

DEPARTMENT OF THE INTERIOR**BIA CROSS-CUTTING SECTION****INTRODUCTION**

This section contains compliance requirements that apply to more than one program of the Bureau of Indian Affairs (BIA) in the Department of the Interior (DOI) because of requirements set forth in (1) the Indian Self Determination and Education Assistance Act (ISDEAA), as amended, and the Tribally Controlled Schools Act, and (2) Section 111 of the Department of the Interior and Related Agencies Appropriations Act, 2002, (Pub. L. No. 107-63) regarding the investment and deposit of BIA funds advanced to tribal organizations pursuant to the provisions of the ISDEAA and Tribally Controlled Schools Act of 1988. The compliance requirements in this Cross-Cutting Section reference the applicable programs in Part 4, Agency Compliance Requirements. Similarly, the applicable programs in Part 4 reference this Cross-Cutting Section.

CFDA # Program Name**ISDEAA Programs**

15.021	Consolidated Tribal Government Program
15.022	Tribal Self-Governance
15.030	Indian Law Enforcement

Tribally Controlled Schools Act

15.042	Indian School Equalization Program
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I. PROGRAM OBJECTIVES

The ISDEAA, of which the Tribal Self-Governance Act is part, was implemented to establish meaningful Indian self-determination that will permit an orderly transition from the Federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. The Tribally Controlled Schools Act provides a grant process for the operation of schools funded by the BIA.

II. PROGRAM PROCEDURES

The ISDEAA and the Tribally Controlled Schools Act allow tribal organizations to draw down funds in advance of need. The frequency and timing of the drawdowns are set forth in the statutes. The provision for advancing funds is to ensure sufficient capital for the delivery of program services.

The Tribal Self-Governance Act provides for advance payments to tribes and tribal consortia in the form of annual or semiannual payments at the discretion of the tribes (25 USC 458cc (g)(2)). The ISDEAA provides for payments to Indian tribes and tribal organizations on a quarterly basis, in a lump-sum payment, or as semiannual payments, or any other payment method authorized by law with such method as may be requested by the tribe or tribal organization (25 USC 450l(c)(b)(6)(B)(i)). The Tribally Controlled Schools Act provides for two payments per year: the first payment to be made not later than July 1 and the second payment not later than December 1 (25 USC 2506(a)(1)).

Regarding the use of these funds prior to their expenditure for the purposes for which they were intended, the Congress provided specific guidance in Section 111 of the Department of the Interior and Related Agencies Appropriations Act, 2002, Pub. L. No. 107-63, that allows these funds to be invested. Indian tribes and tribal organizations are not accountable to BIA for the income earned from these investments (25 USC 450j(b)).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

B. Allowable Costs/Costs Principles

BIA programs in this Supplement that this section applies to are: Consolidated Tribal Government Program (15.021); Indian Law Enforcement (15.030); and Indian School Equalization Program (15.042).

Indian tribes and tribal organizations may without the approval of the BIA expend funds provided under a self-determination contract for purposes identified in 25 USC 450j-1(k), including the following, to the extent that the expenditure of the funds is supportive of a contracted program (25 USC 450j-1(k)).

1. Building, realty, and facilities costs, including rental costs or mortgage expenses.
2. Automated data processing and similar equipment or services.
3. Costs for capital assets and repairs.
4. Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.
5. Interest expenses paid on capital expenditures such as buildings, building renovation or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

6. Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under ISDEAA.

H. Period of Availability of Federal Funds

BIA programs in this Supplement that this section applies to are: Consolidated Tribal Government Program (15.021); Tribal Self-Governance (15.022); Indian Law Enforcement (15.030); and Indian School Equalization Program (15.042).

Any funds appropriated under an ISDEAA contract or compact or a Tribally Controlled Schools Act grant are available until expended (25 USC 450l(c)(b)(9)).

N. Special Tests and Provisions

1. Investment and Deposit of Advance Funds

BIA programs in this Supplement that this section applies to are: Consolidated Tribal Government Program (15.021); Tribal Self-Governance (15.022); Indian Law Enforcement (15.030); and Indian School Equalization Program (15.042).

