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

U.S. Fish and Wildlife Service Grants Awarded to the State of New York, Department of Environmental Conservation, Division of Fish and Wildlife, From April 1, 2019, Through March 30, 2021, Under the Wildlife and Sport Fish Restoration Program

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

Report No.: 2022–ER–033

January 2024

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

JAN 3 1 2024

Memorandum

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

From: Colleen Kotzmoyer
Director, Eastern Region Audit Division

Subject: Final Audit Report – *U.S. Fish and Wildlife Service Grants Awarded to the State of New York, Department of Environmental Conservation, Division of Fish and Wildlife, From April 1, 2019, Through March 30, 2021, Under the Wildlife and Sport Fish Restoration Program*
Report No. 2022–ER–033

This report presents the results of our audit of costs claimed by the New York Department of Environment Conservation, Division of Fish and Wildlife (Department), under grants awarded by the U.S. Fish and Wildlife Service (FWS) through the Wildlife and Sport Fish Restoration Program.

We provided a draft of this report to the FWS; 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 FWS' and the Department'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 April 30, 2024. 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. For any target implementation dates that are more than 1 year from the issuance of this report, the Department should establish mitigating measures until the corresponding recommendations are fully implemented and provide those measures in the response.[1] 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, please contact me at aie_reports@doioig.gov.

[1] The Good Accounting Obligation in Government Act, Pub. L. No. 115–414, 132 Stat. 5430 (2019), requires that all recommendations that are not implemented and have been open more than 1 year be reported in the annual budget justification submitted to Congress.

Contents

Introduction

Objectives

In March 2021, 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 New York Department of Environmental Conservation, Division of Fish and 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 visited.

Background

The FWS provides grants to States[1] 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 did not ensure that grant funds and State hunting and fishing license revenue were used for allowable fish and wildlife activities and did not comply with applicable laws and regulations, FWS guidelines, and grant agreements. Specifically, we noted issues with in-kind contributions; therefore, we questioned $9,943,832 in costs. We also identified a potential diversion of license revenue and internal control issues related to subawards and inventory (which were similar to equipment issues we identified in two of our three prior audits, dating back to our report issued in 2008).[4]

We found the following:

- **Questioned Costs.** We questioned $9,943,832 ($7,457,874 Federal share) as unsupported. These questioned costs arose due to unsupported in-kind contributions.

- **Potential Diversion of License Revenue.** The Department potentially diverted license revenue totaling $64,280,738 because another State agency gained control of the funds for investment purposes.

- **Control Deficiencies.** We found opportunities to improve controls related to identifying subawards and managing inventory.

See Appendix 3 for a statement of monetary impact and a summary of potential diversion of license revenue.

Furthermore, during our audit, we noted that the State of New York may be using WSFR funds towards State liabilities associated with its New York State and Local Employees' Retirement System. We have identified this issue in other States and issued a management advisory to the FWS on the topic; therefore, we discuss it in the "Other Matters" section of this report.

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[4] *U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program Grants Awarded to the State of New York, Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, From April 1, 2005, Through March 31, 2007* (Report No. R–GR–FWS–0015–2007), issued June 2008.

U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program Grants Awarded to the State of New York, Department of Environmental Conservation, From April 1, 2009, Through March 31, 2011 (Report No. R–GR–FWS–0008–2012), issued November 2012.

U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program Grants Awarded to the State of New York, Department of Environmental Conservation, From April 1, 2014, Through March 31, 2016 (Report No. 2017–EXT–051), issued February 2018.

Questioned Costs—Unsupported In-Kind Contributions of $9,943,832 ($7,457,874 Federal Share)

WSFR requires States to use matching or non-Federal funds to cover at least 25 percent of grant project costs. States may use non-cash or in-kind contributions to meet the matching share of costs, but the value of these contributions must be supported. Additionally, 2 C.F.R § 200.403(g) requires costs to be adequately documented to be allowable under Federal awards. Further, 2 C.F.R. § 200.306(b)(1) states that third-party in-kind contributions satisfy a cost-sharing or matching requirement if they are verifiable from the records of grantees, among other requirements. According to 2 C.F.R. § 200.434(d), "To the extent feasible, services donated to the non-Federal entity will be supported by the same methods used to support the allocability of regular personnel services."

We found the Department did not have adequate documentation to support the in-kind match used by the New York State (NYS) Sportsmans Education Program grant. Specifically, the Department claimed $2,485,958 (State share) of in-kind contributions on Grant No. F17AF00291, but Department staff stated there was no record of any volunteer certifications of the time donated, similar to that of an employee's signature on a paper timesheet. As stated above, Federal regulations require States to account for volunteer time to the extent feasible, supported by the same methods State employees use to record time. Department representatives explained that lead instructors input all donated hours in the volunteer management system on behalf of volunteers and without volunteers' certification that the hours were accurately captured.

This occurred because existing Department timekeeping policies and procedures do not require the same practices as they do for State employees. Namely, conflicting timekeeping guidance exists between the *NYS Hunter Education Program* (HEP) *Instructor Manual* and the Department's *Leave and Accrual Tracking System* (LATS) *Training Manual*. For example, the LATS training manual requires each employee to complete and submit their own timesheet, while the HEP instructor manual allows the lead instructor to act as the designated timekeeper for volunteers who taught the course. Also, the Department's HEP recordkeeping and reporting procedural document does not require a volunteer's certification of time donated.

When we discussed this issue with the Department, it claimed that the timekeeping system for volunteer certification aligns with State guidelines, allowing the lead instructor to be a timekeeper and enter data into the system on behalf of other staff. However, the LATS manual states, "the employee's supervisor or alternate supervisor cannot also act as the employee's timekeeper." The Department told us that lead instructors enter volunteer hours into the system, and there are no fields to indicate whether a volunteer submitted and certified their time. Because of this, the Department stated that its HEP staff will be reinstituting a paper-based timecard system for recording and certifying volunteer instructor time to satisfy concerns we explained in our initial correspondence with the Department during fieldwork.

Because the Department did not adequately support in-kind amounts as matching funds on grants, it received $7,457,874 in reimbursement from the FWS that it was not entitled to receive.[5] We note that the total cost claimed on this grant is $12,961,815, meaning the State used its in-kind as overmatch against the grant, and the Department contributed more than its required 25-percent match according to information provided on its Federal Financial Report.[6] The Department derived a percentage of this overmatch from in-kind contributions.

Recommendations

We recommend that the FWS require the Department to:

1. Resolve the Federal share of questioned costs related to unsupported in-kind volunteer match totaling $7,457,874.

2. Evaluate the Department's current grant program in-kind policies and procedures and implement program-specific procedures that align with the overall Department *Leave and Accrual Tracking System Training Manual*, including supervisory review and approval of individual volunteer contributions.

3. Evaluate the volunteer management system controls and implement any new controls to document volunteer certification of donated time.

4. Develop and provide training, to include any updates and revisions after a policy review, for all Department employees with responsibility for reviewing in-kind documentation.

Potential Diversion of License Revenue—$64,280,738

Loss of Control of Funds

Federal regulations at 50 C.F.R. § 80.10(c)(1) and (2) require that license revenue be controlled only by the State fish and wildlife agency and be used only for the administration of the State fish and wildlife agency. A State may become ineligible to receive the benefits if it diverts hunting and fishing license revenue from either the control of the State fish and wildlife agency[7] or purposes other than the agency's administration.[8]

[5] Calculated by using the $2,485,958 State share amount—or 25 percent—provided by the Department ($2,485,958 x 3 = $7,457,874 (Federal share) represents 75 percent, and $2,485,958 + $7,457,874 = $9,943,832).

[6] Per the latest Federal Financial Report the FWS provided for this grant. This amount represents the total amount of WSFR reimbursement for the grant from inception, not just the audit period

[7] 50 C.F.R. § 80.11(c)(1).

[8] 50 C.F.R. § 80.11(c)(2).

We found that New York State Finance Law (STF) § 83(4)(i) requires the Office of the State Comptroller (OSC) to invest the lifetime license revenue from the fish and game trust account.[9] Specifically, it authorizes "the state fish and game trust account to consist of all moneys received by the state from the sale of lifetime hunting, fishing, and trapping licenses, and lifetime archery and muzzle-loading privileges pursuant to section 11–0702 of the environmental conservation law except those moneys deposited in the habitat conservation and access account pursuant to" § 83–A. It also states, "The state comptroller shall invest the moneys in such account in securities as defined by" § 98–A. This could be interpreted as the potential diversion of control of hunting and fishing license revenue from the Department for purposes other than the management of the Department. For the audit period, the OSC reported $64,280,738 in invested outstanding license revenue.[10]

In addition, STF § 98–A grants the OSC the unilateral authority to invest the Department's funds. Specifically, it authorizes the OSC to invest "any moneys in any fund or account of the state, heretofore or hereafter established, the investment of which is not otherwise authorized and which are not immediately required."[11] This potentially includes hunting and fishing license revenue in the Department's accounts and could also be interpreted as "legislation contrary to the Acts" because the State diverted control of hunting and fishing license revenue from the Department for purposes other than the management of the Department.

