



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

**Issues Identified With Target Range Grant,
North Atlantic-Appalachian Regional Office,
U.S. Fish and Wildlife Service**

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



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INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

FEB 10 2023

Memorandum

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

From: Kathleen Sedney *Kathleen Sedney*
Assistant Inspector General for Audits, Inspections, and Evaluations

Subject: Final Management Advisory – *Issues Identified With Target Range Grant, North Atlantic-Appalachian Regional Office, U.S. Fish and Wildlife Service*
Report No. 2021-ER-029-A

This management advisory sets forth the issue identified with a target range grant the U.S. Fish and Wildlife Service's (FWS') North Atlantic-Appalachian Regional Office (NAAR) awarded to the Maine Department of Inland Fisheries and Wildlife (Department).

We provided a draft of this report to the FWS. The FWS did not concur with our first recommendation and partially concurred with our second recommendation. The full response from the FWS is included in Attachment 1. In this report, we summarize FWS' response to our recommendations and provide our comments on that response. We list the status of the recommendations in Attachment 2.

Background

The FWS provides grants to States through the Wildlife and Sport Fish Restoration Program (WSFR) for the conservation, restoration, and management of wildlife and sport fish resources as well as for educational and recreational activities. WSFR was established by the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act.¹ The Acts and related regulations allow the FWS to reimburse grantees a portion of eligible costs incurred under WSFR grants.²

One eligible use of WSFR funds is to enhance access for hunting and recreational shooting, including target range construction. With the 2019 amendments to the Pittman-Robertson Wildlife Restoration Act lowering the required match, there is a potential for an increase in the number of

¹ These statutes' formal titles are, respectively, the Federal Aid in Wildlife Restoration Act, 16 U.S.C. § 669, as amended, and the Federal Aid in Sport Fish Restoration Act, 16 U.S.C. § 777, as amended.

² States must generally match at least 25 percent to receive Federal funds and are typically eligible for reimbursement of up to 75 percent of their costs.

target ranges constructed within States.³ There are instances in which WSFR funds can be used for ineligible activities, such as law enforcement activities, but various FWS approvals are required. We determined that target range construction qualified as an ineligible activity under the circumstances presented here, and we also found that the necessary FWS approval process was not followed in this instance. In addition, we found a lack of guidance on the topic.

What We Found

During our ongoing review of the Department's use of WSFR funds, we found that it applied for and received a WSFR-funded grant to construct a public target range on State-owned land—the Summerhaven Shooting Area. However, the FWS did not obtain approvals for the law enforcement involvement in the WSFR-funded target range project. Specifically, the State contributed a total of 40 percent, 20 percent of which was funded by a law enforcement agency (the Maine Warden Service).⁴ Because the project was partially funded by the Maine Warden Service, the State sets aside approximately 20 percent of the facility's usage for it, which the Maine Warden Service, in turn, shares with other law enforcement agencies in the region, including Federal law enforcement units. When law enforcement is using the facility, it is closed to the public, thereby limiting the accessibility of the range.

According to the implementing regulations⁵ and the authorizing legislation,⁶ law enforcement activities are generally ineligible for WSFR funding except when they are necessary to carry out project purposes specifically approved by the Regional Director.⁷ Here, the FWS NAAR internally reviewed the Summerhaven Shooting Area project for cost and use allocation⁸ between Federal and non-Federal entities.⁹ According to NAAR officials, their review considered whether law enforcement usage was appropriate. They determined, however, that because WSFR would not directly fund law enforcement activities, the Maine Warden Service could contribute 20 percent to the project cost with the understanding that it would receive 20 percent use of the

³ The Modernizing the Pittman-Robertson Fund for Tomorrow's Needs Act is part of the Further Consolidated Appropriations Act, 2020 (Pub. L. No. 116–94), and the Target Practice and Marksmanship Training Support Act is Pub. L. No. 116–17. The amendments lowered the required State share of eligible costs from 25 to 10 percent and increased the grant time period for the development or expansion of target ranges from 2 to 5 years in recognition of the time typically involved in acquiring land and in planning and development of a target range.