Compliance Requirement - A tribe, tribal organization, or consortia receiving advance payments under the ISDEAA or the Tribally Controlled Schools Act may invest advance payments, before such funds are expended for the purposes of the grant, contract, or funding agreement, so long as such funds are (1) invested only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States or (2) deposited only in accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the advance funds, even in the event of a bank failure (Section 111 of the Department of the Interior and Related Agencies Appropriations Act of 2002, Pub. L. No. 107-63).

Audit Objective - Determine whether Indian tribes, tribal organizations, or consortia are properly investing or depositing advanced funds.

Suggested Audit Procedures

- a. Obtain and review tribal policies and procedures for the investment and deposit of funds.
- b. Review unused advances during the audit period and verify that unused funds were properly invested or deposited throughout the period.

DEPARTMENT OF THE INTERIOR

CFDA 15.021 CONSOLIDATED TRIBAL GOVERNMENT PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Consolidated Tribal Government Program is to provide funds for certain programs of an ongoing nature to Indian tribal governments in a manner which minimizes program administrative requirements and maximizes flexibility.

II. PROGRAM PROCEDURES

The Bureau of Indian Affairs (BIA) makes direct payments to federally recognized Indian tribal governments to carry out a variety of activities for which appropriations are made within the Tribal Priority Allocations activity of the BIA budget. For example, Scholarships, Johnson O'Malley, Job Placement and Training, and Agricultural Extension could be combined under a single contract for education and training. This allows tribal contractors greater flexibility in planning their programs and meeting the needs of their people. The simplified contracting procedures and reduction of tribal administrative costs allow for increased services under these contracts.

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Title I, Pub. L. No. 93-638, as amended (25 USC 450 *et seq.*).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements that apply to multiple BIA programs are discussed once in the BIA Cross-Cutting Section of this Supplement (page 4-15.000-1) rather than being repeated in each individual program.

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts for programs and activities previously provided by the BIA. Funds may be used for a variety of programs and services that the Federal Government otherwise would have provided directly. The specific activities allowed will be indicated in the self-determination contract between the tribal organization and the Secretary of the Interior (25 USC 450f). While the tribe or tribal organization may propose to redesign the program or activity, such redesign must be approved by the BIA (25 USC 450j(j)).

B. Allowable Costs/Costs Principles

See BIA Cross-Cutting Section.

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* – Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable

2. Performance Reporting – Not Applicable**3. Special Reporting** – Not Applicable**N. Special Tests and Provisions**

See BIA Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

CFDA 15.022 TRIBAL SELF-GOVERNANCE

I. PROGRAM OBJECTIVES

The objective of the Tribal Self-Governance program is to further the goals of Indian self-determination by providing funds to Indian tribes to administer a wide range of programs with maximum administrative and programmatic flexibility.

II. PROGRAM PROCEDURES

The Tribal Self-Governance Act of 1994 (25 USC 458aa *et seq.*) established tribal self-governance as a permanent option for tribal governments. Under tribal self-governance, Indian tribes have greater control and flexibility in the use of funds, reduced reporting requirements, and authority to redesign or consolidate programs, services, functions, and activities. Tribes are selected from an applicant pool upon meeting certain eligibility requirements.

The Office of Self-Governance makes direct payments to federally recognized Indian tribal governments and tribal consortia authorized by federally recognized Indian tribal governments. Funds may be used to support tribal programs such as law enforcement, social services, welfare payments, natural resource management and enhancement, housing improvement, and road maintenance (25 USC 458cc(b)).

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Title IV, Pub. L. No. 93-638, as amended (25 USC 458aa *et seq.*).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements that apply to multiple Bureau of Indian Affairs (BIA) programs are discussed once in the BIA Cross-Cutting Section of this Supplement (page 4-15.000-1) rather than being repeated in each individual program.

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts or annual funding agreements for programs and activities previously provided by the BIA. Funds may be used for a variety of programs and services that the Federal government otherwise would have provided directly. The specific activities allowed will be indicated in the funding agreement between the tribal organization and the Secretary of the Interior (25 USC 458cc(b) and (c)). Indian tribes and tribal consortia are provided latitude in redesigning programs and activities. However, such redesign is limited to programs covered by the annual funding agreement (25 USC 458cc(b)(3)).

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

N. Special Tests and Provisions

See BIA Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

CFDA 15.030 INDIAN LAW ENFORCEMENT

I. PROGRAM OBJECTIVES

The objective of the Indian Law Enforcement program is to provide funds to Indian tribal governments to operate police departments and detention facilities.