During our review of the Department's revenues, we noted journal entries for "investment pool interest" and "investment income" in the conservation fund and the fish and game trust account totaling $3,215,863. When we asked the Department whether either the conservation fund or fish and game trust account held hunting license revenue, fishing license revenue, or both, Department representatives confirmed that license revenue is held in the conservation fund.

We requested further documentation from the Department showing (1) that the use of license revenue funds as investment principal was initiated by appropriate Department authority, (2) whether license revenue funds used as investment principal were comingled with other funds, and (3) the amount of license revenue funds used as investment principal and the current fair market value. The Department did not respond to our request; however, the Department's initial response stated that the OSC manages investment of "State funds" as required by STF § 98–A until the funds are needed to support day-to-day operations. Yet, one Department employee mentioned not having enough funding in the budget to perform all maintenance duties necessary. The Department also stated that the OSC tracks and reports on funds, investments, and disbursements that are delineated in the STF; however, based on the documentation provided, we could not determine whether the Department has control of the license revenue fund.

We note that both the habitat conservation and access account (established under STF § 83–A) and the fish and game trust account (established under STF § 83(a)(4)(i)), which are components of the conservation fund, are authorized to receive revenues from the sale of lifetime hunting and

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[9] The fish and game trust account is a subaccount of the conservation fund and receives revenues, in part, from the sale of lifetime hunting and fishing licenses.

[10] Per the OSC annual statement, this amount is invested in Treasury bills.

[11] STF § 98–A, "Investment of general funds, bond proceeds, and other funds not immediately required."

fishing licenses. STF § 83–A further states, "No funds may be transferred or used in any way which would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation."[12] However, STF § 83(a)(4)(i) requires the OSC to invest the lifetime license revenue, which could be interpreted as a potential diversion of control of hunting and fishing license revenue.

Use of license revenue by a fish and game agency as investment principal—in the amount of $64,280,738 in this case—foreseeably exposes those revenues to risk. Because investment is not inherently a function required to manage either a State fish and game agency or the fish- and wildlife-related resources for which it is responsible, this practice may violate 50 C.F.R. § 80.11(c)(2). In addition, the OSC's investment of the funds, in particular, despite acting under State law, may violate 50 C.F.R. § 80.11(c)(1). If the State maintains STF § 98–A and the OSC's authority to control or use license revenue for purposes other than the management and administration of the Department, the State could become ineligible to receive the benefits of the Acts. Though we are not questioning costs or the decision to invest idle funds, we are obligated to provide transparency regarding the transfer of restricted funds that may violate Federal regulations.

Recommendations
We recommend that the FWS require the Department to: 5. Provide accounting detail of license revenues used as investment principal. 6. Analyze and provide justification regarding the allowability of investment of license revenue by the New York State Office of the State Comptroller. 7. Resolve any potential diversion of license revenue.

Control Deficiencies

Subaward Determinations

According to 2 C.F.R. § 200.330:[13]

> [N]on-Federal entities may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, pass-through entities must make case-by-case determinations whether each agreement on the disbursement of Federal program funds casts the party receiving the funds as a subrecipient or a contractor.

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[12] STF § 83–A(d).

[13] In November 2020, 2 C.F.R. § 200.330 was updated to 2 C.F.R. § 200.331.

We identified agreements between the Department and two universities that have characteristics indicative of a subrecipient relationship (see Figure 1). The universities are passthrough entities that work with the Department to achieve its programmatic duties for a public purpose (for example, performing surveys and analyzing the data to help protect fish and wildlife habit).

Figure 1: Subawards List by Grant

Subrecipient	Grant No.	Grant Title
University A	F16AF00458	NYS Freshwater Fisheries Research and Management
	F16AF01060	Fish and Wildlife Health
	F17AF00329	Wildlife Management
	F19AF00244	Fish Research and Management
University B	F15AF00276	Freshwater Aquatic Education and Information
	F16AF00458	NYS Freshwater Fisheries Research and Management
	F17AF00291	Sportsmans Education
	F17AF00329	Wildlife Management
	F18AF00282	Administration of NYS Wildlife Management Areas
	F19AF00244	Fish Research and Management

While the Department has implemented a formal procedure for determining whether an entity is a subrecipient or contractor, in these instances, the questionnaire it used to do so did not lead to accurate determinations or provide a space to include justification for the Department's classification decisions. Specifically, the Department stated that it views its relationship with the universities as an intergovernmental agreement, as described under 2 C.F.R. § 200.318(e).[14] In addition, the State and one of the universities entered a Master Agreement, which is considered a "Project MOU for the services, assistance, and/or activities." Furthermore, the Department stated that it does not consider the relationship a subaward. We determined that the Department's classification is incorrect because the language in the agreements we reviewed was suggestive of a subrecipient relationship between the Department and passthrough entities, including duties such as research, survey, and data collection.

If an agreement is not classified correctly, there is a risk of inappropriately applying the rules and regulations. Further, in a 2019 management advisory issued to the FWS,[15] we outlined the

[14] The regulation states, "To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services."

[15] *Issues Identified with State Practices in Subaward Administration for Wildlife and Sport Fish Restoration Program Grants* (Report No. 2018–CR–064), issued September 2019.

accountability and monetary impacts of misclassifying subawards, which include a lack of public transparency on how Federal money was spent, projects not being completed as required, subaward performance goals not being achieved, and Federal grant dollars being misused.

Recommendations
We recommend that the FWS require the Department to: 8. Update guidance to include justifications for determining whether WSFR funds pass through as subawards or contracts. 9. Ensure staff are trained on how to make subaward determinations using the newly developed guidance and provide evidence of training.

Inadequate Inventory Management

Federal regulations at 2 C.F.R § 200.1 define equipment as "tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000."

The Department's *Property Management System Handbook* states that "formal control" is the highest level of control (for inventory) and is characterized by a unique and permanent identification number (tag), which is recorded in the Property Management System and certified on an established cycle not to exceed 3 years. Personal property deemed to have a high internal control risk,[16] a purchase cost in excess of $1,000, or both, is placed in this class.

Additionally, the Department's HEP *Equipment Loan Procedure* states that the location of HEP equipment must be verified on an annual basis and recorded in the database. All equipment that must be tracked must also have a unique Department identification number barcode sticker attached that matches the barcode in the database. Equipment should also be marked with "Property of the HEP" stickers. The Department's HEP *Firearm Inventory Procedure* also states that a HEP label and a Department barcode label will be issued for each firearm. The Department tracks specific HEP information in its HEP inventory database separate from its official inventory system (the Property Management System).

We found that the Department did not adequately manage its inventory in accordance with its own policies. We reviewed the inventory data the Department provided and selected a sample of 60 inventory items purchased with WSFR funds and license revenue funds to verify its accuracy. When we reviewed the 60 inventory items in our sample, we were unable to locate four inventory items (see Figure 2).

[16] Items of special concern for theft or misuse such as firearms.

Figure 2: Missing Inventory Items

Property Tag No.	Value ($)	Item Description
96H029	159	Chainsaw
I13889	368	Laptop
83E015	500	Boat Motor
168950	266	Projector Screen

We also reverse-sampled seven items from the physical inventory while conducting site visits and compared them to the database the Department provided. Of the reverse sample, we were unable to verify four items in the Department's inventory system. All four were HEP inventory items (three firearms and one bow) and did not have the proper labels per Department policy and procedures.

Because the Department uses two separate inventory databases, we found discrepancies between what it listed in its official and HEP inventories. In response to our concerns regarding the four missing HEP inventory items, the Department provided support that verified three of these items were accounted for in its HEP inventory database. Although the Department did not agree with the finding, it acknowledged issues with its inventory management, which included "miskeying" inventory numbers, neglecting to remove disposed items, and misplacing inventory items. The Department is also working on replacing any missing inventory labels.

We have reported on the Department's inventory management issues in previous audits. Specifically, we identified similar issues in two of our prior three audit reports dating back to 2008.[17] For example, in our 2008 report, we found:

- Department personnel misclassified at least seven items as supplies and materials instead of personal property. As a result, the items were not recorded in the property management system.

- Issues related to controls over equipment purchases, initial recording of equipment in the property system, and periodic controls over the use of equipment, which could leave the Department vulnerable to losing control over equipment. Additionally, we noted that the FWS had no assurance that the Department used nonmotorized equipment purchased with WSFR grant funds for the purpose for which it was originally acquired.

As a result, we recommended in that report that the Department develop a clear and consistent definition of equipment for property and procurement regulations, policies, and procedures (including dollar thresholds and sensitivity levels, as appropriate). Our records show that all prior

[17] Audit findings from the 2008 audit report were not considered closed, and subsequently, similar findings exist in the 2012 report.

recommendation have been closed and resolved; however, our current findings suggest the Department continues to face issues regarding its inventory responsibilities.

The Department's inability to maintain an adequate inventory with appropriate oversight controls increases the potential for loss or theft. Given the Department's history of issues with equipment management, it is imperative that the Department implement additional internal controls.

Recommendations
We recommend that the FWS require the Department to: 10. Update existing policies and procedures for performing regular inspections to ensure that all inventory is properly tagged and accounted for and the inventory system is up to date (including the removal of disposed items). 11. Establish controls and determine milestones to track the Department's progress in properly tagging and accounting for all inventory.

