions should ensure the costs of leave allocated to a grant do not exceed the value of leave earned on that grant.

The Department further stated that if this is a common issue we identified across multiple States, then we should represent it as such. When we find issues during an audit, we present that issue in the related audit report as it pertains to the auditee. If that issue is applicable to multiple States, we may decide to also issue a management advisory to the FWS.

⁴ GAO, *Government Auditing Standards*, GAO-21-368G, 3.106 states “Auditors should conclude that providing certain other nonaudit services impairs an external auditor’s independence with respect to an audited entity. These activities include the following: (a). Advisory service (1). Assuming any management responsibilities.”

⁵ GAO, *Government Auditing Standards*, GAO-21-368G, 3.64 states “Before auditors agree to provide a nonaudit service to an audited entity, they should determine whether providing such a service would create a threat to independence.”

⁶ GAO, *Government Auditing Standards*, GAO-21-368G, 3.70 states “Routine activities that auditors perform related directly to conducting an engagement, such as providing advice and responding to questions as part of an engagement, are not considered nonaudit services under GAGAS.”

⁷ GAO, *Government Auditing Standards*, GAO-21-368G, 3.106 states “Auditors should conclude that providing certain other nonaudit services impairs an external auditor’s independence with respect to an audited entity. These activities include the following: (a). Advisory service (1). Assuming any management responsibilities.”

Appendix 1: Scope and Methodology

Scope

We audited the Nevada Department of Wildlife’s (Department’s) use of grants awarded by the U.S. Fish and Wildlife Service (FWS) under the Wildlife and Sport Fish Restoration Program (WSFR). We reviewed 47 grants that were open during the State fiscal years (SFYs) that ended June 30, 2017, and June 30, 2018. We also reviewed license revenue during the same period. The audit included expenditures of \$84.3 million and related transactions. In addition, we reviewed historical records for the acquisition, condition, management, and disposal of real property and equipment purchased with either license revenue or WSFR grant funds.

Because of the COVID–19 pandemic, we could not complete our audit onsite. We gathered data remotely and communicated with Department personnel via email and telephone. As a result, we could not perform normal audit procedures for (1) determining adherence to policies and procedures for license revenues, (2) equipment verification, (3) observing grant projects specific to construction and restoration work, and (4) subawards to subrecipients. Therefore, the audit team relied on alternative evidence provided by Department personnel that was determined to be sufficient and appropriate to support our conclusions.

Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We assessed whether internal control was significant to the audit objectives. We determined that the State’s control activities and the following related principles were significant to the audit objectives.

- Management should design control activities to achieve objectives and respond to risks.
- Management should design the entity’s information system and related control activities to achieve objectives and respond to risks.
- Management should implement control activities through policies.

We tested the operation and reliability of internal control over activities related to our audit objective. Our tests and procedures included:

- Examining the evidence that supports selected expenditures charged to the grants by the Department.

- Reviewing transactions related to purchases, direct costs, drawdowns of reimbursements, in-kind contributions, and program income.
- Interviewing Department employees.
- Inspecting equipment and other property virtually.
- Determining whether the Department used hunting and fishing license revenue for the administration of fish and wildlife program activities.
- Determining whether the State passed required legislation assenting to the provisions of the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act.
- Evaluating State policies and procedures for assessing risk and monitoring subawards.
- Conducting virtual site visits of locations throughout the State (see Appendix 2 for a list of sites). Due to Covid-19 travel restrictions, we used video conferencing software to conduct virtual visits of various sites that the Department manages as part of its everyday job duties.

We found deficiencies in internal control resulting in our findings of unallowable costs related to a conflict of interest and improper allocation of payroll leave costs.

Based on the results of our initial assessments, we assigned a level of risk and selected a judgmental sample of transactions for testing. We used auditor judgment and considered risk levels relative to other audit work performed to determine the degree of testing performed in each area. Our sample selections were not generated using statistical sampling, and therefore we did not project the results of our tests to the total population of transactions.

This audit supplements, but does not replace, the audits required by the Single Audit Act Amendments of 1996. Single audit reports address controls over Statewide financial reporting, with emphasis on major programs. Our report focuses on the administration of the Nevada fish and wildlife agency, and that agency's management of WSFR resources and license revenue.

The Department provided computer-generated data from its official accounting system and from informal management information and reporting systems. We tested the data by sampling expenditures and verifying them against WSFR reports and source documents such as purchase orders, invoices, and payroll documentation. While we assessed the accuracy of the transactions tested, we did not assess the reliability of the accounting system as a whole.

Prior Audit Coverage

OIG Audit Reports

We reviewed our last two audits of costs claimed by the Department on WSFR grants.⁸ We followed up on five recommendations from these reports and found that the U.S. Department of the Interior's Office of Policy, Management and Budget considered all recommendations resolved and implemented.