⁴ The remaining portion of State match funds was derived from license revenue funds. WSFR funded 60 percent of the total project costs.

⁵ 50 C.F.R. § 80.54.

⁶ 50 C.F.R. § 80.2, “Acts.”

⁷ 50 C.F.R. § 80.2 states that a Regional Director is a person “appointed by the Director to be the chief executive official of one of the Service’s geographic Regions” or “temporarily authorized to exercise the authority of the chief executive official of one of the Service’s geographic Regions.”

⁸ Allocation is the amount or portion of the cost and usage assigned to a particular recipient.

⁹ All construction projects are reviewed for the allocation of costs, which includes a verification that the State can meet its required percentage match. As noted previously, recent changes to the Acts reduce this match from 25 percent to 10 percent.

facility for its purposes. The NAAR considered its internal review and determination to be sufficient and did not seek the approval of the NAAR Regional Director.

The approval was instead delegated to a grants fiscal officer, acting for the NAAR WSFR chief.¹⁰ This delegation did not comply with the FWS *Service Manual*, which allows delegation to a senior staff specialist only if that senior staff specialist “is not the Service Project Officer/Coordinator/Leader/Manager assigned to manage and monitor the grant or cooperative agreement award being signed.”¹¹ In this case, the grants fiscal officer was assigned to oversee and monitor the grant.

We interviewed an FWS Policy Branch official to determine whether formal guidance had been published pertaining to these law enforcement eligibility issues and delegation authority. We learned that no such guidance had been issued. Although the official stated that delegating approvals is a commonly accepted practice and applies to decisions involving law enforcement, this approach is inconsistent with relevant regulations. Neither Federal regulations nor the FWS *Service Manual* authorizes Regional Directors to delegate the duty of reviewing explicitly ineligible activities for approval.¹²

Given the updated Federal law regarding funding for target ranges being built with WSFR funds and the lack of WSFR guidance regarding the review and approval for ineligible activities, there is the potential for the FWS to continue funding future public target range construction projects, including those with law enforcement involvement, across the program.¹³ Addressing this condition now will mitigate this risk and clarify appropriate approval requirements.

Response, Recommendations, and Conclusion

We provided a draft of this report to the FWS for review. The FWS did not concur with Recommendation 1 and partially concurred with Recommendation 2. Notwithstanding the FWS’ nonconcurrence, we consider Recommendation 1 closed based on the actions taken by FWS. We consider Recommendation 2 resolved but not implemented. The FWS response proposed modifying certain language in the management advisory. We clarified some passages to address these comments, but we did not modify our overall findings and recommendations. Below we summarize the FWS’ response to our report and recommendations, as well as our comments on its

¹⁰The NAAR WSFR chief reports to the NAAR Deputy Regional Director who in turn reports to the NAAR Regional Director.

¹¹ “Signature Authority for Grant and Cooperative Agreement Awards,” FWS *Service Manual (FW)*, 516 FW 3.5–3.7, amended December 24, 2015.

¹² *Id.*

¹³ For example, we identified an additional range—the Fryeburg Shooting Range—that was designed with a similar funding framework and similar benefits to law enforcement. Because the funding for the construction of this target range occurred outside the scope of our audit, we did not verify whether it was approved by the NAAR Regional Director.

response. See Attachment 1 for the full text of the FWS' response; Attachment 2 lists the status of each recommendation.

We recommend the FWS:

1. Review the approval within Wildlife and Sport Fish Restoration Program grants for ineligible activities identified in 50 C.F.R. § 80.54 and memorialize any determination made.

FWS Response: The FWS did not concur with the recommendation, stating that it “reviewed the project and determined that there were no ineligible activities.” The FWS stated that “the Department allocated costs consistent with the regulations for multipurpose projects and facilities” and that “the cost of the range was allocated based on the proportional benefits received.” The FWS noted that 20 percent of the total construction cost was allocated to the Maine Warden Service, and the remaining 80 percent was allocated to the WSFR grant. The FWS further explained that because the costs associated with the Maine Warden Service were an activity unrelated to the grant and allocated accordingly, “neither the Federal funding nor the required match included potentially ineligible law enforcement costs that would require the Regional Director’s approval” and the FWS “reviewed the award and verified that the Department allocated costs properly across the two benefitting objectives: a public shooting range and law enforcement training.”