Other Matters

Unfunded Pension Liability

For a cost to be considered allowable, it must meet various conditions set forth in the Federal regulations and in the award letter from the FWS to the State grant recipient. Unfunded pension liability costs may be allowable if certain criteria are met, which include a pay-as-you-go method or an acceptable actuarial cost method.[18] These conditions include several factors related to reasonableness, timing, and the nature of the costs.[19] According to 2 C.F.R. § 200.404, "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost." One of the factors in making this determination is whether a cost is "generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award."[20]

The terms set in the grants' Notice of Award letters state, "Only allowable costs resulting from obligations incurred during the performance period may be charged to this award." Because the liabilities accrued before the awards were made, these liabilities may constitute out-of-period costs as anticipated by the award letters.[21]

[18] 2 C.F.R. § 200.431(g)(6)(ii).

[19] 2 C.F.R. § 200.403.

[20] 2 C.F.R. § 200.404(a).

[21] 2 C.F.R. § 200.403(h).

Furthermore, fringe benefits[22] may be charged directly or indirectly "in accordance with the non-Federal entity's accounting practices."[23] According to 2 C.F.R. § 200.413, "Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy." Indirect costs are costs for a common or joint purpose within the State and that benefit all programs or projects and are usually charged to the Federal awards by the use of an indirect cost rate. We also considered WSFR's authorizing legislation, which limits State central services[24] to 3 percent of the annual apportionment to that State each year.[25]

We found that, during State fiscal years (SFYs) 2020 and 2021, the Department may have charged up to $10,262,892 to WSFR grants to pay New York State and Local Employees' Retirement System (ERS) pension costs, which could include unfunded liabilities,[26] in addition to employer normal costs[27] for the retirement of State employees. The State annotates explicitly in its *State of New York Comprehensive Annual Financial Report for Fiscal Year Ended March 31, 2020* that it does not have an "unfunded liability." However, in both the 2020 and 2021 financial reports, the State identified having a net pension liability and total other post-employment benefits (OPEB) liability. Governmental Accounting Standard Board (GASB) Statement No. 67 defines a net pension liability as "the total pension liability, less the amount of the pension plan's fiduciary net position." The GASB Statement No. 67 summary further states:

> For defined benefit pension plans, this Statement establishes standards of financial reporting for separately issued financial reports and specifies the required approach to measuring the pension liability of employers and nonemployer contributing entities for benefits provided through the pension plan (the net pension liability), about which information is required to be presented.

The language in GASB Statement No. 67 shares similar characteristics to unfunded liabilities in that all terms describe retirement system liabilities that are greater than assets. Further, in our research on unfunded liabilities, we found interchangeable use for these terms. Ohio, for example, has used net pension liability to replace unfunded liabilities in its interpretation of GASB Statement No. 67 terms, stating, "Net pension liability represents the difference between

[22] According to 2 C.F.R. § 200.431(a), "Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans."

[23] 2 C.F.R. § 200.431(c).

[24] According to 2 C.F.R. § 200.1, central service costs are the costs of services provided by a State on a centralized basis to its departments and agencies.

[25] 50 C.F.R. § 80.53.

[26] In this report, the term "unfunded liabilities" refers to liabilities that are not covered by assets. A pension fund has unfunded liabilities when its projected debts exceed its current capital, projected income, and investment returns. In this case, an unfunded liability is the difference between the total projected amount due to current and future retirees and the amount of money the fund will have available to make those payments.

[27] According to Actuarial Standards of Practice No. 4 § 2.17, normal cost" is the "portion of the actuarial present value of projected benefits (and expenses, if applicable) that is allocated to a period, typically twelve months, under the actuarial cost method. Under certain actuarial cost methods, the normal cost is dependent upon the actuarial value of assets."

Total Pension Liability and the Net Plan Position. In other words, it is the portion of the liability that is unfunded (unfunded liability). Previously, this was referred to as the unfunded actuarial accrued liability or UAAL." Maine draws a similar conclusion, stating, "the amount by which the actuarial liability for current and former employees is greater than pension assets. The actuarial liability is the present value of prospective pensions owed to members when they retire based on service as of the calculation date." The similarities between net pension liabilities identified in New York and the unfunded liabilities, as defined in Ohio and Maine, are enough to warrant addressing the issue with the FWS because we could not determine what percentage of New York's pension costs were for active employees.

Of the WSFR grant funds apportioned for SFYs 2020 and 2021 that were intended for specified conservation purposes, the Federal funds received in connection with pension costs for the Department's current and retired employees, in addition to the normal cost, potentially represents 15 and 14 percent of payroll costs, respectively. The State was unable to provide a breakdown of these rates to separate out any potential unfunded liability, so we were unable to determine if there is an unfunded pension liability and if it is reasonable.

As previously mentioned, the State also recognized that it has a net OPEB liability associated with healthcare and other benefits for its employees, retirees, and eligible dependents. Similar to unfunded liabilities, the GASB Statement No. 75 summary defines a net OPEB liability, of which healthcare is a part, as "the portion of the present value of projected benefit payments to be provided to current active and inactive employees that is attributed to those employees' past periods of service (total OPEB liability), less the amount of the OPEB plan's fiduciary net position." However, the New York State Health Insurance Program is on a pay-as-you-go plan that it further described in its 2021 financial report:

> The State has not funded a qualified trust or its equivalent as defined in GASBS 75 and is not required to fund the plan other than the pay-as-you-go amount necessary to provide current benefits to retirees. For the fiscal year ended March 31, 2021, the State paid $1.8 billion on behalf of the plan.[28]

The efficiency and effectiveness of Federal grants are potentially reduced when a State directly charges a Federal grant to pay down unfunded liabilities. If States use a greater proportion of WSFR grant funding to pay down unfunded liabilities, less funding would be available to accomplish the grant's agreed-upon objectives. We have found similar issues with other States that receive WSFR funds. As a result, our office issued a management advisory to the FWS on unfunded liabilities for WSFR grants in July 2023.[29]

[28] For the SFY ended March 31, 2020, the State paid $1.7 billion on behalf of the plan.

[29] *Unfunded Liabilities for Wildlife and Sport Fish Restoration Program Grants* (Report No. 2020–ER–058–A), issued July 2023.

Recommendations Summary

We provided a draft of this report to the FWS for review. The FWS provided comments and additional information on our draft report; the Department also provided comments but did not explicitly use concurrence language for some of the recommendations. Below we summarize our understanding of the FWS' and the Department's responses to our recommendations, as well as our comments on their responses. We consider Recommendations 1, 2, 3, 10, and 11 resolved; Recommendation 5 implemented; and Recommendations 4, 6, 7, 8, and 9 unresolved. See Appendix 4 for the full text of the FWS' and the Department's responses. Appendix 5 lists the status of each recommendation.

We note that our draft report included a finding on unreported program income from timber harvests. During the course of our audit, we presented this finding to both the FWS and the Department; however, the Department did not provide adequate support to demonstrate that unreported program income had not occurred. In response to our draft report, the Department provided additional documentation that clearly demonstrated that timber harvests were not occurring on land purchased with WSFR funds during the scope of our audit. Therefore, we removed the related finding and recommendations.[30]

We recommend that the FWS require the Department to:

1. Resolve the Federal share of questioned costs related to unsupported in-kind volunteer match totaling $7,457,874.

   FWS Response: The FWS concurred with the recommendation.

   Department Response: The Department stated:

   > This finding appears to be based on the mistaken assumption that volunteer certifications for time donated is lacking. The draft report accurately states that lead instructors input donated hours in the volunteer management system on behalf of volunteers. However, it fails to note that after the lead instructor enters the data, they are prompted by the system that clicking the submission button constitutes their certification that all information contained within the report is complete and accurate. In addition, volunteer hour reports are reviewed and approved by program staff. [The Department] believes the attestation by the lead instructor and program staff review and approval collectively provide adequate controls to document and verify volunteer hours submitted by instructors.

   OIG Comment: We consider Recommendation 1 resolved based on the FWS response. We will consider this recommendation implemented when the FWS provides us

[30] We removed draft report Recommendations 5, 6, and 7; therefore, there is a discrepancy between the recommendation numbers in the FWS and Department responses and those listed in our final report.

documentation demonstrating that questioned costs have been resolved. With respect to the Department's response, we maintain that conditions present during certification of volunteer time did not correspond to 2 C.F.R. § 200.434(d), which states "To the extent feasible, services donated to the non-Federal entity will be supported by the same methods used to support the allocability of regular personnel services."

2. Evaluate the Department's current grant program in-kind policies and procedures and implement program-specific procedures that align with the overall Department *Leave and Accrual Tracking System Training Manual*, including supervisory review and approval of individual volunteer contributions.

   FWS Response: The FWS concurred with the recommendation.

   Department Response: The Department stated that it has already begun implementing the recommendation. Also, the Department stated that it has instituted a paper-based timecard system that calls for instructors to "record their time, sign an accuracy attestation, and grant permission to the lead instructor to enter the data on their behalf." The Department stated copies are provided to the regional program coordinators. According to the Department, these changes have been incorporated into the instructor manual.