State Audit Reports

We reviewed the single audit reports for SFYs 2018 and 2019 to identify control deficiencies or other reportable conditions that affect WSFR. In those reports, the Schedule of Expenditures of Federal Awards indicated \$40 million (combined) in Federal expenditures related to WSFR. The Department was identified as a major program in both years and had one finding related to internal controls for Schedule of Federal Expenditure reporting that was not specifically related to WFSR.

⁸ *U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program, Grants Awarded to the State of Nevada, Department of Wildlife, From July 1, 2012, Through June 30, 2014* (Report No. 2015-EXT-040), issued September 2015.

U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program Grants Awarded to the State of Nevada, Department of Wildlife, From July 1, 2006, Through June 30, 2008 (Report No. R-GR-FWS-0007-2009), issued January 2010.

Appendix 2: Sites Reviewed

Headquarters	Reno
Wildlife Management Areas	Mason Valley Overton
Fish Hatchery	Mason Valley
Subrecipient	City of Ely

Appendix 3: Monetary Impact

We reviewed 47 grants that were open during the State fiscal years that ended June 30, 2017, and June 30, 2018. The audit included expenditures of \$84.3 million and related transactions. We questioned \$82,365 (\$61,774 Federal share) as unallowable.

Monetary Impact: Federal Share of Questioned Costs

Grant No.	Grant Title	Unallowable (\$)
F15AF00393	Habitat Restoration Project Planning	17,730
F18AF00569	Habitat Restoration Project Planning	44,044
Total		\$61,774

Appendix 4: Responses to Draft Report

The U.S. Fish and Wildlife Service's response to our draft report follows on page 16. The Nevada Department of Wildlife's response to our draft report follows on page 18.



United States Department of the Interior



In Reply Refer to:
FWS/R8/WSFR

FISH AND WILDLIFE SERVICE
Pacific Southwest Region
Wildlife and Sport Fish Restoration Program
2800 Cottage Way, Suite W-1916
Sacramento, California 95825-1846

April 29, 2022

Mr. Bryan D. Brazil
U.S. Department of the Interior
Office of Inspector General

Subject: Response to Office of Inspector General Draft Audit Report No. 2020-WR-021,

Dear Mr. Brazil:

I appreciate the opportunity to respond to the Office of Inspector General's Draft Audit Report No. 2020-WR-021. I know that conducting this audit during a pandemic has been extremely challenging, and among other factors outside of anyone's control, has extended the duration of this audit over an unusual period of time. I appreciate the care and consideration that you and your audit team have exercised in working with the State of Nevada's Department of Wildlife.

Enclosed is the State of Nevada, Department of Wildlife, response to the Office of Inspector General's Draft Audit Report. Please see the attached State's response to the Draft Report. The Service has confirmed with the State these are the only comments they have on this Draft Report.

With regard to finding one, a conflict of interest regarding subaward to a third party, I concur that there was an inappropriate conflict of interest. NDOW detected that conflict, self-reported to the Wildlife and Sport Fish Restoration Program and OIG, investigated, and has undertaken corrective action. That was appropriate and laudable. The State offers the assessment that work undertaken and costs ultimately reported under the subaward were otherwise reasonable and necessary to achieve the objectives of the award, recognizing the admitted failure to immediately detect the conflict of interest prior to issuance of the subaward. The value of the work done in meeting the objectives of the Award might have a bearing on resolving the questioned costs.

With regard to finding two, a reported control deficiency that may have resulted in inaccurate allocation of leave costs to the Award; I appreciate the insight from OIG. This was not an issue previously detected by prior WSFR Audits or Single Audits. I concur with the finding that the process may not be accurate. The process used by NDOW for allocation of these leave costs appear to be part of a state-wide payroll process administered by the State of Nevada. If the process is deficient, it will be helpful if WSFR and OIG can direct NDOW and the State to benchmark applications or processes that better address this process that is common across State Agencies administering federal Awards. It is my understanding that this may be a common issue identified for several State Wildlife Agencies during the most recent round of WSFR audits. To the extent that

WSFR can provide improved guidance and assistance to the States, we can improve compliance with this expectation.

The Service and our Regional WSFR staff will work with the NDOW staff in developing and implementing a corrective action plan that will resolve findings and recommendations.

