

Audit of NOAA Pacific Coastal Salmon Recovery Fund Grants to the Northwest Indian Fisheries Commission

FINAL REPORT NO. OIG-18-026-A

SEPTEMBER 24, 2018

FOR PUBLIC RELEASE

Certain Portions of APPENDIXES C, D, and E are Excluded.



U.S. Department of Commerce
Office of Inspector General
Office of Audit and Evaluation



September 24, 2018

Justin Parker
Executive Director
Northwest Indian Fisheries Commission
6730 Martin Way East
Olympia, WA 98516

Dear Mr. Parker:

Enclosed is the final audit report concerning Northwest Indian Fisheries Commission grant awards NAI0NMF4380436 and NAI1NMF4380259. We evaluated and considered your June 22, 2018, response to the draft audit report in preparation of this final report. Your entire response—with the exception of one attachment—appears in the report as appendix E. The one attachment to your response that we excluded from appendix E is on file at our office. A synopsis of your response and our comments have also been included in the report. A public version of this final report will be posted on the OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

This letter is notice of your opportunity and responsibility to review the report and to develop a complete response that addresses each audit finding and recommendation. If you believe the final report is in error in any respect, or if you disagree with any of the findings and recommendations, it is important that you explain the error or your reasons for disagreement and submit to NOAA evidence that supports your position. You should also explain how each documentary submission supports the position you are taking; otherwise, NOAA may be unable to evaluate the information.

Your complete response will be considered by NOAA in arriving at a decision on what action to take with respect to the findings and recommendations in the audit report. Enclosure I explains administrative dispute procedures.

Your response to this report must be submitted no later than 30 days from the date of this letter. There will be no extensions to this deadline. If you do not submit a response within the required timeframe, you will have no other opportunity to submit comments, arguments, or documentation before NOAA makes a decision on the audit report.

Please send your response (including documentary evidence) to:

Arlene Porter
Director
Grants Management Division
NOAA
Silver Spring Metro Center Building 2 (SSMC2)
9th Floor
1325 East-West Highway
Silver Spring, MD 20940-3280

Please send a copy of your response to:

David Sheppard
Audit Director
U.S. Department of Commerce Office of Inspector General
Seattle Regional Office
915 Second Avenue
Suite 3062
Seattle, WA 98174

If you have any questions about the final report or the audit process, please call David Sheppard at (206) 220-7970.

Sincerely,



Mark H. Zabarsky
Principal Assistant Inspector General for Audit and Evaluation

Enclosures

cc: Arlene Porter, Director of Grants Management Division, NOAA
Jeffrey Thomas, Director, Acquisition and Grants Office, NOAA
Scott Rumsey, Deputy Regional Administrator, NOAA Fisheries' West Coast Region
Sheryl Robinson, Program Officer, NOAA Fisheries' West Coast Region
Robert Markle, PCSRF Program Coordinator, NOAA Fisheries' West Coast Region
Mack Cato, Director, Office of Audit and Information Management, NOAA
Rhonda Lawrence, Audit Liaison, NOAA

NOTICE TO AUDITEES

Financial Assistance Audits

1. Audit requirements applicable to a particular financial assistance award may be established by law, regulation, policy, or the terms of the recipient's financial assistance agreement with the U.S. Department of Commerce.
2. The results of any audit will be reported to the National Oceanic Atmospheric Administration and to the auditee, unless the Inspector General of the Department determines that it is in the government's interest to withhold release of the audit report.
3. The results of an audit may lead to adverse consequences for the auditee, including but not limited to the following actions (which are subject to applicable laws and regulations):
 - suspension and/or termination of current awards;
 - referral of identified problems to other federal funding agencies and entities as deemed necessary for remedial action;
 - denial of eligibility for future awards;
 - canceling the authorization for advance payment and substituting reimbursement by check;
 - establishment of special conditions in current or future awards;
 - disallowance of costs, which could result in a reduction in the amount of federal payments, the withholding of payments, the offset of amounts due the government against amounts due the auditee, or the establishment of a debt and appropriate debt collection follow-up (including referrals to collection agencies).

Because of these and other possible consequences, an auditee should take seriously its responsibility to respond to audit findings and recommendations with explanations and evidence whenever audit results are disputed.

4. To ensure that audit reports are accurate and reliable, an auditee may have the following opportunities to point out errors (of fact or law) that the auditee believes were made in the audit, to explain other disagreements with audit findings and recommendations, to present evidence that supports the auditee's positions, and to dispute final determinations.
 - *During the audit*, the auditee may bring to the attention of the auditors at any time evidence that the auditee believes affects the auditors' work.

- *At the completion of the audit on site*, as a matter of courtesy, the auditee is given the opportunity to have an exit conference to discuss preliminary audit findings and recommendations and to present a clear statement of the auditee's position on the significant preliminary findings, including possible cost disallowances.
- *Upon issuance of the draft audit report*, the auditee has the opportunity to comment and submit evidence during the 30-day period after the transmittal of the report. (There are no extensions to this deadline.)
- *Upon issuance of the final audit report*, the auditee is given the opportunity to comment and to present evidence during the 30-day period after the transmittal of the report. (There are no extensions to this deadline.)
- *Upon issuance of the Department's decision* (the "Audit Resolution Determination") on the audit report's findings and recommendations, the auditee has the right to appeal for reconsideration within 30 calendar days after receipt of the determination letter. (There are no extensions to this deadline.) The determination letter will explain the specific appeal procedures to be followed.
- *After an appeal is filed*, or after the opportunity for an appeal has expired, the Department will not accept any further submissions of evidence concerning an auditee's dispute of the Department's decisions on the resolution of the financial assistance audit. If the appeal decision upholds the finding that the auditee owes money or property to the Department as decided in the Audit Resolution Determination, the Department will take appropriate collection action but will not thereafter reconsider the merits of the debt.

There are no other administrative appeals available in the Department.



September 24, 2018

MEMORANDUM FOR: Arlene Porter
Director
Grants Management Division
National Oceanic and Atmospheric Administration

FROM: Mark H. Zabarsky
Principal Assistant Inspector General for Audit and Evaluation

SUBJECT: Final Report No. OIG-18-026-A, *Audit of NOAA Pacific Coastal Salmon Recovery Fund Grants to the Northwest Indian Fisheries Commission*
Award Nos. NAI10NMF4380436 and NAI11NMF4380259

We are attaching a copy of the subject audit report for your action in accordance with Department Administrative Order (DAO) 213-5, "Audit, Inspection, and Evaluation Resolution and Follow-up." A copy of the report has been sent to the Auditee, which has 30 days from the date of the transmittal to submit comments and supporting documentation to you. A copy of our transmittal letter also is attached.

The objectives of our audit were to determine whether the Commission (1) claimed allowable, allocable, and reasonable costs, (2) complied with grant terms and conditions, administrative requirements, cost principles, and audit requirements, and (3) met performance requirements of the grants.

We have notified the Commission that we intend to post a public version of the final report on the OIG website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

Under DAO 213-5, you have 75 calendar days from the date of this memorandum to reach a decision on the actions that your agency proposes to take on each audit finding and recommendation and to submit an agency resolution proposal to this office. The format for the proposal is Exhibit 7 of the DAO. As applicable, your written proposal must include the rationale and/or legal basis for reinstating any questioned costs in the report and should reference any supporting documentation relied on. Under the DAO, the Office of Inspector General must concur with your proposal before it may be issued as a final determination and implemented. The DAO prescribes procedures for handling any disagreements this office may have with the agency resolution proposal.

Any inquiry regarding this report should be directed to David Sheppard of this office at (206) 220-7970. All correspondence should refer to the audit report number given above.

Attachment

cc: Jeffrey Thomas, Director, Acquisition and Grants Office, NOAA
Scott Rumsey, Deputy Regional Administrator, NOAA Fisheries' West Coast Region
Sheryl Robinson, Program Officer, NOAA Fisheries' West Coast Region
Robert Markle, PCSRF Program Coordinator, NOAA Fisheries' West Coast Region
Mack Cato, Director, Office of Audit and Information Management, NOAA
Rhonda Lawrence, Audit Liaison, NOAA



Report in Brief

September 24, 2018

Background

In fiscal year 2000, Congress established the Pacific Coastal Salmon Recovery Fund (PCSRF) to reverse the decline of West Coast salmon populations. PCSRF is a competitive grants program through which the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service supports activities to protect, conserve, and restore salmon populations and their habitats in California, Oregon, Washington, Idaho, Nevada, and Alaska. As of October 2016, NOAA has awarded states, tribal commissions, and federally-recognized tribes of the Columbia River and Pacific Coast nearly \$1.3 billion in PCSRF grants and leveraged over \$1.6 billion in matching contributions.

NOAA awards PCSRF grants annually and recipients have 5 years to use the funds. The Northwest Indian Fisheries Commission (the Commission) spends approximately 9 percent of the PCSRF grant from NOAA on administrative expenses and its own projects. It allocates the remaining funds to its 20 member tribes in the form of sub-awards.

Why We Did This Review

Our objectives were to determine whether the Commission (1) claimed allowable, allocable, and reasonable costs, (2) complied with grant terms and conditions, administrative requirements, cost principles, and audit requirements, and (3) met performance requirements of the grants.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Audit of NOAA Pacific Coastal Salmon Recovery Fund Grants to the Northwest Indian Fisheries Commission

OIG-18-026-A

WHAT WE FOUND

We found that the Commission claimed costs on both PCSRF grants that were not allowable, allocable, and reasonable. While the Commission complied with most grant terms and conditions, administrative requirements, cost principles and audit requirements that we reviewed, it did not provide the Department of Commerce with a written statement certifying it protected federal interest in real property when grant funds were used to acquire or improve real property.