   OIG Comment: We consider Recommendation 2 resolved based on the FWS response. We believe that the changes proposed by the Department align with the Department *Leave and Accrual Tracking System Training Manual.* We will consider this recommendation implemented when the FWS provides us documentation that the Department is consistently following these updates to the instructor manual.

3. Evaluate the volunteer management system controls and implement any new controls to document volunteer certification of donated time.

   FWS Response: The FWS concurred with the recommendation.

   Department Response: As mentioned in Recommendation 2, the Department stated that volunteer instructors now use a paper timecard system that details donated time and includes an accuracy attestation. Lead instructors then enter the data online, and it is reviewed by Central Office program staff.

   OIG Comment: We consider Recommendation 3 resolved based on the FWS response. We will consider this recommendation implemented when the FWS provides us documentation that the Department has demonstrated that volunteer instructor certification under the paper timecard system is occurring as intended and required.

4. Develop and provide training, to include any updates and revisions after a policy review, for all Department employees with responsibility for reviewing in-kind documentation.

   FWS Response: The FWS concurred with the recommendation.

   Department Response: The Department stated it has implemented a paper-based timecard system for recording and certifying volunteer instructor time. The Department added that it has updated procedures and will work with the FWS to formulate an implementation strategy.

   OIG Comment: We consider Recommendation 4 unresolved. We acknowledge that the FWS concurred with our recommendation; however, the Department's proposed action does not meet the intent of our recommendation. This recommendation was intended to ensure the Department developed and provided training to all Department employees with responsibility for reviewing in-kind documentation. The Department did not acknowledge that in its response. We will consider this recommendation resolved when the FWS provides documentation to show that the Department developed training for its staff that includes updates to policy involving in-kind documentation. We will consider this recommendation implemented when the FWS provides us the Department's training logs showing that staff have been properly trained on in-kind documentation review responsibilities.

5. Provide accounting detail of license revenues used as investment principal.

   FWS Response: The FWS did not concur with the recommendation and provided documentation summarizing the Department's revenue and investments for SFYs 2020 and 2021. The FWS further stated:

   > The reports include revenues and disbursements published on the Office of the State comptroller [OSC] books through March of each fiscal year in accordance with STF§83. A summary of the revenue received is on the first page under Conservation Fund Main Account. Information on investments and returns is described under the Fish and Game Trust Account (Lifetime Licenses). All funds are accounted for and are used only for the administration of the fish and wildlife agency.

   Department Response: The Department did not concur with the recommendation and stated:

   > There is full transparency and accountability regarding Conservation Fund revenue, expenses, and investments. Both OSC and [the Department] are accountable to the State Legislature, Conservation Fund Advisory Board (a legislatively appointed board that oversees the Conservation Fund), and public for providing annual reports. Amounts invested annually, received from investment, and deposited into the Conservation Fund or reinvested are available from OSC, who is authorized to make investments on behalf

> of [the Department]. In addition, OSC submits annual reports to [the Department] as required by State Finance Law.

OIG Comment: Based on the information the FWS and Department provided in response to our draft report, namely the Department's conservation fund year-end reports, we consider Recommendation 5 implemented. Although we did not receive the full accounting details of the $64 million investment, the aforementioned reports met the intent of the recommendation.

6. Analyze and provide justification regarding the allowability of investment of license revenue by the New York State Office of the State Comptroller.

   FWS Response: The FWS did not concur with the recommendation and stated, "The [FWS] believes that the Departments investment of license revenue, through the Office of the State Comptroller is consistent with 50 CFR 80.11 (c)(2), because funds are not diverted from the Department to any purposes other than the agency's administration." It further stated:

   > New York State Finance Law (STF), Article VI, STF §83. Conservation Fund, states that all license revenue received by the Department be deposited in the Conservation Fund. The law further specifies that the revenue received from lifetime licenses are put in the state fish and game trust and habitat and conservation access accounts (subaccounts of the Conservation Fund). State STF §83 subsection 4(i) allows the comptroller to invest the money in the state fish and game trust account in securities. Any income earned by the investment is returned to the account and shall be used for purposes of the account.

   Department Response: The Department did not concur with the recommendation and stated:

   > The Conservation Fund is protected by State "assent legislation" (Laws of New York, 1938, Chapter 683 and Laws of New York, 1951, Chapter 700), which prevents it from being used for purposes other than the benefit of the [Department's] fish and wildlife program. This is strengthened by language included in the annual budget bill (passed by the Legislature and signed by the Governor) preventing the use of Conservation Fund appropriations for purposes other than expressly authorized activities related to fish and wildlife. In addition, STF establishes, describes, and governs the Fund. These laws work in concert to ensure moneys within the Fund are invested by OSC on behalf of [the Department] and are only used for appropriate purposes.

   OIG Comment: We consider Recommendation 6 unresolved. The intent of this recommendation was to ensure the Department analyzed and provided justification for the allowability of the OSC's investment of license revenue. The FWS response to our recommendation addressed the potential misuse of the funds under 50 C.F.R. § 80.11(c)(2) but did not address loss of control under 50 C.F.R. § 80.11(c)(1). Our review found the funds may have been diverted from the control of the Department. We contend that the Department may have lost control of its license revenue fund when the OSC, acting under State law, invested these moneys, potentially violating 50 C.F.R. § 80.11(c)(1). Specifically, STF § 83 (4)(i), which requires that the OSC invest the funds, may remove control from the Department over those funds because the Department has no authority to direct the investment of the funds. While the STF may consider those funds to remain in the control of the Department, there is nothing in the Federal regulations that specifically allows for control by another State agency to be considered control by the Department. We encourage the FWS to work with the Office of the Solicitor to clarify its position on what constitutes control of license revenue funds to better inform States and future auditors of the FWS' views.

7. Resolve any potential diversion of license revenue.

   FWS Response: The FWS did not concur with the recommendation and stated, "The language in STF§83 Section 98-a safeguards the license revenue from any potential diversion and ensures that the funds are returned for the administration of the fish and wildlife agency."

   Department Response: The Department did not concur with the recommendation. The Department stated, "OSC is the State's Chief Fiscal Officer and auditor and is responsible for investing funds of the State on behalf of its various agencies, including [the Department]. OSC follows accepted accounting principles in its audit and financial reporting duties and serves as [the Department's] fiduciary agent, which ensures control." As stated in the Department's response to Recommendation 6, the Department noted that license revenue is protected by assent legislation.

   OIG Comment: We consider Recommendation 7 unresolved based on our review of the FWS response and our continued concern as noted in Recommendation 6. We will consider this recommendation resolved when the FWS provides us further analysis and justification regarding the potential violation of 50 C.F.R. § 80.11(c)(1). We will consider the recommendation's implementation based on the analysis and justification.

8. Update guidance to include justifications for determining whether WSFR funds pass through as subawards or contracts.

   FWS Response: The FWS concurred with the recommendation.

   Department Response: The Department stated that it believes it has accurately classified its subawards and contracts. As such, the Department declined to provide a response specific to subaward and contract justifications. The Department, however, stated, "As necessary, [the Department] will work with FWS to formulate an implementation strategy for [this recommendation]."

OIG Comment: We consider Recommendation 8 unresolved. We acknowledge that the FWS concurred with our recommendation; however, the Department's proposed action does not meet the intention of our recommendation. The intent of this recommendation was to ensure the Department is completing a justification for classification decisions. The Department did not acknowledge that in its response. We will consider this recommendation resolved when the FWS provides us documentation that the Department has updated the existing guidance with new methodology, to include space for subaward and contract justifications in determinations. We will consider this recommendation implemented when the FWS provides us documentation showing the Department can demonstrate that it is using the additional space described above to justify classifications of awards as subawards or contracts.

9. Ensure staff are trained on how to make subaward determinations using the newly developed guidance and provide evidence of training.

   FWS Response: The FWS concurred with the recommendation.

   Department Response: The Department stated that it believes it has accurately classified its subawards and contracts. As such, the Department declined to provide a response specific to developing and providing evidence of training on how to make subaward determinations using guidance mentioned in Recommendation 8. The Department, however, stated "As necessary, [the Department] will work with FWS to formulate an implementation strategy for [this recommendation]."

   OIG Comment: We consider Recommendation 9 unresolved. We acknowledge that the FWS concurred with our recommendation; however, the Department's proposed action does not meet the intention of our recommendation. The intent of this recommendation was to ensure training on guidance established in response to Recommendation 8 was provided to Department staff. The Department did not acknowledge training in its response. We will consider this recommendation resolved when the FWS provides us documentation showing that the Department has developed training on new subaward determination guidance established in response to Recommendation 8. We will consider this recommendation implemented when the FWS provides us the Department's training logs showing that staff have been properly trained on updated policy.

10. Update existing policies and procedures for performing regular inspections to ensure that all inventory is properly tagged and accounted for and the inventory system is up to date (including the removal of disposed items).

    FWS Response: The FWS concurred with the recommendation.

    Department Response: The Department stated it "has taken corrective action and updated its policies and procedures for performing regular inspections to ensure Program equipment is properly tagged and accounted for and the database is up to date." The Department further stated that these changes will minimize inaccuracies involving misplacement or disposal of equipment. The Department also provided an updated copy of the policy.