II. PROGRAM PROCEDURES

The Bureau of Indian Affairs (BIA) makes direct payments to federally recognized Indian tribal governments exercising Federal criminal law enforcement authority over crime under the Major Crimes Act (18 USC 1153) on their reservations. Funds may be used for salaries and related expenses of criminal investigators, uniformed officers, detention officers, radio dispatchers, and administrative support.

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. No. 93-638, as amended (25 USC 450 *et seq.*) and the Indian Law Enforcement Reform Act, Pub. L. No. 101-379 (25 USC 2801 *et seq.*).

Availability of Other Program Information

Part 40 of the Indian Affairs Manual provides information applicable to all law enforcement programs operated by an Indian tribe or tribal organization under a Self-Determination contract. Part 40 does not apply to Indian tribes which have negotiated Self-Governance compacts. The web site at which this manual has been available is not currently operational.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements that apply to multiple BIA programs are discussed once in the BIA Cross-Cutting Section of this Supplement (page 4-15.000-1) rather than being repeated in each individual program.

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts for programs and activities previously provided by the BIA. Funds may be used for a variety of programs and services that the Federal government otherwise would have provided directly. The specific activities allowed will be indicated in the self-determination contract between the tribal organization and the Secretary of the Interior (25 USC 450f). While the tribe or tribal organization may propose to redesign the program or activity, such redesign must be approved by the BIA (25 USC 450j(j)).

B. Allowable Costs/Costs Principles

See BIA Cross-Cutting Section.

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* – Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable

2. Performance Reporting – Not Applicable**3. Special Reporting** – Not Applicable**N. Special Tests and Provisions**

See BIA Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

CFDA 15.042 INDIAN SCHOOL EQUALIZATION PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Indian School Equalization Program is to provide funding for elementary and secondary education.

II. PROGRAM PROCEDURES

The Office of Indian Education Programs makes direct payments to federally recognized Indian tribal governments or tribal organizations currently served by a Bureau of Indian Affairs (BIA)-funded school. Funds may be used for the education of Indian children in BIA-funded schools. Funds may not be used for construction.

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. No. 93-638, as amended (25 USC 450 *et seq.*), Indian Education Amendments of 1978, Pub. L. No. 95-561 (25 USC 2001 *et seq.*), and Tribally Controlled Schools Act (25 USC 2501 *et seq.*).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements that apply to multiple BIA programs are discussed once in the BIA Cross-Cutting Section of this Supplement (page 4-15.000-1) rather than being repeated in each individual program.

A. Activities Allowed or Unallowed

The expenditure of funds is restricted to those Federal programs covered by the grant. The Tribally Controlled Schools Act provides for the expenditure of funds by Indian tribes and tribal organizations under grants for education-related programs and activities, including school operations, academic, educational, residential, guidance and counseling, and administrative purposes, and support services for the school, including transportation (25 USC 2502).

B. Allowable Costs/Cost Principles

See BIA Cross-Cutting Section.

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* – Applicable only if specifically required in the grant agreement.
- b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

N. Special Tests and Provisions

Also see BIA Cross-Cutting Section.

1. Character Investigations by Indian Tribes and Tribal Organizations

Compliance Requirement – The Indian Child Protection and Family Violence Prevention Act (25 USC section 3201 *et seq.*) requires Indian tribes and tribal organizations that receive funds under the ISDEAA or the Tribally Controlled Schools Act to conduct an investigation of the character of each individual who is employed or is being considered for employment by such Indian tribe or tribal organization in a position that involves regular contact with, or control over, Indian children. The Act further states that the Indian tribe or tribal organization may employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subpart B - Minimum Standards of Character and Suitability for Employment (25 CFR part 63), as the Indian tribe or tribal organization establishes.

Audit Objective – Determine whether Indian tribes and tribal organizations are performing the required background character investigations of school employees.

Suggested Audit Procedures

- a. Obtain and review policies and procedures for the performance of background investigations.