We determined the Commission met program performance requirements by working closely with tribal representatives to ensure projects align with PCSRF program objectives and priorities, maintaining regular contact with subrecipients to track progress on salmon recovery projects, and conducting site visits to monitor subrecipient project performance. Commission staff interacted with subrecipients to ensure information about salmon recovery projects was recorded in the NOAA PCSRF Project and Performance Metrics Database and submitted performance reports to the NOAA Grants Officer in a timely manner. In addition, the Commission's projects involving restoration planning and assessment activities, as well as conservation planning and policy analysis were consistent with PCSRF objectives.

WHAT WE RECOMMEND

We recommend the Director of NOAA Grants Management Division do the following:

1. Make a determination on the reported \$372,027 in questioned project costs.
2. Require the Commission to implement procedures to monitor administrative expenses on PCSRF grants and ensure claimed administrative expenses do not exceed 3 percent of program funds.
3. Require the Commission to implement procedures to ensure it retains adequate documentation for all cost transfers to PCSRF awards and maintains records showing cost transfers are allocable to the grant.
4. Require the Commission to implement procedures to ensure the indirect cost pool includes only allowable, allocable, and reasonable expenses.
5. Require the Commission to ensure its subrecipients (a) comply with cost principles, indirect cost rate agreements, uniform administrative requirements, and federal records retention requirements, (b) submit indirect cost rate proposals on time, and (c) use the current approved indirect cost rate to claim indirect costs on federal grants.
6. Reiterate to the Commission its responsibility to ensure subrecipients provide documentation showing compliance with real property requirements of the grant.
7. Instruct the Commission to submit to NOAA documentation showing subrecipients perfected statements of the federal interest in real property acquired and improved with 2010 and 2011 PCSRF grants.

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Cover: Herbert C. Hoover Building main entrance at 14th Street Northwest in Washington, DC. Completed in 1932, the building is named after the former Secretary of Commerce and 31st President of the United States.

Introduction

Pacific Coast salmon are the biological foundation of river ecosystems, an important source of income, and a high-protein food, making them central to the daily life of those in coastal communities in the western United States. However, the future of Pacific salmon is uncertain. As of May 2016, 28 salmon species are on the brink of extinction and protected under the Endangered Species Act.¹

In fiscal year (FY) 2000, Congress established the Pacific Coastal Salmon Recovery Fund² (PCSRF) to reverse the decline of West Coast salmon populations. PCSRF is a competitive grants program through which the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) supports activities to protect, conserve, and restore salmon populations and their habitats in California, Oregon, Washington, Idaho, Nevada, and Alaska. As of October 2016, NOAA has awarded states, tribal commissions, and federally-recognized tribes of the Columbia River and Pacific Coast nearly \$1.3 billion in PCSRF grants and leveraged over \$1.6 billion in matching³ contributions to implement more than 12,800 salmon recovery projects. According to NOAA, in addition to protecting endangered species, the PCSRF program benefits the economy. For every \$1 million invested in salmon restoration, about 17 jobs are created, and \$2.3 million is gained in economic output.⁴

NOAA awards PCSRF grants annually and recipients have 5 years to use the funds. The Northwest Indian Fisheries Commission (the Commission) spends approximately 9 percent of the PCSRF grant from NOAA on administrative expenses and its own projects. It allocates the remaining funds to its 20 member tribes in the form of sub-awards. Each member tribe, also called a *subrecipient*, receives the same amount. Subrecipients use the funds to implement projects that will protect and recover depleted salmon stocks in the Pacific Northwest.⁵ The Commission reimburses subrecipients for project costs that have been authorized in an approved budget. Table I summarizes the grants included in our audit.

¹ Pub. L. No. 93-205, 87 Stat. 884 (1973) establishes the Endangered Species Act, which provides for the conservation of threatened and endangered species of fish, wildlife, and plants.

² Pub. L. No. 106-113 App. A, (1999).

³ NOAA does not require the Northwest Indian Fisheries Commission and its member tribes to contribute non-federal funds to PCSRF projects.

⁴ U.S. Department of Commerce National Oceanic and Atmospheric Administration National Marine Fisheries Service, November 2, 2017. *Pacific Coastal Salmon Recovery Fund FY 2016 Report to Congress*. Silver Spring, MD: NOAA Fisheries, 7.

⁵ For example, tribes used 2010 and 2011 PCSRF grants to contribute to salmon conservation and recovery efforts by participating in watershed assessment and planning activities. Tribes completed projects involving research, monitoring, and evaluation of Endangered Species Act-listed salmon stocks; and engaged stakeholders through public outreach and education to inform them about salmon habitat needs and the effects of land use actions on salmon and salmon recovery.

Table I. Summary of Grants Included in This Report

Award Number	Award Period	Award Amount	Federal Share
NA10NMF4380436	July 1, 2010 – June 30, 2015	\$5,500,000	100%
NA11NMF4380259	July 1, 2011 – June 30, 2016	\$5,000,000	100%

Source: OIG analysis of approved financial assistance awards

Appendix A explains the objectives, scope, and methodology of our audit. Appendix B contains background information about the Commission and congressional appropriations for the PCSRF program.

Objectives, Findings, and Recommendations

This report provides the results of our audit of two PCSRF grants NOAA awarded to the Commission. The objectives of our audit of grant numbers NAI0NMF4380436 and NAI1NMF4380259 were to determine whether the Commission (1) claimed allowable, allocable, and reasonable costs, (2) complied with grant terms and conditions, administrative requirements, cost principles, and audit requirements, and (3) met performance requirements of the grants. Appendix C summarizes the source and application of funds for the two grants.

Since our last audit of the Commission's PCSRF grants,⁶ the Commission has strengthened its administration of federal grants and oversight of subrecipients by establishing written policies and implementing procedures for monitoring subrecipients. Despite those efforts, we found that the Commission claimed costs on both PCSRF grants that were not allowable, allocable, and reasonable. While the Commission complied with most grant terms and conditions, administrative requirements, cost principles and audit requirements that we reviewed, it did not provide the Department of Commerce with a written statement certifying it protected federal interest in real property when grant funds were used to acquire or improve real property.

We determined the Commission met program performance requirements by working closely with tribal representatives to ensure projects align with PCSRF program objectives and priorities, maintaining regular contact with subrecipients to track progress on salmon recovery projects, and conducting site visits to monitor subrecipient project performance. Commission staff interacted with subrecipients to ensure information about salmon recovery projects was recorded in the NOAA PCSRF Project and Performance Metrics Database and submitted performance reports to the NOAA Grants Officer in a timely manner. In addition, the Commission's projects involving restoration planning and assessment activities, as well as conservation planning and policy analysis were consistent with PCSRF objectives.

I. Audit Found Questioned Costs of \$372,027

The Office of Management and Budget (OMB) establishes principles for determining allowable costs for federal awards. We reviewed the Commission's financial accounting policies and performed tests to determine whether claimed costs conform to federal cost principles as well as the terms and conditions of the PCSRF grants. As detailed in the subfindings, we found the following:

- Administrative costs claimed on the 2011 grant exceeded the limit by \$145,542
- \$21,984 in personnel costs transferred to the 2010 grant were not allowable or allocable

⁶ This refers to our work that was not publically released: U.S. Department of Commerce Office of Inspector General, February 2007. NOAA Grant No. NA06FP0195 *Despite Some Improvements, The Northwest Indian Fisheries Commission Needs to Further Strengthen Oversight of Subrecipients*, STL-16657-7-0010. Seattle, WA: DOC OIG.

- Indirect cost pool included unallowable expenses, resulting in \$1,473 in questioned costs
- Subrecipients claimed \$203,028 in unallowable costs

Consequently, we questioned project costs claimed by the Commission and some of its subrecipients totaling \$372,027 (see table 2 in this finding as well as table D-1 in appendix D).

Table 2. Summary of Financial Results of Audit

Federal Funds Disbursed ^a		\$10,500,000
Total Project Costs Claimed	\$10,500,000	
Less Questioned Costs ^b	\$372,027	
Accepted Costs	\$10,127,973	
Federal Share (100%)		\$10,127,973
Recommended by OIG for Recovery		\$372,027

Source: OIG analysis of Commission and subrecipient records and the approved financial assistance awards

^a For the 2010 and 2011 PCSRF grants to the Commission, NOAA awarded \$5.5 million and \$5 million, respectively.

^b Of the \$372,027 in questioned costs, \$199,734 is unsupported.

A. Administrative costs claimed on the 2011 grant exceeded the limit by \$145,542

The PCSRF program reimburses grant recipients for administrative expenses including direct and indirect costs associated with activities such as subrecipient management, program support, and review of project proposals. Public Law 106-113 limits administrative expenses on PCSRF grants to 3 percent of program funds. The Commission did not have procedures to monitor administrative expenditures and did not periodically compare actual administrative costs to the 3 percent limit. As a result, the Commission was unaware that, by claiming \$295,542 in administrative expenses on the 2011 grant, it exceeded the \$150,000⁷ limit by \$145,542.

⁷ Three percent of \$5 million, which is the authorized amount of the Commission's 2011 PCSRF grant from NOAA, totals \$150,000.

B. \$21,984 in personnel costs transferred to the 2010 grant were not allowable or allocable

OMB Circular A-87 states that claimed costs must be necessary, reasonable, and conform to limitations set forth in the conditions of the award.⁸ One limitation is recipients may only charge costs incurred during the period of performance unless otherwise authorized by the awarding agency.⁹ However, we found that the Commission inappropriately transferred costs to the 2010 grant, leading us to question \$21,984 in personnel salaries, fringe benefits, and indirect costs incurred. The Commission's financial accounting records show Commission staff recorded these expenses on September 30, 2009, even though the performance start date of the 2010 grant was July 1, 2010—9 months prior to the start of the 2010 grant.