OIG Comment: Notwithstanding the FWS’s statement that it did not concur, we nonetheless consider Recommendation 1 closed based on the FWS response. The FWS took the position that the project at issue is “multipurpose” in nature. Federal regulations state that a grant-funded project or facility is multipurpose if it carries out the purposes of (a) a single grant program under the Acts and (b) another grant program under the Act, a grant program not under the Act, or an activity unrelated to grants.¹⁴ Federal regulations define a project “as one or more related undertakings that are necessary to fulfill a need.”¹⁵ In this instance, we believe that the Department’s need was the construction of the Summerhaven Shooting Area and therefore determined that the project was not a multipurpose in nature because it does not meet the second requirement.

Notwithstanding this conclusion, we consider this recommendation closed because FWS, through its response to this report, conducted a review and memorialized the determination. We emphasize that in the future, the FWS should ensure that appropriate Regional Director review is performed for all ineligible activities. The purpose of the Regional Director review is threefold. First, the review verifies that the project’s budgeted costs align with the cost allocations. Second, it provides a clear segregation of duties for the NAAR staff responsible for approval and oversight of the WSFR grants in the region. Lastly, the review

¹⁴ 50 C.F.R. § 80.63.

¹⁵ 50 C.F.R. § 80.2.

determines whether law enforcement participation—and the resulting benefits to public safety—was sufficient to justify an exception under authority set forth in the governing regulation.

2. Develop and implement policies and procedures to ensure proper approvals as part of the review of ineligible activities.

FWS Response: The FWS partially concurred with our recommendation. The FWS reiterated that it determined there were no ineligible activities in the grant; however, the FWS stated that it would develop guidance on documenting allocated costs on multipurpose projects by December 31, 2022.

OIG Comment: We consider Recommendation 2 resolved but not implemented. This recommendation will be closed when we receive documentation demonstrating that FWS has developed guidance on documenting allocated costs on multipurpose projects.

Please provide us with a corrective action plan based on our recommendations by May 12, 2023. The plan should provide information on actions taken or planned to address each recommendation, as well as target dates and titles of the officials responsible for implementation. If a recommendation has already been implemented, provide documentation confirming that the action is complete. Please send your response to aie_reports@doioig.gov.

We will notify Congress about our findings, and we will report semiannually, as required by law, on actions that you have taken to implement the recommendations and on recommendations that have not been implemented. In addition, the information in this management advisory will be included in our semiannual report to Congress, and we will publish it on our website, including your written response, no later than 3 days from the date we issue it to you in final form. If you have any questions about this report, please contact me at 202–208–5745.

Attachments (2)

Attachment 1: Response to Draft Report

The U.S. Fish and Wildlife Service's (FWS') response to our draft report follows on page 7.



United States Department of the Interior


FISH AND WILDLIFE SERVICE



In Reply Refer To:
FWS/MA/PERMA/RM/DCN 077130

Memorandum

To: Assistant Inspector General for Audits, Inspections, and Evaluations

From: Director  Digitally signed by
MARTHA WILLIAMS
Date: 2022.07.05
09:54:52 -04'00'

Subject: Response to Draft Management Advisory – Issues Identified with Target Range
Grant, North Atlantic-Appalachian Regional Office
U.S. Fish and Wildlife Service Report No. 2021-ER-029-A

Thank you for bringing this matter to our attention and giving us the opportunity to respond. This is the U.S. Fish and Wildlife Service's (Service) response to the above-mentioned draft management advisory.

The Office of Inspector General (OIG) recently reviewed the Maine Department of Inland Fisheries and Wildlife's (Department) use of Wildlife and Sport Fishing Restoration (WSFR) funds. During your review, you found that the Department applied for and received a WSFR-funded grant to construct the Summerhaven Shooting Area, a public target range on State-owned land. The draft advisory contends using law enforcement funds for a portion of the project would make the project ineligible for WSFR funding unless approved by the Regional Director. The draft advisory makes two recommendations to the Service.