OIG Comment: We reviewed the Department's updated policies and confirmed that the policies included information on ensuring all inventory is properly tagged and accounted for and that the inventory system is up to date; however, the policies are in draft status. Therefore, we consider Recommendation 10 resolved based on the FWS response and the Department's updated policies. We will consider it implemented when the FWS provides us documentation showing that the Department has finalized the policies.

11. Establish controls and determine milestones to track the Department's progress in properly tagging and accounting for all inventory.

    FWS Response: The FWS concurred with the recommendation.

    Department Response: As mentioned in Recommendation 10, the Department stated it "has taken corrective action and updated its policies and procedures for performing regular inspections to ensure Program equipment is properly tagged and accounted for and the database is up to date." When we followed up with the Department regarding the updated policies, it provided a target implementation date of August 31, 2024, for this recommendation.

    OIG Comment: We consider Recommendation 11 resolved based on the FWS response and the Department's updated policies, which are in draft status. We will consider it implemented when the FWS provides us documentation showing that the Department has properly tagged and accounted for the inventory discrepancies noted in our report and has finalized the policies.

Appendix 1: Scope and Methodology

Scope

We audited the New York Department of Environmental Conservation'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 20 grants that were open during the State fiscal years (SFYs) that ended March 31, 2020, and March 31, 2021. We also reviewed license revenue during the same period. The audit included expenditures of $59,166,842 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.

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.

- Define objectives clearly to enable the identification of risks and define risk tolerances.
- Identify, analyze, and respond to risks related to achieving the defined objectives.
- Consider the potential for fraud when identifying, analyzing, and responding to risks.
- Identify, analyze, and respond to significant changes that could impact the internal control system.
- Design control activities to achieve objectives and respond to risks.
- Design the entity's information system and related control activities to achieve objectives and respond to risks.
- Implement control activities through policies.
- Establish and operate monitoring activities to monitor the internal control system and evaluate the results.

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.
- 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.
- Visiting sites throughout the State (see Appendix 2 for a list of sites visited).

We found deficiencies in internal control resulting in our four findings of unsupported in-kind contributions, potential diversion of license revenue, inaccurate subaward determinations, and inadequate inventory management. We also worked with our Office of General Counsel for a legal opinion as to what constitutes "control" of license revenue.

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 generated using both judgmental and 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 New York 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 three audits of costs claimed by the Department on WSFR grants.[31] We followed up on 31 recommendations from these reports and considered all recommendations implemented. For implemented recommendations, we verified the State has taken the appropriate corrective actions. We did, however, find that some of our current findings were similar to previous findings as discussed in the "Results of Audit" section in this report.

State Audit Reports

We reviewed the single audit reports for SFYs 2019 and 2020 to identify control deficiencies or other reportable conditions that affect WSFR. In the SFY 2020 report, the Schedule of Expenditures of Federal Awards indicated $27 million (combined) in Federal expenditures related to WSFR, but did not include any findings directly related to WSFR, which was not deemed a major program for Statewide audit purposes. Neither of these reports contained any findings that would directly affect WSFR grants.

[31] *U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program Grants Awarded to the State of New York, Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, From April 1, 2005, Through March 31, 2007* (Report No. R–GR–FWS–0015–2007), issued June 2008.

U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program Grants Awarded to the State of New York, Department of Environmental Conservation, From April 1, 2009, Through March 31, 2011 (Report No. R–GR–FWS–0008–2012), issued November 2012.

U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program Grants Awarded to the State of New York, Department of Environmental Conservation, From April 1, 2014, Through March 31, 2016 (Report No. 2017–EXT–051), issued February 2018.

Appendix 2: Sites Visited

Headquarters	Alleghany Suboffice Central Office (Albany) Cortland Suboffice Schenectady Regional Headquarters
Fish Hatcheries	Randolph Salmon River
Boating Access Facilities	Dryden Lake Salmon River Reservoir Whitney Point Lake
Wildlife Management Areas	Alleghany Canadaway Creek Capital District Charles Flood at the Empire Brickyard Doodletown Hanging Bog Happy Valley Kabob Partridge Run Poverty Hill Three Mile Bay Tioughnioga
Multiple Use Area	Carlton Hill
Educational Center	Reinstein Woods Natural Preserve and Environmental Education Center

Appendix 3: Monetary Impact

We reviewed 20 grants that were open during the State fiscal years that ended March 31, 2020, and March 31, 2021. The audit included expenditures of $59,166,842 and related transactions. We questioned $9,943,832 ($7,457,874 Federal share) as unsupported. We also identified a potential diversion of $64,280,738 in license revenue from the New York Department of Environmental Conservation (non-Federal funds).

Monetary Impact: Questioned Costs (Federal Share)

Grant No.	Grant Title	Cost Category	Questioned Costs Unsupported ($)
F17AF00291	Sportsmans Education	In-kind	7,457,874
Total			**$7,457,874**

Monetary Impact: Potential Diversion of License Revenue

Finding Area	Amount ($)
License Revenue Fund Investments	64,280,738
Total	**$64,280,738**

Appendix 4: Responses to Draft Report

The U.S. Fish and Wildlife Service's response to our draft report follows on page 26.
The New York Department of Environmental Conservation, Division of Fish and Wildlife's response to our draft report follows on page 32. Based on the responses, we made edits to our report and amended and renumbered our recommendations.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
300 Westgate Center Drive
Hadley, MA 01035-9589

September 27, 2023

In Reply Refer To:
FWS/Region 5/WSFR

Colleen Kotzmoyer
Director, Eastern Region Audit Division
U.S. Department of the Interior
Office of Inspector General

Dear Director Kotzmoyer:

Enclosed is the State of New York, Department of Environmental Conservation, Division of Fish and Wildlife Department's (Department), response to the Office of Inspector General's Draft Audit Report No. 2022-ER-033. The Fish and Wildlife Service (Service) has confirmed with the Department that these are the only comments they have on this Draft Report.

The Service concurs with the majority of the auditor's findings, we do not however concur with the findings related to unreported program income and the loss of control of funds as stated in the draft report. Please see our enclosed comments.

The Service has reviewed and accepted the Department's response. Upon issuance of a final audit report, the Service will work closely with the Department's staff in developing and implementing a corrective action plan that will resolve all final findings and recommendations.

Sincerely,

Colleen E. Sculley

Colleen E. Sculley
Assistant Regional Director
Wildlife and Sport Fish Restoration Program

Enclosure:
Attachments 1-9

Unreported Program Income—Questioned Costs of $1,801,206 ($1,350,905 Federal Share)
Unreported Program Income from Timber Harvests

The auditors found that the Department did not report $1,801,206 in program income from the sale of timber.

The auditors recommend that the Service require the Department to:

5. Resolve the Federal share of questioned costs related to unreported program income totaling $1,350,905.
6. Develop and implement controls that ensure timber sales are being reported as program income.

The Service disagrees with this finding. The Department conducts both commercial and non-commercial cuts on their lands. As part of their F18AF00282 grant, the Department conducts habitat inventories which are the foundation for their wildlife management area plans. These inventories are conducted regardless of whether timber harvests occur. The grant also includes pre-treatment site assessments as described in their Young Forest Initiative Monitoring Plan (Attachment 1- Young Forest Monitoring Plan). This includes:

- Habitat inventory:
  - Delineating the boundaries of habitat types and forest stands (natural forest, natural forest-seedling sapling, plantation, plantation-seedling sapling, shrubland, forested wetland, and grassland).
  - Conducting a visual assessment of regeneration for the stand/treatment unit.
  - Identifying Special Management Zones (SMZ; wetlands, streams, vernal pools, seeps, and other sensitive areas).
  - Entering forest stand data into the Division of Lands and Forests' State Forest Inventory Database (SFID), where it is available for mapping and analysis.

Combined with the target species BMPs, the habitat inventory and visual assessment informs the silvicultural prescription for the project area. Foresters prepare silvicultural prescriptions prior to initiation of any commercial (timber sale) or non-commercial forest management.
Once it has been determined that a commercial timber harvest is needed all activities related to the commercial harvest are conducted outside of the grant. This includes marking trees, advertising a timber sale, and reviewing receiving bids. These activities are all charged to a separate account code 68612 (Attachment 2 - Guidance on Commercial vs non-commercial cuts).

Activities related to non-commercial cuts, where DEC staff conducts the work or pays a contractor to cut trees, are covered under the grant. DEC staff have verified that none of the non-commercial cuts generated revenue.

We ask that the following statements in the draft report be revised, and the auditors review the attached material which we believe will resolve recommendations 5 and 6.

1. *However, we found that <u>operations and maintenance work was charged to Grant No. F14AF012439 (</u>used for acquiring real property) and Grant No. F18AF00282 (used for habitat management on the WMAs). Both of these grants required the Department to report program income, such as income from timber harvests.*

   The underlined language is concerning. The F14AF012439 grant is for land acquisition only, if operations and maintenance activities were charged to the grant, they are ineligible and should have been an audit finding. If operations and maintenance activities were not charged to the grant this statement is inaccurate and should be revised.