When the Commission reaches the personnel salaries budget limitation for a given PCSRF award, it transfers additional salaries and fringe benefits expenses to the subsequent PCSRF grant. In this instance, the Commission did not maintain records showing the transferred costs occurred during the 2010 grant award period (July 1, 2010, through June 30, 2015). Because the Commission could not provide detailed supporting documentation for the specific costs included in the transfers—such as employee timesheets and proof of payment—the actual date it incurred the expenses may have been earlier than the September 30 date that the Commission transferred the costs in its accounting system.

C. Indirect cost pool included unallowable expenses, resulting in \$1,473 in questioned costs

To recover its indirect costs,¹⁰ the Commission applies an approved indirect cost rate to direct costs claimed on federal awards.¹¹ The Commission uses one indirect cost pool, consisting of several financial accounts, to accumulate costs that benefit the entire organization and charges those costs to federal awards when it applies the indirect cost rate. Similar to direct costs claimed on federal awards, indirect costs included in the cost pool should comply with federal cost principles and must be allowable, allocable, and reasonable.

We audited a judgmental selection of costs in the meetings and conferences account in the indirect cost pool and found that the Commission recorded unallowable meal expenses from FYs 2011 through 2014. Specifically, we identified 11 meetings when the Commission paid meal expenses above the General Service Administration (GSA) per

⁸ Office of Management and Budget, May 10, 2004. *Cost Principles for State, Local, and Indian Tribal Governments*, OMB Circular A-87 Revised. Washington, DC: OMB, Attachment A, section C.1.a. This OMB Circular was effective at the beginning of NWIFC's 2010 and 2011 PCSRF grants and until OMB implemented *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments [Uniform Guidance]* in 2 C.F.R. Chapter I, Chapter II, Part 200, et al. *Uniform Guidance* applies to awards or funding increments provided after December 26, 2014, and supersedes requirements in OMB circulars, such as OMB Circular A-87.

⁹ *Ibid.*, Attachment B, Cost Principle 31. *Pre-award costs*.

¹⁰ *Indirect costs* are amounts incurred for a common or joint purpose that benefit more than one cost objective, such as a grant, contract, or function.

¹¹ The U.S. Department of the Interior reviews and approves the Commission's indirect cost rate proposals. The Commission's allocation base consists of total direct costs, less capital expenditures and pass-through funds.

diem rate,¹² resulting in \$13,418 in costs greater than the amount allowed according to Commission travel policy. The Commission also paid \$132 in meal expenses for two individuals who were not Commission employees, commissioners, or delegates, and charged the costs to the meetings and conferences account.

Those expenses do not conform to cost principle 43, *Travel Costs* and 2 C.F.R. § 200.474(b), which states that subsistence costs shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed during regular operations.¹³ The Commission uses GSA per diem rates as the basis for reimbursement and pays for meals at meetings and conferences for employees, commissioners, and the commissioners' delegates, but it did not follow similar practices when recording expenses to the meetings and conferences account in the indirect cost pool. Although the Commission's policies allow payment of meal expenses for individuals who are neither employees, commissioners, nor delegates, such expenses are not necessary for the performance of federal awards—and are therefore unreasonable¹⁴ and unallowable costs when included in the indirect cost pool.

Of the \$13,418 in the pool that is not allowable according to cost principles, we question \$1,473, which is the portion of unallowable indirect expenses the Commission claimed on the 2010 and 2011 PCSRF grants through its application of the indirect cost rate.¹⁵

D. Subrecipients claimed \$203,028 in unallowable costs

1. Six subrecipients claimed costs that are either unallowable, unsupported, or unallocable to the Commission's 2010 and 2011 PCSRF grants

The award terms and conditions require that the Commission's subrecipients follow the same cost principles and grant requirements that apply to the Commission. For example, subrecipients should adequately document expenses,¹⁶ retain records for 3 years after the Commission submits to NOAA its final financial report covering

¹² GSA establishes per diem rates for destinations within the lower 48 contiguous United States. Per diem is the allowance for lodging (excluding taxes), meals, and incidental expenses.

¹³ See OMB Circular A-87, Attachment B, Cost Principle 43, *Travel Costs*.

¹⁴ *Ibid.*, Attachment A, section C.2. "Reasonable costs. In determining reasonableness of a given cost, consideration shall be given to: a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the government unit or the performance of the [f]ederal award. . . . d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the government unit, its employees, the public at large, and the [f]ederal government." As of December 26, 2014, this requirement is in 2 C.F.R. § 200.404. Additionally, 2 C.F.R. § 200.432 contains general provisions for selected costs, including conferences.

¹⁵ The indirect allocation base accumulates direct costs benefitting awards from multiple agencies and the Commission allocates indirect expenses across all financial assistance awards. Accordingly, of the \$13,550 (\$13,418 plus \$132) in unallowable costs found in the indirect cost pool, we question amounts associated with the 2010 and 2011 PCSRF grants (\$950 and \$523, respectively).

¹⁶ OMB Circular A-87, Attachment A, section C.1.j. For costs to be allocable to federal awards, they must be adequately documented. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.403(g).

the 5-year performance period of the PCSRF grant,¹⁷ and allocate expenses to federal programs according to relative benefits received.¹⁸ Of the subrecipient costs we reviewed, subrecipients did not always have or retain adequate documentation to support amounts claimed, and two subrecipients did not allocate expenses to projects or grants that benefitted from the expenses.¹⁹

Due to incomplete records, lack of documentation supporting allocation of costs to projects, and costs claimed in an unallowable costs category, we question \$203,027 in subrecipient costs claimed. Of that amount, \$177,750 is unsupported as explained in the subparagraphs here, as well as table D-1 in appendix D.

- a. Jamestown S'Klallam Tribe (JST) claimed \$139,000 on its 2010 and 2011 awards for professional services provided by the Point-No-Point-Treaty Council (PNPTC). The services provided included participation in numerous meetings with various Tribes and organizations, compilation and analysis of data, creation of recovery plans, and other allowable activities. Subrecipients should maintain records in sufficient detail to explain expenses²⁰ and to support that the price paid for services is reasonable. However, the Tribe did not enter into a formal agreement with the PNPTC outlining information such as specific tasks to be completed, periods of performance, and compensation rates. The Tribe provided some evidence that PNPTC performed allowable activities but, due to the lack of sufficient documentation, the Tribe could not demonstrate how total costs claimed and tasks PNPTC completed were allocable to the PCSRF grants and reasonable in amount based on the services received.
- b. Tulalip Tribes did not allocate costs according to cost principles when it charged \$9,180 in equipment and privately-owned vehicle expenses to the 2010 grant rather than distributing the expenses to all projects and grants benefitting from their use. Furthermore, the Tribes did not have vehicle use logs or similar records to support \$7,822 in leased-vehicle expenses allocated to the 2011 grant.
- c. Nooksack Tribe allocated \$9,856 for equipment to the 2010 grant, rather than distributing the costs to all projects and grants benefitting from use of

¹⁷ 15 C.F.R. § 24.42(b) & (c). When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period is 3 years and starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.333, *Retention requirements for records*.

¹⁸ OMB Circular A-87, Attachment A, section C.3.a. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.405(a).

¹⁹ We used risk-based factors including invoice submission dates, invoice amount, and findings on federal programs in single audit reports to select 7 of the Commission's 20 subrecipients to include in our audit. For each subrecipient chosen, we reviewed documentation supporting a selection of costs the subrecipient submitted to the Commission for reimbursement.

²⁰ 15 C.F.R. § 24.36(9). As of December 26, 2014, this requirement is in 2 C.F.R. § 200.318(i).

the equipment. The Tribe's supporting records do not show that allocating the entire amount to the PCSRF grant complies with cost principles.

- d. Lower Elwha Klallam Tribe claimed \$5,887 in personnel salaries on the 2011 grant, but could not provide timesheets to support the expenses.
- e. The Stillaguamish Tribe could not provide documentation to support \$5,125 claimed on both the 2010 and 2011 grants. The expenses consisted of adjustments to personnel salaries and benefits, bank charges, and fuel.
- f. Lummi Nation did not have vehicle logs or similar records to support \$880 in fuel charged to the 2010 grant.

In addition to the subrecipient costs that we determined are unsupported, one member tribe claimed unallowable expenses on the 2011 grant.

- g. Allowable expenses fall within approved cost categories²¹ and benefit a federal award;²² however, Lower Elwha Klallam Tribe claimed \$1,195 for insurance expenses, which was not an allowable cost category in the Tribe's approved budget. Also, the Tribe did not have records showing the expense benefitted salmon recovery projects associated with the 2011 grant.

Table D-2 in appendix D provides details for each subrecipient's questioned costs explained.

2. *Tulalip Tribes overcharged \$24,083 in indirect costs to the 2010 and 2011 grants*

Subrecipients recover indirect costs on federal programs using an approved and current rate, obtained by submitting an indirect cost rate proposal to the cognizant agency²³ within 6 months after the close of the governmental unit's fiscal year.²⁴ We found that the Tulalip Tribes submitted indirect cost rate proposals to the U.S. Department of the Interior Bureau of Indian Affairs (cognizant agency) up to 10 months late and used out of date indirect cost rates to claim indirect costs. Specifically, the Tulalip Tribes claimed indirect costs from January 2011 through December 2012 using the approved 2010 rate rather than approved rates for 2011 and 2012. In addition, the Tulalip Tribes claimed indirect costs in 2013 using its approved 2010 and 2011 rates because they did not have an approved rate for 2013. Consequently, Tulalip Tribes overstated indirect costs claimed on the 2010 and

²¹ U.S. Department of Commerce Office of the Secretary, March 2008. *Department of Commerce Financial Assistance Standard Terms and Conditions*. Washington, DC: DOC OS, 3. *Department of Commerce Financial Assistance Standard Terms and Conditions* does not authorize the recipient to create new budget categories within an approved budget unless the NOAA Grants Officer has provided prior approval.