- b. Perform tests of selected security and personnel files of employees occupying positions that have regular contact with or control over Indian children to verify:
- (1) A suitability determination was conducted by an appropriate adjudicating official who themselves were the subject of a favorable background investigation (25 CFR section 63.17(c)).
 - (2) The background investigation covered the past five years of the individual's employment, education, etc. (25 CFR section 63.16(b)).
 - (3) A security investigation was obtained and compared to the employment application (25 CFR section 63.17(e)(1)).
 - (4) Written record searches were obtained from local law enforcement agencies, former employers, former supervisors, employment references, and schools (25 CFR section 63.17(e)(2)).
 - (5) Fingerprint charts were compared to information maintained by the Federal Bureau of Investigation or other law enforcement information maintained by other agencies (25 CFR section 63.17(e)(3)).

DEPARTMENT OF THE INTERIOR

CFDA 15.605 **SPORT FISH RESTORATION** CFDA 15.611 **WILDLIFE RESTORATION**

I. PROGRAM OBJECTIVES

The objective of the Federal Aid in Sport Fish Restoration program is to restore, conserve, and enhance sport fish populations and to provide for public use and enjoyment of these fishery resources.

The objective of the Federal Aid in Wildlife Restoration program is to restore, conserve, and enhance wildlife populations, provide for public use and enjoyment of these resources, and to provide training to hunters and archers in skills, knowledge, and attitudes necessary to be responsible hunters or archers.

II. PROGRAM PROCEDURES

The U.S. Fish and Wildlife Service makes program and project grants to State fish and game agencies with funds apportioned to each State through a statutory formula. States may submit either a comprehensive plan or project proposal to the Service. When either is approved, the State is generally reimbursed for up to 75 percent of the cost of the work performed.

Source of Governing Requirements

The Sport Fish Restoration Program is authorized by the Federal Aid in Sport Fish Restoration (Dingell-Johnson) Act (16 USC 777 through 777l). The Wildlife Restoration Program is authorized by the Federal Aid in Wildlife Restoration (Pittman-Robertson) Act (16 USC 669 through 669i). Program regulations are at 50 CFR part 80.

Availability of Other Program Information

Other program information is available on the U.S. Fish and Wildlife Service Grant Information site on the Internet at <http://federalaid.fws.gov/grants/grantinf.html>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Wildlife Restoration - Allowable Activities*

Specific allowable projects are specified in the grant agreements. Allowable projects shall have as their purpose:

- a. The restoration, conservation, management, and enhancement of wild birds and wild mammals, and the provision of public use of and benefits from these resources (50 CFR section 80.5(a)).
- b. Projects having as their purpose the education of hunters and archers in the skills, knowledges, and attitudes necessary to be a responsible hunter or archer (50 CFR section 80.5(a)).

2. *Sport Fish Restoration - Allowable Activities*

Specific allowable projects are specified in the grant agreements. Allowable projects shall have as their purpose the restoration, conservation, management, and enhancement of sport fish, and the provision for public use and benefits from these resources (50 CFR section 80.5(b)(1)).

3. *Unallowable Activities*

The following activities are unallowable:

- a. With the exception of law enforcement activities to accomplish Federal project purposes as approved by the Regional Director of the U.S. Fish and Wildlife Service or to protect Federal aid assets, use of grant funds for enforcement of game and fish laws and regulations is prohibited (50 CFR section 80.6(a)).
- b. Public relations activities for the purpose of promoting organizations or agencies, including publication of agency magazines, displays, and exhibits, are ineligible except as they apply to educational or technical guidance activities specifically related to the accomplishment of Federal aid projects (50 CFR section 80.6(b)).
- c. Activities for the purpose of providing revenues are ineligible. These activities include the process and sale of licenses and permits and the acquisition of real or personal property for the purpose of using that property for rental, leases, sales or other commercial purposes. However, the production of incidental income, which results from otherwise eligible activities, is not prohibited (50 CFR section 80.14(c)).

F. Equipment and Real Property Management

Real property acquired or constructed with Federal funds shall continue to serve the purpose for which acquired or constructed. When property passes from management control of the State fish and wildlife agency, the control shall be fully restored to the State fish and wildlife agency or the real property shall be replaced using non-Federal funds. When property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities shall cease and adverse effects must be remedied (50 CFR section 80.14).

G. Matching, Level of Effort, Earmarking

1. Matching

Federal participation is limited to 75 percent of eligible costs incurred in the completion of approved work or the Federal share specified in the grant agreement, whichever is less (50 CFR section 80.12).