Sincerely,

LAWRENCE
RILEY



Digitally signed by
LAWRENCE RILEY
Date: 2022.04.29
16:28:26 -07'00'

Lawrence M. Riley
Manager, Wildlife and Sport
Fish Restoration Program

Attachments:

NDOW OIG Audit Draft Report Response

cc: Tony Wasley, Director, Nevada Department of Wildlife
Jordan Goshert, Federal Aid Coordinator, Nevada Department of Wildlife
Paul Rauch, Assistant Director, WSFR
Michael Piazzoni, Grants Fiscal Officer, WSFR Region 8
Scott Knight, Division Manager, FASO Division, WSFR Headquarters
Ord Bargerstock, Compliance Lead, FASO Division, WSFR Headquarters



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April 27, 2022

Lawrence M. Riley
Wildlife and Sport Fish Restoration Program Manager
California-Great Basin Region
U. S. Fish and Wildlife Service
2800 Cottage Way, Suite W-1916
Sacramento, CA 95825

Dear Mr. Riley,

Thank you for the opportunity to review and respond to the Draft Audit Report from the Office of the Inspector General (OIG). This audit was for the U.S. Fish and Wildlife Service (USFWS) grants awarded to the State of Nevada, Department of Wildlife, from July 1, 2017, through June 30, 2019, under the Wildlife and Sport Fish Restoration Program (WSFR). The draft audit report issued two findings: questioned costs and control deficiencies. The Nevada Department of Wildlife (Department) does not concur with either of the findings.

The first finding is related to a conflict of interest that the Department discovered, investigated, and effectively resolved. The Department believes the costs associated with the administrative leave for the employee investigated for the conflict of interest are allowable under 2 CFR 200.431 (b). The costs meet the requirement for equitable allocation and are "reasonable" and "justifiable" as required. Additionally, the Department is required by federal law to take appropriate steps to avoid conflicts of interest and the investigation conducted is an appropriate step to ensure avoidance of the conflict of interest.

The Department also believes that the costs in question are allowable costs on the federal award. Although the employee's spouse was working for the employee, the Department and federal award both benefited from the work that was provided by the employee's spouse, including the costs associated with the employee and [REDACTED] spouse's travel to attend a training event and conference. These costs were deemed unallowed by OIG simply because they "gave the appearance of misusing U.S. Governmental funds for the employee's personal benefit." The attendance at the training event and conference by both the employee and spouse were reasonable and necessary for the Department to achieve the objectives of the federal award; and by sharing a room, ultimately reduced costs to the award. Neither the employee nor spouse personally benefitted from this travel.

The Department discovered and took prompt action to address the conflict of interest and updated existing internal Department policies and procedures to prevent any future occurrences. Several Code of Federal Regulation (CFR) citations were listed in the draft audit report regarding the conflict of interest finding; however, the Department does not understand their relevance to the issue at hand. Please provide the specific CFR and an explanation that deems ineligible, any work performed, during a period of conflict of interest if it met the tests of "reasonable" and "necessary" to achieve the objectives of the award.

The second finding is related to improper allocation of payroll leave costs. The Department understands that this issue is currently being identified in a number of OIG audits of State WSFR programs around the country and is not unique to the Department. It appears to be a national systemic issue that the USFWS is working to resolve.

The Department uses a Labor Distribution Profile (LDPR), provided by the State of Nevada, to allocate leave costs based on work history from the year prior. The application is part of the State of Nevada's payroll and accounting system. The Department uses WSFR grants to implement Department-wide programs annually. Employees working to execute these grants generally have a long tenure as WSFR grant managers. The Department believes the LDPR procedure reasonably represents a history of compensation and provides a sound, reasonable and justifiable allocation pattern to determine proportions of accrued leave taken that can be allocated to current awards.

The finding identified by OIG questions a procedure used by the Department, and a procedure used in the State of Nevada by other state agencies implementing grant activities administered by federal agencies. The procedure is accepted and used by the State of Nevada. This finding was unanticipated by the Department. The systems in use for administering accrued leave balances have been in use for decades and in use during previous audits without any indication of impropriety. The Department is unaware of any prior direction from USFWS and WSFR to suggest that the Department's approach to leave allocation was improper or inadequate.

If the procedure used by the State of Nevada is insufficient, the Department welcomes detailed examples identified as "best practices" in the area of "leave allocation that does not exceed value of leave earned on that grant." Upon receipt of these detailed examples, the Department will work with the USFWS and the State of Nevada to implement new policies and procedures.

If the issue being raised regarding leave allocation is not an issue attributable solely to the Department, as the Department believes, but an issue being identified as a common issue across a number of state programs audited by OIG, then it should be represented as such and identified as a common area of State leave accounting in need of improvement. USFWS should provide proven, implementable practices for States that it believes would be more compliant with the CFR.

In closing, this audit spanned 2 years and evaluated more than \$84 million dollars of associated expenditures. Although the Department does not concur with the findings, we are looking forward to working with the USFWS on these issues in the future. If there are any comments or questions, please reach out to Jordan Goshert at 775-688-1570 or via email at jgoshert@ndow.org.

Regards,



Tony Wasley
Director, Department of Wildlife

Appendix 5: Status of Recommendations

Recommendation	Status	Action Required
1-3	Unresolved	We will meet with the FWS within 2 weeks to discuss the recommendation(s) and requirements to include in the corrective action plan for resolution.



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