²² OMB Circular A-87, Attachment A, section C.1.b. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.403(a).

²³ 2 C.F.R. § 200, App. IV, C.1.a. Cognizant agency for indirect costs means the federal agency responsible for reviewing, negotiating and approving indirect cost rates for a nonprofit organization on behalf of all federal agencies.

²⁴ 2 C.F.R. § 200, App. VII, D.

2011 PCSRF grants by \$11,642 and \$12,441, respectively, as shown in table D-3 in appendix D.

Recommendations

We recommend the Director of NOAA Grants Management Division (GMD) do the following:

1. Make a determination on the reported \$372,027 in questioned project costs.
2. Require the Commission to implement procedures to monitor administrative expenses on PCSRF grants and ensure claimed administrative expenses do not exceed 3 percent of program funds.
3. Require the Commission to implement procedures to ensure it retains adequate documentation for all cost transfers to PCSRF awards and maintains records showing cost transfers are allocable to the grant.
4. Require the Commission to implement procedures to ensure the indirect cost pool includes only allowable, allocable, and reasonable expenses.
5. Require the Commission to ensure its subrecipients (a) comply with cost principles, indirect cost rate agreements, uniform administrative requirements, and federal records retention requirements, (b) submit indirect cost rate proposals on time, and (c) use the current approved indirect cost rate to claim indirect costs on federal grants.

II. The Commission Did Not Ensure Subrecipients Protected Federal Interest When Using Salmon Recovery Funds to Acquire and Improve Real Property

We chose from a list of parameters to search the NOAA PCSRF Project and Performance Metrics Database and identified two Commission subrecipients that used 2010 or 2011 grant funds to acquire or improve real property. In one project, the Stillaguamish Tribe purchased 18 acres of land. In the other project, the Makah Tribe purchased a concrete bridge. *Department of Commerce Financial Assistance Standard Terms and Conditions* require recipients to execute a security interest or other statement of the federal interest in real property acquired or improved with federal funds and provide the NOAA Grants Officer with a written statement from a licensed attorney certifying the federal interest is protected.²⁵ Neither the Commission nor its subrecipients followed these provisions or made other arrangements acceptable to the Department.

We spoke to Commission staff about use of grant funds to acquire or improve real property on salmon recovery projects. We determined that the Commission and its subrecipients were aware of the requirement to perfect statements of the government's interest in real property in accordance with local law; however, because they found the

²⁵ DOC OS. *Department of Commerce Financial Assistance Standard Terms and Conditions*, 18. Although the Department revised its financial assistance standard terms and conditions twice during the grant award periods included in our audit, both revisions include the requirement concerning real property acquired with federal funds.

guidance unclear, neither had their attorney provide a written statement to NOAA. Without a security interest, grant recipients and subrecipients may modify, transfer, or sell real property acquired or improved with federal funds without the government's permission and approval, potentially resulting in financial harm to the government.

Recommendations

We recommend the Director of NOAA GMD do the following:

6. Reiterate to the Commission its responsibility to ensure subrecipients provide documentation showing compliance with real property requirements of the grant.
7. Instruct the Commission to submit to NOAA documentation showing subrecipients perfected statements of the federal interest in real property acquired and improved with 2010 and 2011 PCSRF grants.

Summary of Auditees' Responses and OIG Comments

OIG Comments on Northwest Indian Fisheries Commission's Response

On June 22, 2018, OIG received the Commission's response to the draft report. The Commission's response addresses six of the seven recommendations in the draft report. Recommendation 1 of the report recommends that NOAA make a determination on questioned project costs; therefore, the Commission excluded recommendation 1 from its response.

While the Commission's response does not state whether it concurs with OIG recommendations 2, 3, 6 and 7, it explains new practices already in place, or in the process of implementation, to prevent noncompliance with award terms and conditions described in the report. In its response to recommendation 4, the Commission explains that the ability to disallow or recoup questioned indirect costs requires a different approach because such costs would be included in the indirect rate negotiation process with the Department of the Interior (DOI). It further states that an adjustment to the negotiated indirect rate would reflect the decision of the DOI, and the indirect cost rates are not negotiated on an agency-by-agency basis.

OIG is aware that questioned costs in the indirect cost pool affect all federal awards included in the indirect allocation base. If our questioned indirect costs are sustained by NOAA GMD and included in DOI's negotiation process, the total amount of \$13,418 would need to be distributed among all of the Commission's federal awards in the allocation base. It is because of that process that we identified the portion of the total questioned indirect costs allocable to the awards audited (\$1,473).

In response to recommendation 5, the Commission states that it is working with the tribes it serves to ensure that records meet retention requirements. It also describes the retention requirements as burdensome on the tribes due to other conflicting federal requirements and tribal policy. While we acknowledge that other federal standards may apply to expenses incurred by the tribes, compliance with federal regulations governing financial assistance awards is necessary to support whether claimed costs are allowable, allocable, and reasonable. Appendix E of this report includes the Commission's response as well as responses from the Jamestown S'Klallam Tribe (JST) and the Tulalip Tribes. JST submitted a lengthy attachment with its response, which OIG will make available upon request. The Commission's letter does not include responses from the four remaining subrecipients mentioned in finding I.D. of our report (i.e., the Nooksack Tribe, Lower Elwha Klallam Tribe, Stillaguamish Tribe, and Lummi Nation).

OIG Comments on Jamestown S'Klallam Tribe's Response

After reviewing additional documents included as attachments to JST's response, OIG's position remains unchanged. The memorandum of agreement (MOA) with PNPTC, budget packages,

progress reports, and other records JST provided do not demonstrate that the total costs incurred are allocable and reasonable. Although the documents provide important information, they do not demonstrate that payments to PNPTC were for costs (a) incurred either specifically for the 2010 and 2011 PCSRF awards or (b) that benefitted several awards or projects but were allocated to the awards in a reasonable manner.

According to the JST's response, the MOA and PNPTC budget packages provide the basis for the services and payments made to the PNPTC. However, the MOA describes several activities, which are to be funded by PNPTC's share of operating costs, including finfish, shellfish, and wildlife management programs. The MOA explains that the range of services JST receives may fluctuate and that they may be greater or less than a strict "dollar-for-dollar value" based on JST's share of costs. Therefore, the MOA does not include detailed cost estimates for approved PCSRF projects JST expects to complete under a specific PCSRF grant, nor does it suggest that the entirety of PCSRF funds paid to the PNPTC will be allocable to such grants. Similarly, the PNPTC budget packages do not contain detailed cost estimates for PCSRF projects; they contain budget data for the organization as a whole. Progress reports provide some evidence of the accomplishment of allowable activities. However, without those accomplishments clearly aligning with proposed itemized project costs and other supporting records, there is insufficient evidence to conclude that the \$139,000 paid to PNPTC were for allocable and reasonable costs. Therefore, OIG did not modify the finding in the report, as JST requested in its letter.

In response to the allocability concerns, the JST stated in FY 2018 it developed an independent annual Scope of Work and Budget with Reporting requirements for PCSRF funding. The budget identifies staff and pay, and estimated hours per task.

OIG Comments on Tulalip Tribes' Response

Tulalip Tribes' letter responds to two issues discussed in finding I.D: (1) questioned equipment, repair, and vehicle costs, and (2) questioned indirect costs.

Questioned equipment, repair, and vehicle costs. Tulalip Tribes' response states OIG should consider equipment purchased solely from other funding sources and used to complete the required scope of work under the 2010 PCSRF grant as a shared cost. However, this practice is inconsistent with federal cost principles. Prior discussions with the Tribes' personnel indicate other salmon monitoring projects and grants, funded by various sources, benefitted from the equipment, repair, and privately-owned vehicle costs in question. As a result, other projects and grants should have funded a portion of the costs based on relative benefits.

Tulalip Tribes concludes OIG questioned privately-owned vehicle expenses because of discrepancies between dates when employees requested mileage reimbursement and shifts worked according to original schedules. The response also explains differences between mileage request dates and time worked. OIG did not question privately-owned vehicle expenses based on discrepancies between timekeeping records and mileage request dates. Instead, OIG questioned privately-owned vehicle mileage for one employee because the cost benefitted at least one other salmon monitoring project funded by another source.

Contrary to its response, the Tulalip Tribes did not provide vehicle use logs for the leased-vehicle expenses in question. During audit fieldwork, the tribe provided monthly leased-vehicle billing statements but indicated vehicle use logs describing which staff used the vehicles, when, and for what purpose were not available. Without vehicle use logs or similar records, the tribe could not support leased-vehicle expenses to the 2011 PCSRF grant. To reiterate, federal financial assistance requirements state the retention period for records is 3 years from when the grantee or subgrantee submits to the awarding agency its single or last expenditure report.

Questioned indirect costs. Tulalip Tribes acknowledges it used prior year indirect costs rates for its recovery of indirect costs on the 2010 and 2011 PCSRF grants and has amended its processes when calculating indirect costs. Moreover, the Commission's response explains that although it cannot direct the tribes it serves to submit timely indirect cost rate proposals, going forward it will only reimburse indirect costs to tribes with an approved and current indirect cost rate.