2 Level of Effort – Not Applicable

3. Earmarking

- a. *Indirect Costs Limitation* – The amount of overhead or indirect costs charged to the projects under these programs for State central services provided from outside the State fish and game agency in one year may not exceed three percent of the annual apportionment to the State (50 CFR section 80.15(e)).
- b. *Aquatic Education* – Not more than 15 percent of the annual apportionment to each State under the provisions of the Federal Aid in Sport Fish Restoration Act may be used for aquatic education projects (16 USC 777g(c)).
- c. *Recreational Boating Access Facilities* – The State shall allocate at least 15 percent of each annual apportionment under the Federal Aid in Sport Fish Restoration Act for recreational boating access facilities (16 USC 777g(b)(1)).

H. Period of Availability of Federal Funds

Multi-year Financing Exception – States may finance the acquisition of lands and the construction of facilities using multi-year funding as authorized by the Federal Aid in Sport Fish Restoration Act (50 CFR section 80.25).

J. Program Income

Program income (e.g., timber sales, leases, fees) is often generated on land purchased, improved, or maintained with Federal funds. This program income may be generated years after the expenditure of Federal funds to purchase or improve the land (50 CFR section 80.4).

Grant agreements will normally contain specific language that income generated by the grantee outside of the grant period from Federal Assistance supported acquisitions or other activities will either be (1) treated as license revenue and used to support the administration of the State fish and wildlife agency, or, (2) if the State so requests, used as additional funding for purposes consistent with the grant or the Program that generated the income. Lacking specific language requested by the grantee in the grant agreement, there are no requirements to account for income generated by a subgrantee outside of the grant period unless provided for by the grantee in the award to the subgrantee. However, the grantee and subgrantee may enter into subsequent contractual agreements that require accounting of income generated outside the grant period in order to comply with separate obligations (e.g., maintenance of a facility during its useful life, oversight of allowable commercial activities, etc.).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* – Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting

Form 3-154A, Paid Hunting and Fishing License Certification (OMB Approval No.1018-0007) – The State fish and wildlife agency shall certify annually the number of paid hunting and fishing license holders in the State. License holders shall be counted over a period of 12 months; the calendar year, fiscal year, or other licensing period may be used provided it is consistent from year to year in each State. The data is used in the calculation for apportioning the annual appropriation of funds to all state grantees and, therefore, exaggerating the number of licence holders may result in additional Federal funds. Determining and reporting the number of persons holding paid licenses requires eliminating duplication or multiple counting of single individuals in the certified figures. Sampling and other statistical techniques may be utilized by the certifying officer

for this purpose. A paid license holder is one person, regardless of the number of licenses, tags, permits, or stamps held. Trapping licenses, commercial licenses, and other licenses which are not for the express purpose of permitting the holder to hunt or fish for sport or recreation shall not be included; licenses which do not return net revenue to the State shall not be included; licenses valid for more than one year may be counted in each of the years for which they are valid; and combination fishing and hunting licenses (a single license which permits the holder both to hunt and fish) shall be included in the determination of both the number of paid hunting license holders and the number of persons holding paid licenses to fish for sport or recreation. Only licenses sold by the State or its designee in which revenues from the sale of the licenses are returned to the State fish and wildlife agency are to be included in the annual certificates. Free licenses or licenses issued for a token fee shall not be counted (50 CFR section 80.10).

N. Special Tests and Provisions

1. Assent Legislation and Diversion of License Fees

Compliance Requirement – A State may participate in the benefits of the Sport Fish and Wildlife program and the Wildlife Restoration program only after it has passed legislation for the conservation of fish and wildlife, including a prohibition against the diversion of license fees paid by hunters and sport fishermen to purposes other than for the administration of the fish and wildlife agency (50 CFR section 80.3).

License fees paid by hunters and fishermen, include any special license, permits, stamps, tags, or access fees. Also included are revenues for the sale, lease, or rental of items on property purchased with state license fee revenue, as well as the interest or dividends earned on the license revenues (50 CFR section 80.4).

Administration of the State fish and wildlife agency includes only those functions required to manage the fish and wildlife-oriented resources of the State. Law enforcement activities for predator, animal, and rodent control are not administration of the State fish and wildlife agency (50 CFR section 80.4(b)).

