



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

# **REIMBURSABLE ACTIVITIES FUNDED THROUGH THE NATIONAL PARK SERVICE'S CONSTRUCTION ACCOUNT**




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

OCT 13 2015

Memorandum

To: Jonathan B. Jarvis  
Director, National Park Service

From: Mary L. Kendall   
Deputy Inspector General

Subject: Inspection Report – Reimbursable Activities Funded through the National Park Service's Construction Account  
Report No. 2015-WR-016

This memorandum transmits the findings of our inspection of reimbursable activities funded through the National Park Service's (NPS) construction account. Specifically, we inspected NPS' practice of using its construction account as a funding mechanism for reimbursable activities it performs under interagency agreements. We conducted this inspection to determine whether the expenses charged to the construction account were construction related.

Please provide us with your written response to this report within 30 days. The response should provide information on actions taken or planned to address the recommendations, as well as target dates and title(s) of the official(s) responsible for implementation. Please send your response to:

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The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions regarding this memorandum or the subject report, please contact me at 202-208-5745.

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## Results in Brief

We inspected the National Park Service's (NPS) practice of using its construction account to fund reimbursable activities performed under interagency agreements. A reimbursable activity is one in which NPS dollars cover the initial cost of providing a service to another agency and then is reimbursed by that agency. NPS' construction account funds are appropriated, however, only for expenses that relate to "construction, improvements, repair, or replacement of physical facilities."

We sampled 21 NPS interagency agreements under which NPS funded its reimbursable activities from its construction account to determine whether the expenses charged to the construction account were construction related. As a result of our inspection work, we question the reimbursement process and whether a valid construction purpose exists for 17 of the 21 agreements. These 17 agreements total \$68.6 million in approved funding over the course of the agreements' life cycles, in which \$18.6 million was expensed in FY 2014.

NPS maintains that, under the Economy Act, using its construction account in this way is appropriate and affords the NPS a convenient method to fund the reimbursable agreements within its current appropriation accounts. OIG believes this funding mechanism is not meeting the appropriations purpose statute because NPS is using the construction account to pay nonconstruction expenses and treating its account as if it were a revolving fund. OIG and NPS continue to disagree regarding the legality of NPS' use of the construction account to pay nonconstruction expenses.

Our report offers NPS a recommendation with alternatives to allow NPS to properly manage their reimbursable agreements, as well as a second recommendation should these alternatives not prove feasible for NPS.

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# Introduction

## Objective

We inspected the National Park Service's (NPS) practice of using the NPS construction account as a funding mechanism for the reimbursable activities it performs under interagency agreements to determine whether the expenses charged to the construction account were construction related. (See Appendix 1 for the scope and methodology of this report.)

## Background

We initiated this inspection due to NPS' response to our 2014 evaluation report "U.S. Park Police Law Enforcement Services for the Presidio Trust" (Report No. WR-EV-NPS-0022-2013) and related Notice of Potential Findings and Recommendations (NPFR). In that evaluation, we focused on the interagency agreements between NPS and the Presidio Trust (Trust) of San Francisco, CA. The activities (or services) that result from these interagency agreements are reimbursable, meaning that NPS incurs the initial cost of performing an activity for another agency and then is reimbursed by that agency. We found that NPS violated appropriations law by using an inappropriate account as a funding mechanism. Specifically, NPS used its construction account to temporarily fund the law enforcement services that the U.S. Park Police provides to the Trust through interagency agreements.

According to the appropriation, the construction account funding is to be used only for "construction, improvements, repair, or replacement of physical facilities." NPS and the Office of the Solicitor responded with the argument that, under the Economy Act, 31 U.S.C. § 1535, use of the construction account to fund reimbursable services to the Trust is appropriate. The Economy Act, however, does not allow a performing agency to disregard its appropriations' purpose. Further, in the case that an agency has more than one appropriation, the agency must use the appropriation most relevant to the services it intends to provide. OIG disagreed with NPS' argument and, based on NPS' response, we considered our recommendations relating to its use of the construction account unresolved.

We initiated this inspection to determine the pervasiveness of the issues our evaluation identified. In October 2014, we queried the U.S. Department of the Interior's (DOI) Financial and Business Management System (FBMS) to identify NPS' interagency agreements with reimbursable activities funded through its construction account. We selected a sample of sales documents associated with 21 such agreements to determine whether their stated purpose clearly related to the construction account's purpose, which is building, improving, or repairing facilities within NPS.

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## Findings

We question NPS's reimbursement process for 17 of the 21 NPS interagency agreements sampled because the construction account was used as the funding mechanism for reimbursable activities. NPS maintains that its use of the construction account in these instances is appropriate, but OIG disagrees and believes that by funding reimbursable activities in this way, NPS is not meeting the purpose statute because NPS is using the construction account to pay nonconstruction expenses and using its account as if it were a revolving fund.