Appendix A: Objectives, Scope, and Methodology

In April 2017, we initiated an audit of PCSRF grant numbers NAI0NMF4380436 and NAI1NMF4380259 awarded to the Northwest Indian Fisheries Commission in Olympia, Washington. The objectives of our audit were to determine whether the Commission (1) claimed allowable, allocable, and reasonable costs, (2) complied with grant terms and conditions, administrative requirements, cost principles, and audit requirements, and (3) met performance requirements of the grants.

To accomplish our objectives, we performed the following:

- Reviewed the following documents to understand requirements related to financial assistance awards and the PCSRF program:
 - Public Law 106-113
 - OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*
 - *OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*²⁶
 - *Department of Commerce Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*²⁷
 - *Department of Commerce Grants and Cooperative Agreements Manual, Department of Commerce Financial Assistance Standard Terms and Conditions*
 - Federal Funding Opportunity for the PCSRF
- Reviewed transactions recorded in the Commission's financial accounting system, as well as timesheets, invoices, and proof of payment documentation to test for compliance with grant terms and conditions.
- Interviewed Commission staff to understand their financial accounting procedures and oversight of the costs claimed by subrecipients.
- Analyzed indirect cost pool expenses to identify high-risk accounts and expenses to review during our audit.
- Examined Commission meeting agendas, minutes, and attendee lists.
- Obtained an understanding of the Commission's subrecipient monitoring activities and examined a judgmental selection of the salmon recovery projects coordinator's site visit reports.

²⁶ On December 26, 2013, OMB published streamlined guidance on *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*. This final guidance supersedes and streamlines requirements from several OMB Circulars, including A-87. This guidance applies to all federal awards or funding increments on or after December 26, 2014.

²⁷ These regulations have been revised and replaced by those at 2 C.F.R. Part 1327.

- Interviewed the NOAA Grants Officer in the NOAA Grants Management Division and PCSRF Program Staff at NMFS Northwest Region to understand award recipient responsibilities and allowability of costs.
- Accessed the NOAA Grants Online System to obtain and review award applications, federal financial reports, semi-annual and annual performance reports, and other records in the grant award files.
- Examined policies, project information, general ledger details, indirect cost rate agreements, and other records from member tribes.
- Reviewed project descriptions, start and end dates, and costs using the NOAA PCSRF Project and Performance Metric Database.
- Accessed and reviewed single audit reports obtained from the Federal Audit Clearinghouse Image Management System.

Our audit included judgmental selections of seven subrecipients. We chose subrecipients based on risk factors including invoice submissions dates and amounts and single audit report findings. We followed a judgmental selection methodology to choose 97 subrecipient expense transactions reimbursed by the Commission between July 26, 2011, and March 31, 2014, which we included in our audit.

While we identified and reported on internal control deficiencies, no specific instances of fraud, illegal acts, significant violations, or abuse were detected during our audit.

We did not solely rely on computer-processed data to perform this audit. Although we could not independently verify the reliability of all of the information we collected, we compared the information with other available supporting documents to determine data consistency and reasonableness. Based on these efforts, we believe the information we obtained is sufficiently reliable for this report.

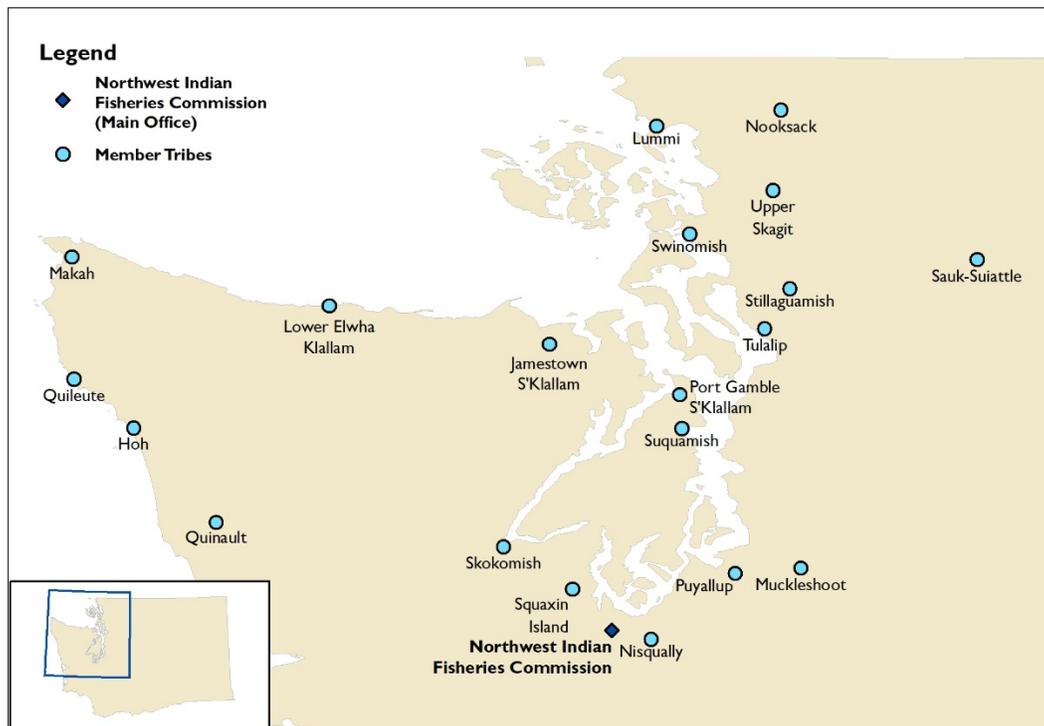
We conducted audit fieldwork from May 2017 to January 2018 at the Commission's office in Olympia, Washington, at the offices of seven member tribes, and at Commerce OIG's offices in Seattle, Washington, and Washington DC, under the authorities of the Inspector General Act of 1978, as amended (5 U.S.C. App.), and Department Organization Order 10-13, dated April 26, 2013.

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.

Appendix B: Background

Harvesting salmon is significant to the culture and way of life of tribes in western Washington.²⁸ The Commission was created in 1974 following a federal court ruling that confirmed tribal fishing rights. Its role is to provide natural resources management support for 20 treaty tribes in Washington (see figure B-1). NMFS recognizes the Commission as the authorized inter-tribal representative of the member tribes. A memorandum of understanding with NMFS authorizes the Commission to apply for, accept, and allocate PCSRF program funding on behalf of its member tribes.

Figure B-1. Northwest Indian Fisheries Commission and Member Tribe Locations



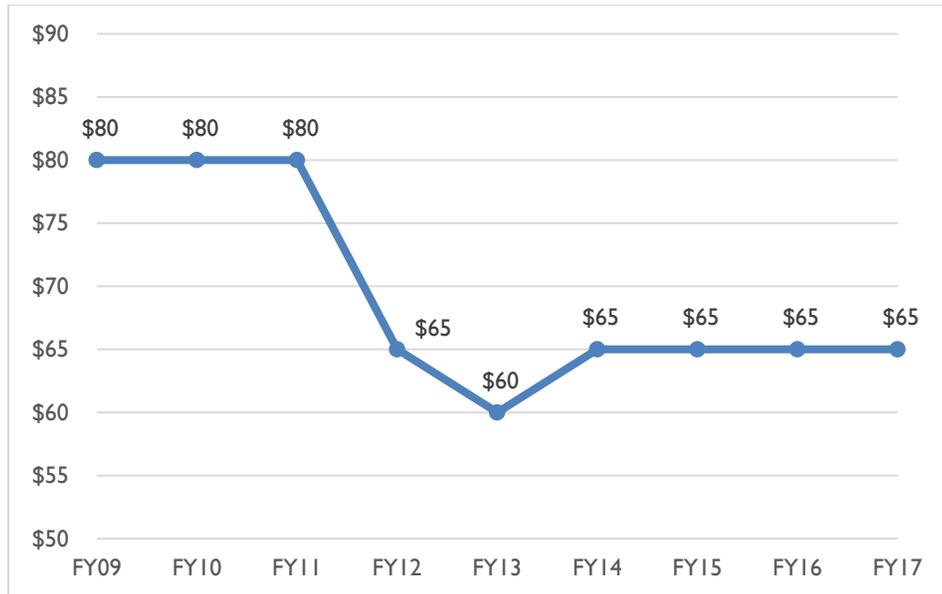
Source: OIG review of the Commission's member tribes

From FYs 2009 through 2017, annual appropriations for the PCSRF program ranged from \$60 million to \$80 million (see figure B-2). During that same period, yearly PCSRF grants to the Commission varied from \$3.5 million to \$5.5 million.²⁹

²⁸ Northwest Indian Fisheries Commission. History [online]. www.nwifc.org (accessed January 30, 2018).

²⁹ These amounts include PCSRF grants NOAA awarded directly to the Commission. The Commission also receives PCSRF grants as a subrecipient of the Washington State Recreation and Conservation Office.