2. *The Department purchased real property to add to existing WMAs with its land acquisition grant; however, it is not clear whether timber cutting occurred on those parcels of land.*

   The Department purchased 20 tracts of land with their land acquisition grant F14AF01243 (W-182-L) (Attachment 3). These were added to 16 WMAs. The Department provided us with a copy of their commercial timber harvests that were bid out during the audit period. Of these, four harvests occurred on WMAs that had land parcels acquired under F14AF01243. While the specific WMA may be listed as having a commercial harvest, attachments 4-6 show the commercial harvest in relation to the parcel that was acquired under F14AF01243 and there is no overlap.

3. *Per FWS guidance, program income derived from timber harvests should be treated as license revenue when Federal grants used to purchase or manage lands expire. However, without detailed information documenting which parcels were harvested, it was impossible for us to determine if timber cuts occurred on lands with active or expired grants. For these reasons, it appears highly likely that at least a portion of the program income was derived from timber cuts on land purchased using WSFR funds.*

   This is inaccurate and should be revised to include the following language:
   Per FWS guidance, program income derived from timber harvests should be treated as license revenue when Federal grants used to purchase lands expire <u>or when the timber harvest activities are not directly supported by the grant</u>. However, without detailed information documenting which parcels were harvested, it was impossible for us to determine if timber cuts occurred on lands that were recently purchased with an active <u>land acquisition grant or were directly supported from the state's habitat management grant</u>. For these reasons, it appears highly likely that at least a portion of the program income was derived from timber cuts on land purchased using WSFR funds.

See response to #2 above. We believe the information provided demonstrates that the timber cuts did not occur on lands purchased using WSFR Funds.

5. *Further, we observed routine maintenance on roads and check gates that were installed to deter unauthorized vehicles on WMAs where timber harvesting occurred; and*

Through discussion with FWS, we determined that a Federal nexus that aids in the harvest of trees is all that is needed to qualify for program income. For example, road maintenance—which we observed during our site visits—is a habitat management activity that could result in creating a nexus because it allows for transport of timber to market.

We disagree that road maintenance is a federal nexus that aids in the harvest of trees. Road maintenance is necessary for public access and/or wildlife habitat activities described in the grant. Unless the auditors can demonstrate that roads were developed/maintained specifically for timber harvests, we don't believe that the revenue derived from commercial timber harvests is a direct result of this grant supported activity. Please see Attachment 7 – Road Maintenance which lists all the locations in which road maintenance was conducted during the audit period.

Potential Diversion of License Revenue—$64,280,738
Loss of Control of Funds
The auditors are concerned about the Departments ability to control restricted funds for program purposes.

The auditors recommend that the FWS require the Department to:

8. Provide accounting detail of license revenues used as investment principal.
9. Analyze and provide justification regarding the allowability of investment of license revenue by the New York State Office of the State Comptroller.
10. Resolve any potential diversion of license revenue.

The Service believes that the Departments investment of license revenue, through the Office of the State Comptroller is consistent with 50 CFR 80.11 (c)(2), because funds are not diverted from the Department to any purposes other than the agency's administration. The following section will demonstrate that while the Department is acting in compliance with state laws, they have not lost control of their investment.

New York State Finance Law (STF), Article VI, STF §83. Conservation Fund, states that all license revenue received by the Department be deposited in the Conservation Fund. The law further specifies that the revenue received from lifetime licenses are put in the state fish and game trust and habitat and conservation access accounts (subaccounts of the Conservation Fund). State STF §83 subsection 4(i) allows the comptroller to invest the money in the state fish and game trust account in securities. Any income earned by the investment is returned to the account and shall be used for purposes of the account. [1].

A summary of the Departments revenue received, and investments made for state fiscal year 2019-2020 and 2020-2021 are attached (Attachment 8 and 9). The reports include revenues and disbursements published on the Office of the State comptroller books through March of each fiscal year in accordance with STF§83. A summary of the revenue received is on the first page under Conservation Fund Main Account. Information on investments and returns is described

[1] https://www.nysenate.gov/legislation/laws/STF/83

under the Fish and Game Trust Account (Lifetime Licenses). All funds are accounted for and are used only for the administration of the fish and wildlife agency.

While the Department receives the revenue and investments from the license revenue, they do not have the authority under state law to invest the funds in securities. The comptroller has this authority for all state funds. New York (STF) Article II General Fiscal Provisions, STF§8 describes the duties of the comptroller, which includes but is not limited to the following:

> *1. Superintend the fiscal concerns of the state.*
>
> *2. Keep, audit, and state all accounts in which the state is interested, and keep accurate and proper books, showing their conditions at all times.*
>
> *2-a. Operate and maintain and at his discretion revise and modify a state accounting and financial reporting system*
>
> *9. Make a report to the legislature prior to the convening of its annual session, containing a complete statement of every fund of the state including every fund under the supervision or control of any department or any officer or division, bureau, commission, board or other organization therein from whatever source derived and whether or not deposited in the treasury, other than the funds of moneyed corporations or private bankers in liquidation or rehabilitation, together with a citation of the statute authorizing the creation or establishment of each such fund, all balances of money and receipts and disbursements during the preceding fiscal year, a statement of each object of disbursement, the funds, if any, from which paid or to be paid, a schedule by month of the investments of cash not needed for day to day operations including but not limited to total investment income, the average daily invested balance and related yields for each fund, and a statement of all claims against the state presented to him where no provision or an insufficient provision for the payment thereof has been made by law, with the facts relating thereto and his opinion thereon, and suggesting plans for the improvement and management of the public resources, and containing such other information and recommendations relating to the fiscal affairs of the state.* [2]

Further, New York State Financial Law (STF) Article VI. Funds of the State, STF§98 Investment of State Funds, gives the comptroller authority to invest in a variety of securities.[3]

Although the Comptroller has the authority to invest the funds including "any moneys in any fund or account of the state, heretofore or hereafter established, the investment of which is not otherwise authorized and, which are not required."[4] STF§83 Section 98-a, also requires that all money received for investment for the purchase of bonds, notes or certificates of deposit shall be available always for the purpose for which such fund was created.

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[2] *https://codes.findlaw.com/ny/state-finance-law/stf-sect-8/#:~:text=Audit%20all%20vouchers%20of%20any,be%20required%20in%20all%20such*

[3] *https://codes.findlaw.com/ny/state-finance-law/stf-sect-98/#:~:text=Notwithstanding%20the%20provisions%20of%20any,invest%20the%20moneys%20belonging%20to*

[4] *https://codes.findlaw.com/ny/state-finance-law/stf-sect-98-a.html*

Any bonds, notes or certificates of deposit purchased with moneys received from the sale of any bonds or notes issued by the state shall be available always for the purposes or purpose for which such bonds or notes were issued. Any bonds, notes or certificates of deposit purchased with moneys of any other funds shall be available always for the purpose for which such fund was created. Unless otherwise required by law, income received on any moneys invested pursuant to this section shall be credited to the fund or funds from which such moneys were invested.[5]

The language in STF§83 Section 98-a safeguards the license revenue from any potential diversion and ensures that the funds are returned for the administration of the fish and wildlife agency.

We disagree with the auditor's statement that investment of funds is not inherently a function required to manage a state fish and game agency. Many state agencies invest funds to help fulfill their management purposes, the definition of license revenue in 50 CFR 80.20 includes "interest, dividends, or other income earned on license revenue".[6] Not unlike the Department, employees within state fish and game agencies rarely have the authority under state law to invest in securities, this is often governed by other offices or boards who have experience with investments and typically work to ensure that best rate of return while preserving principles, and ensuring adequate liquidity. Provided there are adequate controls in place to ensure that the fish and wildlife agency receives the return on the investment there is no diversion of funds. We believe that the state of New York has adequate controls in place.

[5] *https://codes.findlaw.com/ny/state-finance-law/stf-sect-98-a.html*

[6] https://www.ecfr.gov/current/title-50/chapter-I/subchapter-F/part-80

OFFICE OF THE COMMISSIONER

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SEP 12 2023

Ms. Colleen Sculley, Assistant Regional Director
Wildlife Sport Fish Restoration Program
U.S. Fish and Wildlife Service, Northeast Region
300 Westgate Center Drive
Hadley, MA 01035

Dear Ms. Sculley,

The New York State Department of Environmental Conservation (DEC) has reviewed the United States Department of the Interior, Office of Inspector General's Draft Audit Report *U.S. Fish and Wildlife Service Grants Awarded to the State of New York, Department of Environmental Conservation, Division of Fish and Wildlife, From April 1, 2019, Through March 31, 2021, Under the Wildlife and Sport Fish Restoration Program.*

DEC's comments with respect to this report are contained in the enclosed document. Please contact Andrew Fischler, Director of Internal Audit, at [redacted] if you have any questions regarding our responses.

Sincerely,

Basil Seggos
Commissioner

NEW YORK STATE | Department of Environmental Conservation

Department of Environmental Conservation
U.S. Fish and Wildlife Service
Wildlife and Sport Fish Restoration Program Grants Awarded from
April 1, 2019 through March 31, 2021
2022-ER-033
Response to Draft Audit Report

The New York State Department of Environmental Conservation (DEC) appreciates the opportunity to respond to the United States Department of the Interior, Office of Inspector General's Draft Audit Report on the U.S. Fish and Wildlife Service, Wildlife and Sport Restoration Program (WSFR) grants awarded to DEC's Division of Fish and Wildlife (DFW), from April 1, 2019 through March 31, 2021. Each year, more than a million anglers take to New York's waters to enjoy the state's great diversity of fish species. Annually, fresh and saltwater anglers take approximately 25 million fishing trips and spend more than $2 billion pursuing the sport. DFW staff ensure that WSFR resources advance projects and programs to protect the integrity of the state's fishery and marine programs, which provide a balanced approach to statewide fish and coastal management objectives.