On June 1, 2022, WSFR and OIG met to discuss the draft management advisory. During the meeting, they discovered that there was some confusion as to what activities are ineligible for funding under WSFR and when the Regional Director's approval is required for such activities. WSFR explained that although law enforcement activities are ineligible for funding under WSFR, the grant was a multipurpose project funded in part with the WSFR funds and in part by Warden Service/Law Enforcement (LE). The project costs were allocated 80:20 based on the proportional benefits received. WSFR and the OIG agreed that WSFR would explain why the Summerhaven Shooting Area is eligible for funding and did not require the Regional Director's approval in the Service's response to the draft management advisory.

Recommendation 1: Review the approval within Wildlife and Sport Fish Restoration Program

grants for ineligible activities identified in 50 C.F.R. § 80 and memorialize any determination made.

Response: The Service disagrees with the recommendation. We reviewed the project and determined that there were no ineligible activities. The Department allocated costs consistent with the regulations for multipurpose projects and facilities^{1, 2 & 3}. The cost of the range was allocated based on the proportional benefits received. Twenty percent of the total construction costs were allocated to the LE. The remaining 80% of the construction costs were allocated to the WSFR grant. The following is the allocation and description from that grant revision:

Total Construction Costs \$2,740,830.00
Warden Service/Law Enforcement (20%) \$548,166.00

Total PR Eligible \$2,192,664.00
Project Participation Amount Percent
Federal-USFWS \$1,644,498.00 75%
State-MDIFW (Cash Match) \$548,166.00 25%
Total \$2,192,664.00 100

To accommodate future use by the Maine Warden Service and other local law enforcement agencies, twenty percent of the total project costs associated with the development of the shooting ranges will be paid for outside of this federal grant project. To date, recent law enforcement use of Summerhaven has been limited to a few times a year, but it is anticipated to increase once the ranges are improved and updated. We plan to have each range open 5 days a week and no more than one day per week (on average) would be eligible for use by a law enforcement agency. This use will be coordinated by the Range Coordinator and must be scheduled in advance; which is consistent with the current operations of the ranges. The Range Coordinator will keep track of the range use and this will be reported annually to the USFWS.⁴

The project was a multipurpose project. The costs associated with the LE were an activity unrelated to grant and allocated accordingly. The costs were not funded by the grant. We determined neither the Federal funding nor the required match included potentially ineligible law enforcement costs that would require the Regional Director's approval. We reviewed the award and verified that the Department allocated costs properly across the two benefitting objectives: a public shooting range and law enforcement training.

Recommendation 2: Develop and implement policies and procedures to ensure proper approvals as part of the review of ineligible activities.

Response: The Service partially agrees with this recommendation. Although we have determined that there were no ineligible activities in the grant that required the Regional Director's approval, we believe that there is a benefit for us to develop guidance on documenting

¹ 50 CFR § 80.63 Does an agency have to allocate costs in multipurpose projects and facilities?

² 50 CFR § 80.64 How does an agency allocate costs in multipurpose projects and facilities?

³ 2 CFR 200.405 Allocable costs (d).

⁴ F12AF01334 Revision 9, Job 3.

allocated costs on multipurpose projects. We will develop guidance on multipurpose projects by December 31, 2022.

Target Date: December 31, 2022

Responsible Official: Paul Rauch, Assistant Director, Wildlife and Sport Fish Restoration

If you have any questions concerning these responses, please contact Mr. Paul Rauch, the Service's Assistant Director for Wildlife and Sport Fishing Restoration, at [REDACTED], or Mr. Scott Knight, the Service's Manager, Division of Financial Assistance Support and Oversight, at 703-358-2237.

Attachment 2: Status of Recommendations

Recommendation	Status	Action Required
1	Closed	No action is required.
2	Resolved, but not implemented	Complete a corrective action plan (CAP) that includes information on actions taken or planned to address the recommendations and the target dates and titles of the officials responsible for implementation.



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