Figure B-2. PCSRF Appropriations for FYs 2009–2017 (in millions)



Source: OIG analysis of OMB, FYs 2011–2017 appendixes, *Budget of the U.S. Government*

Appendix C: Summaries of Source and Application of Funds

	NA10NMF4380436 July 1, 2010–June 30, 2015		NA11NMF4380259 July 1, 2011–June 30, 2016	
	Approved Award Budget	Claimed by the Commission	Approved Award Budget	Claimed by the Commission
Source of Funds				
Federal Share	\$ 5,500,000	\$ 5,500,000	\$ 5,000,000	\$ 5,000,000
Recipient Share	-	-	-	-
Total	\$ 5,500,000	\$ 5,500,000	\$ 5,000,000	\$ 5,000,000
Application of Funds				
Personnel	██████████	██████████	██████████	██████████
Fringe Benefits	██████	██████	██████	██████
Travel	██████	██████	██████	██████
Supplies	██████	████	██████	█
Contractual	██████	█	██████	█
Indirect Charges	██████	██████	██████	██████
Subrecipient Projects	██████████	██████████	██████████	██████████
Total	\$ 5,500,000	\$ 5,500,000	\$ 5,000,000	\$ 5,000,000

Source: OIG analysis of Commission-approved award budgets and claimed costs

Appendix D: Schedules of Questioned Costs

Table D-I. Summary of Recipient and Subrecipient Questioned Costs by Award

	NA10NMF4380436		NA11NMF4380259		Totals	
	Questioned	Unsupported ^a	Questioned	Unsupported ^a	Questioned	Unsupported ^a
Commission	\$ 22,934	\$ 21,984	\$ 146,065	\$ -	\$ 168,999	\$ 21,984
Subrecipients:						
Jamestown S'Klallam	69,500	69,500	69,500	69,500	139,000	139,000
Lower Elwha Klallam	-	-	7,082	5,887	7,082	5,887
Lummi Nation	880	880	-	-	880	880
Nooksack	9,856	9,856	-	-	9,856	9,856
Quinault	-	-	-	-	-	-
Stillaguamish	4,817	4,817	308	308	5,125	5,125
Tulalip Tribes	20,822	9,180	20,263	7,822	41,085	17,002
Total Subrecipients	105,875	94,233	97,153	83,517	203,028	177,750
Total	\$ 128,809	\$ 116,217	\$ 243,218	\$ 83,517	\$ 372,027	\$ 199,734

Source: OIG analysis of Commission and subrecipient records and the approved financial assistance awards

^a Unsupported costs are those costs that the recipient or subrecipient could not adequately support at the time of audit; unsupported costs are also included in the total of questioned costs.

Table D-2. Detailed Schedule of Subrecipient Questioned Costs

Commission Subrecipient	Award Number	Description	Amount ^a	Entire Amount Improperly Allocated to the PCSRF Grant	Inadequate Supporting Documentation	Cost Category Excluded from the Approved Budget
Jamestown S' Klallam	NA10NMF4380436	Professional Services	\$ 69,500		X	
	NA11NMF4380259	Professional Services	69,500		X	
Tulalip Tribes	NA10NMF4380436	Cargo Trailer	4,250	X	X	
	NA10NMF4380436	Fishing Net	1,922	X	X	
	NA10NMF4380436	Equipment Repair	1,603	X	X	
	NA10NMF4380436	Privately Owned Vehicle Use	497	X	X	
	NA10NMF4380436	Privately Owned Vehicle Use	539	X	X	
	NA10NMF4380436	Privately Owned Vehicle Use	369	X	X	
	NA11NMF4380259	Leased Vehicle	1,180		X	
	NA11NMF4380259	Leased Vehicle	1,033		X	
	NA11NMF4380259	Leased Vehicle	1,033		X	
	NA11NMF4380259	Leased Vehicle	677		X	
	NA11NMF4380259	Leased Vehicle	758		X	
	NA11NMF4380259	Leased Vehicle	715		X	
	NA11NMF4380259	Leased Vehicle	1,101		X	
	NA11NMF4380259	Leased Vehicle	1,325		X	
Nooksack	NA10NMF4380436	Laptop	1,739	X	X	
	NA10NMF4380436	Global Positioning System Device	8,117	X	X	
Lower Elwha Klallam	NA11NMF4380259	Personnel Salaries	1,596		X	
	NA11NMF4380259	Personnel Salaries	2,512		X	
	NA11NMF4380259	Personnel Salaries	1,779		X	
	NA11NMF4380259	Insurance	1,195			X
Stillaguamish	NA10NMF4380436	Payroll	2,232		X	
	NA10NMF4380436	Payroll	1,190		X	
	NA10NMF4380436	Bank Charges	792		X	
	NA10NMF4380436	Bank Charges	603		X	
	NA11NMF4380259	Fuel	308		X	
Lummi Nation	NA10NMF4380436	Fuel	880		X	
Total			\$ 178,944	8	27	1

Source: OIG analysis of subrecipient records and the approved financial assistance awards

^a When appropriate, the amount includes associated indirect costs.

Table D-3. Schedule of Questioned Indirect Costs Due to Differences Between Applied Rates Used by Tulalip Tribes and Negotiated Rates

Award Number	Billing Period	Applied Indirect Cost Rate	Negotiated Indirect Cost Rate	Claimed Costs Based on Applied Rate	Claimed Costs Based on Negotiated Rate	Difference
NA10NMF4380436	1/1/2011 – 12/31/2011	██████	██████	██████	██████	\$ 13
NA10NMF4380436	1/1/2012 – 3/31/2012	██████	██████	██████	██████	3,208
NA10NMF4380436	4/1/2012 – 12/31/2012	██████	██████	██████	██████	8,066
NA10NMF4380436	1/1/2013 – 12/31/2013	██████	██████	██████	██████	355
Subtotal						11,642
NA11NMF4380259	4/1/2012 – 12/31/2012	██████	██████	██████	██████	5,222
NA11NMF4380259	1/1/2013 – 12/31/2013	██████	██████	██████	██████	7,219
Subtotal						12,441
Total Questioned Indirect Costs						\$24,083

Source: OIG analysis of Tulalip Tribes' PCSRF invoices and indirect cost rate agreements

Appendix E: Agency Response



Northwest Indian Fisheries Commission

6730 Martin Way E., Olympia, Washington 98516-5540
Phone (360) 438-1180 www.nwifc.org FAX # 753-8659

June 22, 2018

David Sheppard, Audit Director
Office of Inspector General
U.S. Department of Commerce, Seattle Regional Office
915 Second Avenue, Suite 3062
Seattle, WA 98174

Re: Response To The Findings Of Questioned Costs For The NWIFC Grant Awards NA10NMF4380436
And NA11NMF4380259

Dear Mr. Sheppard:

We are pleased to supply this response to the findings of questioned costs for the Northwest Indian Fisheries Commission (Commission) grant awards NA10NMF4380436 and NA11NMF4380259. We will seek to address the recommendations from the audit team as well as to provide further insights as to the relevance, and validity of those costs being questioned from the perspective of the Commission and the Tribes it serves. This will begin with an approach that utilizes the recommendations made by the audit team to the Director of the NOAA Grants Management Division (GMD) as the basis for our response. We will address each recommendation individually. Additionally, we will include written responses from the Jamestown S'Klallam Tribe and the Tulalip Tribes which are attached as appendices and will address some of the measures that these tribes are taking in response to the questioned costs resulting from this audit.

Following Section I are listed five recommendations for the Director of NOAA GMD. Below NWIFC addresses recommendations two through five.

2. Require the Commission to implement procedures to monitor administrative expenses on PCSRF grants and ensure claimed administrative expenses do not exceed three percent of program funds.

At the end of the Commission's FY2017, a new practice for budgeting, and recording time and effort, was implemented. This was done by creating an additional program code for the database management function, which can now be tracked separately from the administrative function. This will ensure the 3% cap will not be exceeded in the future.

3. Require the Commission to implement procedures to ensure it retains adequate documentation for all cost transfers to PCSRF awards and maintains records showing cost transfers are allocable to the grant.

The Commission is addressing this in several ways. First by increasing communication between our finance department, grants and contracts office, and impacted staff. During the award years in question there were not clear lines of communication and approval for the transfers of costs. Subsequently we have developed an internal process that requires any changes to allocation be approved by the program

Response To The Findings Of Questioned Costs For The NW/FC Grant Awards
June 22, 2018
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supervisor, grants and contracts, and the controller. These steps will ensure that the Commission maintains compliance with each award, the standard terms and conditions, and the funding agency.

The documentation developed and required for each step in these processes will be retained within the grant file for the duration of the project and will be archived according to required record retention policies for funding agencies and the Commission.

4. Require the Commission to implement procedures to ensure the indirect cost pool includes only allowable, allocable, and reasonable expenses.

In response to this finding, the Commission is examining the current practices utilized for reimbursement and provision of meals for employees and Commission delegates, and the approach utilized to record those expenses within the meetings and conferences account in the indirect cost pool. Commission administrative staff and accounting staff are working closely to ensure that when indirect expenses are assigned to the meetings and conferences account that those expenses are allowable, allocable and reasonable. This is accomplished by ensuring that all meeting attendees are accounted for on sign-in-sheets and that costs associated with attendees who are Commissioners, tribal representatives and Commission staff are expensed at GSA rates.

Additionally, the Commission does negotiate its indirect cost rate with the Department of the Interior's (DOI) Interior Business Center (IBC) on an annual basis. While it is completely within the realm of the audit team to examine and question those costs the ability to disallow or recoup those costs requires a different approach. Typically, questioned indirect costs would be included in the negotiation process between the Commission and the DOI IBC who would decide as to the inclusion, or exclusion of the charges. An adjustment to the negotiated indirect rate would reflect the decision of the DOI IBC. Indirect costs, or indirect cost rates, are not negotiated on an agency-by-agency basis.

5. Require the Commission to ensure its subrecipients (a) comply with cost principles, indirect cost rate agreements, uniform administrative requirements, and federal records retention requirements, (b) submit indirect cost rate proposals on time, and (c) use the current approved indirect cost rate to claim indirect costs on federal grants.