When we reviewed the 21 sampled agreements, we could not identify a clear construction purpose for the activities identified as fulfilling 17 of those agreements. For example:

- From January to September 2014, NPS approved \$4.9 million to cover the cost of the National Symphony Orchestra's Capitol Concert series broadcast live for the orchestra's Memorial Day and Independence Day concerts at the Capitol. In fiscal year (FY) 2014, NPS funded the entire amount from its construction account for its customer, the Department of Army.
- From May 2007 to May 2014, NPS approved over \$37.5 million to provide air quality monitoring for the U.S. Environmental Protection Agency's share of the Interagency Monitoring of Protected Visual Environments network.<sup>1</sup> In FY 2014, NPS expensed over \$3.9 million of that approved funding from its construction account.
- From October 2013 to September 2014, NPS approved over \$465,000 to provide security support for the U.S.S. Constitution. In FY 2014, NPS expensed the entire approved funding from its construction account for its customer, the Commander, Navy Region Mid-Atlantic.

These 17 agreements we sampled total \$68.6 million in approved funding over the course of the agreements' life cycles. Of this amount, \$18.6 million was expensed in FY 2014 (see Appendix 2). We were reasonably able to identify a valid construction purpose for 4 of the 21 the agreements. These four agreements total \$11.1 million in approved funding over the course of the agreements' life cycles, in which \$4.9 million was expensed in FY 2014.

In its June 10, 2015 correspondence to our office, NPS states:

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<sup>1</sup> Congress included legislation in the 1977 Clean Air Act to prevent future and remedy existing visibility impairment in Class I areas. To aid the implementation of this legislation, the IMPROVE (Interagency Monitoring of Protected Visual Environments) program was initiated in 1985. This program implemented an extensive long-term monitoring program to establish the current visibility conditions, track changes in visibility, and determine causal mechanism for the visibility impairment in the National Parks and Wilderness Areas.

We book all reimbursable transactions in the Construction account because it is a no year account that affords us ample flexibility for expenses to be incurred prior to receiving reimbursement. We have done this for many years with the awareness of OMB [the Office of Management and Budget], the appropriations committees, DOI, and the auditors.

NPS' use of its construction account creates, in practice, a revolving fund for nonconstruction related reimbursement activities. A revolving fund is a type of account that can earn and spend receipts without fiscal year limitation. Unlike NPS' Operation of the National Park System appropriation funds, which are available only until the end of the fiscal year, the NPS construction appropriated funds are available without fiscal year limitation. NPS regularly uses these construction funds to earn and spend Economy Act receipts that do not involve any construction related expenses. As a result, NPS appears to use its construction account as a type of revolving fund to finance its regular cycle of reimbursable work for other agencies. Revolving funds require specific statutory authority, however, and NPS currently does not have that authorization.

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# Conclusion and Recommendation

## Conclusion

In FY 2014, NPS expensed \$74.8 million from its construction account for reimbursable activities. Our sample of 21 agreements accounted for \$23.5 million. OIG and NPS continue to disagree as to the legality of NPS' use of the construction account to pay nonconstruction expenses because they result from an interagency agreement and because it is a no year account that affords NPS flexibility for expenses to be incurred prior to receiving reimbursement.

## Recommendation Summary

We recommend that the NPS Director:

1. Work with the Office of Management and Budget and Congress to seek funding alternatives that could include adding language to its appropriations that authorizes its established practice of using its construction account to fund its reimbursable work, or statutory authority to establish a revolving fund to finance reimbursable work for other agencies.

If NPS is not able to obtain a funding alternative to authorize its current practice of using the construction account to fund reimbursable work, then we recommend that the NPS Director:

2. Discontinue the use of the construction account for those NPS reimbursable agreements that do not include a valid construction activity.



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# Appendix I: Scope and Methodology

## Scope

We inspected the National Park Service's (NPS) practice of using its construction account as a funding mechanism for the activities that result from its interagency agreements to determine whether the expensed construction account funds are construction related. We sampled 21 interagency agreements for which NPS used its construction account to cover costs before reimbursement. We conducted our inspection from November 2014 to June 2015.

The performance period of the sampled agreements began as early as FY 2007 and end as late as FY 2021, with the majority of the agreements ending prior to the close of FY 2015. The performance period of the agreements take into consideration any subsequent modifications to the original sales document, if any, as of September 30, 2014.

As an inspection, we limited the scope and relied on NPS' cooperation. Without NPS cooperation, our inspection work was severely limited to our analysis and interpretation of criteria provided and what we could identify as a construction related activity. We did not have the benefit of obtaining and analyzing any additional or timely support that we requested from NPS on multiple occasions.

We conducted our inspection in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

## Methodology

To accomplish the inspection, we—

- reviewed laws, regulations, and prior audit coverage;
- reviewed the NPS budget justification for fiscal year 2014, focusing on the construction account appropriation;
- queried the Department of the Interior's Financial and Business Management System and judgmentally selected a sample of sales documents associated with reimbursable agreements using construction account funds;
- reviewed the sampled interagency agreements (and the modifications that NPS submitted) to identify whether the activities align with the construction purpose, as defined by appropriations law; and,
- contacted the NPS Deputy Comptroller to request the sampled interagency agreements and their modifications and to request clarification.