DEC staff will work with the United States Fish and Wildlife Service (FWS) to develop an action plan that addresses the findings and recommendations in the report once they are finalized. The following is our response to the report's draft findings and recommendations.

Findings

1. The Department did not have adequate documentation to support the in-kind match used by the New York State Sportsmans Education Program grant.

DEC Response:

- This finding appears to be based on the mistaken assumption that volunteer certifications for time donated is lacking. The draft report accurately states that lead instructors input donated hours in the volunteer management system on behalf of volunteers. However, it fails to note that after the lead instructor enters the data, they are prompted by the system that clicking the submission button constitutes their certification that all information contained within the report is complete and accurate. In addition, volunteer hour reports are reviewed and approved by program staff. DEC believes the attestation by the lead instructor and program staff review and approval collectively provide adequate controls to document and verify volunteer hours submitted by instructors.

Recommendations

1. Resolve the Federal share of questioned costs related to unsupported in-kind volunteer match totaling $7,457,874.
2. Evaluate the Department's current grant program in-kind policies and procedures and implement program-specific procedures that align with the overall Department *Leave and Accrual Tracking System Training Manual*, including supervisory review and approval of individual volunteer contributions.
3. Evaluate the volunteer management system controls and implement any new controls

to document volunteer certification of donated time.

4. Develop and provide training, to include any updates and revisions after a policy review, for all Department employees with responsibility for reviewing in-kind documentation.

DEC Response:

- DEC has already begun implementing most of these recommendations. In February 2023, DEC implemented a paper-based timecard system for recording and certifying volunteer instructor time. Instructors record their time, sign a data accuracy attestation, and grant permission to the lead instructor to enter the data on their behalf. Copies of paper timecards are provided to the regional program coordinators. These procedures were incorporated into the instructor manual, and Central Office program staff will continue to review and approve data submitted online. Updates to program policies and procedures were demonstrated to the auditors in March 2023 and DEC staff were informed that this change would pre-empt an audit finding; therefore, DEC requests omission of the applicable recommendation from the final report. As necessary, DEC will work with FWS to formulate an implementation strategy for these recommendations

2. The Department did not report $1,801,206 in program income from timber harvests conducted at WMAs throughout the State. Because detailed information documenting which parcels were harvested was not available, it could not be determined if timber cuts occurred on lands with active or expired grants. Therefore, it appears highly likely that at least a portion of the program income was derived from timber cuts on land purchased using WSFR funds. Additionally, the Department entered into an agricultural agreement with a local farmer to maintain agricultural fields at zero cost, which was not reported to FWS as a bartering agreement, nor did it have a written procedure for evaluating its agricultural agreements to determine bartering disclosures on the Federal Financial Report.

DEC Response:

- As discussed during the audit process and described below, DEC disagrees with the conclusion that timber sales income cited in the draft report should be treated as unreported program income for several reasons. As described in 50 CFR 80, Section 80.120: "program income is gross income received by the grantee or subgrantee and earned *only as a result of the grant during the grant period*." Timber sales identified during the auditors' site visits to DEC's Wildlife Management Areas (WMAs) did not result from the grant, were not a grant-supported activity, and staff working on timber sales did not charge time to the grant. Revenue generated from timber sales was treated as license revenue and appropriately deposited into DEC's Conservation Fund.

- DEC's process for accounting for timber sales on WMAs was established in consultation with the Wildlife Sport Fish Restoration Program's North Atlantic-Appalachian Region's (Legacy Region 5) office during the initiation of the Young Forest Initiative and formalized in the grant application. The approved grant narrative, of which an excerpt was provided to the auditors in December 2022, clearly describes the objectives and approach, and states income generation will not result from activities funded by or under the grant. In addition, there was no indication from the Legacy Region 5 office that the narrative was insufficient or stated treatment of program income was not allowable. This finding retroactively revisits the standard for program income contrary to the previously approved grant and should be omitted from the final report.

- The premise of this finding highlights a recurring issue with WSFR assumptions about reporting income that can lead to a disproportionate result. For example, if $500 worth of boundary signage is funded by WSFR on a given WMA, then (based on this finding) a $50,000 timber sale on that same WMA during the grant period must be declared as income. Routine maintenance of WMAs is frequently accomplished with federal funding but is not associated with revenue generating activities; it does not serve to directly generate income, nor would income generated be curtailed if the activities identified in the grant agreement were not performed. Moreover, the resulting interpretation of this finding would also affect work planning. Due to the rigorous process New York State requires for commercial timber sales, it can take three years or more before trees are cut and revenue is realized. If DEC decided not to use federal funding for maintaining WMAs in years when revenue was likely, it would be difficult to determine timing because of the unpredictability of when the cutting will take place. The scale of this issue is greatly magnified when spread across the roughly 80 properties DEC manages across the state.
    - The auditors state that WSFR funds used for road maintenance create a federal nexus whereby program income from timber cuts must be reported. We disagree with this conclusion for the reasons stated above – road maintenance was not associated with timber cuts and would have been completed regardless of whether the cut was occurring. Further, of the twelve WMAs with timber sales during the audit's scope, four had no road maintenance and eight had road maintenance that was unrelated to timber sale locations and constituted routine operation and maintenance work necessary for public access. Additional documentation is included with the response.
- As discussed with the auditors during the audit, DEC did not generate timber sales revenues from parcels purchased with funding from the land acquisition grant that was open during the audit period. Timber revenue on a preexisting part of a WMA, not associated with parcels DEC acquired with WSFR funds and added to the WMA, is not required to be counted as program income. We have provided additional documentation (enclosed) demonstrating that parcels acquired as part of the open land acquisition grant were separate from, and not related to, parcels where timber cuts occurred. Separate from the existing land acquisition grant that was open during the audit period, parcels purchased with federal funds occurred in years past, leaving program income realized after the grant agreement for the acquisition of those parcels expired.
- Agricultural agreements on WMAs are not grant supported activities and staff working on an agricultural agreement do not charge time to the grant. These agreements occur regardless of whether federal funding is used to supplement property maintenance. As a result, DEC believes reporting agricultural agreements (including barter agreements) should not be required because there is no federal nexus. Therefore, DEC requests the omission of this finding from the final report.
- "Non-commercial cuts," where DEC removes trees or must pay a contractor to remove trees that do not have market value due to disease or other factors, do not generate revenue.

Recommendations

5. Resolve the Federal share of questioned costs related to unsupported program income totaling $1,350,905.
6. Develop and implement controls that ensure timber sales are being reported as program income.
7. Develop and implement controls that ensure bartering agreements are being reported.

DEC Response:

- As explained above, the timber sale revenue generated during the audit period is not program income. If necessary, DEC will work with FWS to formulate an implementation strategy for these recommendations.

3. New York State Finance Law (STF) requires the Office of the State Comptroller (OSC) to invest lifetime license revenue from the fish and game trust account; however, federal regulations require license revenue be controlled only by the State fish and wildlife agency and be used only for the administration of the State fish and wildlife agency. For the audit period, OSC reported $64,280,738 in invested outstanding license revenue and investment income/interest from the Conservation Fund and fish and game trust account amounting to $3,215,863. OSC's investing activities on behalf of the Department could be interpreted as a diversion of control of hunting and fishing license revenue and are cause for concern regarding the Department's ability to control restricted funds for program purposes.

DEC Response:

- OSC is the State's Chief Fiscal Officer and auditor and is responsible for investing funds of the State on behalf of its various agencies, including DEC. OSC follows accepted accounting principles in its audit and financial reporting duties and serves as DEC's fiduciary agent, which ensures control.
- The Conservation Fund is protected by State "assent legislation" (Laws of New York, 1938, Chapter 683 and Laws of New York, 1951, Chapter 700), which prevents it from being used for purposes other than the benefit of the DEC's fish and wildlife program. This is strengthened by language included in the annual budget bill (passed by the Legislature and signed by the Governor) preventing the use of Conservation Fund appropriations for purposes other than expressly authorized activities related to fish and wildlife. In addition, STF establishes, describes, and governs the Fund. These laws work in concert to ensure moneys within the Fund are invested by OSC on behalf of DEC and are only used for appropriate purposes.
- There is full transparency and accountability regarding Conservation Fund revenue, expenses, and investments. Both OSC and DEC are accountable to the State Legislature, Conservation Fund Advisory Board (a legislatively appointed board that oversees the Conservation Fund), and public for providing annual reports. Amounts invested annually, received from investment, and deposited into the Conservation Fund or reinvested are available from OSC, who is authorized to make investments on behalf of DEC. In addition, OSC submits annual reports to DEC as required by State Finance Law. Documentation was provided to the auditors in March 2023, showing reports of investments and associated revenue.