In the development of our organization it is important to note that the Commission cannot direct the tribes it serves to submit indirect cost rate proposals on time. That is an issue that rests only with the tribes and the tribes alone. Measures that the Commission will take, although, are to ensure that indirect costs are only reimbursed to tribes with a current, approved indirect cost rate.

Second, to address the federal records retention requirements we are working closely with the tribes served by the Commission to ensure that records for the impacted funding sources meet the retention requirements. However, this is creating a hardship for Tribes. Tribes have their own approved accounting policies and procedures, and finance manuals that address these issues. At the tribal level it is typical that each grant year is treated independently. Meaning that if a tribe were to close their subaward pursuant to NA10NMF4380436 in their FY2012 that they would, for instance, understand that the period for which they would have to retain records for bank charges (credit card purchases) would be for three subsequent years, or until the close of the tribe's FY2015. Under the guidelines for federal awards retention, and the fact that PCSRF funding terms are for five years, this created an opportunity for a clear conflict of tribal policy and federal records retention policy. The three-year standard for

Response To The Findings Of Questioned Costs For The NWIFC Grant Awards

June 22, 2018

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record retention for bank charges is the federal standard, and a tribe seeking to comply with this standard, as well as their own internal policies, could easily believe that when they closed their project grant in FY2012 that they were safe to begin disposing of records for bank charges at the conclusion of FY2015. This would run contrary to the standard required by NOAA that those records be retained until FY2018, regardless of when their specific project closed. This issue also creates a burden, not just for accounting staffs that will be required to archive and maintain those records for lengths that could be up to twice as long as would be required by their own approved policies, but also for the tribal governments that will also see an increased expense directly attributable to this approach to managing awards and records. PCSRF grants will require management well in excess of any other funding source received by the Tribes.

Following Section II are listed two (2) additional recommendations for the Director of NOAA GMD. I will address the final two recommendations here:

6. Reiterate to the Commission its responsibility to ensure subrecipients provide documentation showing compliance with real property requirements of the grant.

At the conclusion of this audit process the Commission will be drafting a memo for distribution to member tribes that outlines the impact, and changes that will be required. Real property requirements will be a component of these changes.

7. Instruct the Commission to submit to NOAA documentation showing subrecipients perfected statements of the federal interest in real property acquired and improved with 2010 and 2011 PCSRF grants.

Immediately following the receipt of this draft audit report Commission staff began the process of securing a template statement ensuring the protection of the federal interest in real property. We believe that we have a template that can be utilized by tribes, which can be certified by a licensed attorney to be provided to the NOAA grants officer. These instruments will also be retained by the Commission for incorporation into the grant file.

For a measure of clarity with this issue specifically, tribes are often bound by their own founding documents when it comes to the disposal of real property. This is something that was a result of the impact of the Dawes Act on tribal land bases. In turn, under the Indian Reorganization Act, many tribes drafted constitutions built upon templates developed and provided by the Bureau of Indian Affairs (BIA). A typical provision of these Constitutions, which had to be approved by the DOI, was that the sale or disposal of real property required not just a vote approving a sale from the tribe's membership or council, but also approval from the DOI. This also ensured the federal interest was protected, although at a different time, and for different purposes.

Again, we do appreciate the opportunity to submit this response, and welcome the opportunity to improve the systems of the Commission while also strengthening the role of the Commission as the recipient of the PCSRF award. Further the Commission also seeks to strengthen the relationship between itself and NOAA; it is a partnership that has yielded vastly improved efforts towards salmon recovery. The Commission has been a recipient of PCSRF funding since FY2000 and has distributed more than eighty-four million dollars in funding to support more than 900 projects.

Response To The Findings Of Questioned Costs For The NWIFC Grant Awards

June 22, 2018

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In conclusion, the Commission and its member tribes would appreciate a further review, and reduction, of the questioned costs after considering the responses provided here by the Commission, the Jamestown S'Klallam Tribe, and the Tulalip Tribes. Should you have any questions regarding our responses please direct all inquiries to Tom Strong, NWIFC Deputy Director at [REDACTED] or [REDACTED]

Sincerely,



Justin R. Parker
Executive Director

4 Attachments



June 8, 2018

Justin Parker, Executive Director
Northwest Indian Fish Commission
6730 Martin Way E.
Olympia, WA 98516-5540

RE: Draft audit report concerning Northwest Indian Fisheries Commission grant awards NA10NMF4380436 and NA11NMF4380259

Dear Mr. Parker:

This letter is in response to the questioned costs outlined in D.I.a of the draft audit report concerning Northwest Indian Fisheries Commission (Commission) awards of NOAA Pacific Coastal Salmon Recovery Fund Grants (PCSRF). The audit questions \$139,000 of Jamestown S'Klallam Tribe's PCSRF claimed costs. All of these costs are for professional services provided by the Point No Point Treaty Council (Treaty Council). The draft audit report acknowledges that the retained professional services are allowable. Further, the Treaty Council services and activities have been reported in regular grant progress reports to the Commission and in NOAA's PCSRF project database.

The draft audit report cites CFR 200.318(i) claiming that Jamestown Tribe's records do not adequately explain expenses. This subsection states that the non-Federal entity must maintain records sufficient to detail the history of procurement including: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract type.

To illuminate your understanding of the Tribe's procurement for the services it is necessary to understand that the Tribe recognizes the Treaty Council as an extension of its own natural resources program. The Treaty Council was created in 1975, shortly after the court decision in *U.S. v. Washington* (the Boldt decision), which upheld treaty-reserved fishing rights of western Washington treaty Indian tribes. The Treaty Council staff works with its member tribes' natural resources programs to ensure that treaty rights are preserved and treaty fisheries are conducted in a coordinated, sustainable and biologically sound manner. Jamestown S'Klallam Tribe has been participating in the Treaty Council since 1981 (Resolution #3-81, attached) with Tribal Chair, Ron Allen, as the appointed delegate (Resolution #10-81, attached). Periodically this participation

is reaffirmed by a Memorandum of Agreement, and annually the scope of work and budget is approved.

The Memorandum of Agreement in effect during the period of the questioned costs was approved and executed in March 2009 (MOA between JST and PNPTC, attached). The MOA provides partial basis for the payments to the Treaty Council for services performed. The companion documents which provide the remaining basis for the services performed and payments to the Treaty Council are the annual budget packages. The annual budget package includes tasks to be completed, period of performance, and compensation rates (PNPTC Central Program FY12 and FY13 budget package cover sheets and approved cost-share tables attached). Specifically, Coastal Salmon funding is paired with relevant tasks in the annual package and reported upon by Treaty Council (four progress reports covering period January 1, 2012 through December 31, 2013 attached). Per the draft audit, the activity of Treaty Council services were reviewed and deemed allowable.

The draft report apparently questions whether payments made to the Treaty Council were: properly procured; allocable and reasonable.

1. **Procurement:** Jamestown S’Klallam Tribe recognizes the Treaty Council as an extension of its own natural resources program (MOA). There is simply no procurement procedure for continuation of a program created to preserve treaty fisheries for the signatories of the Point No Point Treaty. There is no other entity that performs like services, nor should there be. Jamestown S’Klallam Tribe has an annual formal review and approval of work plan and budget with the Treaty Council. In each annual review specific tasks are identified, a period of performance is identified and compensation rates are identified for responsible staff. These are presented in the FY budget packages.

Because Jamestown Tribe pays the Treaty Council for work above and beyond the services for PCSRF, since FY 15 the Tribe has identified tasks and costs specific to PCSRF. Starting FY18 the Tribe developed an independent annual Scope of Work and Budget and Reporting requirements for PCSRF funding.

2. **Allocable:** The payments to the Treaty Council are allocable as defined by 2 CFR200.405. The services are assignable to the Federal award with relative benefits received. The relative benefits of work performed by Treaty Council in support of Jamestown’s Coastal Salmon contract are described in biannual progress reports. These reports were provided during the audit and there was no dispute that services performed were allowable and of benefit. Charged expenditures were assigned to the 2010 or 2011 award. The expenditures were presented during the time of audit. Again, there was no dispute that the expenditures were properly assigned or allowable. Over the two year period of time, the Treaty Council spent \$153,141.49 performing scope of work under the PCSRF grant. Jamestown paid \$139,000 from PCSRF funding and the remainder from tribal hard dollars.

Because Jamestown Tribe pays the Treaty Council for work above and beyond the services for PCSRF, since FY 15 the Tribe has identified tasks and costs specific to PCSRF. Starting this year, FY18, the Tribe developed an independent annual Scope of Work and Budget with Reporting requirements for PCSRF funding. The budget identifies staff and pay, and estimated hours per task.

3. Reasonable: A cost is reasonable if it does not exceed that which would be incurred by a prudent person under the same circumstances (2 CFR 200.404). The costs for the services to the Treaty Council are recognized as ordinary (staff time to perform work). The budget packages are formally reviewed and approved by members of both Jamestown S'Klallam Tribe and Port Gamble S'Klallam Tribe (annual cost share tables, attached). Further, the Tribe follows its allowable costs policy in incurring costs related to the Treaty Council work. There is no suggestion in the draft audit report that payments to the Treaty Council unjustifiably increased the Federal award's cost. The Treaty Council is able to provide specialized services in an efficient and economical way by servicing the full Point No Point Usual and Accustomed area.

Jamestown S'Klallam Tribe requests modification of the draft audit report to reflect that the \$139,000 of costs claimed for 2010 and 2011 awards are allowable, allocable and reasonable. Further, because the Treaty Council services are unique and specific to Tribes who signed the Point No Point Treaty in 1855, the procurement standard is met as a sole source contractor. Jamestown S'Klallam Tribe does not have a competitive process for the scope of work because the Treaty Council is the sole source existing that can fulfill the requirements.