Audit Objective – Determine whether revenues from license fees paid by hunters and sport fishermen are used only for the administration of the State fish and wildlife agency.

Suggested Audit Procedures

- a. Ascertain if there are legislative prohibitions in place to prevent diversion of license revenues.
- b. Perform tests to ascertain if hunting and sport fishing license revenue was properly accounted for and restricted for use for the administration of the State fish and wildlife agency.

- c. Test expenditures from the license fees paid by hunters and sport fisherman to ascertain if they were used for the administration of the State fish and wildlife agency.
- d. Perform procedures to ascertain if there were any transfers from the State fish and wildlife agency that divert license fees paid by hunters and sport fisherman from the administration of the State fish and wildlife agency.

DEPARTMENT OF THE INTERIOR

CFDA 15.614 COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT (National Coastal Wetlands Conservation Grants)

I. PROGRAM OBJECTIVES

The objective of the National Coastal Wetlands Conservation Grant program is to provide funds to coastal States (except Louisiana) for coastal wetlands conservation projects. The primary goal of the National Coastal Wetlands Conservation Grant Program is the long-term conservation of coastal wetland ecosystems. It accomplishes this goal by helping States in their efforts to protect, restore, and enhance their coastal habitats. The program's accomplishments are primarily on-the-ground and measured in acres.

II. PROGRAM PROCEDURES

The National Coastal Wetlands Conservation Grant Program provides funds on a competitive basis for acquisition of interests in coastal lands or waters, and for restoration, enhancement or management of coastal wetlands ecosystems. All coastal States except Louisiana are eligible to apply. Proposed projects must provide for long-term conservation of coastal wetlands or waters and the hydrology, water quality, and fish and wildlife dependent thereon (16 USC 3954; 50 CFR section 84.11). Use of property acquired with grant funds that is inconsistent with program requirements and that is not corrected can be grounds for denying a State future grants under this program (50 CFR section 84.48(a)(6)).

Source of Governing Requirements

The National Coastal Wetlands Conservation Grant program is authorized by Section 305, Title III, Pub. L. 101-646, 16 USC 3951-3956. The National Coastal Wetlands Conservation Grant program regulations are at 50 CFR part 84.

Availability of Other Program Information

Other program information for Coastal Wetlands Planning, Protection, and Restoration Act is found at <http://www.fws.gov/coastal/CoastalGrants/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

- a. Acquisition of a real property interest in coastal lands or waters from willing sellers or partners (coastal wetlands ecosystems), under terms and conditions that will ensure the real property will be administered for long-term conservation (50 CFR section 84.20(a)(1)).
- b. The restoration, enhancement, or management of coastal wetlands ecosystems (50 CFR section 84.20(a)(2)).
- c. Planning as a minimal component of project plan development (50 CFR section 84.20(b)(6)) (see III.A.2.f. for unallowable planning activities).

2. Activities Unallowed

- a. Projects that primarily benefit navigation, irrigation, flood control, or mariculture (50 CFR section 84.20(b)(1)).
- b. Acquisition, restoration, enhancement, or management of lands to mitigate recent or pending habitat losses resulting from the actions of agencies, organizations, companies, or individuals (50 CFR section 84.20(b)(2)).
- c. Creation of wetlands by humans where wetlands did not previously exist (50 CFR section 84.20(b)(3)).
- d. Enforcement of fish and wildlife laws and regulations, except when necessary for the accomplishment of approved project purposes (50 CFR section 84.20(b)(4)).
- e. Research (50 CFR section 84.20(b)(5)).
- f. Planning as a primary project focus (50 CFR section 84.20(b)(6)).
- g. Operations and maintenance (50 CFR section 84.20(b)(7)).
- h. Acquiring and/or restoring upper portions of watersheds where benefits to the coastal wetlands ecosystem are not significant and direct (50 CFR section 84.20(b)(8)).
- i. Projects providing less than 20 years of conservation benefits (50 CFR section 84.20(b)(9)).

F. Equipment and Real Property Management

States must submit documentation (e.g., appraisals and appraisal reviews) to the Fish and Wildlife Service (FWS) Regional Director who must approve it before the State becomes legally obligated for the purchase. States must provide title vesting evidence and

summary of land costs upon completion of the acquisition to the FWS Regional Director. Any deed to third parties (e.g., conservation easement or other lien on a third-party property) must include appropriate language to ensure that the lands and/or interests would revert back to the State or Federal Government if the conditions of the grant are no longer being implemented (50 CFR section 84.48(a)(1)).