- Auditors questioned the ability of DEC to access invested funds. Access to investments is required under STF 98-a. Investments made on behalf of DEC with funds from the Fish and Game Trust Account are required to comply with STF 98-a, which states that any bonds, notes, or certificates of deposit "…shall be available always to pay any lawful appropriation in force."
- Existing statutes protect the Conservation Fund's finances and grant OSC permission to invest its funds on the agency's behalf for the benefit of the Fund and in support of DEC's fish and wildlife programs. In addition, OSC's successful investing activities have proven that the current system, as governed by various statutes, is effective and sufficiently protective of fiscal resources. As such, DEC believes the benefits of the existing system far outweigh any perceived risk and therefore requests the omission of this finding from the final report.

Recommendations

8. Provide accounting detail of license revenues used as investment principal.
9. Analyze and provide justification regarding the allowability of investment of license revenue by the New York State Office of the State Comptroller.
10. Resolve any potential diversion of license revenue.

DEC Response:

- As stated above, reports showing license revenues used as investment principal were provided to auditors in March 2023. We have included another copy with this response.
- STF Section 83(a)(4)(i) and (ii) are the mechanisms by which DEC grants permission to invest funds within the Fish and Game Trust account on its behalf, establishes the requirement for returning earnings to the account, and requires reporting on investments by OSC.
- If necessary, DEC will work with FWS to formulate an implementation strategy for these recommendations.

4. The Department has agreements with two universities that have characteristics indicative of a subrecipient relationship. While it has implemented a formal procedure for determining whether an entity is a subrecipient or contractor, the questionnaire used to do so did not lead to accurate determinations or provide a space to include justification for the classification decisions. Specifically, the Department views its relationship with the universities as an intergovernmental agreement, not a subaward, and the State of New York and one of the universities entered a Master Agreement, which is considered a "Project MOU for the services, assistance, and/or activities." We determined that the Department's classification is incorrect because the language in the agreements suggests a subrecipient relationship between the Department and pass-through entities, including duties such as research, survey, and data collection.

DEC Response:

- DEC's believes that our agreements with the universities are accurately classified as contracts and intergovernmental agreements for the following reasons, as outlined in 2 CFR 200:

- DEC defined the terms of the procurement relationship and entered into the agreements to obtain goods and services that DEC does not have the capacity or capability to conduct.
- Services are provided at the direction of DEC and the universities do not make programmatic decisions; setting goals and objectives are solely the responsibility of DEC.
- Goods and services are provided within normal business operations, DEC only pays for services provided upon completion of DEC objectives, and the universities assume financial risk for failure to deliver agreed upon services.
- The Master Agreement states that the entity is a private university, thus it has its own tax identification number, which is shared amongst all New York State government agencies.
- A 2005 New York State Attorney General Opinion concluded that agreements between state agencies and one of the universities to procure academic services was properly regarded as a contract. We have included a copy along with this response.
- Characterizing our agreements with one of the universities as intergovernmental is consistent with characterizations approved by USEPA under other federal assistance agreements. This distinction is acknowledged in DEC-EPA grant budget documents and is described in EPA's Grants Policy Issuance (GPI) 16-01: EPA Subaward Policy for EPA Assistance Agreement Recipients | US EPA. Appendix A of the policy distinguishes between subawards, intergovernmental agreements, and contracts.

- DFW's formal procedure for determining whether an entity receiving WSFR funding is a contractor or subrecipient was created by the Association of Government Accountants – a professional association that promotes education and collaboration across all levels of government. The procedure is based on the Federal Uniform Guidance and is intended for use by all non-federal entities in judging a pass-through entity's status as a subrecipient or contractor. The guidance appropriately aids DFW staff in classifying recipients of federal awards as contractors or subrecipients. In addition, we evaluate each agreement to determine its status as an intergovernmental agreement and disagree that such agreements represent subawards.

Recommendations

11. Update guidance to include justifications for determining whether WSFR funds pass through as subawards or contracts.
12. Ensure staff are trained on how to make subaward determinations using the newly developed guidance and provide evidence of training.

DEC Response:

- As necessary, DEC will work with FWS to formulate an implementation strategy for these recommendations.

5. The Department did not adequately manage its inventory in accordance with its own policies and discrepancies were found between what was listed in its official and HEP inventories.

Recommendations

13. Update existing policies and procedures for performing regular inspections to ensure that all inventory is properly tagged and accounted for and the inventory system is up to date (including removal of disposed items).
14. Establish controls and determine milestones to track the Department's progress in properly tagging and accounting for all inventory.

DEC Response:

- DEC has taken corrective action and updated its policies and procedures for performing regular inspections to ensure Program equipment is properly tagged and accounted for and the database is up to date. The update minimizes the likelihood of equipment misplacement or disposal without accurate records being kept.
- It is important to note that because Hunter Education Program staff work closely with volunteer instructors daily, they must maintain an inventory management database for the Hunter Education Program separate from DEC's "MMS" inventory system. For equipment policies and procedures associated with the Hunter Education Program, we provided an updated equipment standard operating procedure and an updated instructor manual (that includes guidelines for equipment) to auditors in February 2023 and included additional copies with this response.

6. We found that, during State fiscal years (SFYs) 2020 and 2021, the Department may have charged up to $10,262,892 to WSFR grants to pay New York State and Local Employees' Retirement System (ERS) pension costs, which could include unfunded liabilities,[32] in addition to employer normal costs[33] for the retirement of State employees. While New York annotates explicitly in its *State of New York Comprehensive Annual Financial Report for Fiscal Year Ended March 31, 2020* that it does not have an "unfunded liability." In both the 2020 and2021 financial reports, the State identifies having a net pension liability and total other post-employment benefits (OPEB) liability. Of the WSFR grant funds apportioned for SFYs 2020 and 2021 that were intended for specified conservation purposes, the Federal funds received in connection with pension costs for the Department's current and retired employees, in addition to the normal cost, potentially represents 15 and 14 percent of payroll costs, respectively. The State was unable to provide a breakdown of these rates to separate out any potential unfunded liability, so we were unable to determine if there is an unfunded pension liability and if it is reasonable.

DEC Response:

- DEC has no role in the calculation of State pension costs. These are determined annually by the State's Retirement Systems for annual pension contributions required on behalf of State agencies. OSC bills all participating entities for their share of the costs.

Appendix 5: Status of Recommendations

Recommendation	Status	Action Required
2022–ER–033–01 We recommend that the U.S. Fish and Wildlife Service (FWS) require the Department to resolve the Federal share of questioned costs related to unsupported in-kind volunteer match totaling $7,457,874. **2022–ER–033–02** We recommend that the FWS require the Department to evaluate the Department's current grant program in-kind policies and procedures and implement program-specific procedures that align with the overall Department *Leave and Accrual Tracking System Training Manual*, including supervisory review and approval of individual volunteer contributions. **2022–ER–033–03** We recommend that the FWS require the Department to evaluate the volunteer management system controls and implement any new controls to document volunteer certification of donated time.	**Resolved:** FWS regional officials concurred with the recommendations and will work with staff from the New York Department of Environmental Conservation, Division of Fish and Wildlife (Department), to develop and implement a corrective action plan (CAP).	Complete a CAP that includes information on actions taken or planned to address the recommendations, target dates and titles of the officials responsible for implementation, and verification that FWS headquarters officials reviewed and approved the actions the State has taken or planned.
2022–ER–033–04 We recommend that the FWS require the Department to develop and provide training, to include any updates and revisions after a policy review, for all Department employees with responsibility for reviewing in-kind documentation.	**Unresolved**	We will meet with the FWS to discuss the recommendation and requirements to include in the CAP for resolution.

Recommendation	Status	Action Required
2022–ER–033–05 We recommend that the FWS require the Department to provide accounting detail of license revenues used as investment principal.	**Implemented**	No action is required.
2022–ER–033–06 We recommend that the FWS require the Department to analyze and provide justification regarding the allowability of investment of license revenue by the New York State Office of the State Comptroller. **2022–ER–033–07** We recommend that the FWS require the Department to resolve any potential diversion of license revenue. **2022–ER–033–08** We recommend that the FWS require the Department to update guidance to include justifications for determining whether WSFR funds pass through as subawards or contracts. **2022–ER–033–09** We recommend that the FWS require the Department to ensure staff are trained on how to make subaward determinations using the newly developed guidance and provide evidence of training.	**Unresolved**	We will meet with the FWS to discuss the recommendations and requirements to include in the CAP for resolution.

Recommendation	Status	Action Required
2022–ER–033–10 We recommend that the FWS require the Department to update existing policies and procedures for performing regular inspections to ensure that all inventory is properly tagged and accounted for and the inventory system is up to date (including the removal of disposed items). **2022–ER–033–11** We recommend that the FWS require the Department to establish controls and determine milestones to track the Department's progress in properly tagging and accounting for all inventory.	**Resolved:** FWS regional officials concurred with the recommendations and will work with staff from the Department to develop and implement a CAP.	Complete a CAP that includes information on actions taken or planned to address the recommendations, target dates and titles of the officials responsible for implementation, and verification that FWS headquarters officials reviewed and approved the actions the State has taken or planned.

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