Thank you for your further review. Please ask the Audit Director to contact me at [REDACTED] or Diane Gange, CFO, at [REDACTED], if there are any questions.

Sincerely,

Hansi Hals
Natural Resources Director

Attachments:

Resolution #3-81

Resolution #10-81

Jamestown S'Klallam Tribe – Point No Point Treaty Council MOA, March 2009

Progress Reports of Point No Point work relative to PCSRF for period 1/1/12-12/31/13

Point No Point Central Program FY12 Budget Package – cover sheet

Point No Point Central Program FY13 Budget Package – cover sheet

Point No Point Approved Annual Cost Share Table 2012 and 2013

Company Name

Memo

To: Tom Strong - NWIFC
From: Jacqueline Hansen
cc: Name
Date: June
Re: 2018-05-24 NWIFC Audit Report: Tulalip Response

Audit Finding D2 – Over charged Indirect Costs of \$24,083

The Tulalip Tribes acknowledges that it had used previous year's approved indirect cost rate for its indirect grant recoveries. At that particular time, the Tribe was two (2) years behind in its submission of Indirect Cost proposals.

The Tribe has a current approved indirect rate thru 12/31/2017; and the submission of the 2018 Indirect Cost proposal is currently awaiting review by the Department of the Interior Small Business Center.

Our current practice is to use the current approved indirect rate at the specific approval of the granting agency. However, upon approval of the current years' indirect rate, Tulalip will apply retroactive treatment to those grants. Tulalip has amended its processes to ensure that all grants are made 'whole' when calculating the indirect recovery.

Respectfully,



Jackie Hansen

Chief Financial Officer

Audit Response (Programmatic Issues)

Prepared by Todd Zackey & Kurt Nelson

The scope of the audit looked only at PCSRF funds expended on items and whether costs were split on individual items. The audit did not take into account that in many cases we have more than one item or piece of equipment utilized by the project and that additional items and equipment utilized for the project were purchased from other funding sources. The audit also did not consider the nature and duration of the work being conducted. In the case of most of the PCSRF funded projects implemented by the Tribes they are ongoing long-term efforts. For example the Juvenile Salmon Outmigration Monitoring on the Skykomish and Snoqualmie Rivers project was started in 2001 and is currently still operating. Items purchased during one year of the project continue to be used in the subsequent years of the project, which are funded by Pacific Coastal Salmon Recovery funds. If the purchase of other equipment and assets from other grants and Tribal funds are taken into account it can be clearly seen that the costs of conducting the PCSRF funded grant work were shared with other funding sources and utilized over multiple years for recurring PCSRF grant projects.

Cargo Trailer

The audit did not take into account other assets or equipment, in this case one of two trailers, purchased solely from other funding sources that were utilized to complete the required grant work plan and tasks and should be considered a shared cost.

Pacific Coastal Salmon Recovery grant funds have been utilized by the Tulalip Tribes since 2001 to operate two rotary screw traps, one on the Skykomish River and one on the Snoqualmie River. The operation of the two screw traps simultaneously, require that we have identical assets and equipment for each trap location. One of the key pieces of equipment needed to staff and operate the screw traps and to conduct the required grant work are trailers where staff stay during their 12-14 hour shifts, there are no nearby facilities in which they can stay. In 2012, two new trailers were purchased to replace the previous travel trailers. One of the new trailers, a Cargo Trailer, was purchased utilizing PCSRF funds for \$4,250, the other trailer a Pacific Mobile trailer was purchased for \$ [REDACTED] utilizing Tribal hard dollars (receipt is attached). The purchase of the second trailer, utilizing tribal funds should be considered a shared cost with the one purchased utilizing PCSRF funds. Since the piece of equipment is necessary to complete the required grant work and was purchased in the same year for the same project. In addition both trailers are only used for the operation of the screw traps which has been primarily funded utilizing PCSRF funds from 2001 to the present. The audit did not take into account equipment or assets acquired from other funding sources to complete the grant work and focused solely on assets and equipment purchased from PCSRF funds when assessing shared costs. The projects the Tulalip Tribes have funded utilizing PCSRF funds have predominantly been multi-year projects that require assets and equipment beyond 1-2 years with much of the same equipment being utilized for over a decade. The trailers purchased in 2012 have only ever been used for the PCSRF funded monitoring effort and are currently in their sixth year of use with plans to continue their use into the foreseeable future for the same monitoring effort utilizing PCSRF funding.

In summary, the audit did not take into account other assets or equipment, in this case a second trailer purchased solely from other funding sources that were utilized to complete the required PCSRF work plan. The purchase of both Cargo Trailers should be considered a shared cost and should be removed as an audit findings. .

Fishing Net

The fishing net was purchased in 2012 to allow us to conduct the grant funded work to monitor juvenile salmon utilization of the Qwuloolt Restoration site and Snohomish estuary. If we did not purchase the net we would not have been able to conduct the work outlined in the grant work plan. Previous to 2012 we borrowed a NOAA NWFSC beach seine to conduct our PCSRF grant funded Snohomish estuary monitoring work. In 2012, NOAA no longer had spare nets so we had to purchase our own net for this type of monitoring. We did not split the costs for the net purchased in 2012 because no other funds were available with which to purchase the net. The juvenile salmon monitoring effort is a multiple year monitoring effort that began in 2009. The supplies and equipment used for the PCSRF monitoring effort are used over multiple years for the continuing PCSRF funded monitoring effort. The net purchased in 2012 has only been used for the PCSRF Snohomish Estuary and Qwuloolt Restoration monitoring effort for the past 6 years and is currently still being utilized for PCSRF funded estuary monitoring.

The audit did not take into account shared costs solely funded from other grants and the Tribes' funds to complete PCSRF grant work plan. Instead it only focused on an individual item purchased utilizing PCSRF grant funds when in reality other pieces of equipment (for example a boat to deploy the net)are utilized to conduct the grant work and these other costs were not taken into account by the audit.

Equipment repair – Solinst Data Loggers

The repaired equipment, 3 Solinst data loggers, was a shared asset of water quality data loggers with the NOAA Northwest Fisheries Science Center. The PCSRF funds were used to fund monitoring of the outmigration of juvenile salmon and water quality characteristics across the Snohomish estuary and at the Qwuloolt restoration site, pre-restoration. This monitoring effort has been a joint effort with staff from NOAA NWFSC since 2009. The three data loggers, which were repaired with PCSRF funds were part of a larger network of 15 data loggers installed throughout the Snohomish Estuary which were initially mostly acquired by the NOAA NWFSC, along with additional new sensors purchased by the Tribes utilizing other grants since the repair of the three sensors. One sensor was purchased in 2015 and four additional sensors were purchased in 2016 utilizing different grant funds. These other grant funds were not available in 2012 when the solinst data loggers were repaired. This PCSRF monitoring effort is a multiple year monitoring effort with equipment and supplies being used across many years.

Privately owned vehicle use

Table D-2. Privately owned vehicle: The questioned costs show a full month of mileage charges when discrepancies occurred on a few isolated work shifts, work shifts that did not line up with mileage requests (see details and examples below). After reviewing the isolated discrepancies provided by OIG staff, we determined the expenses to be legitimate, but reported incorrectly. *Corrections to avoid these errors in the future include ensuring staff are personally logging the days driven, along with cross-referencing with a corrected schedule at the end of the month by the project manager.*

The discrepancies were due to the following situations: Work shifts were normally scheduled a couple of weeks in advance. Mileage reimbursement for privately owned vehicle use occurred at the end of the month. Sometimes the original work schedule and shifts changed over the month due to river conditions. Timesheets submitted reflected those changes in the schedules, but because mileage sheets were submitted much later, at the end of the month, staff sometimes made isolated errors by using the original schedule by mistake. In addition, some of the professional staff (Biologists) would check the traps during flooding conditions to make sure the traps were secure, often not claiming hours, but claiming mileage. Trap checking in most cases is a drive by, which did not take much time – less than a half hour. Here are a few examples of the situations discussed above.

██████████: Secured trap to protect it from flood conditions on March 13th (worked four hours), checked trap on the 14th (did not claim hours); March 15th assisted project manager on another project task – not at the worksite so no mileage claimed.

██████████: May 1st: ██████████ was scheduled to work, but river was out. ██████ shift was changed to the 3rd. ██████ incorrectly used the original schedule when submitting his mileage reimbursement sheet.

██████████: ██████ worked a shift on March 11th to secure the trap from high water. ██████ helped pull the lines, but did not claim hours, just mileage to the site that day.

April 9th ██████ shift changed from the 9th to the 10th because of river conditions. The April 9th date on the mileage form was based on the original schedule, it should have been the 10th.

██████████: April 2, 2012, ██████ claimed mileage, claiming it on the wrong day ██████ worked on the trap on the 24th and claimed no mileage on that shift.

Also, a memo (supporting documentation provided to OIG) was written in advance of starting the project establishing mileage from the office to the trap sites. We took this approach instead of having employees claiming mileage that they determined individually by trip. We did this to reduce confusion and arguments over mileage claims (which we ran into when we started the project).

Leased Vehicle Costs

Table D-2. Leased Vehicle – a GSA vehicle was assigned to this project. Vehicle usage is logged daily. All vehicle logs were provided to OIG with the exception of two months. GSA requires us to retain vehicle use documentation for three years. This documentation request requires us to go back 4+ years. The questioned costs are legitimate and should not be an audit finding. *Corrections to avoid these errors in the future include keeping multiple copies of the vehicle logs to ensure backup exists if a vehicle log is misplaced.*

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