Specific to our selection of reimbursable agreements inspected, we conducted a judgmental sample based on the entities for which NPS expensed the largest amounts of construction monies for reimbursable activities in fiscal year (FY) 2014 (see Figure 1), in combination with the top construction account expenses being incurred within that same fiscal year (see Figure 2).<sup>2</sup>

<b>Top Entities for Which Construction Account Funds Were Used– FY 2014</b>	
<b>Entity</b>	<b>Millions</b>
U.S. Environmental Protection Agency	\$8.7
DFAS – INDY VP GFEBS	7.9
San Francisco, City and County	5.5
Department of Homeland Security	5.0
U.S. Forest Service	4.5
Federal Transit Admin	4.5
DOT/FAA AC ACCTF OFFICE	4.1
<b>TOTAL</b>	<b>\$ 40.2</b>

Figure 1. The seven entities that received the most construction account funds in FY 2014.

<b>Top Construction Account Expenses FY 2014</b>	
<b>Major Expense Code</b>	<b>Millions</b>
25 – Other Contractual Services	\$26.5
11 – Personnel Compensation	19.6
41 – Grants, Subsidies and Contributions	11.9
12 – Personnel Benefits	6.0
32 – Land and Structures	5.3
<b>TOTAL</b>	<b>\$ 69.3</b>

Figure 2. The top five construction account expenses in FY 2014.

In November 2014, we provided NPS with our sample and requested that they provide us with the reimbursable agreements, and any modifications, that pertained to those 21 sales documents, which were provided in March 2015.

When reviewing the agreements and their modifications to determine whether a valid construction purpose existed, we used appropriations language as our

<sup>2</sup> The Presidio Trust (expensing over \$5 million in FY2014) was excluded from this sample due to prior coverage in our evaluation report “U.S. Park Police Law Enforcement Services for the Presidio Trust” (WR-EV-NPS-0022-2013).

primary criteria. Consideration was also given to NPS' budget justification language that identifies five budget activities for which construction appropriations can be used: line item construction, special programs, construction planning, construction program management and operations, and management planning. While we did consider NPS budget justification language, we ultimately used appropriations language to determine whether the activity was related to construction.

# Appendix 2: Sampled Agreements with Questioned Construction Purpose

Name		Sales Document	Purpose	Approved Funding	Amount Expensed in FY 2014
1	DFAS - INDY VP GFEBS <sup>3</sup>	32351	Provide cultural resources Phase I surveys	\$463,120	\$432,855
2	DFAS - INDY VP GFEBS	33025	Provide cultural resources Phase I surveys at Fort Polk	1,045,000	707,741
3	DFAS - INDY VP GFEBS	39097	Provide live televised broadcasts of the National Symphony Orchestra	4,923,720	4,923,720
4	DFAS - INDY VP GFEBS	42920	Security support for U.S.S. Constitution	467,657	467,657
5	DOT/FAA AC ACCTF OFFICE	24989	Nauset Bike Trail – Phase I	1,345,000	719,645
6	DOT/FAA AC ACCTF OFFICE	25527	Complete planning for visitor transit, staging, and pedestrian routes	890,000	452,529
7	Federal Transit Administration	24965	Model the effects of the current park transportation system on park resources and visitor experiences in Zion National Park	600,000	430,187
8	Federal Transit Administration	25239	Construction of "Missing Link" for multi-use trail	966,741	707,203
9	Federal Transit Administration	25525	Implement integrated parkwide traffic management system	1,280,000	499,455
10	Forest Service	25094	Visibility aerosol monitoring and analysis services	2,584,521	1,123,368
11	Forest Service	25140	Cover land acquisition for the Pacific Crest National Scenic Trail	1,033,000	323,000
12	San Francisco, City and County	25538	Comprehensive management of watersheds including source water protection, environmental stewardship program, and security program	2,544,767	886,502
13	San Francisco, City and County	25540		1,965,905	630,759
14	San Francisco, City and County	25542		2,406,294	758,551
15	Environmental Protection Agency	25098	Fund the Environmental Protection Agency’s share of the Interagency Monitoring of Protected Visual Environments (IMPROVE) network	37,524,144	3,928,077
16	Environmental Protection Agency	31517	U.S. Department of the Interior – NPS Great Lake Restoration Initiative	3,170,527	479,125
17	Environmental Protection Agency	39281	Operation of the IMPROVE monitoring network	5,360,831	1,146,232
totals				\$68,571,227	\$18,616,606

<sup>3</sup> Per our FBMS query, the customer associated with sales document 32351 was the U.S. Forest Service. The agreement provided by NPS, however, identified the customer as DFAS - INDY VP GFEBS. Per discussions with NPS to attempt clarification on the matter, NPS stated that there was a mistake in customer identification due to technical errors.

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