G. Matching, Level of Effort, Earmarking

1. Matching

- a. Except for those insular areas specified in paragraph G.1.b, the Federal share will not exceed 50 percent of approved costs incurred. However, the Federal share may be increased to 75 percent for coastal States that have established and are using a fund as defined in 50 CFR section 84.11. The FWS Service Regional Directors must certify the eligibility of the fund in order for the State to qualify for the 75 percent matching share (50 CFR section 84.46(a)).
- b. The following insular areas: American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, have been exempted from the matching share, as provided in Pub. L. 95-134, as amended by Pub. L. 95-348, Pub. L. 96-205, Pub. L. 98-213, and Pub. L. 98-454 (48 USC 1469a). Puerto Rico is not exempt from the match requirements of this program (50 CFR section 84.46(b)).
- c. Total Federal contributions (including all Federal sources outside of the program) may not exceed the maximum eligible Federal share under the Program. This includes monies provided to the State by other Federal programs. If the amount of Federal money available to the project is more than the maximum allowed, FWS will reduce the program contribution by the amount in excess (50 CFR section 84.46(h)).
- d. Natural Resource Damage Assessment funds that are managed by a non-Federal trustee are considered to be non-Federal, even if these monies were once deposited in the Department of the Interior's Natural Resource Damage Assessment and Restoration Fund, provided the following criteria are met:
 - (1) The monies were deposited pursuant to a joint and indivisible recovery by the Department of the Interior and non-Federal trustees under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or the Oil Pollution Act (OPA);
 - (2) The non-Federal trustee has joint and binding control over the funds;

- (3) The co-trustees agree that monies from the fund should be available to the non-Federal trustee and can be used as a non-Federal match to support a project consistent with the settlement agreement, CERCLA, and OPA; and
- (4) The monies have been transferred to the non-Federal trustee (50 CFR section 84.46(i)).

2. **Level of Effort** – Not Applicable

3. **Earmarking** – Not Applicable

J. **Program Income**

If rights or interests obtained with the acquisition of coastal wetlands generate revenue during the grant agreement period, the State will treat the revenue as program income and use it to manage the acquired properties (50 CFR section 84.48(a)(5)).

L. **Reporting**

1. **Financial Reporting**

- a. SF-269, *Financial Status Report* – Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable.
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable

2. **Performance Reporting** – Not Applicable

3. **Special Reporting** – Not Applicable

N. **Special Tests and Provisions**

1. **Trust Fund**

Compliance Requirement – The Federal share may be increased to 75 percent for coastal States that have established and are using a “fund” as defined in 50 CFR section 84.11. The fund can be a trust fund from which the principal is not spent, or a fund derived from a dedicated recurring source of monies (50 CFR section 84.46).

Audit Objective – For States that have established and are using a trust fund, determine whether principal and interest are properly accounted for. For States with a dedicated recurring source of monies, examine collection and restrictions to determine if all funds are properly accounted for.

Suggested Audit Procedures

- a. Perform tests to ascertain if restricted funds were properly collected (retained) and accounted for.
- b. Test expenditures to ascertain if trust funds or dedicated funds were used by the State according to the reported purpose.

2. Operation and Maintenance of Facilities

Compliance Requirement – The coastal States must operate and maintain facilities, structures, or related assets to ensure their use for the stated project purpose and must adequately protect them. If acquired property is used for reasons inconsistent with the purpose(s) for which acquired, such activities must cease and any adverse effects on the property must be corrected by the State or subgrantee with non-Federal monies in accordance with 50 CFR section 80.14 (50 CFR sections 84.48(a)(3) and (b)(3)).

Audit Objective – Determine whether coastal State operation and maintenance procedures ensure that program assets are identified, adequately maintained, protected, and used for stated project purposes.

Suggested Audit Procedures

- a. Review property management procedures, and assess their adequacy for identifying and protecting program assets. This includes policies and procedures for addressing the operations and maintenance of the asset.
- b. Determine if property inventories or lists of program assets reconcile with grant agreements and stated project purposes.